

## Summary of Attached Statement and Legislative Request: (Page and Section)

- Introduction and overview of the problem of segregated congregate care and institutionalized abuse. The rest of the bullets here are our abbreviated recommendations for legislation which is expanded upon in the attachment.
- Ratify the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities (pg. 4, 1.)
- Amend the US Constitution to clarify that religious freedom does not extend to protecting religious organizations from accountability for violating the civil and human rights of others nor any other law intended to keep the peace and protect individuals from harm and injury. (pg. 5, 2-2i)
- Establish and enforce laws that protect all persons subjected to segregated congregate care that have been removed from their state of residence and placed in out-of-state care. (Our recommended standards of care are detailed in the attachment.) (pg. 6, 2ii)
- Co-Sponsor and Vote Yes on HR 927, the Keeping All Students Safe Act (pg. 8, 2ii-n)
- Deny federal money to any state accepting out-of-state placements in segregated congregate care settings that fail to adhere to federal standards. (pg. 8, 2iii)
- The Federal Government must maintain authority, control and responsibility for minors subjected to wilderness camps that utilize national parks and public lands and must create an application and approval process for extended use of public lands by for profit entities. (pg. 9, 2iv)
- The Federal Government must revise mandated reporting rules to require all institutional abuse be reported to the proper legal authorities and in such a manner that does not permit for obstruction of justice. (pg. 9, 2v)
- Child Protective and Adult Protective Services must be made part of law enforcement and removed from the Department of Health and Human Services purview to ensure that conflicts of interest do not bar effective law enforcement. (pg. 11, 2vi)
- Public health and education regulatory bodies must not be allowed to rely on private accreditation bodies when determining whether a provider is meeting regulatory standards of care. (pg. 11-13, 2vi)
- The Federal Government must enact sentencing reforms that ensure non-violent child and youth offenders are not subjected to segregated congregate care. (pg. 13, 2vii)
- The Department of Education must enact regulatory guidelines and academic standards for both private and public schools that accept non-resident enrollments. (pg. 14, 2viii)
- Orphaned and abandoned minors subjected to segregated congregate care, whether publicly or privately placed, must be given the right to fast track emancipation. This is supported by the Mature Minor Doctrine. (pg. 14, 2ix)

## SUPPORTIVE STATEMENT AND LEGISLATIVE REQUEST

Prepared/Approved by:

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My name is Angela Smith and I have been a children's rights activist and consumer advocate for over 20 years. I am the co-founder and national coordinator of Human Earth Animal Liberation (HEAL). I am a graduate of the University of Washington and my extended credentials are available upon request. I have dedicated the last 19 years of my work to stopping institutionalized child abuse. And, I know institutional abuse is not limited to children and youth, but suffered by the disabled and elderly as well. This is why our recommendations below include recommendations for creating guidelines for all segregated congregate care providers regardless of the demographics of their residents.

According to the Office of Juvenile Justice and Delinquency Prevention (OJJDP), an estimated 1.4% of American youths are institutionalized.<sup>i</sup> The United States Census<sup>ii</sup> estimates the total number of teens in the United States at 41,731,233. So, based on those statistics we estimate approximately 548,237 institutionalized youth in the United States. Peer reviewed reports suggest 424,000 children and youth reside in "group care facilities".<sup>iii</sup> The Bazelon Center for Mental Health Law has claimed that only 50,000 youths<sup>iv</sup> are subjected to these settings each year, but, that number appears to only reflect youth who have been privately placed without court order or due process by parents and legal guardians. The real numbers are much more staggering. Given that relatively speaking, such a few number of people are affected, our governments tend to view solving the problem of institutionalized child abuse as low priority. This is why bills such as Rep. George Miller's (CA-D, Ret.) 2013 bill HR 1981 died in committee as did all former versions of the bill introduced as early as 2004 by Rep. Miller. The bill died in my opinion after most of the proverbial teeth were ripped out in committee and we were left with mostly lip service and what I would call "fake reforms". For example, in all versions of the bill most segregated congregate care providers are excluded from the "covered programs" list to which the legislation applies. In my case, I am a survivor of Provo Canyon School in Utah. Provo Canyon School is a licensed behavioral health facility/hospital. Tim Brown, HEAL Kentucky Coordinator, was abused in his youth at Children's Psychiatric Hospital in northern Kentucky. As a result of legislative exclusion, the programs where we were abused would be excluded from the reforms offered by Schiff and Miller's legislation. Regardless, with or without teeth, this legislation tends to go nowhere. Rep. Adam Schiff (D-CA) has introduced a more revised and even more impotent version of Miller's bill titled HR 3060, the "Stop Child Abuse in Residential Programs for Teens Act"<sup>v</sup>. And, as supposedly well-meaning, but,

lacking in any real executable reforms, it only received 27 co-sponsors out of a total 435 possible co-sponsors. It has repeatedly died in committee in both the House and the Senate. The problem of institutionalized abuse has many solutions, but, unless we the advocates can identify, expose, and suggest effective reforms to the law, we get a lot of lip service and no legitimate action. We at HEAL have identified problems in the law as well as offered suggestions for reforms to the law that would address many of the major problems we have in the treatment of not just youth, but, all institutionalized people including the disabled and the elderly. We want a world where people can't be institutionalized without court order and can't be court-ordered unless they are a true life or death threat to themselves or others, or, truly unable to survive without 24 hour supervised care.

Back to the numbers for a moment. While I hear from legislators that we must do something about guns and it is a new "hot button" issue for debate, the number of gun deaths in the US per year is 31,672<sup>vi</sup> and the number of gun injuries in the US per year is roughly 55,544<sup>vii</sup>. I wish I could give you an accurate number regarding incidents of institutionalized abuse and death, but, no one is keeping record of that. However, we do know that there are approximately 1.3 million elderly Americans living in institutions.<sup>viii</sup> And, we know that there are more than 2 million reports of abuse of the elderly in nursing homes each year.<sup>ix</sup> So, we may be able to approximate a likelihood of around 2 complaints of abuse per institutionalized person per year if we use the elderly as a sample group and extrapolate those findings. Even if you add all gun related injuries and deaths together, you end up with 87,216 people adversely affected. Given that over 60% of those injuries/deaths are intentionally self-inflicted<sup>x</sup>, and many more appear to be police shootings, the number of people actually harmed by gun violence in any way is far less than those injured and killed in segregated congregate care. I would suggest prioritizing both if possible, but, stopping institutional abuse will save more people than gun control.

The Virginia Tech shooter as well as the Columbine shooters were victims of aversive behavioral therapies and subjected to psychoactive medications known to cause psychotic breaks. If you want to stop mass shooting, stop torturing Americans. 90% of mass shootings in the US are committed by individuals who have experienced some form of institutional or psychiatric abuse.<sup>xi</sup> It is not just for the safety of those institutionalized that we call for reforms, it is for the safety of the public as well.

HEAL is not alone in understanding how damaging institutionalization is on human beings, particularly human beings still developing. We've developed a 5 point argument based on the research of Columbia University, UNICEF, and more showing clearly that no child should be institutionalized. Here is that argument:

1. Based on my understanding of the Olmstead Decision (US Supreme Court), segregated congregate care is unconstitutional and a civil rights violation. It is only permissible if a person is unable to survive independent of an institutional environment.<sup>xii xiii</sup> Under President Obama's administration, the Department of Justice filed suit against the state of Florida to recover damages for unnecessarily institutionalizing children to whom the State of Florida had been deliberately

- indifferent.<sup>xiv</sup> ("– On April 7, 2016, the United States filed an Opposition to the State of Florida’s Motion for Partial Summary Judgment. In the Motion, the State had asked the Court to rule, on a variety of grounds, that the United States could not recover damages for unnecessarily institutionalized children to whom the State had been deliberately indifferent.")<sup>xv</sup>
2. Institutionalization is always dehumanizing and coercive. Institutionalization always harms the institutionalized and deprives them of protected civil rights. Dr. David Straker, Psychiatry Professor at Columbia University's School of Medicine explains this in detail:<sup>xvi</sup> "Many institutions, from prisons to monasteries to asylums, deliberately want to control and manage their inmates such that they conform and do not cause problems. Even in less harsh environments, many of the institutionalization methods may be found, albeit in more moderated form (although the psychological effect can be equally devastating)."
  3. UNICEF (United Nations International Children's Emergency Fund) states, "Institutions are not - ever - a better environment for children than a loving family."<sup>xvii</sup>
  4. The DC Department of Youth Rehabilitation Services put out a report stating, "Over 160 years ago, in 1848, American reformers began experimenting with a new approach to troubled youth. Dubbed alternatively “training schools” or “reform schools”, these large, congregate care facilities have been guilty of scandalous abuses, unconstitutional conditions and disappointing public safety outcomes almost since their inception. This article will briefly outline the troubled history of the training school model as a vehicle for rehabilitating or caring for delinquent and status offending youth... Finally, we will summarize the implications of this analysis which we **believe makes a strong case for the elimination of the use of reform schools in favor of a rational, evidence-based approach to working with delinquent youth.** This approach includes the use of a rigorous continuum of services, supports and opportunities, including small, homelike and decent secure care for the small percentage of youth who need to be so confined, all premised on the tenets of Positive Youth Development."<sup>xviii</sup>
  5. Dr. Joy Schaverien has researched the adverse affects of boarding school institutionalization in the UK (United Kingdom). Dr. Schaverien has coined the term "Boarding School Syndrome" to describe the aftermath for her patients who went through traumatic boarding/residential school/program abuse. Schaverien's findings and case studies show, Boarding Schools, even the "good ones", result in a form of social death, isolation, and cause both anxiety and depression. Therefore, it is clearly not in the best interest of the youth subjected to those environments.<sup>xix xx</sup>

So, if we know institutionalization is harmful, often abusive, and not in the best interest of public health, public safety, individual constitutional rights, or child welfare, then we can have no doubt that we must stop unnecessary institutionalization of children, the disabled, and the elderly in order to uphold the sacred and protect our most vulnerable.

One reason advocates are given for the continued use of segregated congregate care is that there are no alternative placements to institutionalization for youth in need of

services in most cases. In Ramsey County, Minnesota, "District Judge Patrick Diamond is one of the juvenile court judges who see the same teens return. "It's not working," he said of a large residential treatment center. "It's frustrating at times there aren't more and better alternatives available."<sup>xxi</sup>

Is this a case where it would be better to do nothing than something if the something means institutionalizing vulnerable people in violation of their constitutional rights and contrary to their needs?

A recent study by the University of Northern Colorado found, "Children in Colorado's foster care system are far less likely to graduate from high school than other at-risk populations — including homeless students. Just 27.5 percent of public school foster care students in the class of 2013 graduated on time, compared with 77 percent of all students, according to statistics from the state Department of Education and Department of Human Services published last week. About half of homeless students graduated with their class."<sup>xxii</sup>

Studies like these make advocates like myself wonder if emancipation coupled with subsidized housing of orphaned and abandoned youth would be a better and more cost effective alternative to institutionalization in most, if not all, cases. Certainly some form of supported independent living would be a better alternative to institutionalization for over 90% of the current institutionalized population.

Now that we've looked at what's wrong, and considered briefly something we could do about it or whether doing nothing is better than something, I'd like to offer specific examples of problems I have identified with suggested solutions that could be implemented internationally, federally, and locally.

1. The United States International Commitment to Human Rights and Children's Rights: The United States has signed the United Nations Convention on the Rights of the Child but is not bound nor party to it.<sup>xxiii xxiv</sup> This suggests the United States is again engaging in lip service with no real commitment to human rights or protecting children from exploitation and abuse. It is up to the United States Congress to ratify this treaty in order to make the United States party to it. Elizabeth Bartholet of Harvard Law School has written a compelling argument in favor of ratifying the convention from the children's rights position. She states: "The CRC would push toward a radical change in this area. Congress and state legislatures would be obligated to consider the CRC as they engage in the process of revising legislation governing child protection. Courts would have to think about the implications of the CRC as they interpret legislative and constitutional provisions that are malleable and capable of different interpretations. Existing understandings about legislative and constitutional rights of parents to hold onto their children would have to be weighed against the new rights children are given by the CRC to be protected against abuse and neglect. In my view, this new pressure to develop law that more powerfully protects children's rights to be free from maltreatment, and their affirmative rights to nurturing parenting, would have

a profound positive effect for U.S. children. As I have written elsewhere, the current system values parents' rights and family preservation in ways that put children at undue risk.<sup>xxxv</sup> I agree with Bartholet regarding the importance of ratifying the UN Convention on the Rights of the Child and I also believe the United States must sign on and ratify the UN Convention on the Rights of Persons with Disabilities. I believe both must be ratified in order to achieve meaningful international human rights policies and enforceable standards for children, the disabled, the elderly and anyone at risk of being unjustly and unnecessarily institutionalized.

2. The United States Federal Government Commitment to Human Rights and Children's Rights: The United States Federal Government has shown little to no commitment to children's rights and human rights. The excuse for this has been that most rights afforded to and laws regulating citizens and residents are under the direct control of State governments and at best the federal government can make requests and provide or withhold funding depending on a State's response to said requests. In addition, States are only permitted to expand upon the constitutional rights afforded to citizens and residents of the United States and the Supreme Court decides when any government body, local, state, or federal, has violated the constitution. The preceding to me is as I stated, a simple excuse. Commerce and exploitable labor seem to always take priority over ethical principles. And, this exploitation comes in many guises.

- i. Labor and other forms of human trafficking<sup>xxvi xxvii</sup> have been reported by survivors of institutional abuse. Often programs engaging in this are faith-based and exempt from any regulation under the banner of religious freedom as guaranteed in the United States Constitution. Many survivors of these often rural and socially isolated labor camps report abuse just to be returned to their abusers since the regulating and law enforcement agencies concede that religious freedom trumps any violation of the law or they simply give the excuse that there are no good options for segregated congregate care but a supposed need for it any way so they accept these criminal cults and labor exploitation enterprises as necessary evils. I believe we must amend the US Constitution to clarify that religious freedom does not extend to protecting religious organizations from accountability for violating the civil and human rights of others nor any other law intended to keep the peace and protect individuals from harm and injury. In 1993, President Bill Clinton signed the Religious Freedom Restoration Act<sup>xxviii xxix</sup><sup>xxx</sup> into law which has left all regulation or lack thereof to be decided by individual States. Many states, including Indiana, have passed their own version of the Religious Freedom Restoration Act which is being used to protect criminal enterprises and discrimination under the guise of religious freedom. In order to effectively stop abuse and exploitation occurring under the guise of religious freedom, we must amend

the US Constitution and the Religious Freedom Restoration Act to make explicit that religious freedom does not extend beyond the rights of individuals to practice the religion of their choice and does not include any right to impose, convert, exploit, abuse or otherwise violate the law by claiming it is included or defined as a practice of the individual's religion. The law must not allow any religion or religious body the freedom to exploit and abuse residents and citizens of the United States. And, it should be clear that protecting citizens from abuse and exploitation is a compelling government interest. We are pushing to end the exemption from regulation for faith-based programs in Washington State by supporting SB 5408 introduced by Senator Mark Mullet. While SB 5408 in Washington State is still awaiting passage by state legislators, it may provide a working framework for similar legislation at the federal level.<sup>xxxii</sup> To give you an idea of what crimes are excused on religious freedom grounds in various states, here are some examples. In Idaho, Iowa, and Ohio, there are recognized religious defenses to manslaughter. In West Virginia and Arkansas, there are recognized religious defenses to murder.<sup>xxxiii</sup> There is no legitimate excuse or justification for murdering children and there should be no debate about that among reasonable people and government bodies.

- ii. The federal government has repeatedly failed to protect the civil and human rights of individuals subjected to segregated congregate care. Rep. George Miller (D-CA (Ret.)) and Rep. Adam Schiff (D-CA) have introduced versions of the End Institutionalized Abuse Against Children Act (Miller's H.R. 1738 in 2005)<sup>xxxiii</sup>/Stop Child Abuse in Residential Programs for Teens Act (Schiff's H.R. 3060 in 2015)<sup>xxxiv</sup> repeatedly while exempting and omitting faith-based programs and any programs explicitly not covered or exempted in the language of those bills including group homes, foster care, and psychiatric facilities. It seems the Commerce Clause in the United States Constitution provides an avenue for federal legislators to regulate any industry engaging in interstate and international commerce. "The Commerce Clause refers to Article 1, Section 8, Clause 3 of the U.S. Constitution, which gives Congress the power "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes."<sup>xxxv</sup> Any segregated congregate care facility operating under any banner whether as a group home, boarding school, foster care, detention center, treatment center, wilderness program, nursing home, or any other long-term residential services provider that accepts out-of-state enrollments should be strictly regulated by the federal government. Miller's original bill did not appear to have any exclusions or exemptions,

but, after Committee reviews, such were added in making the legislation virtually worthless. Any legislation introduced to regulate segregated congregate care facilities accepting non-resident enrollments of any individuals of any age and condition should explicitly require:

- a. All institutionalized individuals enrolled must be enrolled voluntarily. No person should be placed in a program against their will. The only exception to this would be if there were a court order (i.e. an adjudicated youth).
- b. All individuals have access to and permission to use a telephone from day one of enrollment. And, by any and all telephones should be listed the numbers for Child Protective Services, Child Abuse Hotlines, and Law Enforcement. Phone calls home and to authorities are not to be monitored by staff.
- c. Incoming and outgoing mail is not to be read, censored, nor monitored by anyone other than the sender and/or intended recipient.
- d. All segregated congregate care facilities (CCF) must be properly licensed and accredited to perform the services they claim to provide.
- e. All staff at programs (CCF) must pass an extensive background check, including sex offender background checks. This means no staff can have a history of physical or sexual assaults. And, this should be applied even to those staff who do not have regular contact with residents (i.e. maintenance, groundskeepers, etc.).
- f. Residents' constitutional rights of freedom of speech, free assembly, freedom of religion, and privacy shall not be violated. No program (CCF) shall use an individual's photo for self-promotion unless and until the individual has reached the age of majority and has willingly, without coercion or duress, chosen to permit his/her photo to be used by the program.
- g. All contracts must adhere to fair-dealing standards and not include blanket liability waivers absolving the program (CCF) for any crimes/torts the program (CCF) may commit. This includes that all contracts must not be on-their-face unconscionable or illegal. Contracts are not to include disclaimers regarding promotional materials (i.e. websites, brochures, etc.) used by the program (CCF).
- h. Ban the use of human transport/escort services or severely restrict and require ambulance and emergency medical technician licensing and regulation for providers that transport/escort segregated congregate care residents.

- i. Children 14 years and older must have the right to sign themselves out of any facility and/or be released upon request to Social Services or their families, depending on circumstances. Youth 14 and older should be given a fast track for emancipation in the event their family has abandoned them or they have been orphaned in any way.
  - j. There can be no level system of "privileges" and "consequences". These behavior modification methods don't work and are counter-productive according to a recent study by Dr. Andres Martin (et al) of Yale University.<sup>xxxvi</sup>
  - k. No resident shall provide uncompensated labor or act as staff for the benefit of the program or local businesses. No resident shall be placed in a position of authority over any other resident in the program (CCF).
  - l. Ban strip-searching of residents.
  - m. Residents shall not be subjected to chemical or physical restraints, physical abuse, and psychological abuse. This may include banning the use of aversive therapies. We are working on that at the state level in Washington State right now and supporting SB 5870.<sup>xxxvii</sup>
  - n. Pass H.R. 927, the Keeping All Students Safe Act.
  - o. Therapeutic environments must follow the respectful guidelines for treating adolescents as is outlined in "Reclaiming Our Children" by Dr. Peter Breggin.
  - p. Residents shall not be denied contact with their families, with the outside world, or basic necessities as "punishment" or "consequences".
  - q. Large Group Awareness Training or other "cult-tactics" shall not be employed. Group therapy must be optional and not forced upon any individual. And, programs should not attempt to indoctrinate children into any particular faith or belief-system, but, be set up to provide a safe environment to learn healthy communication skills, heal from trauma, and learn critical thinking skills that encourage questioning authority, self-reliance, and independence.
  - r. The Statute of Limitations for civil and/or criminal lawsuit and prosecution for crimes and torts against residents of segregated congregate care facilities must be greatly extended or eliminated to make sure victims of abuse have a real opportunity for justice.
- iii. Federal public money must not be given to private segregated congregate care providers that accept out-of-state enrollments and fail to meet the preceding standards for institutional care. This includes federal money for public education as well as money provided for foster care for children, youth, and vulnerable adults. Public schools must be prohibited from using

public funds to enroll public school students in out-of-state segregated congregate care facilities including, but not limited to: boarding schools, group homes, residential treatment centers, and wilderness programs. Washington State has introduced and made law restrictions on the placement of public school students in private alternative programs based on our research and recommendations and that of Washington Appleseed. The bill was ESSB 5946 and was signed into law in 2014 by Governor Jay Inslee.<sup>xxxviii xxxix</sup>

- iv. The federal government must maintain control, authority, and responsibility for the welfare of individuals subjected to wilderness therapy programs that rely on national parks and federal lands for their operations. We call on the United States government to ban, prohibit, or severely restrict access to national parks and other federal lands by any therapeutic program operating on public lands. We suggest the following minimum requirements in addition to the preceding recommended standards of care:
  - a. An application and approval process for all 24 hour segregated congregate care providers that plan to use public lands.
  - b. An on-site forest ranger or other federal parks and lands employee to interview every wilderness participant separately to learn if they are there voluntarily or under duress, who is required to notify the participants that they do not have to complete the wilderness program and will be returned to their primary caregivers or emancipated if enrolled involuntarily and without a court order.
  - c. A ban on any federal land use permits for segregated congregate care lasting more than 2 weeks.
  - d. GPS monitors for all participants to assist with search and rescue to avoid tragedies like the death of Alec Lansing at the Trails Carolina program.<sup>xi</sup>
  - e. Segregated congregate care providers operating on federal lands must submit a plan including a map with a 1 mile radius around the area(s) where they plan to operate clearly marked along with a calendar showing where they will roughly be at 8 hour intervals throughout their permitted use. These areas must not be so remote that search and rescue or licensing services cannot reasonably access the program for unannounced inspections and reviews.
- v. The United States government must provide protection as well as reporting guidelines that provide for effective mandated reporting by all individuals working in segregated congregate care facilities and environments. Currently, the majority of US

states do not require institutional abuse be reported to the proper authorities and permit complaints of abuse to be handled strictly in-house. Most states also fail to effectively define mandated reporters as anyone providing direct care to institutionalized persons and fail to protect mandated reporters from retaliation by their employers when they do report abuse. Because of these failures, mandated reporters and other direct care staff are not protected from retaliation and are reluctant to report abuse as a result which amounts to obstruction of justice in most institutional abuse cases. The United States Department of Labor must define mandated reporters of child abuse as any person providing direct care or services to children. In addition, I recommend the following be made part of the Department of Labor's laws, rules, and regulatory guidelines:

a. Connecticut is currently the only state in the union that requires mandated reporters report institutional abuse to government authorities prior to notifying institution management and leaving it to government authorities to notify institution management of any allegations. All states and the US Department of Labor should adopt this rule to avoid obstruction of justice. California, Hawaii, Illinois, Michigan, New York, Tennessee, and West Virginia are the only states that require authorities be notified before institution management, but, these states require that institutional management be notified by the mandated reporter as well prior to the opening of any investigation providing a loophole which often results in obstruction of justice.<sup>xli</sup>

b. Alaska, California, Florida, Indiana, Iowa, Kentucky, Michigan, Missouri, North Dakota, Oklahoma, Oregon, Tennessee, Texas, and Wyoming require reporting of institutional abuse regardless of institution policies. All states and the US Department of Labor should adopt this rule to avoid obstruction of justice.<sup>xlii</sup>

c. Currently, Arkansas, California, Connecticut, Georgia, Illinois, Iowa, Massachusetts, Michigan, Missouri, New York, North Dakota, Oklahoma, Tennessee, Vermont, and Wisconsin are only states that expressly prohibit employers from preventing and discouraging an employee/mandated reporter from making a report with the proper authorities.<sup>xliii</sup> In a recent U.S. District Court of Maine ruling, Granite Bay, a provider of segregated congregate care, was permitted to sue their employee Torrey Harrison for doing Harrison's legal duty in reporting abuse to the authorities as a mandated reporter.<sup>xliiv</sup> Clearly, such a ruling and understanding of reporting policies does and will

continue to dissuade mandated reporters and other direct care staff from reporting abuse. This also must be remedied to avoid obstruction of justice.

- vi. Child Protection and Adult Protection Services must be made a unit of law enforcement to avoid conflicts of interest created by health and human services contracting with segregated congregate care providers and then excusing themselves from regulating the programs with which they contract even though such regulation normally falls under their purview. Many governmental regulatory agencies rely on third party accreditation agencies and most, if not all, of those accrediting bodies fail to meet reasonable and common sense oversight standards. Let me shed light on some of the major accreditation bodies relied on by both federal and state regulatory agencies regarding enforcement and oversight.
  - a. Many faith-based boarding schools and residential programs claim to use Accelerated Christian Education (ACE) materials as their academic component. Blessed Hope Boys Academy in Alabama is one example of a program claiming to use this academic program. Blessed Hope Boys Academy utilizes the Accelerated Christian Education (ACE) booklets as its sole educational service.<sup>xlv</sup> ACE, doing business as Lighthouse Christian Academy and claiming to provide distance or correspondence learning services for home-schooled youth claims to be "fully accredited by Middle States Association Commissions on Elementary and Secondary Schools (MSA-CESS) and Accreditation International (Ai)" <sup>xlvi</sup> If you visit the Middle States Association Commissions website<sup>xlvii</sup>, and search for Blessed Hope Boys Academy, Lighthouse Christian Academy, and Accelerated Christian Education, you will see that it is not listed as an accredited program nor as a member. Accreditation International provides a link<sup>xlviii</sup> to "The Alliance" where individuals can search for institutions accredited by Accreditation International. We did a search for Blessed Hope Boys Academy, Lighthouse Christian Academy, and Accelerated Christian Education at <http://worldwideaccreditedschools.org/index.php>. Blessed Hope Boys Academy is not accredited. There were eight listings for Lighthouse Christian Academy. We found four programs named Lighthouse Christian Academy in Tennessee, two in Maryland, one in Florida, and one in California. Lighthouse Christian Academy (the one providing distance learning to Blessed Hope Boys Academy) is located at 130 Maple Drive North Hendersonville, TN 37075 and has a mailing address of

P.O. Box 508 Hendersonville, TN 37077-0508.<sup>xlix</sup>

Lighthouse Christian Academy (Distance Learning) claims the following: "Lighthouse Christian Academy (LCA) was awarded full accreditation status as a distance education provider by Middle States Association Commissions on Elementary and Secondary Schools (MSA-CESS), National Council for Private School Accreditation (NCPSA), and Accreditation International (Ai). Ai is a recognized member in good standing with the Council on Occupational Education (COE) and the International Council for Education."<sup>1</sup> As shown above MSA-CESS does not accredit Lighthouse Christian Academy.<sup>li</sup> According to the Accreditation International institution search,<sup>lii</sup> Lighthouse Christian Academy is accredited by AI, NCPSA, and MSA-CESS. But, the MSA-CESS does not show this program as being accredited. Regardless, AI, NCPSA, and MSA-CESS appear to be nothing more than membership organizations which profit off of every enrollment for those enrolling in "distance learning" programs such as ACE/Lighthouse Christian Academy.<sup>liii</sup> Regardless, Blessed Hope Boys Academy is operating its program in Alabama. Does Alabama recognize AI, NCPSA, and MSA-CESS as proper accrediting bodies for school credits/education? Faith-based schools and programs are exempt from accreditation, licensing, registration, and approval requirements in Alabama.<sup>liv lv</sup> "Students enrolled in a church school before their 16th birthday are exempt from the new (2009) compulsory attendance law and may withdraw at age 16. Code of Alabama 1975 §§16-28-3, 16-28-1, 16-28-7." When applying to colleges in Alabama, do they accept diplomas from exempt schools and programs? NO! The University of Alabama Admissions Department wrote: "Good morning Angela, I hope your weekend went well. After checking with our Enrollment Management team, it looks like we would not be able to accept credit from this institution based on the accreditation concerns. If you have any further questions, please let me know, and I will do my best to answer them or get you in touch with someone who can. Have a great day. Hunter Denson The University of Alabama"<sup>lvi</sup> The Department of Education must establish strict guidelines for private primary and secondary schools to protect children from lifelong setbacks due to fraudulent diploma mills and similar schemes as we are seeing in the preceding example.

b. The U.S. government and in particular the

Department of Health and Human Services has relied too heavily on and delegated its authority to private accreditation bodies like the Joint Commission to enforce or regulate private segregated congregate care and other health facilities.<sup>lvii</sup> The Joint Commission was founded in 1951.<sup>lviii</sup> In 2007, legislation was introduced to revoke the Joint Commission's deeming authority which gives it the authority to accredit institutions so they are approved to receive public funds through Medicare and Medicaid.<sup>lix</sup> One of the primary reasons the Joint Commission is repeatedly scolded is for failure to ensure patient safety standards.<sup>lx</sup> In addition, the Joint Commission plays a game of pass the buck with state agencies. In many instances involving Utah oversight and regulation agencies, complaints are referred to the Joint Commission. Then, when the Joint Commission is contacted they refer individuals back to state licensing agents in Utah. The state agencies will claim they rely on the Joint Commission as does the U.S. Department of Health and Human Services to determine whether a facility is meeting professional standards of practice. But, in the case of the Joint Commission, we have found that they charge facilities anywhere from \$1500 to \$38,000 annually to remain accredited and they rely primarily on self-reporting and self-assessment by the institutions they accredit when determining accreditation status. [HEAL has a copy of the September 17th, 2012 fact sheet regarding accreditation fees, but, the current representation on the Joint Commission site omits inclusion of the fees charged for accreditation.]<sup>lxi</sup> The US Department of Health and Human Services must do their own work and not rely on unreliable pseudo-non-profits (non-profits in name only) when lives and quality of life issues are at stake. We would suggest the US Department of Health and Human Services enact rules and guidelines enforceable by both federal and state agencies to ensure the proper use of public funds when services are covered through Medicare and Medicaid and retain oversight responsibility and authority in regards to all facilities that may receive public funds. We recommend revoking the deeming authority of all private accreditation bodies due to the rampant fraud and abuse with the accreditation sector in both education and healthcare.

- vii. The federal government must enact sentencing reforms that protect non-violent youth from segregated congregate care. Recently, in Washington State, we were able to achieve major

sentencing reforms barring judges from sentencing most minors to segregated congregate care. The exceptions were for minors who commit crimes such as rape and murder. It also called for periodic review and regular welfare checks for those minors who are sentenced to segregated congregate care facilities. I would suggest the federal government use the recent legislation in Washington State as a basis for sentencing reform for non-violent crime.<sup>lxii</sup> This law is not perfect, but, is a great start in reforming the criminal justice system. We must work to stop any further corruption as we saw in the Kids for Cash scandal in Pennsylvania. And, reforming sentencing guidelines for minors would mark a great improvement in this area.<sup>lxiii</sup>

- viii. The U.S. Department of Education must create and enforce primary and secondary education standards that apply to both private and public primary and secondary schools. Currently, Colorado, Maryland, Nevada, Pennsylvania, and Wyoming are the only states that require private schools be licensed and regulated by the state.<sup>lxiv</sup> And, in those states faith-based schools and programs are exempt in most cases. As shown above, this does a tragic disservice to youth enrolled in these programs resulting in major setbacks for them as they seek opportunities for employment, higher education, and advancement in life. America's children deserve better.
- ix. The federal government must create a fast track to emancipation for abandoned or orphaned youth, whether publicly or privately placed in segregated congregate care in any and all forms, including, but, not limited to: residential treatment centers, behavioral health centers, boarding schools, group homes, foster care, and boot camps/wilderness camps. This effort is supported in the law under the Mature Minor Rule/Mature Minor Doctrine which allows youth to consent to or refuse treatment without parental consent.<sup>lxv</sup> HEAL recommends the following rules be included:
  - a. Minors must be notified of their right to fast track emancipation and permitted to immediately leave segregated congregate care settings that fail to meet their needs and respect their rights.
  - b. Parents must not be permitted to involuntarily subject their minor children to segregated congregate care without a court order and must notify their children of the option for fast track emancipation should the parents no longer wish to provide a family environment for their minor children.
  - c. Segregated congregate care providers must be fined, prosecuted, and subjected to lawsuit for failures to notify and support minors in their care who wish to exercise

their right to fast track emancipation.

In closing, I have identified serious problems, including loopholes and gaps in regulation and enforcement that if addressed as suggested would prevent most occurrences of institutional abuse. According to civil rights attorney, Jim Gottstein, 90% of people currently institutionalized in the United States are institutionalized illegally and in violation of their constitutional rights.<sup>lxvi</sup> The human rights tragedy of all this and the fact that it effects millions of Americans, I hope will be enough to inform and inspire all legislative bodies to take action. When I think of institutionalizing someone, I reflect on the golden rule. Would I want others to institutionalize me if I were in the position of the individual being institutionalized? The answer is always no. Liberty interests must be weighed against any perceived danger people may pose to themselves or others. I would suggest that short of committing a violent crime, no person should be institutionalized based on subjective analysis by individuals who will and do profit from such placements or family members who find their loved ones too inconvenient to support at home. It is less expensive to provide 24 hour in-home nursing care than to institutionalize someone. It just isn't as convenient. I think we can all do better and must do better for a humane world where human rights are priority number one. Now, we leave it to legislators and other officials to take action. And, I quote Aerosmith's "Amazing" and say to you, "Remember, the light at the end of the tunnel may be you."<sup>lxvii</sup>

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<sup>ii</sup> <http://www.actforyouth.net/adolescence/demographics/>

<sup>iii</sup> Thoburn, J., & Ainsworth, F. (2015). Making sense of differential cross-national placement rates for therapeutic residential care. In J. K. Whittaker, J. F. del Valle & L. Holmes (Eds.), *Therapeutic residential care for children and youth: Developing evidence-based international practice* (pp. 37-46). Philadelphia: Jessica Kingsley Publishers.

<sup>iv</sup> [http://www.bazelon.org/LinkClick.aspx?fileticket=D5NL7igV\\_CA%3D&tabid=247](http://www.bazelon.org/LinkClick.aspx?fileticket=D5NL7igV_CA%3D&tabid=247)

<sup>v</sup> <https://www.congress.gov/bill/114th-congress/house-bill/3060/actions>

<sup>vi</sup> <http://www.pewsocialtrends.org/2013/05/07/chapter-2-firearm-deaths/>

<sup>vii</sup> <http://www.factcheck.org/2012/12/gun-rhetoric-vs-gun-facts/>

<sup>viii</sup> [http://www.aoa.acl.gov/Aging\\_Statistics/Profile/2011/6.aspx](http://www.aoa.acl.gov/Aging_Statistics/Profile/2011/6.aspx)

<sup>ix</sup> <http://www.nursinghomeabuseguide.org/nursing-home-abuse-statistics/>

<sup>x</sup> <http://www.pewresearch.org/fact-tank/2013/05/24/suicides-account-for-most-gun-deaths/>

<sup>xi</sup> <http://www.wnd.com/2012/12/psych-meds-linked-to-90-of-school-shootings/>

<sup>xii</sup> <https://youtu.be/C4NzhZc4P0A>

<sup>xiii</sup> <http://www.ada.gov/olmstead/>

<sup>xiv</sup> *United States v. Florida – 1:12-cv-60460 – (S.D. Fla.)*

<sup>xv</sup> <http://www.ada.gov/olmstead/>

<sup>xvi</sup> <http://changingminds.org/disciplines/sociology/articles/institutionalization.htm>

<sup>xvii</sup> [https://www.unicef.org/cambodia/12681\\_23295.html](https://www.unicef.org/cambodia/12681_23295.html)

<sup>xviii</sup> <https://www.acgov.org/probation/documents/EndoftheReformSchoolbyVinny.doc>

<sup>xix</sup> <http://www.theguardian.com/books/2015/jun/08/boarding-school-syndrome-joy-schaverien-review>

<sup>xx</sup> <http://www.telegraph.co.uk/education/secondaryeducation/11662001/The-truth-about-boarding-school-syndrome.html>

<sup>xxi</sup> <http://www.startribune.com/dozens-rally-against-plans-to-create-joint-hennepin-ramsey-juvenile-facility/405127716/>

<sup>xxii</sup> [http://www.denverpost.com/news/ci\\_26528734/colorado-foster-care-youth-less-likely-graduate-than](http://www.denverpost.com/news/ci_26528734/colorado-foster-care-youth-less-likely-graduate-than)

<sup>xxiii</sup> <http://indicators.ohchr.org/>

<sup>xxiv</sup> [https://en.wikipedia.org/wiki/U.S.\\_ratification\\_of\\_the\\_Convention\\_on\\_the\\_Rights\\_of\\_the\\_Child](https://en.wikipedia.org/wiki/U.S._ratification_of_the_Convention_on_the_Rights_of_the_Child)

<sup>xxv</sup> [http://www.law.harvard.edu/faculty/bartholet/ANNALS382389\\_Rev2.for%20web.pdf](http://www.law.harvard.edu/faculty/bartholet/ANNALS382389_Rev2.for%20web.pdf) (pp. 14-15)

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- <sup>xxvi</sup> [http://www.enterprisepub.com/movalley/news/missouri-valley-resident-sentenced-for-sex-trafficking-minors/article\\_3d830d02-e418-11e6-bb06-07d11a3624ac.html](http://www.enterprisepub.com/movalley/news/missouri-valley-resident-sentenced-for-sex-trafficking-minors/article_3d830d02-e418-11e6-bb06-07d11a3624ac.html)
- <sup>xxvii</sup> <https://www.ovcttac.gov/taskforceguide/eguide/1-understanding-human-trafficking/11-forms-of-human-trafficking/>
- <sup>xxviii</sup> <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/03/24/religious-exemptions-a-guide-for-the-confused/>
- <sup>xxix</sup> <http://www.gpo.gov/fdsys/pkg/STATUTE-107/pdf/STATUTE-107-Pg1488.pdf>
- <sup>xxx</sup> <http://www.nbcnews.com/news/us-news/indiana-religious-freedom-law-what-you-need-know-n332491>
- <sup>xxxi</sup> <http://app.leg.wa.gov/billsummary?BillNumber=5408&Year=2016>
- <sup>xxxii</sup> [http://childrenshealthcare.org/?page\\_id=24](http://childrenshealthcare.org/?page_id=24)
- <sup>xxxiii</sup> <https://www.congress.gov/bill/109th-congress/house-bill/1738>
- <sup>xxxiv</sup> <https://www.congress.gov/bill/114th-congress/house-bill/3060>
- <sup>xxxv</sup> [https://www.law.cornell.edu/wex/commerce\\_clause](https://www.law.cornell.edu/wex/commerce_clause)
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- <sup>xxxvii</sup> <http://app.leg.wa.gov/billsummary?BillNumber=5870&Year=2015>
- <sup>xxxviii</sup> <http://www.waappleseed.org/#!school-discipline/c6wu>
- <sup>xxxix</sup> <http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bills/Senate%20Passed%20Legislature/5946-S.PL.pdf>
- <sup>xl</sup> <http://www.nydailynews.com/news/national/teen-missing-n-therapy-camp-found-dead-article-1.2025238>
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- <sup>xlii</sup> <https://www.childwelfare.gov/pubPDFs/manda.pdf> (pp 2-3)
- <sup>xliii</sup> <https://www.childwelfare.gov/pubPDFs/manda.pdf> (pp 2-3)
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- <sup>liiii</sup> <http://www.aiaccredits.org/AIApplicationForm122909005ab-1.pdf>
- <sup>liiv</sup> <http://www2.ed.gov/about/offices/list/oi/nonpublic/alabama.html>
- <sup>li v</sup> <https://www2.ed.gov/admins/comm/choice/regprivschl/regprivschl.pdf>
- <sup>li vi</sup> E-mail to Angela Smith from Hunter Denson at admissions@ua.edu dated August 1st, 2016 at 7:46am
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- <sup>li xi</sup> [https://www.jointcommission.org/facts\\_about\\_hospital\\_accreditation/](https://www.jointcommission.org/facts_about_hospital_accreditation/)
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- <sup>li xiii</sup> <http://nypost.com/2014/02/23/film-details-teens-struggles-in-state-detention-in-payoff-scandal/>
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- <sup>li xv</sup> [https://en.wikipedia.org/wiki/Mature\\_minor\\_doctrine](https://en.wikipedia.org/wiki/Mature_minor_doctrine) and <http://www.kingcounty.gov/depts/health/locations/family-planning/health-care-providers/mature-minor-rule.aspx>
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