



No Country for Young Men

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The scuffle in school was not Junior's first. He had a history of troubling behavior: popping painkillers, fighting, skipping class. But Junior's mother, Kathy, a nurse, considered him a handful, not a menace, and she was stunned that he had been abruptly pulled from school and locked up. After seven days at Yeager, Junior was transported three hours away from his home, to the Donald R. Kuhn Juvenile Center, another maximum-security facility for kids as young as 10. During his three-month wait for a court date, he filled out a psychological evaluation:

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Since the mid-1990s, as violent crime by juveniles has declined sharply, the United States has reduced the juvenile incarceration rate by nearly half. Those statistics mirror trends in adult crime but are also the product of new efforts to find more effective—and inexpensive—alternatives to locking up young people, such as mediation, family therapy, and substance abuse treatment. A large body of research shows that for juveniles, those interventions are more successful than incarceration in helping them avoid further crime, complete their educations, and find employment.

West Virginia, however, is one of a handful of states that has been moving in the opposite direction. It confines juveniles at a rate 42 percent higher than the nation, and according to federal data, has had the largest jump in youth incarceration since 2001. The state places offenders as young as 10 in facilities such as detention centers and group homes.

West Virginia's geography represents a major hurdle to turning the juvenile incarceration rate around. "If you flatten all the mountains, you'd have one of the biggest states in the country," says Joey Garcia, deputy counsel to West Virginia Gov. Earl Ray Tomblin. Programs that offer therapy and substance abuse treatment are scarce and widely dispersed, so judges sentence juveniles to facilities where treatment is available on site. A year in a West Virginia juvenile facility costs more than \$80,000 per child, compared with \$1,000 to \$33,000 per child in community programs that have reduced recidivism by up to 20 percent in other states.

Some of the same rural states that are lacking in treatment options, including South Dakota, Wyoming, and Nebraska, are also taking an aggressive approach to minor infractions like truancy, alcohol consumption, school fights, and violations of probation. West Virginia, for example, defines truancy as more than five days of unexcused absences from school and confines juveniles for this offense at five times the national rate. While the school-to-prison pipeline is often thought of as an urban phenomenon, it is prevalent in rural areas, too.

Jack Varin, a retired juvenile-court judge in heavily rural Idaho, experienced these challenges in the six counties that he covered. In and around Twin Falls, a small city of about 40,000, he could refer troubled kids to mental health and substance abuse services. In smaller communities, those services could be up to 70 miles away, and families often could not get to them on a regular basis. As a judge, it was frustrating, Varin says. "We were always concerned about the possibility that they would become institutionalized, and it might hurt them. But we had to do something to provide them with what they needed."

In other words, one of the only ways to help a kid like Junior Smith in a place like Barbour County, West Virginia, is to incarcerate him.

Junior is 6'3" with blond hair, green eyes, and a West Virginian twang. He usually has dried grease on his hands from working in his dad's motorcycle dealership, located in the north-central part of the state, with

its landscape of farms, looming mountaintop coal mines, and one-street downtowns. Junior grew up racing dirt bikes with his younger sister, Alicia, almost from the time they could walk. Alicia and Junior were always close, but as Junior got older he grew more distant. He began drinking and smoking pot in middle school. As a sophomore at Buckhannon Upshur High School, he was one of several boys accused of bullying a football player who later committed suicide (an investigation produced no criminal charges). Junior became anxious and depressed, and his substance abuse problems worsened. He fought, skipped class, and was suspended multiple times. After one fight, a school police officer at Buckhannon High reported the incident to the courts and Junior was placed under court supervision for the next six months.

In 2011, the Smith family moved from Buckhannon to the more remote Barbour County, where Junior attended Barbour High School. Ten days before his arrest at school, Junior had pled guilty to a December burglary. One afternoon, high on painkillers, he had driven his ATV, a Rhino four-wheeler, into the driveway of a neighbor and entered the home's unlocked garage. He had the hazy idea, he later admitted on the stand, of trying to steal a six-pack of beer from the family's fridge, which he could take with him to a party that weekend. Judge Alan Moats at the Barbour County courthouse told him to go home and clean up his act. He was again placed under court supervision.

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In Junior's case, over the course of multiple suspensions and two periods of court supervision, no social worker, psychologist, or substance abuse counselor visited the Smith family at home to provide treatment or track Junior's progress, the family says—practices that other states use. Because Junior was never officially on probation—he moved from a lower level of court supervision directly to incarceration – he was also never referred to one of West Virginia's 12 Youth Reporting Centers, where offenders can access tutoring, therapy, and other resources meant to help them get back on track. (In Florida, for instance, juvenile sentencing guidelines would have steered a judge toward probation, not incarceration, for an offender with Junior's history.) These programs exist in low numbers in some rural states, and demand for them is high, often prohibitively so.

“There is a considerable wait period for most therapeutic services in our surrounding area—a wait period that is unacceptable when I am faced with families that need immediate attention,” one West Virginia probation officer told Pew. When the Smiths first realized Junior was taking painkillers, the drug treatment program they wanted him to attend was 70 miles away in Morgantown. When Kathy called, they told her there was a three-month waitlist. The most help Junior ever got was when he was in jail.

At the Kuhn center, Junior was diagnosed with depression, and his behavioral record was uneven. He was written up for talking out of turn and at one point for having four books in his cell; the rules stated that only two books and a Bible were allowed. But Junior studied and ultimately earned a high school equivalency degree. As long as he was busy, “He is compliant and eager to excel,” one report stated, “but when left to his own free time and imagination, he then becomes mischievous.” The Kuhn staff concluded that although Junior needed therapy, structure, and supervision, he should be moved to a lower-security facility.

On June 7 he appeared before Judge Moats, this time wearing his correctional uniform. He had waited more than three months for this hearing, in legal limbo with no final sentence. Moats heard the testimony of both boys involved in the February fight. The classroom teacher and the school-based police officer, Chad Kennedy, were not called to testify.

In the end, Moats sentenced Junior to incarceration in a maximum-security juvenile facility until age 21—a nearly four-year sentence—citing his history of conflict with other kids. Moats said he might reassess if Junior’s behavior merited it. But there were no guarantees.

Moats would not comment on Junior’s case but acknowledges that the scarcity of mental health services in West Virginia can lead to tougher sentences for juvenile offenders. “There is a lack of substance abuse services, a lack of counseling, a lack of ability to have in-home services to maintain kids in the family,” he says. “So many times I will remove a child and place him in a facility, if they’re on the verge of doing bad things or getting into drugs. When they have structure, they thrive.”

Some states—many rural ones—have been trying to find other ways of providing that structure. According to Pew, at least eight states, including Ohio and Georgia, have statutes banning youth incarceration for many status offenses, misdemeanors, and, in some cases, low-level felonies. Ohio, with many rural counties, is considered a national innovator. In 1994 the state launched RECLAIM, a program in which every county is offered state funding to provide juvenile offenders with family therapy and substance abuse treatment instead of incarceration. In some of the most rural counties, where psychological services are scarce, youth probation officers are being trained in cognitive behavioral therapy. “Instead of traditional probation, it helps make the probation officer more of an agent of change,” says Ryan Gies of the Ohio Department of Youth Services. “They role-play and model best behavior.”

Georgia’s 2014 budget provides \$1.6 million for grants to both nonprofit and for-profit health service providers that are able to bring treatment programs to juvenile offenders in rural parts of the state. The goal is for “the therapist to go out to the kid and the family and work with them right out there in the community,” says Joe Vignati of the Georgia’s Governor’s Office on Children and Families. In Georgia’s Clayton and Jefferson counties, police officers in schools cannot refer a fight to the court system until mediation has been provided and then only if an additional fight takes place.

In Idaho, youth incarceration rates have declined since 2005. Jack Varin, the retired juvenile judge, says Idaho’s success is due in part to a 2009 regulation requiring that before a judge hears a juvenile case, he or she receive a report from a “screening team” assigned to each defendant, which is tasked with identifying relevant services for the child outside of secure facilities. When judges began to learn more about alternatives to confinement, “It immediately resulted in fewer commitments” to secure facilities, he says. And while Junior was incarcerated for 101 days before he ever appeared before a judge, in Idaho, any youth committed to the state is entitled to a hearing within 24 business hours.

Kathy knows that “my son screwed up,” from the drugs and drinking to the burglary. But the harshness of Junior’s sentence plagued her. She and Alicia began making frequent trips to Charleston, the state capital,

where they knocked on the doors of advocacy organizations and legislators—anybody to whom they could tell Junior’s story. She eventually made contact with the American Civil Liberties Union, and in November 2013, received funding from the organization Justice for Families to attend a conference that trains parents with kids in the juvenile system to become policy reform advocates.

At the event, Kathy began to put her son’s case in a national context. She understood West Virginia incarcerated more juveniles than the average state but hadn’t known how many better options were out there. When Junior entered the Kuhn center, he had undergone an assessment to estimate his likelihood of recidivism and was classified as a “moderate” risk. In Ohio, low-to-moderate-risk juvenile offenders sentenced to community programs instead of secure facilities were two to five times less likely to reoffend.

In some ways, Junior was a lot like the other residents at Kuhn: He had drunk too much, taken pills, and been in trouble at school. Most of the kids in the state’s juvenile facilities are white, like Junior, although juveniles of color are overrepresented in the system (black, Latino, and Native American kids make up 6 percent of the state’s youth population and account for 22 percent of incarcerated juveniles). But Junior was also different: He came from a stable, two-parent home with no history of crime or drug abuse. And by the standards of West Virginia, one of the poorest states in the nation, the Smith family is fairly affluent.

Junior noticed that other kids’ parents couldn’t afford to take time off work to drive the three or four or five hours across Appalachia to visit their children in jail. They didn’t have the Internet access that allowed Kathy to research how to maneuver the West Virginia justice system. And they couldn’t afford the phone calls home, \$6.36 per 15 minutes, that set Junior’s parents back \$150 per month. Junior realized he was relatively lucky and told his mother and father about what he was seeing. “At some point,” Kathy says, “I stopped being the mom who was angry about my kid, and started being the person who was angry about all the kids.”

Gov. Tomblin announced in June the state would work with the Pew foundation in an effort to reduce juvenile confinement and named Kathy to the task force. West Virginia has ended the use of long-term solitary confinement for juveniles and last year, transitioned its two most infamous juvenile detention centers to house adults only. High-security incarceration is down, but confinement for low-level offenses remains at historic highs.

In August of last year, Junior’s good behavioral record allowed him to transfer from the Kuhn center to Rubenstein, a lower-security facility that houses 51 boys convicted of felonies, 90 percent of whom are recovering addicts. Rubenstein is only about an hour’s drive from the Smith’s home, and the family had pushed to get him placed there. Junior’s favorite activity at Rubenstein was welding, one of three vocational programs available (in addition to high school courses), all of which lead to an occupational certification.

At the facility, residents have access to all the mental health services that are hard to access across so much of West Virginia. Junior says he got the most out of group therapy, anger management training, and substance abuse treatment. After earning his welding certificate and making it into Rubenstein’s elite “leadership” dorm, the staff put together a report on his progress and submitted it to Judge Moats.

On March 6, 2014, after serving just 13 months of his four-year sentence, Junior was sent home.

Kathy is still shocked by the unpredictability of both Junior’s long sentence and early release. During his

imprisonment, Junior had met children as young as 12. Some had committed vehicular manslaughter or assault, but others told Junior they had made their first contact with the system for offenses like joyriding in a car pilfered from a relative or bringing cut-up grass to school and attempting to sell it as weed. Small problems had led to bigger ones, and they found themselves incarcerated without having received enough help along the way. Many of these young people, as Kathy jokes, did not have a parent who became “a big mouth.”

Junior, now 18, works for a land drilling company owned by a friend’s uncle, which extracts oil and natural gas across the Appalachian basin. He spends seven days working on site—lugging drill pipes across the rig floor—and then seven days at home, hanging out at his dad’s shop. And he is staying away from pills. “I know even if I did it once, I’d probably get sucked back into it.”

About once a month, he gets a call from an aftercare caseworker with the Division of Juvenile Services, whose main concern is that Junior is employed. The state is not offering Junior continued therapy for addiction. “His aftercare plan is us, his family,” says Kathy.

One difficulty Junior now faces is that so many people in town know about his past. A friend from the Rubenstein center has moved to Las Vegas to get a fresh start, and Junior has given some thought to what he calls “venturing out.” But it would be hard—he considers Morgantown, with 30,000 residents, the biggest city he likes to visit.

Kathy, for her part, is grateful that her son is working. She feels a twinge of regret that his time at Rubenstein seemed to put him on a vocational path, when he had been thinking about college before. Still, that is a minor concern. What’s most troubling to her is that in order to get Junior straightened out in Barbour County, he had to be incarcerated. As she explains, “There is nothing at Rubenstein that couldn’t be available in the community.” ¶¶

Juvenile Injustice

Junior Smith was a troubled kid who needed help. Instead, West Virginia threw him in jail.

By Dana Goldstein



An altercation with another student at Philip Barbour High School in Philippi, West Virginia, led to Junior Smith's incarceration in February 2013.

Photo by Dana Goldstein/The Marshall Project

*The piece was reported and written by Dana Goldstein for **The Marshall Project**, a new nonprofit news organization focused on the criminal justice system. Sign up for updates on their launch.*

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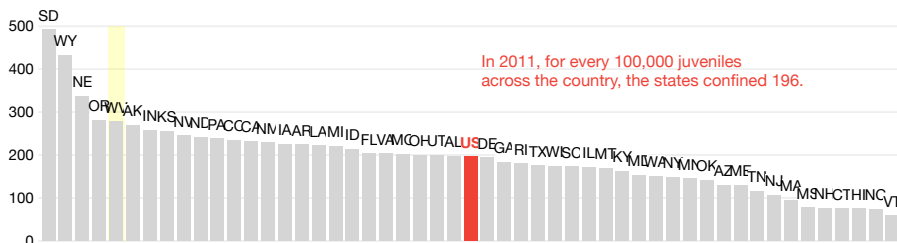
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Youths confined per 100,000 juvenile residents in 2011



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Notes: In 2011, the survey of juvenile facilities had a response rate of 95%. The Census Bureau, which conducts this survey, estimated the responses for non-responding facilities.

West Virginia's geography represents a major hurdle to turning the juvenile incarceration rate around. "If you flatten all the mountains, you'd have one of the biggest states in the country," says Joey Garcia, deputy counsel to West Virginia Gov. Earl Ray Tomblin. Programs that offer therapy and substance abuse treatment are scarce and widely dispersed, so judges sentence juveniles to facilities where treatment is available on site. A year in a West Virginia juvenile facility costs more than \$80,000 per child, compared with \$1,000 to \$33,000 per child in community programs that have **reduced recidivism** by up to 20 percent in other states.

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Alicia and Junior were always close, but as Junior got older he grew more distant. He began drinking and smoking pot in middle school. As a sophomore at Buckhannon Upshur High School, he was one of several boys accused of bullying a football player who later committed suicide (an investigation produced no criminal charges). Junior became anxious and depressed, and his substance abuse problems worsened. He fought, skipped class, and was suspended multiple times. After one fight, a school police officer at Buckhannon High reported the incident to the courts and Junior was placed under court supervision for the next six months.

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The site of the 2006 Sago Mine disaster, a 40-minute drive from the Smith family home. Several of Junior Smith’s relatives have worked as miners.

Photo by Dana Goldstein/The Marshall Project

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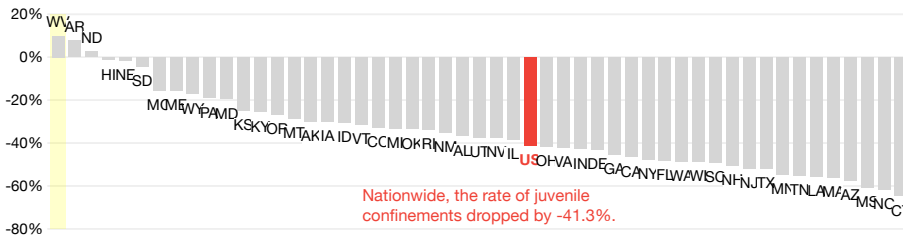
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Percent change of juvenile confinement rates, by state

West Virginia is one of three states that confined more minors per 100,000 residents in 2011 than it had a decade before.



Source: Department of Justice's Office of Juvenile Justice and Delinquency Prevention

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Kathy Smith reviews notes on her son’s case in her home. In June, she was named by West Virginia Gov. Earl Ray Tomblin to join a task force researching ways to reduce juvenile confinement.

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In some ways, Junior was a lot like the other residents at Kuhn: He had drunk too much, taken pills, and been in trouble at school. Most of the kids in the state’s juvenile facilities are white, like Junior, although juveniles of color are overrepresented in the system (black, Latino, and Native American kids make up 6 percent of the state’s youth population and account for 22 percent of incarcerated juveniles). But Junior was also different: He came from a stable, two-parent home with no history of crime or drug abuse. And by the standards of West Virginia, one of the poorest states in the nation, the Smith family is fairly affluent.

Junior noticed that other kids’ parents couldn’t afford to take time off work to drive the three or four or five hours across Appalachia to visit their children in jail. They didn’t have the Internet access that allowed Kathy to research how to maneuver the West Virginia justice system. And they couldn’t afford the phone calls home, \$6.36 per 15 minutes, that set Junior’s parents back \$150 per month. Junior realized he was relatively lucky and told his mother and father about what he was seeing. “At some point,” Kathy says, “I stopped being the mom who was angry about my kid, and started being the person who was angry about all the kids.”

Gov. Tomblin announced in June the state would work with the Pew foundation in an effort to reduce juvenile confinement and named Kathy to the task force. West Virginia has ended the use of long-term solitary confinement for juveniles and last year, transitioned its two most

infamous juvenile detention centers to house adults only. High-security incarceration is down, but confinement for low-level offenses remains at historic highs.

In August of last year, Junior's good behavioral record allowed him to transfer from the Kuhn center to Rubenstein, a lower-security facility that houses 51 boys convicted of felonies, 90 percent of whom are recovering addicts. Rubenstein is only about an hour's drive from the Smith's home, and the family had pushed to get him placed there. Junior's favorite activity at Rubenstein was welding, one of three vocational programs available (in addition to high school courses), all of which lead to an occupational certification.



The Kenneth "Honey" Rubenstein Juvenile Center in Davis, West Virginia. Junior was placed in this lower-level detention facility from August 2013 to March 2014.

Photo by Dana Goldstein/The Marshall Project

At the facility, residents have access to all the mental health services that are hard to access across so much of West Virginia. Junior says he got the most out of group therapy, anger management training, and substance abuse treatment. After earning his welding certificate and making it into Rubenstein's elite "leadership" dorm, the staff put together a report on his progress and submitted it to Judge Moats.

On March 6, 2014, after serving just 13 months of his four-year sentence, Junior was sent home.

* * *

Kathy is still shocked by the unpredictability of both Junior's long sentence and early release. During his imprisonment, Junior had met children as young as 12. Some had committed vehicular manslaughter or assault, but others told Junior they had made their first contact with the system for offenses like joyriding in a car pilfered from a relative or bringing cut-up grass to school and attempting to sell it as weed. Small problems had led to bigger ones, and they found themselves incarcerated without having received enough help along the way. Many of these young people, as Kathy jokes, did not have a parent who became "a big mouth."

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It sounds like the system has worked perfectly, except for on demand rehab provided by the state was not available but was available with a relatively short wait. Junior was given many chances. [More...](#)

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he likes to visit.

Junior, now 18, works for a land drilling company owned by a friend's uncle, which extracts oil and natural gas across the Appalachian basin. He spends seven days working on site—lugging drill pipes across the rig floor—and then seven days at home, hanging out at his dad's shop. And he is staying away from pills. "I know even if I did it once, I'd probably get sucked back into it."

About once a month, he gets a call from an aftercare caseworker with the Division of Juvenile Services, whose main concern is that Junior is employed. The state is not offering Junior continued therapy for addiction. "His aftercare plan is us, his family," says Kathy.

One difficulty Junior now faces is that so many people in town know about his past. A friend from the Rubenstein center has moved to Las Vegas to get a fresh start, and Junior has given some thought to what he calls "venturing out." But it would be hard—he considers Morgantown, with 30,000 residents, the biggest city

Kathy, for her part, is grateful that her son is working. She feels a twinge of regret that his time at Rubenstein seemed to put him on a vocational path, when he had been thinking about college before. Still, that is a minor concern. What's most troubling to her is that in order to get Junior straightened out in Barbour County, he had to be incarcerated. As she explains, "There is nothing at Rubenstein that couldn't be available in the community."

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