

## MEMORANDUM

TO: Juvenile Justice Conferees' Legislative Assistants

FROM: Marc Schindler (Youth Law Center) & Jill Ward (CDF)  
Co-Chairs, Juvenile Justice Coalition

DATE: March 31, 2000

RE: Juvenile Justice legislation

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As debate continues around the gun issue, we have provided information – some new and some old – around the central issues of the pending juvenile justice legislation. As always, if you need additional information, please feel free to contact either of us. We can be reached by phone at: 202/637-0377 (Marc) or 202/662-3503 (Jill) or by email at: mschindler.ylc@erols.com or jward@childrensdefense.org.

### **Juvenile Justice Conference:**

- Coalition to Prevent Juvenile Crime letter to conferees (March 2000)
- Volunteers of America letter to conferees (March 24, 2000)
- Mennonite Central Committee U.S. Washington Office article (March 24, 2000)
- Council of State Governments letter to conferees (August 30, 1999)
- Juvenile Justice Coalition letter to conferees (August 5, 1999)

### **Juvenile Justice System – Overrepresentation of Minority Youth**

- New California Study – The Color of Justice: An Analysis of Juvenile Adult Court Transfers in California

*Juvenile Justice  
legislation from  
Marc Schindler*



Volunteers of America®

National Office

March 24, 2000

Juvenile Justice Conferees  
United States Congress  
Washington, DC

Dear Conferee:

As the public call for action on S. 254 and H.R. 1501 increasingly focuses your attention on the issue of guns, Volunteers of America would like to remind you that the vast majority of the underlying content of S. 254 and H.R. 1501 does not focus on guns, but rather makes major changes to the juvenile justice system and needs careful consideration as the conference committee continues negotiation towards a final bill.

Volunteers of America has been providing comprehensive and innovative services to children and families for more than 100 years and knows through our experiences nationwide that meaningful investments in kids before there is need for involvement by the juvenile justice system are the most effective and appropriate way to keep families healthy, safe and intact. It is because of these experiences that we urge you to ensure adequate focus and funding for prevention efforts in the final bill. In addition, Volunteers of America believes that appropriate interventions and protections for children in the juvenile justice system are essential to reducing recidivism among incarcerated youth.

Attached you will find a small sampling of Volunteers of America programs from around the country including prevention, intervention, treatment and sanctions programs for youth at risk of involvement with the juvenile corrections system or with those who have already been adjudicated. We look forward to providing additional information about any of these programs or respond to inquiries about our programs in states not included in the report. The following recommendations for inclusion in the final bill are based on the experiences of these programs and others and we appreciate your consideration.

Specifically, we recommend that the final bill include the following:

**1) Significantly invest in juvenile crime prevention.**

**Issue: Prevention funding set-aside and programs.**

Although both bills contain a "prevention block grant," there is no set-aside for prevention funding. Without a significant guarantee of funding, there is no assurance that any funds will ever be appropriated for prevention programs.

*A Ministry of Service*

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**Recommendation:** Volunteers of America strongly recommends that you adopt the Senate provisions which set-aside a minimum of 25% of the Juvenile Accountability Incentive Block Grant for prevention purposes.

**2) Provide appropriate support services for at-risk and delinquent youth.**

**Issue: Mental health services to at-risk and delinquent youth.**

The Senate and House bills include a number of similar provisions that focus on assessing and providing mental health services to at-risk and delinquent youth. The House bill also allows Juvenile Accountability Block Grant (JABG) funds to be used for mental health screening and services, providing training and technical assistance to mental health and law enforcement personnel, and requires the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to conduct research on mental health services for juveniles. In addition, funds may be used to conduct a comprehensive study on the mental health needs of juveniles in the juvenile justice system. The Senate bill also allows funds to be used to train justice system personnel and probation officers, authorizes a demonstration program on violence prevention, and authorizes a School Counseling and Demonstration grant.

**Recommendation:** We urge inclusion of the screening, research, training, and study provisions contained in the House bill and the training, violence prevention and counseling program provisions in the Senate bill.

**Issue: Graduated sanctions.**

Both bills allow Juvenile Accountability Block Grant (JABG) funds to be used to implement graduated sanctions in order to assure a consequence for every delinquent act by a youth. The House bill allows states the discretion to implement graduated sanctions, while the Senate bill mandates the use of graduated sanctions as a condition of receiving JABG funds.

**Recommendation:** Volunteers of America recommends adoption of the House language, which allows states the discretion to implement graduated sanctions, and adoption of the House Title XIII definition of graduated sanctions.

**Issue: Intervention services to children with disabilities who bring firearms to school.**

The Senate and House bills amend current law by allowing school personnel to discipline and to cease educational services to students with disabilities who possess or carry a firearm or weapon to school. The Senate bill requires that immediate mental health intervention services be provided for children removed from school for any violent acts, including carrying or possessing a weapon.

**Recommendation:** Volunteers of America opposes the cessation of educational services to students with disabilities and urge that this provision be removed.

### **3) Provide core protections for children in the juvenile justice system.**

#### **Issue: Reauthorization of the Juvenile Justice and Delinquency Prevention Act.**

The House-passed bill includes a provision which would sunset the Juvenile Justice and Delinquency Prevention Act (JJDNA) in 2004. The JJDNA includes the core requirements that have provided the most basic protections against harm to children in correctional facilities for the last 25 years. Sunsetting JJDNA would also eliminate critical funding under the Act to states and communities for improvements to their juvenile justice systems.

**Recommendation:** We urge you to remove this provision from the final bill.

#### **Issue: JJDNA 'Separation' protection.**

For the past 25 years, The Juvenile Justice and Delinquency Prevention Act (JJDNA) has protected children from abuse and assault by adults in adult jails. The House-passed bill would weaken current law by allowing "incidental" contact between children and adult inmates in the state system.

Additionally, the House-passed bill weakens protections for children in the federal system as it creates a loophole which could allow youth who are prosecuted in federal court to have unlimited exposure to adult inmates. Under the House bill, children as young as age 13 could be placed in cells with adult inmates in the federal system.

Volunteers of America is gravely concerned by these provisions because research has shown that children commit suicide in adult jails eight times as often as children held in juvenile detention facilities, and children housed in adult prisons are five times more likely to be sexually assaulted, two times more likely to be assaulted by staff, and 50% more likely to be attacked with a weapon compared to children in juvenile facilities.

**Recommendation:** We strongly recommend that you adopt the Senate provisions that essentially maintain the protection to separate juveniles from adults in adult jails in both the state and federal systems.

#### **Issue: JJDNA 'Removal' protection.**

Both the House and Senate bills significantly weaken the requirement to keep children out of adult jails by including provisions to allow parental consent to place children in adult jails. The Senate bill would allow children to be placed in adult facilities with parental consent indefinitely. The parental consent exception is a radical change to current law and will result in children being placed in adult jails for unacceptably long periods.

**Recommendation:** Volunteers of America urges you to drop these provisions from the final bill, and instead, maintain current law protections.

#### **Issue: Dangerous conditions for incarcerated children.**

The House-passed bill contains a provision that will seriously harm children by terminating consent decrees that existed before the passage of the Prison Litigation Reform Act (PLRA).

Under this language, dozens of consent decrees that have kept children out of adult jails and prohibited abusive practices, including beatings and tying children to beds would be abolished.

**Recommendation:** We urge you to remove this provision from the final bill.

**Issue:** Prosecutorial discretion, trying children as adults, and federalizing juvenile crimes.

Both bills propose drastic changes in the way that children are prosecuted in the federal system. Prominent federal officials including Chief Justice Rehnquist and former Attorney General Edwin Meese III oppose these changes. Among the changes that Volunteers of America oppose are (1) the presumption that children will be prosecuted in the federal system contrary to current law which assumes prosecution in the state system, (2) prosecuting and sentencing children as young as 13 as adults, (3) giving prosecutors unfettered discretion to prosecute children as adults without judicial review, (4) subjecting children both in the juvenile and adult system to mandatory minimum sentencing, and (5) removing confidentiality protections in juvenile court by opening juvenile court proceedings to the public and making juvenile records available.

**Recommendation:** We urge you to drop these provisions from the final legislation.

#### **4) Support state efforts to reduce disproportionate confinement of minority youth.**

**Issue:** Disproportionate confinement of minority youth in the juvenile justice system. In virtually every state, minority youth are over-represented at every stage of the juvenile justice system, particularly in secure confinement. Current law directs states generally to "address" this issue, without requiring release of juveniles or incarceration quotas. The Senate-passed bill, however, deletes all reference to "minority" and instead refers to "segments of the juvenile population." This minimizes an important issue, and hinders efforts to remedy the disparate treatment of minority youth.

**Recommendation:** We urge adoption of the House-passed provision that maintains a requirement to address disproportionate minority confinement under the JJDP.

#### **5) Focus federal support, technical assistance and research on children and youth.**

**Issue:** Reorganization of the Office of Juvenile Justice and Delinquency Prevention. The Senate-passed bill fails to recognize the importance of juvenile justice research, training, and technical assistance. The bill transfers most of these functions currently supported by the Office of Juvenile Justice and Delinquency Prevention to the National Institute of Justice, an agency primarily responsible for research on adult crime. Juvenile justice research (e.g., on effective delinquency prevention programs), training of juvenile justice personnel, and technical assistance to communities has proved invaluable to public officials, policymakers, and concerned citizens. There is a significant danger that these important activities will inevitably have a lower priority at NIJ, resulting in far fewer resources for communities to use

in their juvenile crime control and prevention efforts. The House bill includes no similar provision.

**Recommendation: Volunteers of America urges you to drop these provisions from the final bill.**

We appreciate your consideration. If we can provide any additional information, please contact Andrea Palm in our office at (703) 341-5060.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronit K. Friedman". The signature is fluid and cursive, with the first name "Ronit" being more prominent.

vice president, public policy



*“Voices  
Against  
Violence”*

A Congressional Teen Conference  
October 19th and 20th, 1999  
Washington, DC

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## *Introduction*

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Serving the needs of youth in, and those at-risk of entering the juvenile justice system has long been a part of Volunteers of America's legacy of service. To this end, we provide such preventive and rehabilitative services as delinquency prevention, case management, restitution monitoring, drug testing and treatment, job training, life skills training, parenting education, pre-trial and post-release services, community service placement and monitoring, and secure residential group home and facility programs. We are pleased to provide this sampling of innovative and effective Volunteers of America programs from around the country. In addition to the individual program contact information listed in this publication, you can learn more about Volunteers of America's work in the area of juvenile justice by contacting Andrea Palm at the Volunteers of America National Office at (800) 899-0089.

Volunteers of America is a national, nonprofit, spiritually based organization providing local human service programs, and opportunities for individual and community involvement. Volunteers of America is one of the nation's largest and most comprehensive charitable nonprofit human services organizations. From rural America to inner-city neighborhoods, Volunteers

of America engages its professional staff and volunteers in designing and operating programs that deal with today's most pressing social needs. Every year more than 1.5 million people across the nation feel the helping hand of Volunteers of America. Our innovative services respond to individual community needs to help abused and neglected children, youth at risk, the frail elderly, the disabled, homeless individuals and families, and many others.

In addition to its many diverse services, Volunteers of America is the nation's largest nonprofit provider of affordable housing for families, the elderly, and people with disabilities. The organization is also a major provider of skilled long-term nursing care and health services. Volunteers of America operates nursing facilities, residential assisted living complexes, and retirement communities.

Volunteers of America was founded in 1896 by Christian social reformers Ballington and Maud Booth as a broad spiritual movement to "reach and uplift" the American people. Today, more than 11,000 full-time employees in partnership with more than 31,000 volunteers provide dedicated service to people in need.

## *"The LightHouse"*

**Comprehensive Program  
for Children, Youth  
and Families**

**T**he *LightHouse* Program began in 1989 to provide education, enrichment, counseling, tutoring, and job training and employment placement for young people ranging in age from 6 to 20. The *LightHouse* is a safe, youth-focused environment within a neighborhood known for its violence and gang activity. Programs sponsored by the *LightHouse* include a preschool, after-school program, basic education program, programming for high school dropouts, Youth Leadership Partnership, Effective Parenting workshops, Family Independence Find Work Program, and the Mentoring Adolescents In Need of Support Program (M.A.I.N.S.).

The *LightHouse* preschool serves approximately 40 children per year and aims to ensure that children from even the most deprived homes are ready for school when the time comes. Children in the program show enormous gains in their gross and fine motor skills and language development, as measured by tests given at the beginning and end of each school term.

The after-school program provides a safe place for children to spend the critical after-school hours. Youth participate in field trips, recreational activities, and educational enrichment activities. The *LightHouse* after-school program involves approximately 30 children and teenagers each weekday afternoon. During the 1998-99 program year, almost every child in the program (approximately 70 children a year), improved his/her math scores. Students also improved their grade point averages.

The *LightHouse* Basic Education program provides a safe place where students come for help with their homework, to use computers, listen to speakers, tour the community fine arts programs, and participate in recreational activities and entertainment. Approximately 75 students take advantage of the help, support, and friendship offered by the Basic Education program. The average post-test reading score for students in the program revealed an advanced level for high school stu-

dents. The average math score was above the 10th grade level. During the 1998-99 school year, there were no reports of involvement in the criminal justice system for program participants. In the summer of 1999, twenty-five high school-age students worked at the *LightHouse*, filing documents, keeping track of supplies, cleaning the attic and basement, and assisting program coordinators by answering telephones, making appointments, and writing letters. This provided them with an experience in a working environment.

Initiated in 1998, the M.A.I.N.S. (Mentoring Adolescents In Need of Support) program provides over 100 at-risk youth from local schools with adult volunteers who serve as their mentors, forging positive relationships which include frequent get-togethers and phone calls—plus encouragement, support, and friendship.

Effective Parenting classes are provided several times each year at the *LightHouse*. Each class lasts 15 weeks, with weekly 3 hour sessions on subjects such as effective discipline, communication, conflict-resolution, raising self-esteem, and the importance of praise. Over 125 parents have "graduated" from these classes.

Over 100 students and parents have taken part in the Family Independence Find Work Program, which emphasizes job-readiness through visits to job fairs, and other job-search activities. Former program participants who have found jobs often return as guest speakers to share the rewards of being independent. During the 1998-99 program year, 60% of the participants gained employment.

### **Contact Information:**

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*LightHouse* Program  
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## *“Positive Alternatives”*

### **Comprehensive Family Mentoring and Afterschool Program**

**T**he *Positive Alternatives* program was originally designed in 1977 to combat drug and alcohol abuse among youth, ages 7 to 17. Since then, the program has expanded to address juvenile crime and gang violence and now includes over 400 families from the local community.

The program strives to decrease juvenile violence, decrease the number of youth involving themselves with gangs, decrease the number of juvenile arrests, increase awareness of the risks of drug and alcohol use, improve academic performance, identify and increase utilization of community resources to combat drug abuse, juvenile crime and incidents of youth violence within the community, increase resistance skills, and promote drug, alcohol and violence free recreational and community activities.

The program offers academic support (tutors), academic enrichment (language and math instruction), family mentoring, recreational and cultural activities, social skills, career education workshops and positive alternatives to at-risk youth and their families. Program hours of operation vary due to the school calendar, but regardless of the season the center is open five days a week. During the summer, the program site is open from 10 a.m. to 3 p.m. In the fall, winter, and spring, the hours are from 2 p.m. to 7 p.m. In addition to conducting workshops and other activities, *Positive Alternatives* provides meals for program participants. Two meals a day are provided when school is not in session and one meal per day when school is in session.

There are 14 staff members (paid and volunteer) with the *Positive Alternatives* Program in Los Angeles. Four full-time case managers help families decide the services needed to assist them with their daily lives. In addition, the case manager assists the participants in coping with their personal emergencies. Five full-time prevention specialists are responsible for overall-planning and implementation of the workshops and day-to-day operational activities. Four part-time outreach counselors work in the program center and on the school campuses. The counselors assist in facilitating workshops, supervising

other activities, serving meals, and checking the accuracy of attendance records. Finally, the program director oversees the staff, and is involved in program planning, evaluation, fiscal management, resource development and guides the direction of the program.

Since 1997, *Positive Alternatives* has achieved several milestones:

- Collaborative relationships with at least 20 organizations serving the immediate community have been established
- 57 mentor families have been recruited
- 20% of unemployed parents have been placed in full time employment
- 70% of parents have participated in parenting education
- 6,500 meals have been served
- Over 220 drug and alcohol free recreational and community activities have been provided
- Families placed under Department of Children Services decreased by 20%
- At least 55% of youth participants had no evidence of drug use during high school
- 85% of youth participants had no evidence of gang involvement
- 80% had no evidence of negative contact with law enforcement
- Youth participants evidenced a significant increase in math and language test scores
- Average grades in math and language increased by 25%

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## "Bright Futures"

### **Comprehensive Youth Development Program**

Volunteers of America, a participant in the 1997 President's Summit for America's Future, pledged to develop a *Bright Futures* initiative for promoting positive youth development in multi-family affordable housing properties operated and managed by Volunteers of America. These properties are home to more than 20,000 low-income individuals, including 10,000 children and youth.

The *Bright Futures* initiative is designed to promote positive youth development by mobilizing residents, families, young people, youth organizations, churches, schools, businesses, community centers and others in the surrounding community to give kids what they need to succeed. Research has consistently shown that supportive relationships, positive opportunities, and safe places are key ingredients in predicting a young person's behavior. Together, communities learn to creatively identify and develop opportunities, activities, resources, and supportive relationships for the young people. Together they find ways to improve the likelihood of "bright futures."

The *Bright Futures* initiative was started at a demonstration site at the Eastern Avenue Apartments in Seat Pleasant, Maryland, an affordable housing property owned and managed by Volunteers of America. A *Bright Futures* Kick Off Summit for residents, community businesses, policy makers, police department, churches and others was held at the Apartments in May 1998 and the effect was extraordinary! People made commitments to teach everything from cooking to drama to tennis to computers and beyond. The mayor of Seat Pleasant, Maryland committed to coaching football and basketball. A local business committed to hosting birthday parties and others made commitments to host movie nights on Saturdays for kids. Young people were very

much part of the program and many stood up and made their own commitments to mentor other kids and serve their community.

To replicate the *Bright Futures* initiative, a guidebook was published and a national training was held at the Volunteers of America annual conference in June 1998. Selected affordable housing sites received on-site technical assistance and seed grants to initiate afterschool programs and mobilize community commitments to support young people living on the property.

#### **Contact Information:**

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The following sites have initiated Bright Futures:

Brandy Station  
St Louis, MO  
Ann Price  
Telephone: (314) 487-3622

Castle Gardens Apartments  
Lubbock, TX  
Manuel Gallegos  
Telephone: (806) 765-8134

Desert Palms North  
Las Vegas, NV  
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Continued from previous page...

Lake Wind East Apartments  
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Charlotte Roussel  
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Green Briar Apartments  
Sacramento, CA  
Renee Simpson  
Telephone: (916) 486-8920

Eastern Avenue Apartments  
Seat Pleasant, MD  
Nancy Staten  
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The Summit Apartments  
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Seventy West Apartments  
Detroit, MI  
Jackie Singleton  
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North Hollywood Apartments  
Los Angeles, CA  
Bob Pratt  
Telephone: (213) 389-1500

## *“Kids’ Futures—Building Bridges”*

**Afterschool  
Program**

**S**ince the fall of 1993, *Kids’ Futures—Building Bridges* has provided Skykomish Valley youth with character building after-school activities with an emphasis on overcoming challenges and living drug-free lifestyles. The program consists of a variety of after-school, evening and weekend recreational, cultural, instructional, and artistic activities for young people, ages 12 to 18, residing in Skykomish Valley, where poverty levels are high and dropout rates are the highest in the state. The goal of the program is to reduce the dropout rate, youth violence and vandalism and promote youth as community partners and leaders.

*Building Bridges* offers a minimum of 104 hours of activities each year. Evening sessions, held once each week typically attract 20 to 45 teenagers and provide pizza and socializing. Activities vary widely from week to week, but all are designed to assist youth in facing and meeting life’s challenges. The focus is on enhancing self-esteem, building basic communication and leadership skills, and helping youth learn to celebrate life and reconnect with their peers, family, and community.

Activities have included painting the gazebo in the community park and helping build and tour youngsters through the community Halloween Spook House. Recreational activities include swimming, an annual canoe trip down the Snohomish River, and special events such as dances. *Building Bridges* also offers special appearances and “straight talks” by athletes and other public figures, Toastmasters speech/leadership training, and community service projects.

The youth attending *Building Bridges* are

often school drop-outs, or at very high risk for dropping out of school. Many have been run-aways or homeless or face parental rejection and abuse. *Building Bridges* youth are challenged to help cope with family stress, develop healthy behaviors, stay in school and support their community.

Positive program outcomes are demonstrated by increased physical and emotional fitness, reduced substance abuse, reduced incidents of youth violence and vandalism, reduced anti-social behaviors, aggression, isolation and withdrawal, and increased commitment to school through a reduced drop out rate. *Building Bridges* participants show enhanced self-esteem, improved peer-to-peer relationships, improved positive attitudes, increased ability to resist and survive negative peer pressure, improved speaking skills, increased personal living skills and family bonding, increased leadership skills, stronger connections to the community, and an increased ability for effective problem solving.

### **Contact Information:**

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## *“Hooked on Fishing—Not on Drugs”*

**Summer  
Program**

**H**ooked on Fishing—Not on Drugs was first-conducted in the summer of 1997 for 65 to 70 children in grades Kindergarten through 12, who were living in emergency or transitional shelter for homeless families. The program was designed in partnership with the Center of Science and Industry (C.O.S.I.) and the Division of Wildlife to develop an appreciation for the environment wildlife, and aquatic life, while providing youth with opportunities for problem-solving, decision-making, communication and building self-esteem. The inclusion of families in the program helps build intergenerational relationships.

The summer program is an extension of the academic year tutoring program. This summer-long undertaking is comprised of classroom instruction focusing on aquatic education, related activities, and a variety of field trips. In recent years, a pond clean-up project began in April, involving students, teachers, and volunteers. In June and July, K–12 students were able to attend a study trip to the Center of Science and Industry (C.O.S.I.). Pre- and post-trip activities centered around aquatic education and fishing. While at C.O.S.I., an activity focused on violence and drug abuse prevention was presented to the children by C.O.S.I. staff.

Other trips and activities involve the Coral Reef Exhibit at Columbus Zoo, Westgate Fishing Day at Westgate Fishing Pond, Highbanks Day Camp—Nature, Pond and Fishing Focus and a fishing and aquatic life study trip to Franklin Park Conservatory & Pond. Creative writing and discussion with an aquatic theme are typical activities throughout the summer. Students are encouraged to sign a *Hooked on Fishing—Not on Drugs* pledge card, and participate in the Division of

Wildlife’s essay/poster event. Family fishing opportunities are offered on designated Saturdays.

In August, Volunteers of America staff hold a parent preparation workshop/reception. The workshop gives the children a chance to share a video and the lessons they have learned throughout the summer with their parents. The reception precedes one of the two “Family Fishing Days” held during the summer.

Designed to encourage and enhance intergenerational relationships, *Hooked on Fishing—Not on Drugs* involves community members in weekend fishing outings. Children are paired with an adult “buddy.” “Buddies” include members of the local Small Bass Alliance Club and their families, parents, and case managers. All participants receive badges and a pledge card at the end-of-the-summer reception at Red Lobster Restaurant. Participants who stay with the program throughout the year become facilitators for the next summer.

In order to reinforce the connections made over the summer, a fall fishing club was developed. In addition, students spend the academic year preparing for the summer fishing program by collecting cans for recycling to raise funds. Students who participate in the summer program eagerly share their knowledge with new students.

### **Contact Information:**

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## *“YOUth CONNECTIONs”*

**Summer Community  
Service Camp**

**Y**OUth CONNECTIONs is a community service summer camp that offers two week sessions for 11 to 14 year olds. The 1999 girls' session was two weeks in July and the boys' session was two weeks in August. The camp is held at Volunteers of America in Greater New Orleans from 8:30 a.m. to 4:30 p.m.

The program operates under the five principles of service learning: team building, planning, action, reflection, and celebration. *YOUth CONNECTIONs* goal is to provide youth with an opportunity to positively impact their communities through a structured experience which, while increasing their skills and self-esteem, allows them the opportunity to learn from their experiences, positively connecting them to the community and their peers.

The first day is devoted to getting acquainted, team building, safety issues, goals, and the meaning of service. The next eight days are devoted to community service projects. *YOUth CONNECTIONs* provides supervised volunteer experiences at more than sixteen non-profit organizations in the Greater New Orleans area, giving assistance to hundreds of people in need. The program is sponsored by Volunteers of America, the Volunteer and Information Agency,

and United Way member agencies.

At each location, participants are educated about the organization, its mission, the clients that it serves and how the project for the day will impact the agency and the people it serves. Youth end each day with reflection on the service project as a group and in private journals. The final day is a celebration of their hard work and is planned by the participants.

*YOUth CONNECTIONs* Program participants have packaged food at Second Harvesters Food Bank, rebuilt a teepee at the Native American Museum, handed out commodities at Forest Towers Senior Center, stenciled the city's storm drains, renovated a restaurant with the AmeriCorps of New Orleans Housing Team, and much more. The participant fee for the program is \$15.00 and scholarships are available.

### **Contact Information:**

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## "The Parent Network"

### **Parent Involvement Program**

The *Parent Network* was first piloted at Volunteers of America affiliates in Anchorage, Alaska and Spokane, Washington in 1994. The goal of the *Parent Network* is to decrease isolation and engage parents and the broader community to act collectively to ensure the positive development and safety of their children. Parent Networks become hubs for information exchanges that support enhanced parenting skills, educational achievement, and community development. The *Parent Network* also provides opportunities for parents to develop and monitor positive activities to involve their teens in.

By joining together, parents can achieve the three program goals of prevention, intervention, and rebuilding community.

- **Prevention:** Through information sharing and planning, parents are able to protect their teens from potentially dangerous situations, creating a sense of shared boundaries among parents of a circle of friends.
- **Intervention:** By communicating about problems parents are able to intervene early when questionable or dangerous situations arise.
- **Rebuilding Community:** Kids are a natural starting point for rebuilding community. Through *Parent Network*, adolescents become less isolated as adults become involved in positive relationships with them.

The success of *Parent Network* relies on parents establishing standards for their teens that are mutually shared. *Parent Network* encourages discussions among parents that would not otherwise happen, bringing collective wisdom, combined adult strength, and enforcement of rules when parents are in fact collectively working with a group of teen friends. In the words of one parent, "With the Parent Support Network, I am really starting to understand it's the parents who

have been disenfranchised, who are isolated, who need the connectivity. In some sense, it gives parents the permission to reach out to each other."

Because more than 60 mayors, police chiefs and PTA presidents across the country have contacted Anchorage Mayor Mystrom about starting local *Parent Networks*, the Mayor has asked Volunteers of America's National Office to take the lead in transforming *Parent Network* into a national success. Volunteers of America has a goal of providing national coordination, local support, and technical assistance to Parent Networks in at least ten new communities, with a goal of reaching at least 250,000 families by the end of 2000.

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## *"Alternative School"*

### **Alternative School**

In September 1998, Volunteers of America of Minnesota opened a year-round alternative school for 4th through 8th graders, in response to violence in Minneapolis public schools and a comprehensive Minneapolis violence study, which recommended that an alternative school be established as a vehicle for preventing violence and school failure.

The school opened under contract with the Minneapolis Public School District. In close cooperation with the District, the school received students both through referrals from District teachers and principals, and through parental referral. Twelve students were present on opening day, and by the end of the school year the school was at full capacity with 70 students. The school is housed in a non-traditional setting, offering a new image to students who have not previously had a positive experience with schools. The students are all low-income and reside in the inner city; the majority are children of color, many have single parents; and all face a variety of barriers to school success.

The school emphasizes hands-on experiential learning and small class sizes. A year-round after school program operates Monday through Thursday, 2pm to 6pm. Nine full-time teachers, one full-time social worker, and one community volunteer, fulfill the educational, psychological, athletic and arts needs of the students. The small number of students makes it easy to give students the attention they need. Interpersonal respect with no tolerance for violence are crucial aspects of the school culture.

The results have been extremely positive to date. Student attendance is very high, at 90 percent, and family participation in the programs is good. Most impressively, 100 percent of the

eighth graders passed the Minnesota Math Basic Skills test, and 88% passed their Reading Basic Skills test. After summer school, the balance of the students passed their Reading test. These results are made more significant when you consider that most of the students were below grade level or failing in their previous schools.

One of the challenges facing the school is the high school future of the graduating eighth graders. Darlene Leiding, Director of the school, reports that "we are very concerned that the success our students are experiencing not be lost in the transition to high school. Therefore, this year we began high school programming with 9th grade for 18 of our graduating 8th graders. Our high school program will include, as one of several focuses, computer-based avionics simulating small aircraft operation, which will assure student interest and competence with technology. We anticipate growing into a full high school over the next three years."

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## "*Juvenile Day Program*"

**Alternative School**

The Volunteers of America *Juvenile Day Program* is a non-public alternative school approved by the Louisiana Board of Elementary and Secondary Education designed to provide educational services, drug and alcohol treatment services, and long-term community supervision for juveniles referred by the Louisiana Department of Public Safety and Corrections Office of Youth Development. The *Juvenile Day Program* was accredited by the American Correctional Association and began operations on August 11, 1997.

The goal of the program is to impart the values, skills, and confidence necessary for the enrolled youth to make positive and productive decisions that provide an opportunity for them to contribute positively to their family, school, peer group, and community and to avoid future contact with the juvenile justice system. In addition, the *Juvenile Day Program* strives to successfully return youth to their community schools at or above grade level, or for older youth, to secure their G.E.D.. The program includes both male and female juveniles between the ages of 12 and 17 years old. The program targets juveniles who are suspended, expelled, or not attending school. Typically, juveniles referred to the *Juvenile Day Program* have been adjudicated for moderate level offenses, may be at risk of removal from the home for placement in restrictive residential or secure institutions, as well as juvenile offenders transitioning back to the community from residential care or secure institutions. The program has the capacity to extend its services to a maximum of 30 juveniles per month.

This non-residential program ensures the public's safety by providing structured services and supervision in an environment focused on learning that allows the youth to reside at home. For a minimum of 30 days, the *Juvenile Day Program* provides extended day services of up to seven days each week depending on the individual juvenile's needs. The program assists in the development of healthy youth, particularly the areas of self-esteem, anger management, decision-making, and peer pressure resistance. One young man who graduated from the program thanked his counselor like this: "You helped me turn my life around!" and concluded his letter by exclaiming, "Volunteers of America Rules!"

*Juvenile Day Program* services are provided by 10 full-time and 4 part-time staff and include classroom instruction, educational remediation, G.E.D. preparation, vocational skills development, job search skills, individual, group and family counseling, tutoring, recreation, community resource referral, regular curfew checks, random drug screens, substance abuse prevention counseling, mentoring, community service projects and a structured aftercare plan that includes follow-up services. The program also offers transportation and 2 meals daily to youth enrolled in the program.

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## "*Juvenile Intervention Program*"

**Diversion Program**

The Volunteers of America *Juvenile Intervention Program* is a mentoring and diversion program designed to assist Sagadahoc County youth in becoming productive and successful members of their communities, while holding them accountable and responsible for their actions, ultimately diverting them from the court system and incarceration. The program is staffed by a single Program Director who works with up to 20 youth, ages 10 to 17, at one time.

When a youth enters the *Juvenile Intervention Program* they may be referred from a variety of sources including schools and parents. Participants in the program are often having behavioral problems at home and in school, but most have had limited or no involvement with the juvenile corrections system.

Juveniles can, however, be placed with Volunteers of America as a condition of probation, or through other informal law enforcement referrals, as an alternative to prosecution. This type of arrangement allows the youth to provide restitution and receive extra supervision as well as assistance in locating needed services such as substance abuse counseling, without formal entrance into the juvenile justice system. The court system also uses the *Juvenile Intervention Program* for conditional releases, allowing for a structured supervision contract that the youth must abide by until their hearing date.

Each youth involved in the *Juvenile Intervention Program* develops an individual case management plan with the Program

Director. This case plan includes several components such as in-person and phone check-ins, community service work, educational development, life skills classes, and various forms of counseling depending on the individual needs of the youth. Violation of the conditions of the case plan result in program sanctions, the severity of which depends on the specific behavior of the youth. Sanctions aid the teen in understanding their decisions and are designed to enhance decision-making skills, helping them make better choices in the future.

In addition, each juvenile that enters the program sets individual goals beyond the requirements of the program. The *Juvenile Intervention Program* staff are able to assist youth in achieving their goals by accessing other community resources and providing structure and encouragement as they work towards their goals. These goals allow staff to mentor the youth more closely and aid them in building self-esteem and positive connections in their communities.

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## *“Juvenile Intensive Supervision Services”*

### **Rehabilitation Program**

Volunteers of America *Juvenile Intensive Supervision Services* (JISS) Programs are currently serving youth ages 12 to 17 in the Maine counties of York and Sagadahoc. All youth in the programs are referred by the Maine Department of Corrections and are either awaiting hearings or have been adjudicated and placed on probation. The goal of the JISS programs is to help each client take responsibility for his/her actions and guide them in developing a desire to make more positive life choices through intensive supervision and work with program staff.

The program is staffed by a program director and two case managers in York County, who manage a caseload of up to 24 youths, and a program director in Sagadahoc County. The maximum case manager to client ratio is 1 to 8.

Upon intake, each juvenile develops an individual case plan. These plans typically include educational planning and goals, psychological testing and counseling, random drug and alcohol screening, curfews, regular home visits, and any other services considered crucial to meeting the youth's needs. Great emphasis is placed on utilizing community resources. For example, the Maine District Court and the legal community work closely with this program offering significant input into a youth's case plan.

The *Juvenile Intensive Supervision Services* Programs are truly community-based. While operated by Volunteers of America, many other important individuals in the youth's life work with program staff, including the parents, school officials, members of the medical and counseling community, probation officers and community service contacts to ensure successful completion of the program. Throughout, the youth are held accountable for poor choices by instituting sanc-

tions that might include curfew changes, house arrest, or community service.

In addition to case management services, each JISS Program operates an attendant care facility. These facilities are utilized as an alternative to holding non-violent offenders. Youth placed in the attendant care facility have either violated their probation or have committed crimes considered not serious enough for formal incarceration. The maximum length of stay is 72 hours, during which time the *Juvenile Intensive Supervision Services* Programs staff attempt to reconnect the youth with their families or find other remedies if a youth is not able to return home. The attendant care facilities offer low-risk offenders assistance while sheltering them from incarceration pending court hearings.

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## "Youth Restitution Program"

**Restorative  
Justice Program**

The Volunteers of America *Youth Restitution Program* (YRP) is a restorative justice program that assists juvenile offenders in completing court ordered sentences. The YRP works with the various communities within Anchorage to find local work projects and programs for youth with required community restitution service. Victims play an important role in the *Youth Restitution Program's* philosophy. All offenders that are ordered to pay monetary restitution by the court are closely monitored by the YRP until the victim is reimbursed. The program also serves as a referral base for these victims, who may be in need of additional services.

The *Youth Restitution Program* is a member of the successful Making a Difference Program in Anchorage. Coupled with the State of Alaska Probation Department, the Anchorage Youth Court, and the Mediation Center, the Volunteers of America *Youth Restitution Program* has played a critical role in changing the way juvenile offenders are handled in Anchorage. In monitoring the youth who are referred, the YRP provides weekly home contact, mediation with victims, critical employment skills and supervision on selected work sites. Over time, these worksite supervisors become mentors to the youth and encourage them to make more positive lifestyle choices.

The YRP, in conjunction with the Anchorage Youth Court, has received national attention. In 1997, the Office of Juvenile Justice Delinquency Prevention cited the partnership in a "Promising Programs" publication. Additionally, in 1999, the OJJDP named the Anchorage Youth Court as one of four national youth courts to be reviewed by the Urban Institute. Because the Volunteers of America *Youth Restitution Program* and Anchorage Youth Court work together on all cases, the YRP will also be reviewed.

The statistical evaluation data for the *Youth Restitution Program* is very encouraging. Since

1996 the YRP has tracked nearly 2,000 referrals. In a three-year follow up, over 89% of the youth that completed the program have not reoffended. Approximately 75-80% of referrals complete the program. Victims have received over \$40,000 in restitution payment from offenders and this figure does not include civil fines or legal penalties. The community has also benefited greatly as offenders have completed over 33,000 hours of verified work service. Types of restitution service include school clean-up projects, community events, helping non-profit organizations and many others.

Recently, the *Youth Restitution Program* has been instrumental in helping the State of Alaska develop a system of graduated sanctions for offenders. Now offenders may be placed in one of three restitution programs: Youth Court for non-serious offenders, "Tier 2" for repeat offenders, and "Probation Level" for those needing formal court intervention. By coordinating these three programs, worksites can be utilized such that youth who have committed less serious offenses are separated from the more serious offenders. This coordination of services, regular contact, and emphasis on the victims has greatly reduced the time needed to complete the sentence. Before the *Youth Restitution Program* was implemented youth took nearly 7 months to complete their sentences. Now that time has been reduced to approximately 70 days from arrest to completion. It is believed that the close proximity of consequences to arrest will make a greater impact on the youth.

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## *"Kelley Adolescent Treatment Center"*

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**Treatment  
Program**

Opened in 1996, the Volunteers of America *Kelley Adolescent Treatment Center* provides residential care, individual and family counseling, and education to 30 southwest California adolescents per year. For nine months, residents engage in a program of recovery that aims to break the cycle of destructive behavior and lead adolescents toward a drug and violence-free lifestyle.

The treatment plan for each resident includes a highly structured program of therapy, education and recreation to help develop positive learning patterns. The program utilizes a level system that rewards positive and productive behavior. To advance, each resident must complete requirements in academics, self-development, community service, and athletics. 5 Caseworkers and 4 professional social workers provide substance abuse, mental health, and general assessment and counseling services.

The *Kelley Adolescent Treatment Center*, in cooperation with the Imperial County Court

School System, also provides on-site education for grades 7 through 12. Residents have the opportunity to work towards a high school diploma or G.E.D. and successful transition back to their community school is a primary objective. In addition, a full range of health and dental services are provided to youth.

At the conclusion of the nine-month program, the *Kelley Adolescent Treatment Center* provides job and educational placements and ongoing counseling to assist the resident in transition to their family and community at-large.

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# V O L U N T E E R S   O F   A M E R I C A

*Volunteers of America is a national, nonprofit,  
spiritually based organization providing  
local human service programs, and  
opportunities for individual and  
community involvement.*



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# **THE COALITION TO PREVENT JUVENILE CRIME**

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An Open Letter to House/Senate Conferees  
March 2000

Dear House/Senate Conferee,

As current and former career law enforcement, criminal justice and corrections officials, we are writing with regard to your deliberations on reconciling Senate and House juvenile justice legislation, S.254 and H.R. 1501. As you undertake negotiations on provisions for a final version of the legislation, we strongly urge you to reject provisions that would subject children to serious harm.

H.R. 1501 will allow youth as young as 13 to be tried as adults in the federal system, and expands the range of federal crimes for which they can be tried as adults. This legislation would send more youth to adult prisons, apparently with no explicit provision to ensure that they are housed separately from adults.

As you may know, there is substantial documentation that children placed in adult jails and prisons are eight times more likely to commit suicide, five times more likely to be sexually assaulted, and twice as likely to be assaulted by staff in adult jails than in juvenile facilities. Further, studies have found that youth who serve time in adult prisons re-offend more often, and more seriously, than matched samples of youth who were placed in juvenile detention and participated in rehabilitative programs. More crime, rather than less, is the outcome of subjecting young offenders to harsh treatment.

Young teenagers do not belong in adult facilities. Our experience teaches that most young people are capable of turning their lives around, given the appropriate help. We urge you to ensure that young offenders in the federal system will be helped - not hardened or harmed by unnecessary exposure to adult prison culture.

We, the undersigned members of the ad hoc Coalition to Prevent Juvenile Crime, thank you for your consideration of these perspectives and suggestions.

Signed,

Allen F. Breed, Special Master - Federal Courts

Tony Bouza, Minneapolis Police Chief, Retired

Donald A. Cabana, Ph.D., Former Commissioner of Corrections, State of Mississippi

Sam A. Cabral, International Union of Police Associations

Jack Cowley, Former Warden, Oklahoma

## **House/Senate Conferees, Page 2**

Walter J. Dickey, Professor, University of Wisconsin Law School

Former Secretary, Wisconsin Department of Corrections

Norman S. Early, Former District Attorney, Denver

Frank A. Hall, Former State Commissioner of Corrections

Terence Hallinan, District Attorney, San Francisco

Ronald E. Hampton, National Black Police Association

James A. Hemm, New Jersey Association on Correction

Sheriff Michael Hennessey, San Francisco Sheriff

Perry Johnson, Past President, American Correctional Association

Oliver J. Keller, Former President, American Correctional Association

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Edward J. Loughran, Former Commissioner, Massachusetts Department of Youth  
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F. Russell Millin, Former U.S. Attorney

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William E. Scent, Former U.S. Attorney

Carl Wickland, Executive Director, American Probation and Parole Association

Frank W. Wood, Minnesota Commissioner of Corrections, Retired



## Washington Comment

### Juvenile Justice and Gun Control: A Legislative Journey Never Ending?

by David M. Whetstone

Give justice to the weak and the orphan; maintain the right of the lowly and the destitute. Psalm 82:3 [God] executes justice for the orphan and the widow, and [God] loves the strangers.... Deuteronomy 10:18

Gun violence in Pennsylvania and Michigan has yet again called for action from elected officials. Demands to move and approve gun control amendments come from all directions. But these amendments are attached to a core juvenile justice bill which poses grave dangers to our nation's youth.

Gun control amendments that were approved in the Senate version include:

- Mandatory background checks for sales at gun shows and pawnshops;
- Safety trigger locks or storage boxes must be sold with all handguns;
- A ban on the import of high-capacity ammunition clips;
- Increased penalties for juveniles who use handguns, large capacity weapons, semiautomatic or assault weapons and for those who provide them to juveniles.

A conference committee made up of Senate and House members is to reconcile different versions of juvenile justice legislation. It has met only once within the last year. The conference is considering legislation that would:

- undermine core protections for youth;
- allow federally prosecuted youth, as young as 13, to have unlimited exposure to adult inmates;
- offer little guarantee of appropriations for prevention programs;
- terminate longstanding consent decrees which have kept children out of adult jails and prohibited abusive practices -- including beatings, tying children to beds, and locking them in isolation rooms for days and weeks at a time;
- encourage prosecution and sentencing of children as young as 13 as adults in federal court;

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- give prosecutors unchecked discretion to prosecute children as adults without judicial review;
- impose arbitrary mandatory sentencing on juveniles;
- erode confidentiality protections of juvenile court records -- jeopardizing future opportunities;
- stop educational services, though provide some intervention, for mentally disabled students who bring guns to school;
- weaken federal-state requirements that address the disproportionate number of children of color who are incarcerated;
- and transfer most juvenile justice research, training, and technical assistance to adult-oriented agencies.

Research has shown that children in adult jails are more likely to commit suicide, be sexually attacked, be beaten by prison staff, and attacked by a weapon. *A Mennonite Statement and Study on Violence* (Newton, KS: Faith & Life Press, 1998) acknowledges: "Fear of violent attacks in public places has also grown. The increase in gangs and gun violence has led to a demand for larger police forces, more prisons, and harsher sentences. Structures and institutions are violent when economic classes, races, and ethnic groups are pitted against one another. As an alternative society, the church can proclaim and demonstrate a different way."

Media coverage and political debate have given little attention to the dilemma of the initial steps of gun control being entangled in a harmful juvenile justice legislative bill. Decision makers on all sides claim to have the safety of children and the public in mind. My prayer is that policy makers will do no harm. Choices can be made that empower community and state efforts for prevention and peace. It is also my hope that Anabaptists/Mennonites will be among the people who maintain a long-term commitment to advocate for what is fair, just, and restorative for youth encountering the criminal justice system.

Posted Mar. 24, 2000

David M. Whettstone is Legislative Associate For Domestic Affairs with the Mennonite Central Committee U.S. Washington Office.

**The Council of  
State Governments**

*Headquarters Office*

August 30, 1999

Hon. Orrin G. Hatch  
Chairman, Committee on the Judiciary  
United States Senate  
Washington, DC 20510-4402

Dear Senator Hatch:

We are Republican and Democratic state legislators, attorneys general, and juvenile justice agency directors who have led successful efforts in our respective states to reform our juvenile justice systems. We are writing to offer our comments on the juvenile crime bills (HR 1501 and S. 254), which have been referred to a conference committee.

The block grant programs and research authorized by these bills will be of enormous help to us in our efforts to fight juvenile crime. We are particularly grateful that the bills approved by both the House and Senate recognize the dramatic changes we have made to our respective state laws, programs, and policies to ensure that juvenile offenders are held accountable for their actions. Several provisions in juvenile crime bills previously considered by the House and Senate would have forced us to revisit legislation carefully crafted to meet the unique structure of our state's criminal justice system. We were extremely pleased that many of those provisions were not incorporated in either HR 1501 or S. 254.

Nevertheless, some prescriptive requirements remain in each bill, which overlook effective and economical efforts that we and our colleagues across the U.S. have established to combat juvenile crime. Similarly, certain aspects of each bill needlessly widen the role of the federal government in prosecuting juvenile crime, thus ignoring state laws already in place, which ensure the swift prosecution and the appropriate punishment of dangerous, violent offenders. Indeed, the conference committee can improve the juvenile crime package considerably before referring it to the President.

To that end, we urge conference committee members to approve juvenile crime legislation that incorporates the comments in this letter. These comments address the following subjects: 1) drug-testing; 2) Aimee's Law; 3) mental health; 4) disproportionate minority confinement; 5) JAIBG allocation formula; 6) jurisdiction of federal prosecutors; 7) juvenile driving privileges; 8) record-keeping; and 9) separation standards.

Each of these subjects, as they are addressed in HR 1501 and S. 254, is paraphrased and compared in a "side-by-side" chart. The subsequent italicized text represents specific changes we recommend, and each proposed modification is followed by a brief explanation.



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1. **DRUG TESTING**

| S. 254                                                                                                                                                                                                                                                                   | HR 1501              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| A state must certify it "has established or will establish a policy of drug testing (including follow-up testing) juvenile offenders upon their arrest for any offense with an appropriate category of offenses designated by the chief executive officer of the state." | No similar provision |

**Recommendation:** *Adopt drug-testing requirement currently used for JAIBG program, which requires that states "establish a policy of testing appropriate categories of juveniles for use of controlled substances."*

A significant portion of each of our state's offender populations has a substance abuse problem. It is essential that these youths be drug-tested, held accountable for their actions, and treated for any drug addiction. This will not be achieved, however, by requiring an automatic drug-test of every juvenile arrested for any one of several offenses.

First, a significant portion of juveniles arrested never end up in the juvenile justice system; testing them for drug-use upon their arrest would be pointless and costly. Second, in each of our states, several factors—aside from just the offense for which the juvenile was arrested—are taken into account before a drug-test is conducted. New federal legislation should not force states to abandon these economical and effective policies in favor of widespread testing.

A drug-test is self-defeating unless coupled with a treatment program. The expenditure required to treat a drug-addict, however, is exponentially greater than drug-testing him. We urge you to refrain from passing a mandate that would compel states to jettison this essential tandem in order to ensure sufficient funds for widespread testing only.

2. **AIMEE'S LAW**

| S. 254                                                                                                                                                                                                                                                                                                                                                          | HR 1501            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| "Aimee's Law": When an offender convicted of one of several violent offenses serves an insufficient amount of his sentence in prison and, following his release, commits a similar offense in another state, the first state must reimburse, out of its JAIBG monies, the second state for the cost of apprehending, prosecuting, and imprisoning the offender. | Similar provision. |

**Recommendation:** *Strike this section.*

It appears that few, if any states, comply with the conditions set forth in "Aimee's Law." At least one of the sentencing requirements is far more stringent than any of the standards provided in the Violent Crime Control and Law Enforcement Act of 1994. Accordingly, as a result of this provision, each of our jurisdictions is likely to lose part of its JAIBG funding. Furthermore, the provision is almost certain to generate a morass of bureaucracy to monitor compliance with the law and to account for subsequent adjustments to block grant amounts awarded to states.

In addition, although "Aimee's Law" seeks to punish states where adults are incarcerated for an insufficient length of time, it appears to penalize various programs, including those that serve juvenile offenders, by reducing a state's JAIBG allocation. Lastly, the premise of the bill (allowing one state to be reimbursed for another state's failure to meet truth-in-sentencing standards set by Congress) sets a precedent that has implications far beyond criminal justice.

3. **MENTAL HEALTH**

| S. 254                                                                                                                                                                  | HR 1501              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| Juvenile delinquency prevention challenge grant program expanded to include projects that provide services to juveniles with serious mental and emotional disturbances. | Same provision.      |
| JAIBG grant program expanded to provide training regarding mental health programs.                                                                                      | No similar provision |

**Comment:** *Adopt provision provided in S. 254, which allows JAIBG monies to be spent on mental health training for officials involved with the juvenile justice system.*

*Modify description of mental health efforts qualifying for JAIBG and prevention block grant funds: 1) "requirements that all juveniles receiving psychotropic medication be under the care of a licensed mental health professional; and 2) "provide training for state juvenile probation and parole officers, child protection agency staff, teachers, and community health and substance abuse program representatives."*

One of the most positive developments regarding HR 1501 and S. 254 was the adoption of amendments that will permit the expenditure of block grant monies on efforts to identify, screen, and treat juvenile offenders with mental health needs. By allowing JAIBG monies to be spent on training (particularly "cross-training") programs, S. 254 goes to even greater lengths than HR 1501 in recognizing that funding support for these efforts is acutely needed. Accordingly, we urge conference committee members to incorporate this aspect of the S. 254 JAIBG language in the juvenile crime bill that is finally approved by Congress.

The above comments notwithstanding, the mental health program provisions in both bills should not inadvertently prohibit qualified juvenile justice professionals from supervising juveniles receiving psychotropic medications. That would be the effect of the provision as currently worded, because the definition of a "licensed" mental health professional varies significantly from state to state. Similarly, law enforcement officers or other service providers who deal regularly with juvenile offenders should not be excluded from mental health training programs. For example, in some states, parole officers (who are not identified in the relevant S. 254 provision) perform the same tasks as probation officers (who are mentioned among those employees who would receive training).

4. DISPROPORTIONATE MINORITY CONFINEMENT

| S. 254                                                                                                                                                                                                    | HR 1501                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| Modifies "disproportionate minority confinement" provision by deleting reference to "racial and ethnic minorities in the juvenile justice system" and substituting "segments of the juvenile population." | Disproportionate minority confinement mandate maintains a specific reference to "minority groups." |

**Recommendation:** *Adopt language in HR 1501, which makes specific reference to "minority groups."*

Prevailing law requires that, to qualify for Title IIB monies, we explain how we are attempting to decrease the disproportionately high percentage of minority youths in our state's juvenile justice system. This requirement does not dictate how we should address this rate of confinement; nor does it set goals that we must realize. Instead, it recognizes that this issue is a complex problem for our states, which should not be ignored. Some states, such as Oregon, have developed programs, which, without compromising public safety, have yielded lower rates of minority confinement. Removing any reference to minority groups in the requirement eliminates the impetus behind these efforts. Furthermore, such a step implies, incorrectly, that the problem of disproportionate confinement of juveniles of color has been solved.

5. JAIBG ALLOCATION FORMULA

| S. 254                                                                                                                                                                                                                                                                                                                                               | HR 1501            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| Each local government unit's share of JAIBG funds is determined according to the following formula: combination of local government unit's law enforcement expenditures (two-thirds weight) and average number of violent crimes (one-third weight) relative to all expenditures and arrests reported by all units of local government in the state. | Similar provision. |

**Comment:** *1). Modify formula to ensure that only units of local government that administer the types of programs described in the legislation qualify for JAIBG monies.*

Many units of local government, no matter how small, play an essential role in developing and implementing the types of programs described in the JAIBG program. Other units of local government with law enforcement expenditures, however, have little or no role administering these juvenile justice programs. Nevertheless, the existing JAIBG program (and the program as proposed in HR 1501 and S. 254) fail to make these distinctions. As a result, units of local government with significant law enforcement expenditures automatically receive, regardless of their role in managing juvenile justice programs, a considerable share of JAIBG monies. Some of these units of local government have successfully pooled their shares to ensure that federal dollars are effectively spent on juvenile-accountability efforts described in the legislation. Many units, however, have not achieved this level of coordination. Consequently, the impact of the federal dollars so acutely needed is greatly diffused, if not lost altogether.

We therefore ask that you maintain the flexibility of the JAIBG program, but clarify that state officials ensure that only those units of local government that administer the types of programs described in the JAIBG program qualify for JAIBG monies. This clarification is distinct from the "pass-through" waiver provided in the JAIBG, and it helps you to be sure that federal appropriations are effectively and appropriately spent at the local level.

## 6. JURISDICTION OF FEDERAL PROSECUTORS

| S. 254                                                                                                                                                                                                                                                                                                                                                                    | HR 1501                                                                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Permits trial as an adult by the U.S. Attorney 1) of any juvenile previously tried as an adult; 2) at the discretion of the U.S. Attorney in the case of a juvenile 14 or older at the time the juvenile is alleged to have committed a serious violent felony or serious drug charge; 3) at the discretion of the Attorney General in the case of a juvenile. (Sec. 102) | A juvenile shall be prosecuted as an adult in federal court if the juvenile is at least 14 years old (or 13 at the approval of the Attorney General) and commits an act, which, if committed by an adult, would be a serious violent felony or crime of violence (or a conspiracy or attempt to commit that felony or offense) or a serious drug offense. |
| Federalizes certain crimes, such as interstate travel to franchise a criminal street gang (Sec. 201) and using minors to commit federal crime of violence or to avoid arrest. (Sec. 206).                                                                                                                                                                                 | Federalizes numerous offenses (e.g., juveniles who discharge a firearm in a school zone) and establishes mandatory offenses for certain crimes (e.g., mandatory imprisonment for an offender convicted of a second sex offense against a child).                                                                                                          |

**Recommendation:** *Strike provisions that would federalize offenses already prosecuted at the state/local level.*

HR 1501, and, to a lesser extent, S. 254, accelerate a trend that has been of great concern to local and state officials and the Chief Justice of the U.S. Supreme Court: widening the U.S. Attorneys' scope of authority to prosecute certain categories of juvenile offenders, instead of leaving this matter within the jurisdiction of state and local prosecutors. Regardless of the actual impact these provisions will have on the number of juveniles diverted to federal court, these provisions trouble us for several reasons.

First, it undermines the integrity of the criminal justice systems we have developed in our respective states. In each state across the U.S., it is possible for violent juvenile offender who is at least 14 (and in many states the minimum age is lower), to be tried as an adult. The mechanism used to transfer the juvenile into the adult system depends on decisions that our state legislatures have made after lengthy and thoughtful debate. By dramatically increasing the jurisdiction of the U.S. Attorney General in prosecuting certain juveniles as adults, Congress has circumvented the transfer mechanisms we established in each of our states.

Second, it presumes that states have somehow failed to punish appropriately violent juvenile offenders. On the contrary, our legislature, like others, has passed laws and equipped state and local prosecutors and courts with resources to ensure that violent juvenile offenders are swiftly held accountable for their actions.

Third, it inadvertently (and ironically) compromises public safety; it also unnecessarily burdens state and local (as opposed to federal) public safety resources. U.S. Attorneys often deliberate for a considerable length of time before deciding whether to prosecute the case or to

allow the state or local prosecutor to retain jurisdiction. While such deliberation is underway, the juvenile, because of his adult status in federal court, could post bail and thus await trial in the community. If the juvenile is not released into the community pending trial, state and local officials are usually charged with providing appropriate cell space for the detainee because such space is not available in federal facilities. Juvenile correctional administrators often must contract, at a significant cost to taxpayers, with a jurisdiction to detain the defendant, until the U.S. Attorney decides whether to assume jurisdiction in the case. Increasing the frequency with which U.S. Attorneys must make these decisions only aggravates this problem.

## 7. JUVENILE DRIVING PRIVILEGES

| S. 254                | HR 1501                                                                                                                                                                                                          |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| No similar provision. | States lose a portion of their JAIBG funds if they do not have a law in effect that suspends, until the age of 21, the driver's license of a juvenile who illegally possesses or commits a crime with a firearm. |

**Recommendation:** *Strike this provision.*

Some state officials agree that this type of sanction would be effective when juveniles commit certain firearm offenses, and they may urge the adoption of such a law in their state. Still, federal block grants should not pre-empt state lawmakers' authority to determine in their respective states what type of sanctions would be effective and appropriate for juvenile firearm offenders.

## 8. RECORD-KEEPING

| S. 254                                                                                                                                                                                                                                   | HR 1501                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Establishes a stand-alone block grant for improvements to record keeping systems. To qualify for these funds, the record-keeping system, for juveniles adjudicated delinquent of certain violent crimes, must meet several requirements. | Provides that JAIBG monies may be used for improvements to state's record-keeping system. To qualify for these funds, the record-keeping system, for juveniles adjudicated delinquent for violent crimes, must meet several requirements. Establishes \$25 million stand-alone block grant for states to ensure appropriate juvenile records are available for firearm background checks. |

**Recommendation:** *Adopt record-keeping block grant established in S. 254.*

In contrast to provisions in juvenile crime bills considered in recent years, the record-keeping provisions in S. 254 and HR 1501 are flexible and cognizant of the distinct record-keeping systems maintained in each of our states. We are very grateful that Congress has gone to great lengths to address concerns we had voiced about the prescriptive and unfunded record-keeping mandates included in previous juvenile crime legislation.

Of the record-keeping programs described in HR 1501 and S. 254, we prefer the stand-alone block grant established in S. 254. The eligibility requirements in the S. 254 block grant are more flexible (and less expensive) than those in the HR 1501 JAIBG program. For example, unlike S. 254, the HR 1501 record-keeping language includes requirements that photographs be maintained for certain juvenile offenders. Accordingly, the language in S. 254 enables us to

continue developing record-keeping systems that are most appropriate for each of our states without burdening us with unnecessary expenses.

9. **SEPARATION STANDARDS**

| S. 254                                                                                                                                                     | HR 1501                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Standards for separating juveniles and adults awaiting trial in federal court are the same as those standards for detainees awaiting trial in state court. | Juveniles prosecuted as adults in federal court "shall not be detained...in any facility in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges." |

***Recommendation:***    *Adopt separation standards provided in S. 254.*

As described earlier in this letter, juveniles awaiting trial in federal court are usually held in state or local facilities. Separation standards for these detainees should be consistent with the requirements established for juveniles awaiting trial in state or county court.

We urge members of Congress appointed to a conference committee to resolve differences between HR 1501 and S. 254 to take into account our recommendations as state leaders in juvenile justice policy. We would be happy to meet with you or your designee to discuss the contents of this letter or any questions you may have. You can contact us directly or through Michael Thompson, Senior Policy Analyst for Criminal Justice Programs at the Council of State Governments, a non-partisan, non-profit organization, which serves all three branches of state government.

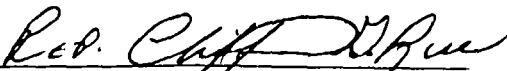
Sincerely yours,



Rep. Michael Lawlor  
Co-Chair, Joint Judiciary Committee  
Connecticut



Rep. Robert Godfrey  
Deputy Majority Leader  
Connecticut



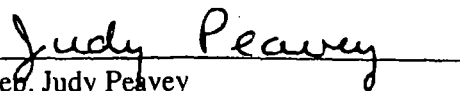
Rep. Clifford G. Lee  
Chair, Corrections Committee  
Delaware



Sen. Carl E. Hawkinson  
Chair, Senate Judiciary Committee  
Illinois



Hon. Carla J. Stovall  
Attorney General  
Kansas



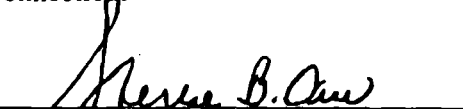
Rep. Judy Peavey  
Criminal Justice Committee  
Maine



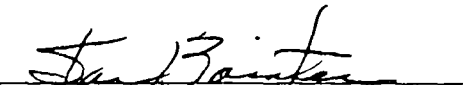
Sen. William Van Regenmorter  
Chair, Senate Judiciary Committee  
Michigan



Hon. Kristine D. Ragaglia  
Commissioner, Dpt. of Children and Fam.  
Connecticut



Sherese Brewington-Carr  
Director, Youth Rehabilitative Services Div.  
Delaware



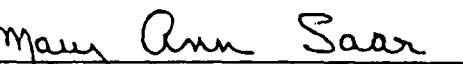
Rep. Stan Bainter  
Chair, Juvenile Justice Committee  
Florida



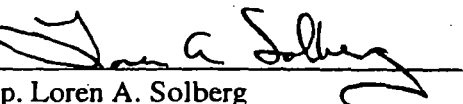
Sen. Jeff Lamberti  
Vice-Chair, Senate Judiciary Committee  
Iowa



Sen. Robert E. Murray, Jr.  
Chair, Senate Criminal Justice Committee  
Maine



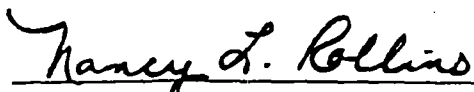
Mary Ann Saar  
Assoc. Comm., Dpt. of Corrections  
Maine



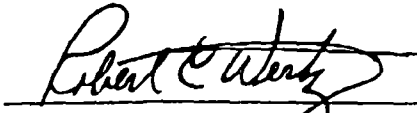
Rep. Loren A. Solberg  
Chair, Ways and Means Committee  
Minnesota



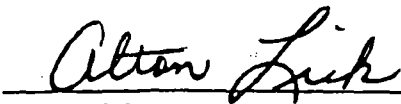
Sen. Nancy Thompson  
State Legislature  
Nebraska



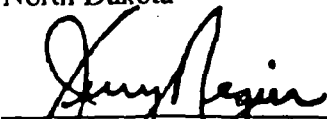
Nancy L. Rollins  
Director, Div. for Children, Youth & Fam.  
New Hampshire



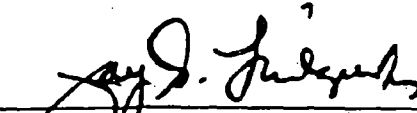
Assemblyman Robert C. Wertz  
Deputy Minority Whip  
New York



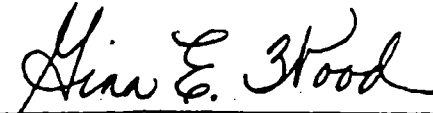
Alton Lick  
Director, Division of Juvenile Services  
North Dakota



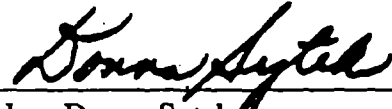
Hon. Jerry Regier  
Secretary, Office of Juvenile Affairs  
Oklahoma



Jay G. Lindgren, Jr.  
Director, Dpt. of Children, Youth & Fam.  
Rhode Island



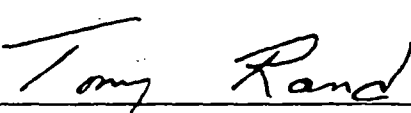
Gina E. Wood  
Director, Department of Juvenile Justice  
South Carolina



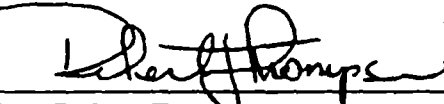
Hon. Donna Sytek  
Speaker, House of Representatives  
New Hampshire



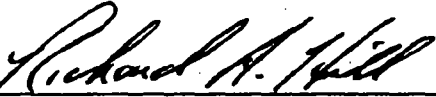
Assemblyman Joseph Lentol  
Chair, Assembly Codes Committee  
New York



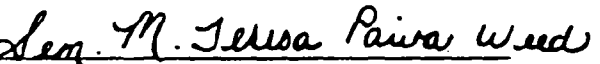
Sen. Anthony Rand  
Chair, Cttee. on Rules and Oper. of the Sen.  
North Carolina



Sen. Robert Thompson  
Chair, Senate Law and Justice Committee  
Pennsylvania



Richard A. Hill  
Director, Oregon Youth Authority  
Oregon



Sen. M. Teresa Paiva Weed  
Chair, Senate Judiciary Committee  
Rhode Island



Sen. Douglas Henry  
Chair, Cttee. on Finance, Ways & Means  
Tennessee

Rep. Bill G. Carter

Rep. Bill G. Carter  
House of Representatives  
Texas

Gary K. Dalton

Gary K. Dalton  
Director, Youth Corrections Administration  
Utah

Gerard Sidorowicz

Gerard Sidorowicz  
Assistant Secretary, Juv. Rehab. Admin.  
Department of Social and Health Services  
Washington

Blake D. Chard

Rep. Blake D. Chard  
Chair, Juvenile Justice Appropriations Cttee.  
Utah

Sally Fox

Rep. Sally Fox  
Chair, Appropriations Committee  
Vermont

August 5, 1999

The Honorable Orrin G. Hatch  
131 Russell Senate Office Building  
United States Senate  
Washington, D.C. 20515

Dear Senator Hatch:

We understand that in the coming weeks, the Senate and House will be developing a final version of the juvenile justice legislation. We would like to take this opportunity to bring a number of concerns to your attention.

We believe that any final juvenile justice legislation must address the following issues:

- 1) Provide core protections for children in the juvenile justice system.

Issue: JJDPa 'Separation' protection.

For the past 25 years, the Juvenile Justice and Delinquency Prevention Act (JJDPa) has protected children from abuse and assault by adults in adult jails. The House-passed bill would weaken this policy by allowing "incidental" contact between children and adult inmates in the state system, which in many jails will mean that children will be walked down hallways past adult cells and thereby subjected to verbal abuse. Additionally, the House-passed bill weakens protections for children in the federal system as it creates a loophole which could allow youth who are prosecuted in federal court to have unlimited exposure to adult inmates. Under the House bill, children as young as age 13 could be placed in cells with adult inmates in the federal system. This is of grave concern, since research has shown that children commit suicide in adult jails eight times as often as children held in juvenile detention facilities, and children housed in adult prisons are five times more likely to be sexually assaulted, two times more likely to be assaulted by staff, and 50% more likely to be attacked with a weapon compared to children in juvenile facilities.

Recommendation:

We strongly recommend that you adopt the Senate provisions which essentially maintain the protection to separate juveniles from adults in adult jails in both the state and federal systems.

Issue: JJDPa 'Removal' protection.

Both the House and Senate bills significantly weaken the requirement to keep children out of adult jails by including provisions to allow parental consent to place children in adult jails. The Senate bill would allow children to be placed in adult facilities with parental consent indefinitely. The parental consent exception is a radical change from current law and will result in children being placed in adult jails for unacceptably long periods.

Recommendation:

We urge you to drop these provisions from the final bill, and instead, maintain current law protections.

Issue: Dangerous conditions for incarcerated children.

The House-passed bill contains a provision which will seriously harm children by terminating consent decrees which existed before the passage of the Prison Litigation Reform Act (PLRA). Under this language, dozens of consent decrees which have kept children out of adult jails and prohibited abusive practices, including beatings, tying children to beds, and locking them in isolation rooms for days and weeks at a time, would be abolished.

Recommendation:

We urge you to not include this provision in the final bill.

Issue: Prosecutorial discretion, trying children as adults, and federalizing juvenile crimes  
Both bills propose drastic changes in the way that children are prosecuted in the federal system, changes which are opposed by prominent federal officials including Chief Justice Rehnquist and former Attorney General Edwin Meese III. Among some of the changes we oppose are: the presumption that children will be prosecuted in the federal system contrary to current law which assumes prosecution in the state system; prosecuting and sentencing children as young as 13 as adults; giving prosecutors unfettered discretion to prosecute children as adults without judicial review; subjecting children both in the juvenile and adult system to mandatory sentencing; and removing confidentiality protections in juvenile court by opening juvenile court proceedings to the public and making juvenile records available.

Recommendation:

We urge you to drop these provisions from the final legislation.

Issue: Reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP).  
The House-passed bill includes a provision which would sunset the Juvenile Justice and Delinquency Prevention Act (JJDP) in 2004. The JJDP includes the core requirements that have provided the most basic protections against harm to children in correctional facilities for the last 25 years. Sunsetting JJDP would also eliminate critical funding under the Act to states and communities for improvements to their juvenile justice systems.

Recommendation:

We urge you to not include this provision in the final bill.

## 2) Support state efforts to reduce disproportionate confinement of minority youth.

Issue: Disproportionate confinement of minority youth in the juvenile justice system  
In virtually every state, minority youth are over-represented at every stage of the juvenile justice system, particularly in secure confinement. Current law directs states generally to "address" this issue, without requiring release of juveniles or incarceration quotas or any other specific change of policy or practice. The Senate-passed bill, however, deletes all reference to "minority" or "race" and instead refers to "segments of the juvenile population." This minimizes an important issue, is offensive to many, and hinders efforts to remedy the disparate treatment of minority youth.

Recommendation:

We urge adoption of the House-passed provision which maintains a requirement to address disproportionate minority confinement under the JJDP.

## 3) Significantly invest in juvenile crime prevention.

Issue: Prevention funding set-aside and programs.

Although both bills contain a "prevention block grant," there is no set-aside for prevention funding. Without a significant guarantee of funding, there is no assurance that any funds will ever be appropriated for prevention programs.

Recommendation:

We strongly recommend that you adopt the Senate provisions which add further prevention activities as allowable uses under the Juvenile Accountability Block Grant (JABG) and set-aside a minimum of 25% of the Juvenile Accountability Incentive Block Grant for prevention purposes and to establish a new 'Parenting as Prevention' program.

4) Take serious steps to reduce gun violence.

Issue: Availability of and access to guns to children and people who kill children.

The House-passed bill fails to take any significant action to make guns safer or less accessible to children or people who kill children. At a time when, on average, nearly 13 children and young people are killed by firearms every day, it is critically important that the final bill address gun violence in a meaningful way.

Recommendation:

We urge you to adopt at a minimum the Senate-passed provisions to close the gun-show loophole, require child safety locks, and ban the importation of high capacity ammunition clips.

5) Provide appropriate support services for at-risk and delinquent youth.

Issue: Graduated sanctions

Both bills allow Juvenile Accountability Incentive Block Grant (JAIBG) funds to be used to implement graduated sanctions or a system of graduated sanctions in order to assure a consequence for every delinquent act by a youth. The House bill provides states with some discretion in implementing graduated sanctions, while the Senate bill restricts states' discretion, and instead mandates this as a condition of receiving JAIBG funds.

Recommendation:

We recommend adoption of the House language which allows states the discretion to implement graduated sanctions as a condition of receipt of JAIBG funds, and adoption of the House Title XIII definition.

Issue: Intervention services to children with disabilities who bring firearms to school

The Senate and House bills amend current law by allowing school personnel to discipline and to cease educational services to students with disabilities who possess or carry a firearm or weapon to school. The Senate bill requires that immediate mental health intervention services be provided for children removed from school for any violent acts, including carrying or possessing a weapon.

Recommendation:

We oppose the cessation of educational services to students with disabilities and urge that this provision be removed. We support the Senate provision which provides for immediate mental health services as this would better assure that schools are safe learning environments and reduce future violence.

Issue: Mental health services to at-risk and delinquent youth.

The Senate and House bills, respectively, include a number of similar provisions which focus on assessing and providing mental health services to at-risk and delinquent youth. In addition, the House bill allows Juvenile Accountability Incentive Block Grant (JAIBG) funds to be used for mental health screening and services, and requires the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to conduct research on mental health services for juveniles, providing training and technical assistance to mental health and law enforcement personnel, and to conduct a comprehensive study on the mental health needs of juveniles in the juvenile justice system. Also, the Senate bill allows funds to be used to train justice system personnel and probation officers with these funds, authorizes a demonstration program on violence prevention, and reauthorizes the Elementary School Counseling Demonstration Act.

Recommendation:

We urge inclusion of the screening, research, training, and study provisions contained in the House bill and the training, violence prevention and counseling program provisions in the Senate bill.

6) Focus federal support, technical assistance and research on children and youth.

Issue: Reorganization of the Office of Juvenile Justice and Delinquency Prevention. The Senate-passed bill fails to recognize the importance of juvenile justice research, training, and technical assistance. The bill transfers most of these functions currently supported by the Office of Juvenile Justice and Delinquency Prevention to the National Institute of Justice, an agency primarily responsible for research on adult crime. Juvenile justice research (e.g., on effective delinquency prevention programs), training of juvenile justice personnel, public officials and their staffs, and technical assistance to communities have proved invaluable to public officials, policymakers, and concerned citizens. There is a significant danger that these important activities will inevitably have a lower priority at NIJ, resulting in far fewer resources for communities to use in their juvenile crime control and prevention efforts. The House bill includes no similar provision.

Recommendation:

We urge you to not include these provisions in the final bill.

We appreciate your thoughtful consideration to assure that the final juvenile justice legislation protects children.

Sincerely,

Alliance for Children and Families  
American Academy of Child and Adolescent Psychiatry  
American Academy of Pediatrics  
American Counseling Association  
American Humane Association: Children's Division  
American Probation and Parole Association  
American Psychiatric Association  
The American Psychological Association  
Americans for Democratic Action  
Campaign for an Effective Crime Policy  
Campaign for Equity-Restorative Justice (CERJ)  
Center for Women Policy Studies  
Child Care Law Center  
Child Welfare League of America  
Children's Defense Fund  
Citizens United for Alternatives to the Death Penalty  
Coalition on Human Needs  
Covenant House  
Criminal Justice Ministries program of the Catholic Diocese of Youngstown, OH  
Families of Incarcerated Individuals Inc.  
Family Watch  
Federation of Families for Children's Mental Health  
Friends Committee on National Legislation (Quaker)  
The General Board of Church and Society, United Methodist Church  
Girl Scouts of the USA  
Justice Policy Institute  
Lutheran Office for Governmental Affairs - Evangelical Lutheran Church in America  
Marion County Family Advocacy Center of Indianapolis, IN  
Massachusetts Correctional Legal Services, Inc.  
Mennonite Central Committee U.S., Washington Office  
Minorities in Law Enforcement (MILE)  
National Association for School Psychologists

National Association for Socially Responsible Organizations (NASRO)  
National Association for the Advancement of Colored People  
National Association of Counsels for Children  
National Association of Criminal Defense Lawyers (NACDL)  
National Association of Social Workers  
National Association of State Directors of Special Education  
National Child Rights Alliance, USA  
The National Council for Community Behavioral Health Care  
National Council of Churches  
National Mental Health Association  
National Network for Youth  
Pennsylvania Center for Legal-Related Education  
Plowshare Peace & Justice Center of Roanoke, VA  
Presbyterian Church (USA)  
San Francisco Bay View  
Union of Hebrew Congregations  
Unitarian Universalist Association of Congregations, Washington Office for Faith in Action  
United Church of Christ / Office for Church in Society  
Virginians Against Drug Violence  
Washington Ethical Action Office, American Ethical Union  
Women of Reform Judaism, The Federation of Temple Sisterhoods  
Youth Law Center

CC: U.S. Senate  
U.S. House of Representatives

**FOR IMMEDIATE RELEASE: WEDNESDAY, FEBRUARY 2, 2000**

**Contact:** Tommy McDonald, Liz Heller, Michael Shellenberger  
415-255-1946

**New Study Finds California: Youth of Color 2.5 Times More Likely than  
White Youth to be Tried as Adults; 8.3 Times More Likely to be  
Incarcerated by Adult Court**

**NAACP, MALDEF, Other Civil Rights Groups  
Demand State Investigation into Racial Bias**

***Color of Justice* Study First in a Series  
by New "Building Blocks for Youth" Initiative**

**WHAT:** News Conferences in Sacramento, Los Angeles  
**WHEN:** 10:00A.M. (LA); 11:00A.M. (Sacramento) Wednesday, February 2, 2000  
**WHO:** Civil rights groups, children's advocates, former youth offenders, criminal justice experts  
**WHERE:** Governor's Press Room, The Capitol, Sacramento, MALDEF offices,  
634 S. Spring Street at 6th and 7th Streets, Los Angeles

**SACRAMENTO/LOS ANGELES, CA** - California civil rights leaders and children's advocates will release a new study February 2 that shows that African American, Latino and Asian American youth are significantly more likely to be transferred to adult court and sentenced to incarceration than white youths who commit comparable crimes.

At Sacramento and Los Angeles news conferences Wednesday, civil rights groups will demand that Governor Gray Davis investigate the report's findings and take measures to address racial disparities in juvenile transfers.

"Even at a time of heightened public awareness of racism in the criminal justice system, it's shocking to find such huge discrepancies in the way Latino and African American kids are treated," said Beatriz Lopez-Flores, Vice President of Community Education and Public Policy for MALDEF. "A justice system that displays such blatant bias is a system in dire need of reform. We're calling on Governor Davis to send a clear message that discrimination is unacceptable in California's justice system and we hope the Governor will do whatever it takes to ensure that youth of color receive fair treatment, whether they are tried as juveniles or adults."

Though past studies have documented that minorities are overrepresented in the juvenile justice system, this study by the Justice Policy Institute (JPI), a San Francisco, CA- and Washington, DC-based think-tank on criminal justice, is the first to document the cumulative effect of racial bias

when youths are transferred to the adult system.

"The imbalances this study reveals are stark, vast and deeply disturbing," said Dan Macallair, associate director of JPI and co-author of *The Color of Justice*. "Discrimination against kids of color accumulates at every stage of the justice system and skyrockets when juveniles are tried as adults. California has a double standard: throw kids of color behind bars, but rehabilitate white kids who commit comparable crimes. The report focuses primarily on data from Los Angeles County, which accounts for 40 percent of cases transferred to adult court in the state. L.A. is also the only county that keeps a detailed record regarding its transfers.

The study found that:

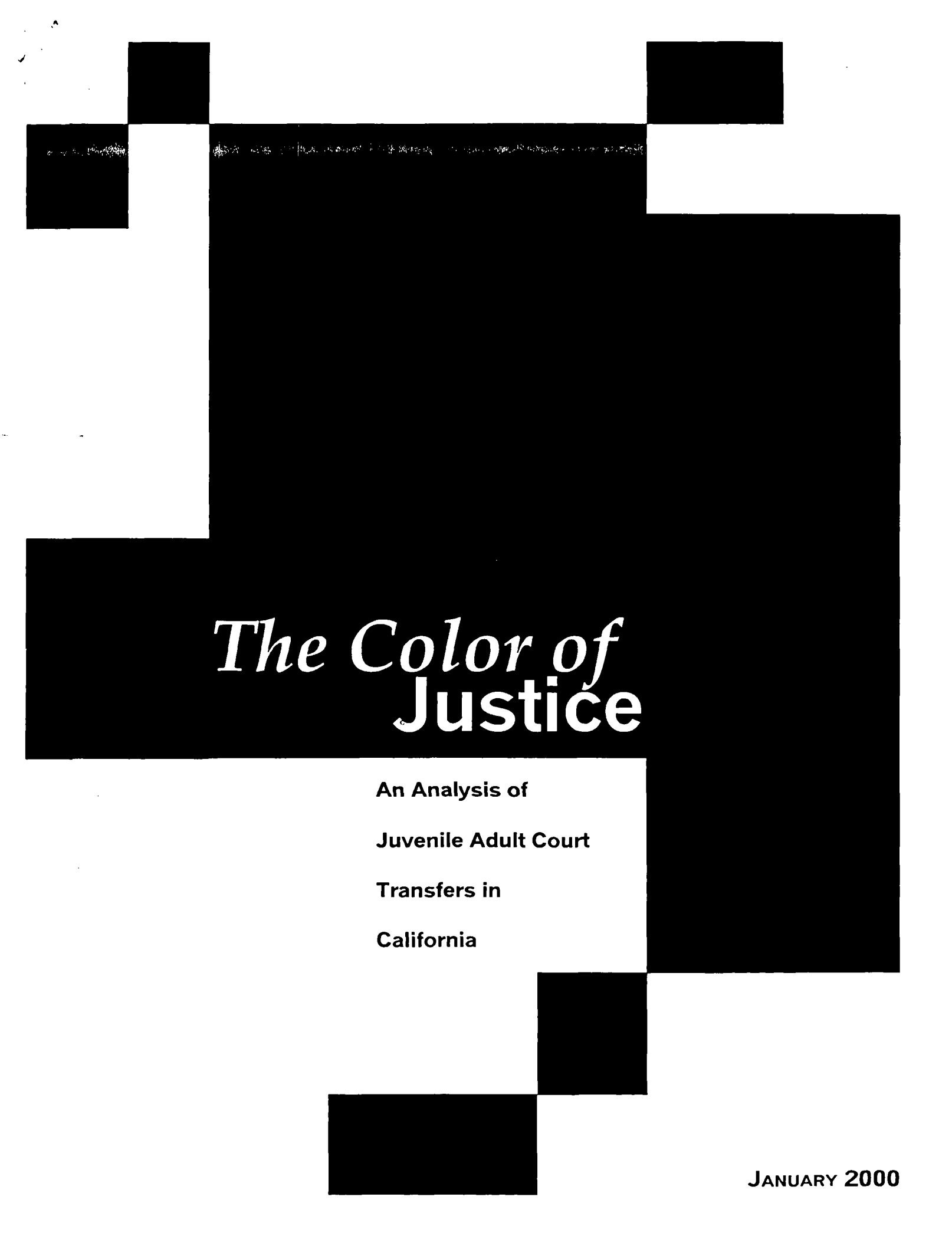
- After transfer to the adult system, African American youth offenders are 18.4 times more likely, Asian youth offenders are 4.5 times more likely, and Latino youth offenders are 7.3 times more likely than white youth offenders to be sentenced by an adult court to CYA confinement.
- Compared to white youths, minority youths are 2.8 times more likely to be arrested for a violent crime, 6.2 times more likely to wind up in adult court, and 7 times more likely to be sent to prison by adult court.
- Compared to white youths accused of similar crimes, minority youth offenders are somewhat more likely to be sentenced to CYA facilities by juvenile courts (minorities constitute 77.0 percent of violent crime arrestees and 84.5 percent of CYA sentencings). But minority youth are much more likely to be sentenced to CYA facilities after transfer to adult courts (77.0 percent of arrests, but 91.1 percent of CYA sentencings).

JPI researchers conducted the study using data from 1993 to 1999 collected from the Los Angeles County Probation Department Research Division, Los Angeles County District Attorney's Office, California Youth Authority Research Division, California Department of Justice Criminal Justice Statistics Center, Department of Finance Demographic Research Division and the U.S. Census Bureau.

"The juvenile justice system was founded 100 years ago with the idea that youth offenders can be rehabilitated," said Mark Soler, President of the Youth Law Center, a San Francisco, CA and Washington, DC- based child advocacy group. "Yet today, even though youth crime is dropping steadily, record numbers of juveniles are being transferred to the adult court and thrown behind bars. As this study shows, these policies are hitting minority kids the hardest."

*The Color of Justice*, co-authored by Macallair and Mike Males, PhD, a renowned author and researcher on juvenile justice issues at UC Santa Cruz, is the first of five reports to be released this year by the national "Building Blocks for Youth" initiative. The multi-year initiative works to protect youth of color in the justice system and to promote rational and effective juvenile justice policies through a combination of research, analysis of decision making, direct advocacy, constituency building, and public education.

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# *The Color of* **Justice**

**An Analysis of  
Juvenile Adult Court  
Transfers in  
California**

**JANUARY 2000**

# *The Color of Justice:*

## *An Analysis of Juvenile Adult Court Transfers in California*

By Mike Males, PhD and Dan Macallair, MPA

This study is the first of five reports that will be published this year by Building Blocks for Youth, a multi-year initiative to protect minority youth in the justice system and promote rational and effective juvenile justice policies. The initiative has five major components:

- (1) Research on the disparate impact of the justice system on minority youth; on the effects of new adult-court transfer legislation in the states; and on the privatization of juvenile justice facilities by for-profit corporations;
- (2) Analyses of decisionmaking at critical points in the justice system, including arrest, detention, adjudication, and disposition;
- (3) Direct advocacy on behalf of youth in the justice system, particularly on issues that disproportionately affect youth of color such as conditions of confinement in jails, prisons, and juvenile facilities; access to counsel and adequacy of representation in juvenile court; and "zero tolerance" and other issues relating to school suspensions and expulsions;
- (4) Constituency building among African-American, Latino, and Native-American and other minority organizations, as well as organizations in the medical, mental health, legal, law enforcement, child welfare, civil rights, human rights, religious, victim's rights, and domestic violence areas, at the national, state, and local levels;
- (5) Development of communications strategies to provide timely, accurate, and relevant information to these constituencies, public officials, policymakers, the media, and the public.

The partners in the initiative are the Youth Law Center, American Bar Association Juvenile Justice Center, Communication Works, Communications Consortium Media Center, Justice Policy Institute, Juvenile Law Center, Minorities in Law Enforcement, National Council on Crime and Delinquency, and Pretrial Services Resource Center.

The initiative is supported by the federal Office of Juvenile Justice and Delinquency Prevention and the Bureau of Justice Assistance, and the Annie E. Casey, Ford, Walter Johnson, MacArthur, and Rockefeller foundations, and the Center on Crime, Communities & Culture of the Open Society Institute. This project was supported by award No. 98-JN-FX-K003 awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice or the supporting foundations.

This research is funded in part by a grant from The California Wellness Foundation (TCWF). Created in 1992 as a private and independent foundation, TCWF's mission is to improve the health of the people of California through proactive support of health promotion and disease prevention programs.

The Justice Policy Institute is a policy development and research body that promotes effective and sensible approaches to America's justice system. JPI is a project of the non-profit Center on Juvenile and Criminal Justice.

The authors would like to express a special thank you to Deborah Vargas, Catherine Brown, Vincent Schiraldi, Marc Schindler, Mark Soler and Jill Herschman, all of whom graciously contributed to the completion of this report.



## *I. Introduction*

Over the past 6 years, 43 states have instituted legislation facilitating the transfer of children to the adult court. The impact of these laws is the gradual erosion of the 100-year-old juvenile justice system. Founded on the belief that children were entitled to a range of special protections due to their vulnerability and immaturity, the juvenile court was intended to separate youth from the deleterious effects of the adult justice system. Inherent in these special protections was the belief that children, because they have not established fixed criminal careers, were more amenable to adult guidance and intervention. In addition, social commentators frequently noted that adult prisons and jails were little more than factories "of vice and viciousness." As a result, within 25 years juvenile courts were in place in every state.

However, in the past two decades, the juvenile justice system and its underlying premise of treatment and rehabilitation have come under attack as being too lenient, especially with regard to its capacity to handle the supposedly more violent, delinquent youth of the 1980s and 1990s. Conservative critics charged that in the absence of harsh treatment, the system's ability to deter today's allegedly unprecedented delinquent and violent youth was compromised. When serious youth crime, particularly homicide, rose during the late 1980s, the conservative ideology of deterrence and incapacitation received greater credence. Legislators raced to quell growing public fear of youth crime by passing ever-harsher legislation and demanding penalties commensurate with those given adults. At the present time, all 50 states have laws on the books allowing juveniles to be tried as adults.<sup>1</sup>

There is a dearth of research analyzing the effects of this legislation on minority populations. Many critics charge that the growing numbers of youths being transferred to adult court for criminal prosecution are disproportionately minority, with African Americans and Hispanics receiving particularly discriminatory treatment. This contention is supported by studies showing that California's harsher adult sentencing practices disproportionately affect minority groups. For example, a 1996 study by the Justice Policy Institute found that compared to whites ("whites" refers to non-Hispanic Anglos), African Americans were five times more likely to be arrested for felonies, seven times more likely to be sent to prison, and 13 times more likely to be sentenced under the State's "Three Strikes" law.

At a time when laws affecting the criminal prosecution of youths are being rapidly revised, it is vital to understand fully the consequences of these changes. This research examines the impact of adult court transfers and sentencing on minority youth in California, with a specific look at minority representation in waivers (transfers of juvenile offenders to adult criminal court) in Los Angeles County.

## ***II. Research Review on Juveniles in the Justice System***

Several recent studies suggest that minority youth are overrepresented at every stage of the justice system. For example, in a 3-year study of youth in Florida's juvenile justice system, researchers found:

*Minority juveniles processed for delinquency offenses in 1987 received more severe (i.e., more formal and/or more restrictive) dispositions than their white counterparts at several stages of juvenile processing. Specifically, we found that when juvenile offenders were alike in terms of age, gender, seriousness of the offense which promoted the current referral, and seriousness of their prior records, the probability of receiving the harshest disposition available at each of several processing stages was higher for minority youth than for white youth.<sup>2</sup>*

These disparities were found at every stage of the juvenile justice system. In addition, follow-up discussions with juvenile justice "decision-makers" revealed that most believed that race was a factor in decision making.<sup>3</sup> Moreover, a study of the juvenile justice system in California found that minority youth, particularly African American and Hispanic youth, consistently received more severe dispositions than white youth, and are more likely to be committed to state institutions than white youth for the same offenses. These findings were consistent with research in other states. For example:

*According to a study by Hamparian and Lieber, California had the highest number of juveniles - 19,567 - in custody in public facilities. Minorities comprised 53.4% of the youth population statewide, but they accounted for 59% of all juveniles arrested, almost 64% of the juveniles held in secure detention and 70% of the juveniles placed in secure corrections.<sup>4</sup>*

In Ohio, there were 3,551 juveniles held in custody in public facilities. Minorities comprised 14.3% of the youth population statewide, but they accounted for 30% of the juveniles arrested and 43% of the juveniles placed in secure corrections.<sup>5</sup>

In Texas, there were 3,505 juveniles held in custody in public facilities. Minorities comprised 50% of the youth population statewide, but they accounted for 65% of the juveniles held in secure detention, 80% of the juveniles placed in secure corrections, and 100% of the juveniles held in adult jails.<sup>6</sup>

Defenders of current practice argue that these large discrepancies in confinement of minorities result from differential crime patterns among young people in different racial groups and is not reflective of racial bias or discrimination in the justice system. However, others argue that racial disparities in the criminal justice system are the direct result of discrimination.<sup>7</sup> While the preponderance of studies indicate some level of bias against minority defendants, the issue remains controversial.<sup>8</sup>

### *III. Methodology*

This study utilized data collected from the Los Angeles County Probation Department Research Division, Los Angeles County District Attorney's Office, California Youth Authority Research Division, California Department of Justice Criminal Justice Statistics Center, Department of Finance Demographic Research Division and the United States Bureau of the Census. The years examined were 1996-98 (arrestees) and 1997-99 (sentencings). Both sets of three-year periods are the most recent for juvenile arrests and juveniles transferred to adult court. The one-year difference takes into account that sentencings occur substantially after arrests. Due to the absence of uniform county reporting standards, adult court transfer statistics from Los Angeles County (which accounts for 40% of California's juvenile transfers to adult court) were used. The most recent data available (1996) were used for the purposes of the Los Angeles analysis.

The analysis compares the proportions of white, African-American, Hispanic and Asian/Others in the total juvenile (age 10-17) population and in the total number of juvenile arrestees by offense category with the respective proportions of their transfers to adult court and sentencings to a California Youth Authority (CYA) facility. The purpose of this analysis is to test the hypothesis that minority youth are disproportionately transferred to adult court and sentenced to incarceration compared to white youths in similar circumstances.

### *IV. Results*

#### *Los Angeles County Analysis (1996)*

By population proportions. In 1996, whites comprised 25%, Hispanics 51%, African Americans 13%, and Asians and other races 11% of Los Angeles County's population between ages 10 and 17 (Table 1). However, Los Angeles Probation Department data reveal that Hispanic, African American, and Asian/other youth accounted for 95% of the cases where youth were found "unfit" for juvenile court and transferred to adult court in 1996 (Table 1). Hispanic youth accounted for the largest percentage of cases found unfit (59%). Expressed as a rate per 100,000 population age 10-17 by race, 11 white, 64 Hispanic, 134 African American, and 30 Asian/other youths were found unfit in 1996. Thus, Hispanic youth are 6 times more likely, African American youth are 12 times more likely, and Asian/other youth 3 times more likely than white youths to be found unfit for juvenile court and transferred to adult court in Los Angeles County.

By arrest proportions. It may be argued that the disproportionate transfer of minority youth to adult court reflects not discrimination in the transfer system, but the higher arrest rate of minority youth for serious crimes. This argument is explored in Table 1 and Figures 1-4.

**Table 1. Los Angeles County Minority youth are transferred to adult court 2.5 times more than White youth after arrest rates for serious crimes are controlled, 1996**

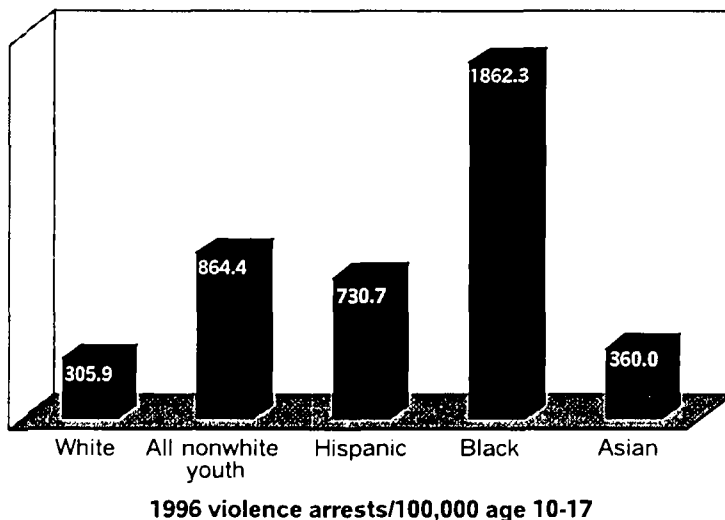
| Percent of:<br>Pop. 10-17       | White<br>24.7% | Hispanic<br>51.4% | Black<br>12.6% | Asian/other<br>11.3% | Number<br>998,400 |
|---------------------------------|----------------|-------------------|----------------|----------------------|-------------------|
| <b>Arrests for:</b>             |                |                   |                |                      |                   |
| Violent crime                   | 10.4%          | 51.7%             | 32.3%          | 5.6%                 | 7,253             |
| Homicide                        | 2.8            | 53.9              | 31.5           | 11.8                 | 178               |
| Rape                            | 7.7            | 45.4              | 42.3           | 4.6                  | 130               |
| Robbery                         | 7.1            | 51.6              | 36.6           | 4.8                  | 3,691             |
| Ag. assault                     | 14.7           | 52.1              | 27.1           | 6.1                  | 3,254             |
| Property crime                  | 12.6           | 56.3              | 23.4           | 7.8                  | 11,481            |
| Drug felonies                   | 12.8           | 65.6              | 19.1           | 2.5                  | 2,672             |
| All felonies                    | 12.2%          | 56.0%             | 25.4%          | 6.4%                 | 24,013            |
| <b>Transfers to adult court</b> |                |                   |                |                      |                   |
|                                 | 5.0%           | 58.8%             | 30.1%          | 6.1%                 | 561               |

*Source: California Youth Authority, Research Division, printout by request, January 2000. California Criminal Justice Statistics Center. "California Criminal Justice Profiles," Los Angeles County, 1996, Table 22. Sacramento: California Department of Justice.*

Figure 1 shows Los Angeles minority youth indeed have higher arrest rates for felony violent crimes (murder, rape, robbery, and aggravated assault) ranging from 1.2 times (Asian) to 6.1 times (Black) the arrest rates for white youth. While some of this discrepancy may reflect racial biases in the arrest and charging system, the result is that the pool of violent arrestees (those most likely to be transferred to adult court) is disproportionately minority.

All else being equal, we would expect that the proportions of juveniles transferred to adult court and sentenced to CYA facilities would reflect roughly the same racial breakdown as for violent crime arrests.

**Figure 1: L.A. Nonwhite youth violent felony arrest rates 1.2x to 6x white rates**



However, Figure 2 shows all else is not equal. Los Angeles' transfer rate to adult court for minority violence arrestees is double that for white violence arrestees. Perhaps, then, minority youth violence arrestees are accused of more heinous violent crimes or have lengthier criminal records than white violence arrestees.

Examination of the arrest categories suggests little reason for such great racial disparity in transfers of violent crime arrestees to adult court. For the rarer but more violent offenses most likely to result in transfer, minority youth offenders are

overrepresented for homicide and white youth offenders for rape. In terms of the more common offenses, minority arrestees tend more toward robbery and white arrestees more toward aggravated assault. Since aggravated assault by definition involves use of a weapon and/or serious injury to the victim while robbery constitutes only face-to-face taking of the victim's property with or without injury, assault would seem a more serious victimization on average and therefore more likely to occasion transfer.

Further, while previous studies have

found minority youth are treated more harshly by the justice system than white youths with equivalent criminal records, the state data available to this study are not sufficient to examine this question. In order to justify a doubled rate of transfer, the criminal records of minority arrestees would have to be consistently and substantially longer than for white arrestees accused of similar violent crimes.

**Figure 2: Violent nonwhite youth arrestees tried in adult court 2x more than whites**

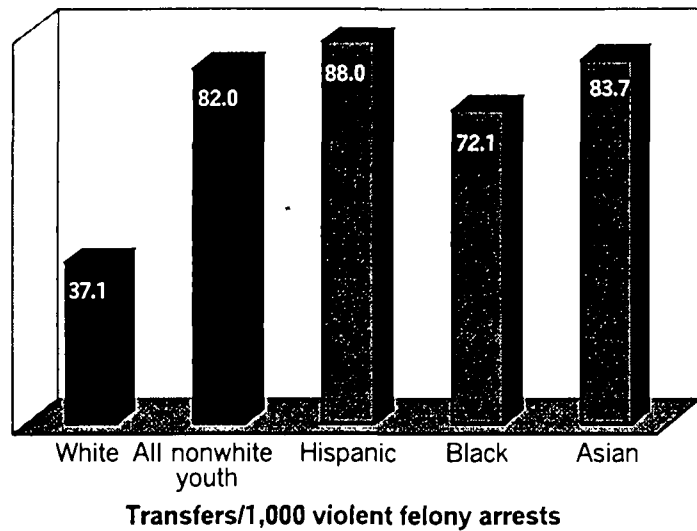


**Figure 3: Black & Asian youth tried in adult court are imprisoned more often**

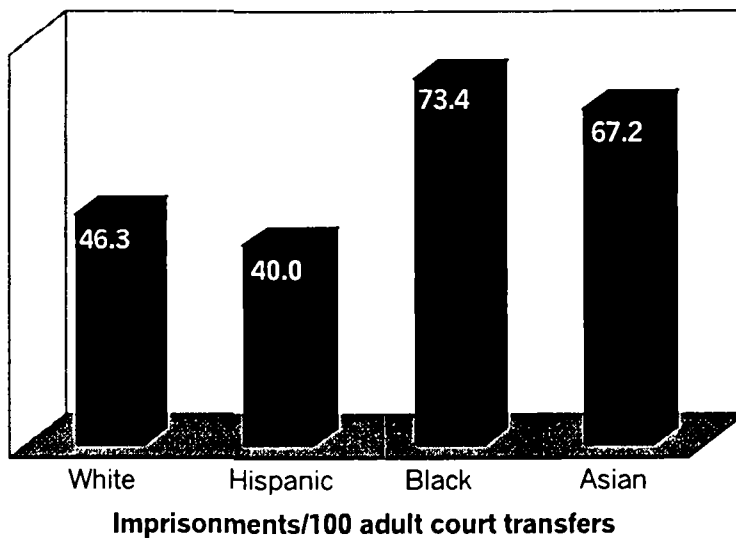


Figure 3 shows that adult courts are considerably more likely to sentence African American and Asian/other offenders to prison than Hispanic or white convicts. The difference is considerable, but it is based on only 292 sentencings in 1996. The statewide data on this subject for 1997-99 shown in Table 2 and Figure 5 may be more reliable.

Figure 4 shows how racial disparities accumulate, even accelerate, as the youth moves into the adult system. While Figures 1-3 display rates, Figure 4 presents a ratio. Assume that

the odds of a Los Angeles white youth being arrested for a violent offense, transferred to adult court, and sentenced to prison are arbitrarily set equal to 1. We can then calculate the odds of a Los Angeles minority youth experiencing those same outcomes relative to a white youth. Compared to white youths, minority youths are 2.8 times as likely to be arrested for a violent crime, 6.2 times as likely to wind

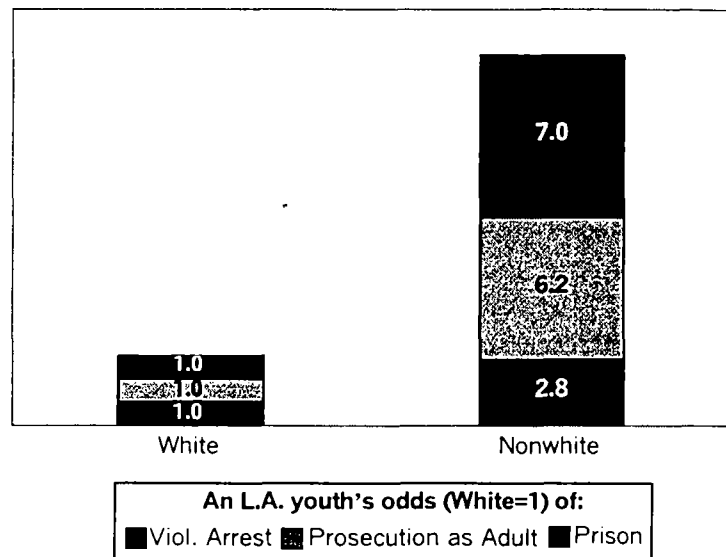
up in adult court, and 7 times as likely to be sent to prison by adult courts. Thus, something happens after arrest to increase a minority youth's odds of imprisonment from 2.8 times that of a white youth (based on violence arrest differences) to 7 times more (based on adult court sentencing).

#### *Statewide Analysis (1996-99)*

The disparate racial picture indicated by Los Angeles' adult court transfer statistics are reflected in state sentencing statistics. Compared to their populations and levels of arrest for every offense category (Table 2), minority youth offenders are much more likely than white youth offenders to be sentenced to incarceration in California Youth Authority facilities.

Whites comprised 45%, Hispanics 35%, African Americans 8%, and Asians, Native Americans, and other races 12% of California's population ages 10-17 in 1996-98. Compared to their proportion of the population and of juvenile offenders, minority youth are overrepresented at all stages of the juvenile justice system.

**Figure 4: L.A. nonwhite youth have 2.8x arrest rate - but 7x adult-imprisonment rate**



| <b>Table 2. Minority youth are sentenced more harshly by adult courts for equivalent offenses than are White youth, California, 1996-98 (arrests) and 1997-99 (sentencings)</b> |                       |                          |                      |                             |                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|--------------------------|----------------------|-----------------------------|----------------------------------------|
| <b>Percent of:</b><br>Pop. 10-17                                                                                                                                                | <b>White</b><br>44.6% | <b>Hispanic</b><br>35.4% | <b>Black</b><br>7.8% | <b>Asian/other</b><br>12.2% | <b>3-year<br/>Totals</b><br>11,012,000 |
| <b>Arrests for:</b>                                                                                                                                                             |                       |                          |                      |                             |                                        |
| Violent crime                                                                                                                                                                   | 23.0%                 | 42.1%                    | 26.8%                | 8.1%                        | 62,726                                 |
| Homicide                                                                                                                                                                        | 11.8                  | 52.2                     | 21.1                 | 14.9                        | 1,047                                  |
| Rape                                                                                                                                                                            | 24.6                  | 40.6                     | 29.6                 | 5.1                         | 1,340                                  |
| Robbery                                                                                                                                                                         | 14.9                  | 40.9                     | 36.7                 | 7.5                         | 23,654                                 |
| Ag. assault                                                                                                                                                                     | 28.5                  | 42.7                     | 20.4                 | 8.4                         | 36,685                                 |
| Property crime                                                                                                                                                                  | 30.1                  | 40.6                     | 18.5                 | 10.8                        | 123,778                                |
| Drug felonies                                                                                                                                                                   | 26.3                  | 44.8                     | 24.0                 | 4.9                         | 23,791                                 |
| All felonies                                                                                                                                                                    | 27.9%                 | 42.4%                    | 20.6%                | 9.1%                        | 244,492                                |
| <b>Sentencings to CYA by adult court:</b>                                                                                                                                       |                       |                          |                      |                             |                                        |
|                                                                                                                                                                                 | 8.9                   | 51.5                     | 28.6                 | 11.0                        | 639                                    |
| <b>Sentencings to CYA by juvenile court:</b>                                                                                                                                    |                       |                          |                      |                             |                                        |
|                                                                                                                                                                                 | 15.5                  | 50.1                     | 26.4                 | 8.1                         | 5,938                                  |

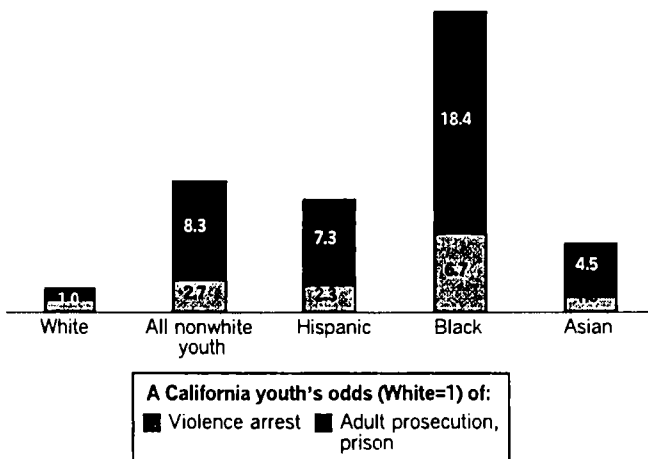
Source: California Youth Authority, Research Division, data provision by request, January 2000. California Criminal Justice Statistics Center. "California Criminal Justice Profiles," Los Angeles County, 1996, Table 22. Sacramento: California Department of Justice.

Further, white youth representation decreased at every stage of the system (arrests, transfers to adult court, sentencing, and imprisonment) while minority youth representation increased.

CYA data reveal that minority youth are far more likely to be committed to a CYA facility (prison) through the juvenile court or temporarily housed there until transferred to adult prison at age 18. Moreover, minority youths are transferred to adult court and imprisoned more often than their proportions of violent crime arrestees would predict.

Figure 5, like Figure 4, sets the odds of a white youth being arrested for a violent crime, transferred to adult court, and sentenced to prison equal to 1, then presents the comparative odds of these outcomes among minority youth. Relative to white youth, Hispanic youth are 2.3 times as likely, African American youth 6.7 times as likely, and Asian/other youth 1.3 times as likely, to be arrested for a violent offense. However, after transfer to and prosecution in the adult system, Hispanic youth offenders wind up being 7.3 times more likely, African American youth offenders 18.4 times more likely and Asian youth offenders 4.5 times more likely, to be sentenced by an adult court to CYA confinement. Overall, compared to their respective contributions to California's violence arrest volume, African American, Hispanic, Asian, and other minority youth offenders are 3 times more likely to be sentenced to CYA confinement than are white youth offenders arrested for similar offenses.

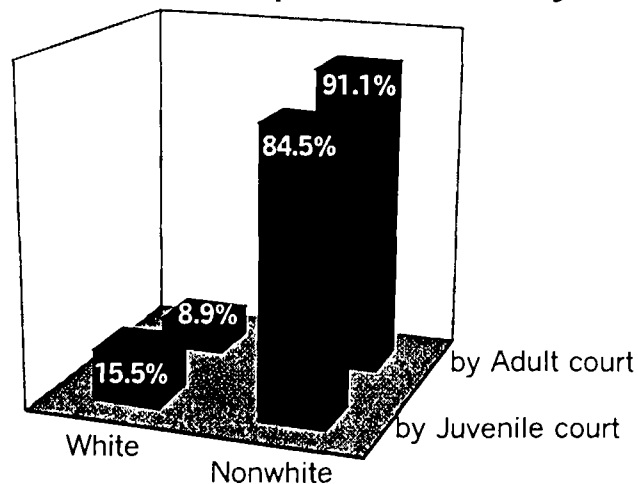
**Figure 5: Nonwhites tried as adults, imprisoned more even when arrest rates controlled**



This disproportionately harsh disposition of minority youths by adult courts shows up regardless of the felony offense category that is used as the index to measure arrest propensity. For example, compared to their respective contribution to California's felony arrest volume, African American youth offenders are 4.4 times as likely, and Hispanic and Asian youth offenders are 3.8 times as likely to be sentenced to CYA confinement than are white youth offenders.

Finally, and of increasing concern, transfer from juvenile to adult court appears to exacerbate already large racial disparities in sentencing (Figure 6). Whites represent 15.5% of juvenile court sentencings to CYA confinement, but only 8.9% of adult court sentencings to CYA. While compared to white youths accused of similar crimes, minority youth offenders are somewhat more likely to be sentenced to CYA facilities by juvenile courts (minority youth are 77.0% of violent crime arrestees, 84.5% of CYA sentencings), they are much more likely to be sentenced to CYA facilities when transferred to adult courts (91.1% of CYA sentencings).

**Figure 6: Adult courts more likely than juvenile courts to imprison nonwhite youths**



## ***V. Discussion and Conclusion***

This study is the first analysis of racial and ethnic disparity in the transfer of youths to adult court and sentencing to CYA facilities in California. Like previous studies on racial disparity in the criminal justice system, this study reveals imbalances that are stark and vast:

Minority youths are 8.3 times more likely than white youths to be sentenced by an adult court to imprisonment in a California Youth Authority facility. Two factors contribute in roughly equal measure to this discrepancy:

- First, minority youths are 2.7 times more likely than white youths to be arrested for a violent felony (the crimes most likely to result in transfer to adult court).
- Second, once in the system, minority juvenile violent crime arrestees are 3.1 times more likely than white juvenile violent crime arrestees to be transferred to adult court and sentenced to confinement in a CYA prison.

While it is debatable whether the disproportionate minority youth arrests are a reflection of race-based violent crime differentials or racially biased policing and charging policies, the discriminatory treatment of minority youth arrestees accumulates within the justice system and accelerates measurably if the youth is transferred to adult court.



The limited analysis of Los Angeles County data reveals that the major factor in the large racial disparities in sentencing lies in the much more frequent transfer of minority juveniles to adult court. The more complete, statewide analysis shows the outcomes of those transfers are unusually harsh sentences of minority offenders by adult courts. The reasons for these disparities are not clear; they do not appear to result from more heinous offenses by minority youth, although the possibility of systematic differences in prior criminal records cannot be evaluated from available information. Even when the most conservative and clearly limited index is used (each race's respective contribution to California's juvenile homicide volume), minority offenders remain 1.4 times more likely to be sentenced to CYA confinement by adult courts than are similarly offending white youth.

Given the current analysis and previous studies showing similar racial discrepancies in other areas of the juvenile justice and criminal justice systems, future research must begin examining the basis for the large adult court (and the lesser juvenile court) disparities in sentencing this study found. In 1980, white youth comprised 30% of the CYA population; in 1998, they comprised 14%. Hispanic youth have risen from 30% to 49% over the same period. The CYA projects that Hispanic youth will represent 65% of the CYA population within the next several years. Clearly, if the current trends toward a harsher and more severe criminal justice system continues, minority youth will be affected in accelerating fashion. As more minority youths are pushed more deeply into the criminal justice system, fewer will be prepared to enter mainstream society or the labor market.

Although statistical assessments are limited in their ability to analyze underlying, less quantitative or tangible reasons for these disparities, the current analysis raises troubling issues. Future research needs to examine the underlying reasons for and solutions to these racial disparities.

## ***VI. Endnotes***

- 1 Office of Juvenile Justice and Delinquency Prevention. 1999. *Juvenile Offenders and Victims: 1999 National Report*. Washington DC: United States Department of Justice.
- 2 Bishop, Donna & Charles Frazier, 1990. *A study of race and juvenile processing in Florida*. A report submitted to the Florida Supreme Court Racial and Ethnic Bias Study Commission.
- 3 *Id.* at 5.
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- 6 *Id.*
- 7 Michael Tonry, 1995. *Malign Neglect: Race, Crime, and Punishment in America*. New York, NY: Oxford University Press.
- 8 Office of Juvenile Justice and Delinquency Prevention. 1995. *Minorities and the Juvenile Justice System: Research Summary*. Washington DC: United States Department of Justice.



*Building* **Blocks**  
*for Youth*

For a fair and effective  
youth justice system

# News Coverage Release of “Color of Justice”

February - March 2000

# The New York Times

THURSDAY, FEBRUARY 3, 2000

## Racial Discrepancy Found in Trying of Youths

By TAMAR LEWIN

Minority youths are more than twice as likely as their white counterparts to be transferred out of California's juvenile justice system and tried as adults, according to a study made public yesterday by the Justice Policy Institute, a criminal-justice research center.

"The imbalances this study reveals are stark, vast and deeply disturbing," said Dan Macallair, the associate director of the institute who is a co-author of the study. "Discrimination against kids of color accumulates at every stage of the justice system and skyrockets when juveniles are tried as adults. California has a double standard: throw kids of color behind bars, but rehabilitate white kids who commit comparable crimes."

The study, "The Color of Justice," is believed to be the first to examine which youthful offenders are being transferred into the adult court system under recent laws making it easier to try juveniles as adults. Although the study is based entirely on California data, criminal justice experts say the issue is a national one.

A spokeswoman for Gov. Gray Davis said yesterday afternoon that Mr. Davis had just received a report on the study and had not yet had time to review it.

### *Minority juveniles face trial more often than white ones.*

All 50 states have laws allowing juveniles to be tried as adults. And over the last six years, as part of a move to get tougher on youthful offenders, 43 states have adopted laws making it easier to transfer children charged with crimes to adult courts.

"Racial bias anywhere in the legal system is not a surprise," said Jeffrey Fagan, director of the Center for Violence Research and Prevention at Columbia University. "But we don't know much about who is getting transferred under the new laws because most states have multiple pathways to transfer kids, so it's very difficult to study. California is among the few states that are relatively easy to examine."

Mr. Fagan added: "Juvenile transfers are particularly important because the consequences of moving a kid to the adult system are so severe, bringing greater exposure to violence and greater probability of re-arrest."

In Los Angeles, the new study found, about 12 percent of the slightly

more than 24,000 juveniles arrested for felonies in 1996 were white, 56 percent were Hispanic, 25 percent were black and 6 percent were Asian. But the proportion of those tried as adults were quite different: Of the 561 cases transferred to adult court, only 5 percent were white, 6 percent were Asian, 30 percent were black and 59 percent were Hispanic.

Los Angeles County, which accounts for 40 percent of the juvenile court cases transferred to California's adult courts, is the only county in the state that keeps detailed records on transfers. In examining the arrest categories of the county's youthful offenders, the study found no evidence that the racial disparity in transfer rates could be explained by a pattern of more violent or more heinous crimes by minority youths than by white youths.

Once a minority youth enters the adult court system, the study found, the racial disparities widen. At each step of the process, the proportion of white youths drops while the proportion of minority youths rises.

Once transferred to the adult system, young African-American offenders were 18.4 times more likely to be jailed than were young white offenders, Hispanic youths 7.3 times more likely to be imprisoned than whites, and Asian youths 4.5 times more likely, the study found.

*Building Blocks for Youth*

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# The Washington Post

THURSDAY, FEBRUARY 3, 2000

## Calif. Minority Youth Treated More Harshly, Study Says

### Racial Disparities In Sentencing Clear, Authors Report

By MICHAEL A. FLETCHER  
Washington Post Staff Writer

Minority juvenile offenders in California are much more likely to be transferred to adult courts and sentenced to prison than are whites who commit similar crimes, a study released yesterday shows.

The report adds to a growing body of work pointing up troubling racial disparities in the nation's criminal justice system that advocates say seem to be widening as the nation's incarceration rate continues to grow.

The study, completed by the Justice Policy Institute (JPI), a criminal justice research group, found that minority youth, particularly Latinos and African Americans, are treated more harshly than whites at each stage of the criminal justice process.

Compared with white youths, mi-

### Balanced Justice?

*Minority youth in California are sentenced more harshly by adult courts for equivalent offenses than white youth, according to a Justice Policy Institute study.*

|                             | Hispanic | Asian/other |
|-----------------------------|----------|-------------|
| Percent of population 10-17 | 35.4%    | 12.2%       |
| Arrests for:                |          |             |
| Violent crime               | 42.1     | 8.1         |
| Property crime              | 40.6     | 10.8        |
| Drug felonies               | 44.8     | 4.9         |
| All felonies                | 42.4     | 9.1         |
| Sentencing:                 |          |             |
| by adult court              | 51.5     | 11.0        |
| by juvenile court           | 50.1     | 8.1         |

THE WASHINGTON POST

norities in California were 2.8 times more likely to be arrested for violent crimes, 6.2 times more likely to be tried in adult court and 7 times more likely to be sentenced to prison once they get there, the report found.

The findings mirrored other studies that have found minority youth overrepresented in the criminal justice system. A 1990 Florida study found that black and Hispanic youths charged with juvenile offenses received more severe penalties

than whites did. Similar disparities have been found in other states, including Ohio and Texas.

The California study is being touted by its authors as the first focusing on the racial disparities that develop when juveniles are transferred to adult court.

"The disparities this study reveals are stark, vast and deeply disturbing," said Dan Macallair, JPI's associate director and co-author of the report. "Discrimination against kids of color accumulates at every stage of the justice system and skyrockets when juveniles are tried as adults. California has a double standard: Throw kids of color behind bars, but rehabilitate white kids who commit comparable crimes."

Macallair added that while the racial disparities are clear, there is still no consensus as to why they exist. It is a question JPI and a coalition of civil rights groups, including the NAACP and the Mexican-American Legal Defense and Educational Fund, are urging California Gov. Gray Davis (D) to address.

Possibly, Macallair said, minority youths are more likely to have less effective lawyers and weaker families

than whites, which may contribute to the view that they are incorrigible.

"We have such overwhelming disparities at each stage of the criminal 'California has a

double standard:

Throw kids of color

behind bars, but

rehabilitate white

kids who commit

comparable

crimes."

— Dan Macallair, report's co-author

justice system, that it is now time to start asking and finding out why," Macallair said.

In the past six years, 43 states

have passed laws allowing the transfer of juveniles' cases to adult court, a development that the report's authors say undermines the century-old juvenile justice system, which was founded on the notion that because of their age, juvenile suspects deserve special consideration when charged with breaking the law.

But as the rate of violent crime among juveniles surged in the 1980s and early 1990s, a growing number of policymakers became convinced that the criminal justice system was too soft on juveniles. And now that juvenile crime rates are in sharp decline, many see those get-tough policies as success to build on.

In California, where juvenile crime rates have plunged 30 percent in the past decade, voters will face a ballot initiative March 7 that could expand the number of juveniles tried as adults. The measure, endorsed by Davis, would allow prosecutors to file charges in adult court against juveniles as young as 14 for serious crimes. Currently, juvenile judges must approve the transfer of juvenile cases to adult court.

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# Los Angeles Times

THURSDAY, FEBRUARY 3, 2000

## Study Finds Bias Among Juveniles in Justice System

By ANN L. KIM  
TIMES STAFF WRITER

Local civil rights leaders called on Gov. Gray Davis on Wednesday to address racial disparities in the transfer of juvenile criminal cases to adult courts, citing a new study showing that minority youths in Los Angeles County are more likely to be tried as adults than white youths.

Titled "Color of Justice" and conducted by the liberal Justice Policy Institute, the study found that minority youths in the county are twice as likely to have their cases transferred to adult court than white youths arrested for comparable violent crimes, based on analysis of 1996 statistics.

The study was released simultaneously at news conferences by the NAACP, the Mexican American Legal Defense and Educational Fund and the Multicultural Collaborative.

"A justice system that displays such blatant bias is a system in dire need of reform," said Beatriz Lopez-Flores, vice president of community education and public policy for the Mexican American Legal Defense and Educational Fund. Davis "should provide leadership in making sure that all of our children get a second chance."

The study comes in the midst of debate statewide over Proposition

21, a measure supported by Davis that would shift responsibility for determining which juveniles will be tried as adults from judges to prosecutors. In most cases, judges now decide which defendants will be tried as adults.

"I think that these results should bear on the discussion of Proposition 21," said Lopez-Flores. MALDEF opposes the ballot measure.

Lisa Greer, a spokeswoman for the California Public Defenders Assn., said the study's numbers show that Proposition 21 will magnify the "effect of any disproportionate minority impact" in the juvenile justice system. Greer's organization has not taken a formal stance on the ballot initiative.

Supporters of Proposition 21, however, say the measure is about curbing juvenile crime without regard for race.

"At no point are we saying we're after this particular racial class, and if given more discretion that we're going to use it for [such a] purpose," said Dave LaBahn, deputy executive director of the California District Attorneys Assn.

The study was started more than a year ago and not timed to be part of the Proposition 21 debate, said Don Macallair, co-author of the study and associate director of the Center on Juvenile and Criminal Justice.

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# Lock 'Em Up!

Minority youths are more likely to face trial as adults

**A** WHITE KID SELLS A BAG OF COCAINE at his suburban high school. A Latino kid does the same in his inner-city neighborhood. Both get caught. Both are first-time offenders. The white kid walks into juvenile court with his parents, his priest, a good lawyer—and medical coverage. The Latino kid walks into court with his mom, no legal resources and no insurance. The judge lets the white kid go with his family; he's placed in a private treatment program. The minority kid has no such option. He's detained.

There, in a nutshell, is what happens more and more often in the juvenile-court system. Minority youths arrested on violent felony charges in California are more than twice as likely as their white counterparts to be transferred out of the juvenile-justice system and tried as adults, according to a study released last week by the Justice Policy Institute, a research center in San Francisco. Once they are in adult courts, young black offenders are 18 times more likely to be jailed—and Hispanics seven times more likely—than are young white offenders. "Discrimination against kids of color accumulates at every stage of the justice system and skyrockets when juveniles are tried as adults," says Dan Macallair, a co-author of the new study. "California has a double standard: throw kids of color behind bars, but rehabilitate white kids who commit comparable crimes."

Even as juvenile crime has declined from its peak in the early 1990s, headline-grabbing violence by minors has intensified a get-tough attitude. Over the past six years, 43 states have passed laws that make it easier to try juveniles as adults. In Texas and Connecticut in 1996, the latest year for which figures are available, all the juveniles in jails were minorities. Vincent Schiraldi, the Justice Policy Institute's director, concedes that "some kids need to be tried as adults. But most can be rehabilitated."

Instead, adult prisons tend to brutalize juveniles. They are eight times more likely to commit suicide and five times more likely to be sexually abused than offenders held in juvenile detention. "Once they get out, they tend to commit more crimes and more violent crimes," says Jenni Gainsborough, a spokeswoman for the Sentencing Project, a reform group in Washington. The system, in essence, is training career criminals. And it's doing its worst work among minorities.

—By Anamaria Wilson

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# Newsweek

February 28, 2000, U.S. Edition

SECTION: SOCIETY; Pg. 54

LENGTH: 809 words

HEADLINE: Locked Away and Forgotten

BYLINE: Ellis Cose

**HIGHLIGHT:**

We're going to have to face up to it--the prison system doesn't work

**BODY:**

With vigils, rallies and teach-ins across America, a ragtag coalition of activists last Tuesday marked the moment when the nation's prison population theoretically rose above 2 million for the first time ever. Spirited though they were, the efforts rated little more than a yawn on the nation's attention meter. They certainly didn't create enough of a stir to overshadow the day's other groundbreaking event: television's first-ever win-a-multimillionaire pageant. In fact, the inmate projections (made by the **Justice Policy Institute**, a progressive criminal-justice think tank) may have outpaced reality. More conservative statisticians believe we are approaching, but not yet at, the 2 million milestone. Whatever the actual current number, it is clearly going up and almost certainly will reach 2 million before the year is out. Such high incarceration rates may seem a reasonable price to pay to keep America safe. But a number of thoughtful people are concluding it is doing nothing of the sort. And although their qualms have not yet ignited a mass movement, some believe that may be about to change.

The problem is that criminal-justice issues, by their very nature, are morally messy. They focus on the supposed dregs of society, a group with no political clout and little claim to compassion. They also, at this point, focus primarily on people who are black or Latino. A majority of Americans "can easily decide it's not their problem," noted Marc Mauer of the Sentencing Project, a group promoting criminal-justice reform. Even many black and Latino liberals are ambivalent about the criminal class. As Los Angeles civil-rights lawyer Connie Rice observes, convicts are "a caste of untouchables" society is all too happy to lock away.

Yet even the police are increasingly talking of prevention and community policing as an alternative to locking up people who, for the most part, eventually end up on the streets again. There is also, Mauer notes, a broader recognition of "the impact on whole communities and generations" of sending ever-growing numbers of people to jail. Part of that recognition comes from the work of organizations like the Sentencing Project,

which over the last several years has churned out one report after another detailing what it considers flaws in the American approach to justice. That approach has resulted in nearly seven times as many female inmates now (largely for drug offenses) than in 1980--meaning tens of thousands of children look to prison for mothering. And it has resulted in roughly half a million ex-cons, hardened and schooled in prison, re-entering communities yearly.

That approach has also, in the opinion of many researchers, resulted in rampant unfairness: nonviolent drug addicts getting more prison time than murderers, minorities getting harsher treatment than whites. Black, Latino and Asian youths (taken together) were 2.8 times more likely to be arrested for a violent crime, 6.2 times more likely to end up in adult court and 7 times more likely to be sent to prison than their white counterparts, says a new JPI study.

Another result of the skyrocketing prison numbers is that more and more people have gotten a close-up look at what modern American justice means. Tom Murlowski, now associate director of the November Coalition (a Colville, Wash.-based organization that advocates reform of drug laws), got involved after a friend was sent to prison on a drug conviction. "I never had dreamed of becoming an activist until I saw the woman I care about destroyed," says the former technical worker. Patricia Moore, a former city-council member of Compton, Calif., who was convicted of extortion, was similarly shaken by personal experience. After serving most of a 33-month term, she emerged this month with petitions asking President Clinton to pardon 16 women (all nonviolent drug offenders) she met behind bars. The answer to their problems, Moore concluded, "can't be just in prison."

Civil-rights leaders, previously nervous about raising too much of a ruckus about prison policy, are becoming bolder. Some see an opening with next year's U.N. conference on race. With the United States poised to overtake Russia as the most prison-happy place on the planet, they plan to take their concerns to the United Nations.

"All the signs point toward more public discussion about such issues," concluded Mary Frances Berry, head of the U.S. Commission on Civil Rights. That discussion--taking in those who care about everything from civil rights to law enforcement to drug policy--is likely to create some unusual bedfellows. If they end up creating a mass movement, it will not be because they care so much about prisoners, but because they care about what putting so many Americans behind bars does to the country's soul.

**GRAPHIC:** GRAPHIC: (Graph) Filling Up the Prisons (graphic omitted); **PHOTO:** Warehousing: A policy with diminishing returns



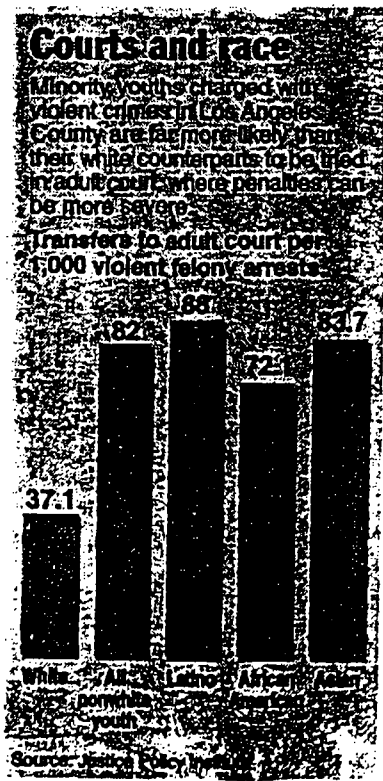
# The Sacramento Bee

THURSDAY  
February 3, 2000

## Report blasts juvenile justice

Minorities face tougher treatment

By Andy Furillo  
Bee Staff Writer



crime are far more likely to be tried as adults in California if they are not white, according to a study released Wednesday by a San Francisco-based juvenile justice reform group.

Odds of kid crooks going to the California Youth Authority also increase if they are Latino, African American or Asian American, the Justice Policy Institute study found.

"It is horrifying and outrageous and absolutely unacceptable that our children are being subjected to such discriminatory treatment," said Anamaria Loya of La Raza Centro Legal at a Capitol press conference.

But an official with the California District Attorneys Association blasted the report as flawed and said there simply is no racial disparity in the way prosecutors and the courts process juvenile offenders.

"When we're making decisions, race is not an issue," said Dave LaBahn, the group's deputy executive director. "Once these cases get to us, they are prosecuted in a fair and even manner. The objective in every court is, let's be color blind."

The report, titled "The Color of Justice," was released a day after the campaign began heating up over a ballot initiative that would require any juvenile 14 or older to be tried in adult court for most capital murders or violent sex crimes.

Gov. Gray Davis on Tuesday came out in support of Proposition 21. At Wednesday's press conference, most of the speakers wore red and black "No on 21" buttons and sought to draw the governor onto their turf with the racial disparity issue.

"I would expect him to take a strong stand against pushing children into the adult system," Loya said. "The Latino community is watching, and we are watching how our children are treated in this system."

Davis spokeswoman Hilary McLean said the governor has not had a chance to look at the report. She noted that state Sen. John Vasconcellos, D-Santa Clara, has called for legislative hearings on the issue, which she said would guarantee "additional scrutiny" and a possible reaction from Davis afterward.

The report was based on a three-year study of juvenile cases in Los Angeles County, which accounts for 40 percent of the state's caseload for offenders under the age of 18.

Once youths are arrested and processed through the system, "all

nonwhite youth" are ticketed to adult court two-and-a-half times more frequently than whites, the study found.

The breakdown had Latinos going to adult court at a rate of 88 per 1,000 violent felony arrests. African Americans were certified at a rate of 72.1, Asian Americans at 83.7, and whites at 37.1 per 1,000, the report said.

Dan Macallair, the report's co-author, said he did not know what accounted for the disparities, only that "the differences are stark."

"Is it the result of some inherent bias?" Macallair asked. "Is it the result of racism? Economic conditions? We've got to look at it. It's a serious issue."

State Sen. Kevin Murray, D-Culver City, said, "The only surprise in this report is that anybody would be surprised by its conclusions."

Assemblywoman Dion Aroner, D-Oakland, said that "based on the statistics, we know something discriminatory is happening and we've got to fix it."

Vasconcellos said he will hold hearings on the report within a month.

"This is an invitation for us to come to our senses and right these wrongs," Vasconcellos said.

The district attorney association's LaBahn, however, questioned the veracity of the report. He said it did not adequately break down the ages of who was being sent to adult court and for which crimes.

LaBahn also said that sentencing to the Youth Authority a juvenile offender processed through adult court represents the more lenient option at a judge's disposal.

"It's either there or state prison," LaBahn said.

Sacramento Superior Court Judge Kenneth Peterson, who presides over juvenile court, said there is no racial disparity in adult court certifications in his jurisdiction.

"I don't perceive any differences," he said.

Peterson said the "main piece of evidence" in remand hearings is the report prepared by a probation officer. He described such reports, which he reviews before ever laying eyes on defendants, as being "race neutral."

# San Mateo County Times

THURSDAY: February 3, 2000

## Study: Justice system still treats youths of color differently

By Steve Geissinger and  
Matthew B. Stannard  
STAFF WRITERS

SACRAMENTO -- Youths of color are still more likely to be tried as adults and go to prison than white kids who commit the same crimes, according to a new report that civil rights leaders said Wednesday shows the world hasn't changed much.

Researchers found that youth of color are more than twice as likely as white youths to be tried as adults, and over eight times more likely to be imprisoned by an adult court.

"The only thing that would be surprising about these results is if someone was surprised," said Dan Macallair, associate di-

rector of the Independent, non-profit Justice Policy Institute, which released the study at news conferences in Sacramento and Los Angeles.

Macallair and other civil rights leaders and children's advocates demanded that Gov. Gray Davis investigate the findings. The governor had no reaction Wednesday because "he has not had a chance to see the study yet," said Davis spokeswoman Hillary McLean.

At some point, administration officials will scrutinize the report, she said. A spokesman for Sen. John Vasconcellos, D-San Jose, said he may seek a hearing on the issue within a month.

Activists acknowledged past

studies have documented a disproportionate number of minorities in the juvenile justice system, but they said this was the first study to show the cumulative effect of racial bias when youths are transferred to the adult system.

The report focused primarily on information from Los Angeles County, which accounts for 40 percent of cases transferred to adult court in the state. But Bay Area activists said the report's findings sounded pretty familiar.

Johnny Burks, director of Oakland's Project Re-Connect and a counselor at Castlemont High School, agreed strongly that youth of color face a tougher road through the justice

system than do white youths, a problem he blamed on economics.

"Those who don't have are easily identified and looked down on by those who do have. It's all intertwined," he said, adding that once poverty leads a minority youth into the justice system, "They're tagged. They're tattooed. They're classified . . . they have a stigma on them for life."

Deputy District Attorney Eddie C. Thomas, Jr., San Mateo County's juvenile prosecutor, also said that poverty and a resulting lack of parental support can lead children to court — often, minority children. But he cautioned against seeing the new report as

evidence of racism.

"You should look at it to be sure that the system in some way is not being discrimina-

tory," he said, "(But) in the 15 years I've been here, I can truthfully say this system of ours is color-blind."

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## Study: Minority youth offenders more likely to go to adult court

By **Steve Lawrence**  
ASSOCIATED PRESS

February 2, 2000

SACRAMENTO -- Minority youth charged with serious crimes are much more likely than white juveniles to face trial in adult courts and end up in prison, a new study shows.

Whites accounted for nearly 28 percent of the youths arrested for felonies in California from 1996 to 1998, but only about 9 percent of those sent to prison by adult courts, the Justice Policy Institute study said.

Hispanic youths, on the other hand, made up 42.4 percent of the felony arrests and 51.5 percent of youths sentenced to prison by adult courts, the study by the San Francisco criminal-justice think tank said.

Black juveniles accounted for 20.6 percent of felony arrests and 28.6 percent of those sent to prison by adult courts, and Asian youth made up 9.1 percent of felony arrests and 11 percent of juveniles sent to prison.

Representatives of several civil rights groups, including the National Association for the Advancement of Colored People, demanded that Gov. Gray Davis investigate and make changes to end the disparity.

"It's horrifying and outrageous that children are being treated to such discriminatory ways," said Anamaria Lova, executive director of La Raza Centro Legal, Inc., a nonprofit community law center in San Francisco.

Davis spokeswoman Hilary McLean said the governor "believes the laws should be applied fairly" but will wait to see if lawmakers take action.

Report co-author Dan Macallair said the California report's findings are similar to juvenile justice studies in other states.

Researchers were unable to determine the criminal histories of the youths sent to adult court, where defendants can get much longer sentences than in juvenile courts, Macallair said.

Additional research is needed to determine the reasons for the differences in treatment of whites and minorities, he said.

Assemblywoman Dion Aroner, D-Berkeley, said that "on the face of it something is happening that is discriminatory."

Sen. John Vasconcellos, D-Santa Clara, said he plans to hold a hearing next month to look into the report's findings.

"This is a wake-up call that no one can afford to ignore," said Vasconcellos, chairman of the Senate Public Safety Committee. He attended a news conference with Macallair, lawmakers and representatives of several minority groups where the report was released.

Lawrence Brown, executive director of the California District Attorneys Association, called the report's lack of information about the defendants' criminal histories a "gaping hole."

"I am absolutely confident that prosecutors and judges approach their roles colorblind," he said.

Prosecutors will cooperate with any investigation, Brown said.

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February 02, 2000, Wednesday

**SECTION: DOMESTIC NEWS**

**LENGTH:** 1181 words

**HEADLINE:** Juvenile justice study shows racism, group says

**BYLINE:** MICHAEL HEDGES

**BODY:**

Minority youths in California charged with crimes are far more likely to wind up in adult court and be sentenced to prison time than white juveniles, according to a study released Wednesday by a group that says it shows a "disturbing" element of racism.

The study by the **Justice Policy Institute**, a liberal research group with offices in Washington and San Francisco, found that black, Hispanic and Asian youths "are treated more harshly by the justice system than white youths with equivalent records."

California minority rights groups and juvenile justice advocates said the report confirmed their impressions that the justice system in that state was biased against minorities.

"Even at a time of heightened public awareness of racism in the criminal justice system, it is shocking to find such huge disparities in the way Latino and African American kids are treated," said Beatriz Lopez-Flores, a spokeswoman for the Mexican American Legal Defense and Education Fund. "A justice system that displays such blatant bias is a system in dire need of reform."

The NAACP also called on California's Gov. Gray Davis to review the study and, "do whatever it takes to ensure that youths of color receive fair treatment."

The JPI study looked at arrest and sentencing figures for Los Angeles County between 1996 and 1999. While limited to a review of that county, the authors said the results were statistically significant for the entire state because 40 percent of all juvenile referrals to adult court in California are from Los Angeles County.

Among the major findings of the report:

- Hispanic youths between the ages of 10 and 17 are six times more likely than whites to be found unfit to

stand trial as juveniles and transferred to adult courts. Black youths are sent into the adult court system 12 times as often per 100,000 cases as whites. For Asians, the ratio is 3 to 1.

- Even when adjusting for the higher rates of arrest for minorities in California, an imbalance remained. For similar violent crimes, minority juveniles were twice as likely to be tried in adult court as whites.

- Once a youth is ordered tried as an adult, Hispanics are actually sentenced to prison time less often than whites, 40 percent of the time for Hispanics and 46 percent of the time for whites. But blacks are imprisoned much more often - 73 percent of the time. And Asians are incarcerated 67 percent of the time.

Criminal justice experts did not dispute there could be racial bias in the system, but urged caution on drawing conclusions from limited data.

"It wouldn't be a surprise if the criminal justice system had an element of racism in handling juveniles, but some of the sentencing differences may be based on other factors," said James Alan Fox, a professor of criminal justice at Northeastern University.

Fox said while the system varies from state to state, there are three ways a juvenile can be tried as an adult: a judge can order the case transferred, a prosecutor can decide to move the case to an adult courtroom or the circumstances of a crime can fit a category mandated by a state legislature as one to be tried in adult court.

"If a judge or prosecutor is making the decision, there are issues that come into play like seriousness of the crime, and past criminal history," Fox said.

"Blacks do have a higher rate of criminal offense than whites, so some blacks bound over to adult court may have more prior offenses than whites," he said.

The authors of the study released Wednesday said that even after factoring out past histories and other variables, minority youths are still victims of bias by the juvenile justice system.

"The imbalances this study reveals are stark, vast and deeply disturbing," said Dan Macallair, associate director of JPL. "Discrimination against kids of color accumulates at every stage and skyrockets when juveniles are tried as adults."

(Michael Hedges is a reporter for Scripps Howard News Service. E-mail [HedgesM\(at\)shns.com](mailto:HedgesM(at)shns.com))

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# When is 'get tough' too tough on teens?

■ Initiative making it easier to try juveniles as adults becomes focal point of debate.

**By Paul Van Slambrouck**  
Staff writer of The Christian Science Monitor

**SAN FRANCISCO** - For most of the past decade, the juvenile violent-crime rate in the United States has moved like an upside-down Internet stock index: down, down, down.

In California, for instance, per capita arrests of those under 18 for homicide dropped some 60 percent from 1991 to 1998, according to Franklin Zimring, a criminologist at the University of California at Berkeley.

Yet in California and the nation as a whole, the good news on juvenile crime has not yet produced any softening of the public mood on crime policy.

That's one reason a measure to go before California voters on March 7 that would further stiffen treatment of juvenile offenders is being closely watched as a timely barometer of public mood.

"This is the absurd outer limit of the get-tough approach" to juvenile crime, says Mr. Zimring. Sniffs another critic: "This is a solution in search of a problem."

For others, though, the measure is a test of the public's will to stay the course toward zero tolerance of juvenile crime. One of the measure's key components is making it easier to transfer juve-

niles to adult criminal courts for certain violent offenses.

The practice of sending juveniles charged with particularly heinous crimes to the adult-courts system is age-old in the United States. But in recent years, the threshold for such transfers, which doesn't necessarily mean imprisoning juveniles with adults, has been systematically lowered in most states. The usual means is reduction of the minimum age at which teenagers can be transferred and expansion of the list of crimes for which such transfers are allowed or even mandated.

In addition, prosecutors have been given expanded powers in the decision process, rather than juvenile judges. The California proposal follows that pattern, granting prosecutors the power to send juveniles to criminal courts for certain violent offenses.

Advocates see a tougher and more-efficient court system when prosecutors are given these powers. Opponents say judges are less political and thus fairer.

While the American justice system's more-punitive approach



CAROL KALIFF/THE NEWS-TIMES/AP

**INVOLVED:** Students in the REACH program talk in a Danbury, Conn., classroom. The program involves at-risk teens from social-service programs and juvenile-justice facilities. Young offenders in many states, however, face tough new laws.

toward juveniles has been unfolding for 30 years. pinning down its precise impact is difficult.

#### Statistical basis

A number of criminologists see no hard evidence yet that it has directly increased public safety. Some surmise the tougher approach is playing a role as a deterrent, but that is not something provable with statistics.

Pointing to two studies, one she co-wrote, Donna Bishop, a Northeastern University professor of criminal justice, says the rate at which convicted juveniles

commit new crimes after release from jail is, if anything, higher among juveniles tried as adults than among those that remain in the juvenile system.

A study released this week goes beyond the frequent criticism of the toughening treatment of juveniles and says the system is also racially tinged.

Allegations that the American justice system has a racial bias are longstanding. But those charges usually start with the fact that minorities are arrested at higher rates than whites.

The new research by the Jus-

tice Policy Institute, a San Francisco-based advocacy group that favors the traditional juvenile-justice system, indicates that minority juveniles are six times more likely to be transferred to the adult courts than white juveniles arrested for the same crimes. The study is based on data from Los Angeles County.

"What I see going on here is that anyone labeled a gang member is seen by the system as less redeemable, and kids of color are much more likely to be labeled gang members," says Dan Macallair of the Justice Policy Institute.

Public perception that skyrocketing juvenile crime was largely a minority, urban problem was rooted in the late 1980s. Juvenile homicides jumped sharply then, and much of the increase occurred in the inner cities and involved minority youths.

But that fact was politically exploited in ways that played on public fear, resulting in what Minnesota law professor Barry Feld calls the "systematic dismantling of the traditional jurisdiction of the juvenile courts" over juvenile offenders.

*Continued on next page*

The number of offenders sent to adult courts by juvenile-court judges nearly doubled nationwide in the decade after the late 1980s. In addition, the number of states allowing prosecutors greater power in transfers also doubled.

And a racial skewing has occurred among those transfers, says Professor Feld. Serious offenders sent to the adult courts are overwhelmingly black, and they get stiffer sentences than those in the juvenile system.

#### **Racism in the system**

While Feld says racial bias occurs in the movement to toughen treatment of juveniles, he says it is also "absolutely endemic" in the entire juvenile-justice system. The cause, ironically he says, is the different philosophy of juvenile justice.

From its beginning a century ago, juvenile justice was meant to give young offenders a second chance. It's a system with more discretion deliberately built in, based on the notion that youths are more apt to make mistakes - and also to correct their behavior with tailored treatment.

But with all that discretion, judges often base decisions on a host of factors, like the role of an offenders' parents and his community support, which often unwittingly ended up favoring white juveniles, says Feld.

So while a racial tilt already exists, Feld and others see the get-tough trend toward juveniles simply worsening that problem.

# News

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## Study shows justice's minority bias

Blacks, Hispanics, Asians 'treated more harshly.'

By Matthew Kreamer  
The Fresno Bee

(Published February 3, 2000)

Minority youths charged with crimes in California are far more likely to wind up in adult court and be sentenced to prison time than white juveniles, according to a study made public Wednesday by a group that says the results show a "disturbing" element of racism.

"At the very least, I'm hoping this study suggests that we need to do some soul-searching," said Dan Macallair, associate director of the Justice Policy Institute, which conducted the study. "At the very least, we're asking that the state start requiring some standardized data collection in this area."

The study looked at arrest and sentencing figures for Los Angeles County between 1996 and 1999, saying that county was the only one in the state to keep such data. While limited to a review of that county, the authors said the results were statistically significant for the entire state because 40% of all juvenile referrals to adult court in California are from Los Angeles County.

Fresno County Chief Assistant District Attorney Bob Freed confirmed that similar statistics aren't available locally.

"We don't keep any stats on anything that has to do with race," Freed said. "We try to stay color blind."

The study found that African-American, Hispanic and Asian youths "are treated more harshly by the justice system than white youths with equivalent records."

California minority rights groups and juvenile justice advocates said the report confirmed their impressions that the justice system in the state was biased against minorities.

"Even at a time of heightened public awareness of racism in the criminal justice system, it is shocking to find such huge disparities in the way Latino and African-American kids are treated," said Beatriz Lopez-Flores, a spokeswoman for the Mexican American Legal Defense and Education Fund. "A justice system that displays such blatant bias is a system in dire need of reform."

Among the major findings of the report:

Hispanic youths between the ages of 10 and 17 are six times more likely than whites to be found unfit to stand trial as juveniles and transferred to adult courts. African-American youths are sent into the adult court system 12 times as often per 100,000 cases as whites. For Asians, the ratio is 3-to-1.

Even when adjusting for the higher rates of arrest for minorities in California, an imbalance remained. For similar violent crimes, minority juveniles were twice as likely to be tried in adult court as whites.

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February 3, 2000, Thursday

**LENGTH:** 895 words**HEADLINE:** Race Disparity**DATELINE:** LOS ANGELES**BODY:**

Local civil rights leaders are calling on Gov. Gray Davis to address racial disparities in the transfer of juvenile criminal cases \$ % to adult courts.

The leaders cited a new study showing that minority youths in Los Angeles County are more likely to be tried as adults than white youths, the Los Angeles Times reported.

Titled "Color of Justice" and conducted by the liberal **Justice Policy Institute**, the study found that minority youths in the county are twice as likely to have their cases transferred to adult court as white youths arrested \$ % for comparable violent crimes, based on analysis of 1996 statistics.

The study was released simultaneously yesterday at news conferences by the NAACP, the Mexican American Legal Defense and Educational Fund and the Multicultural Collaborative.

The study comes in the midst of debate statewide over Proposition 21, a measure supported by Davis that would shift responsibility for determining which juveniles will be tried as adults from judges to prosecutors. In most cases, judges now decide which defendants will be tried as adults.

On Monday, civil rights leader Jesse Jackson urged Los Angeles County supervisors to go on record against Proposition 21, which would also increase the number of felonies for which juvenile criminals could be tried as adults.

"I urge you to vote no on (Proposition) 21 because of the madness that we see taking place in our country today, which we call zero tolerance," Jackson \$ % said. "That's the opposite of development. It is the opposite of grace and mercy."

"In justice, you balance the scales because there are circumstances at the crossroads," Jackson said. "Do we choose the development of our youth or the degradation of them? Do we choose the development of our youth or do we reject them?"

In the end, the supervisors opted to delay a vote for two weeks on whether to support or oppose the initiative on the March 7 ballot.

LANGUAGE: ENGLISH

LOAD-DATE: February 4, 2000

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## Local & State

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*Published Thursday, February 3, 2000, in the San Jose Mercury News*

# Racial disparity in justice system

- **Study:** Twice as many minority youths as whites are tried as adults. By Tamar Lewin New York Times

Minority youths are more than twice as likely as their white counterparts to be transferred out of California's juvenile justice system and tried as adults, according to a study made public Wednesday by the Justice Policy Institute, a criminal-justice research center.

"The imbalances this study reveals are stark, vast and deeply disturbing," said Dan Macallair, the associate director of the institute who is a co-author of the study. "Discrimination against kids of color accumulates at every stage of the justice system and skyrockets when juveniles are tried as adults. California has a double standard: Throw kids of color behind bars, but rehabilitate white kids who commit comparable crimes."

The study, "The Color of Justice," is believed to be the first to examine which youthful offenders are being transferred into the adult court system under recent laws making it easier to try juveniles as adults.

Although the study is based entirely on California data, criminal justice experts say the issue is a national one.

In Los Angeles, the new study found, about 12 percent of the slightly more than 24,000 juveniles arrested for felonies in 1996 were white, 56 percent were Latino, 25 percent were black and 6 percent were Asian. But the proportion of those tried as adults was quite different: Of the 561 cases

transferred to adult court, only 5 percent were white, 6 percent were Asian, 30 percent were black and 59 percent were Latino.

Los Angeles County, which accounts for 40 percent of the juvenile court cases transferred to California's adult courts, is the only county in the state that keeps detailed records on transfers. In examining the arrest categories of the county's youthful offenders, the study found no evidence that the racial disparity in transfer rates could be explained by a pattern of more violent or more heinous crimes by minority youths than by white youths.

Once a minority youth enters the adult court system, the study found, the racial disparities widen. At each step of the process, the proportion of white youths drops while the proportion of minority youths rises.

Once transferred to the adult system, young African-American offenders were 18.4 times more likely to be jailed than were young white offenders, Latino youths were 7.3 times more likely to be imprisoned than whites and Asian youths were 4.5 times more likely, the study found.

Representatives of several civil rights groups, including the National Association for the Advancement of Colored People, demanded that Gov. Gray Davis investigate and make changes to end the disparity.

"It's horrifying and outrageous that children are being treated to such discriminatory ways," said Anamaria Lova, executive director of La Raza Centro Legal Inc., a non-profit community law center in San Francisco.

Davis spokeswoman Hilary McLean said the governor "believes the laws should be applied fairly" but will wait to see if lawmakers take action.

Research cited in the study suggests that minority youths are overrepresented at every stage of the justice system. In Texas, for example, one study found that minorities made up half the state's youth population but 80 percent of its juveniles in correctional institutions and 100 percent of the juveniles held in adult jails.

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*The Associated Press contributed to this report.*



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**LOCAL NEWS:** The Sacramento Bee

## Report blasts juvenile justice: Minorities face tougher treatment

**By Andy Furillo**

Bee Staff Writer

*(Published Feb. 3, 2000)*

Juveniles accused of serious crime are far more likely to be tried as adults in California if they are not white, according to a study released Wednesday by a San Francisco-based juvenile justice reform group.

Odds of kid crooks going to the California Youth Authority also increase if they are Latino, African American or Asian American, the Justice Policy Institute study found.

"It is horrifying and outrageous and absolutely unacceptable that our children are being subjected to such discriminatory treatment," said Anamaria Loya of La Raza Centro Legal at a Capitol press conference.

But an official with the California District Attorneys Association blasted the report as flawed and said there simply is no racial disparity in the way prosecutors and the courts process juvenile offenders.

"When we're making decisions, race is not an issue," said Dave LaBahn, the group's deputy executive director. "Once these cases get to us, they are prosecuted in a fair and even manner. The

objective in every court is, let's be color blind."

The report, titled "The Color of Justice," was released a day after the campaign began heating up over a ballot initiative that would require any juvenile 14 or older to be tried in adult court for most capital murders or violent sex crimes.

Gov. Gray Davis on Tuesday came out in support of Proposition 21. At Wednesday's press conference, most of the speakers wore red and black "No on 21" buttons and sought to draw the governor onto their turf with the racial disparity issue.

"I would expect him to take a strong stand against pushing children into the adult system," Loya said. "The Latino community is watching, and we are watching how our children are treated in this system."

Davis spokeswoman Hilary McLean said the governor has not had a chance to look at the report. She noted that state Sen. John Vasconcellos, D-Santa Clara, has called for legislative hearings on the issue, which she said would guarantee "additional scrutiny" and a possible reaction from Davis afterward.

The report was based on a three-year study of juvenile cases in Los Angeles County, which accounts for 40 percent of the state's caseload for offenders under the age of 18.

Once youths are arrested and processed through the system, "all nonwhite youth" are ticketed to adult court two-and-a-half times more frequently than whites, the study found.

The breakdown had Latinos going to adult court at a rate of 88 per 1,000 violent felony arrests. African Americans were certified at a rate of 72.1, Asian Americans at 83.7, and whites at 37.1 per 1,000, the report said.

Dan Macallair, the report's co-author, said he did not know what accounted for the disparities, only that "the differences are stark."

"Is it the result of some inherent bias?" Macallair asked. "Is it the result of racism? Economic conditions? We've got to look at it. It's a serious issue."

#### Courts and race

Minority youths charged with violent crimes in Los Angeles County are far more likely than their white counterparts to be tried in adult court, where penalties can be more severe.

Transfers to adult court per 1,000 violent felony arrests:

- White: 37.1
- All nonwhite youth: 82
- Latino: 88
- African American:

State Sen. Kevin Murray, D-Culver City, said, "The only surprise in this report is that anybody would be surprised by its conclusions."

72.1

■ Asian: 83.7

Source: Justice Policy  
Institute

Assemblywoman Dion Aroner, D-Oakland, said that "based on the statistics, we know something discriminatory is happening and we've got to fix it."

Vasconcellos said he will hold hearings on the report within a month.

"This is an invitation for us to come to our senses and right these wrongs," Vasconcellos said.

The district attorney association's LaBahn, however, questioned the veracity of the report. He said it did not adequately break down the ages of who was being sent to adult court and for which crimes.

LaBahn also said that sentencing to the Youth Authority a juvenile offender processed through adult court represents the more lenient option at a judge's disposal.

"It's either there or state prison," LaBahn said.

Sacramento Superior Court Judge Kenneth Peterson, who presides over juvenile court, said there is no racial disparity in adult court certifications in his jurisdiction.

"I don't perceive any differences," he said.

Peterson said the "main piece of evidence" in remand hearings is the report prepared by a probation officer. He described such reports, which he reviews before ever laying eyes on defendants, as being "race neutral."

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## 'The color of justice': New study raises questions of racial bias

*(Published Feb. 16, 2000)*

Juveniles accused of serious crime are more likely to be tried as adults in California if they are not white. That is the disturbing central finding of a three-year study of juvenile cases in Los Angeles County, where 40 percent of the state's juvenile crime caseload is generated.

The race and ethnic disparity documented by the San Francisco-based Justice Policy Institute in "The Color of Justice" is truly astounding. According to the study, for every 1,000 juvenile violent crime suspects arrested in each ethnic category, 88 Latinos, 83.7 Asians and 72 African Americans were deemed to be unsuitable for the juvenile justice system and, instead, transferred to adult court. That compares to a rate of 37.1 per 1,000 white violent crime suspects arrested who were transferred to adult courts.

After transfer, African American delinquents were found 18.4 times more likely to receive adult court sentences - that is, they were sentenced to be held in the California Youth Authority until their 18th birthday and then transferred to adult prison. Latinos were 7.3 times more likely and Asians 4.5 times more likely than their young white criminal counterparts to receive adult sentences.

The juvenile justice experts who compiled the statistics concede that some important information is missing. For example, Los Angeles County does not keep track

of the number of repeat offenders in each racial category, a key factor in decisions on both sentencing and transfer to adult court.

Nonetheless, Dan Macallair, a juvenile justice expert and one of the authors of "The Color of Justice," says all violent juvenile offenders tend to have similar poor and deprived backgrounds and criminal histories. Given that, the discrepancy in treatment between white and nonwhite juvenile offenders remains, at the very least, suspicious.

The racial and ethnic disparities documented came at a time when police in Los Angeles were given extraordinary powers to go after violent minority gangs. In recent months, one officer has admitted lying and planting incriminating evidence on innocent suspects. He has pointed the finger at fellow officers in a growing police scandal that is roiling Los Angeles.

Proposition 21, the misguided Juvenile Crime Initiative on the March ballot, would give even greater power to prosecutors to transfer juvenile offenders to adult court and increase penalties. The disturbing findings in The "Color of Justice" provide more good reasons to vote No.

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The Fresno Bee

February 26, 2000, Saturday FINAL EDITION

**SECTION:** LOCAL NEWS; Pg. B7; VALLEY VOICES - M. GLORIA HERNANDEZ

**LENGTH:** 710 words

**HEADLINE:** Prop. 21 would jail more poor, minority people

**BYLINE:** M. GLORIA HERNANDEZ

**BODY:**

According to a 1999 study by Children Now, Fresno County ranks third in the state in child poverty.

"The Color of Justice," a study recently released, raises serious questions about racial bias against juveniles and found that all violent juvenile offenders tend to have similar poor and deprived backgrounds and criminal histories. Another study, "The Punishing Decade: Prison and Jail Estimates at the Millennium" informs us that as of Feb. 15, 2 million people are incarcerated in American jails and prisons. And already, predictions state that one in three African-American boys born this year will spend some time in prison.

The Color of Justice study, conducted in Los Angeles, hits close to home here in Fresno. Although everybody talks about how very impolite it is to state the obvious, we need to take a serious look at the "New Year's Eve Terrorists."

Taxpayers spent thousands of dollars to investigate the crime, locate the missing explosives and missed out on the New Year's Eve events because of the fear generated by the terrorist act. The accused terrorists got released by paying very reduced bail bonds.

Neither the police nor the media call these men a gang, nor are they treated as terrorists. Why is this? I will be blunt and point to the obvious. It is because of the whiteness of their skin and the color of their money to pay for private attorneys.

No justice

Yet daily we see children of color in the juvenile justice system who have no access to justice. The poor overworked public defenders plea bargain the cases out without proper counsel from the parents.

Parental rights are terminated by courts when the child is placed in the juvenile system and a parent has no say

in how the child's defense is planned or carried out. Yet these kids are labeled gang members and criminals. They will be sent to prison if Proposition 21 is passed.

Proposition 21 is supposed to reduce crime by redefining misdemeanors to felonies and placing children in prison. Proposition 21 will punish them so that they will do the crime again. But, read the proposed amended language in SEC. 4 Section 186.22 of the Penal Code, (5) (i) "In order to secure a conviction, or sustain a juvenile petition (a), it is not necessary for the prosecution to prove that the person devotes all, or a substantial part of his or her time or efforts to the criminal street gang, nor is it necessary to prove that the person is a member of the criminal street gang. Active participation in the criminal street gang is all that is required."

Note how the prosecutor does not need to prove that the person is a member of a criminal street gang. So if the young ones look alike, choose to dress and talk alike, chances are that they will be classified as members of a street gang without any proof. Children of color are already being harassed for hanging out with each other. If two or three of them walk to the store, chances are that in southeast or southwest Fresno they will be stopped, photographed and labeled gang members.

Another section creates "gang registration," something akin to the requirement of the sexual offender registration law that currently exists. That means we have to spend more money to make these unproven gang members comply with the law. That is just another small issue that could be easily manipulated by the prosecutor's office, which will maneuver the child into prison.

Stiff sentence

Another change is the requirement that if young people are caught doing \$400 to \$10,000 worth of defacing, damaging or destroying property, they will be punished by imprisonment in the state prison and/or pay a fine of \$10,000.

I agree it's a no-no to write on walls, but prison time for this? Don't we have enough prisons? Haven't our children been punished already, having to live in poverty and facing a future of high unemployment?

Take a serious look at Proposition 21. Is this the future we want for America's youth? Maybe we can do what the Clovis parents said when the young men were seeking to lower the bail bonds.

Let's just spank them and release them to their parents. After all, isn't writing on the walls a nonviolent action, compared to threatening us with bombs, loss of life and destruction?

**GRAPHIC:** M. GLORIA HERNANDEZ is a resident of Fresno.

**LOAD-DATE:** March 6, 2000

# San Francisco Chronicle

## How Is Juvenile Justice Served?

### Racially biased system just sweeps troubled youths under the rug

Ryan Pintado-Vertner  
 Sunday, February 27, 2000  
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URL: <http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2000/02/27/SC23875.DTL>

Young people have helped pull California's crime rate to its lowest point since the 1960s. But they don't get credit. Instead, politicians use fear and racial profiling to convince the public that many of the state's youth -- the most diverse in California's history -- are "super-predators" waiting to attack.

Thanks to successful prevention programs, juvenile felony arrests in California have steadily dropped since 1991, including a 55 percent drop in homicide arrests. Yet, defying the trend, public officials are trying to convince voters to adopt ineffective policies proven to cause more crime in the long run. Proposition 21, the juvenile crime initiative on the March 7 ballot, is the harshest yet. If approved by voters, the new law will cost us a mind-boggling \$5 billion just over the next 10 years, according to the state Legislative Analyst's Office.

What does that buy? Broken lives.

Consider the case of Justin Pacheco and David Moreno, both 21, of Vacaville. The Latino youths were convicted in 1997 of killing a friend, Jeremiah English, 17, while trying to rescue him from a fight against nine white teens. One of those white youths confessed to stabbing English, but Solano County District Attorney David Paulson allowed him to plead to a weapons charge, and charged English's Latino friends instead. He used the jury's "super-predator" fear, an untrustworthy gang database and an old "provocative act" law to argue that the white youth was actually protecting himself from a gang attack.

Pacheco was listed in the gang database for playing Nintendo with a suspected gang member unrelated to the case. Moreno was listed for knowing Pacheco. "I'm surprised they haven't arrested me yet," said Moreno's attorney, Dan Healy.

The youth were held in jail for 27 months awaiting an appeal. The new trial came in January, and on February 10, a Fairfield jury overturned the convictions. How could such a mistake happen? It is the result of a decade of misguided and racially biased juvenile crime policies.

In fact, California has a long history of declaring war on its youth, only to end up creating the criminals it sought to deter. Research by ImpactResearch, a program of the Oakland-based DataCenter, and ColorLines magazine suggests that our war on youth started in 1988, when then-Gov. George Deukmejian signed the Street Terrorism Enforcement and Prevention Act (STEP).

Police harassment of youth of color was not new. But STEP began a new process of officially criminalizing everything about young people suspected of gang affiliation: their friendships, relatives, neighborhoods and even style of dress. In 1987, a statewide database of gang suspects

called CAL/GANG was developed. The database collected "intelligence," like photos and personal information. Commission of a crime was unnecessary to get listed, but once there, like the Moreno-Pacheco case, a teenager's database entry could be used in subsequent trials to trigger gang-related sentence enhancements created by STEP.

Collecting CAL/GANG data gave police officers justification for accosting, detaining, or arresting thousands of youths. Many were beaten, some even killed. The HAMMER, a series of gang sweeps by the Los Angeles Police Department initiated in 1988, resulted in fatal shootings of unarmed suspects and 50,000 arrests by 1990. Almost all were youth of color; only a fraction were ever charged.

This was just the beginning.

Since then, racial profiling has skyrocketed, causing an increase in juvenile misdemeanor and status offense (e.g. curfew) arrests in the 1990s. Otherwise innocent children are under constant surveillance, turning adolescent boredom or outright police misconduct into arrests. Politicians then manipulate the police-instigated increase in nonserious arrests to justify more surveillance and prison beds.

The combination of racial stereotypes and pessimism about our children has helped the trick work. California now has the largest, most overcrowded and fastest-growing prison system in the country, and it is filled with 70 percent people of color. In 1998, harsher sentencing laws put 1,200 percent more juveniles in local adult facilities than in 1989. A new study by the Center on Juvenile and Criminal Justice (CJCJ) found that youths of color are seven times more likely than white youths to be sent to prison by adult court.

The costs have also skyrocketed: The combined annual expenditures of California law enforcement, the state Department of Corrections, and the Youth Authority have nearly doubled since 1988 to a whopping \$11.8 billion. Those tax dollars support an unreliable, racially biased criminal justice system.

The CAL/GANG database now lists more names than there are students in the University of California system. That does not mean there are 300,000 gang members in California. CAL/GANG's criteria are so untrustworthy that Attorney General Bill Lockyer refuses to forward them to federal authorities. He told The Chronicle last year, "This database cannot and should not be used, in California or elsewhere, to decide whether or not a person is dangerous or should be detained."

The San Francisco Police Department created an independent version of CAL/GANG a year ago. Using its criteria, I -- a 24-year-old African American with a good job, a college diploma and no criminal record -- would be a gang member because of childhood friends and a tattoo. Proposition 21 would let that kind of database trigger sentence enhancements, including a minimum 180-day sentence for gang-related misdemeanors, like stealing cigarettes. That would also work retroactively.

So a teenager who drops out of a gang and moves away to avoid trouble would still face gang-related punishments if arrested. Worst of all, Proposition 21 would give prosecutors like David Paulson in Solano County the discretion to send juveniles directly to adult court without the standard judicial fitness hearing.

The logic behind laws like Proposition 21 has been thoroughly disproved. The Task Force on Juvenile Crime and the Juvenile Justice Response, a bipartisan, blue ribbon commission convened in 1995 by the Legislature, concluded that punishment-centered crime strategies like Proposition 21 do not work. Instead, like most studies on this topic, it recommended heavy investment in violence prevention programs, public education, drug rehabilitation and child care.

Nine out of 10 Americans agree, according to a 1999 survey by Fight Crime, a national organization of police officials, prosecutors and crime victims. Other research shows that the prison system actually creates more criminals. CJCJ found that youths transferred to the adult system in Florida were re-arrested almost twice as quickly upon release than those who stayed in the juvenile system. Also, many experts conclude that gang-affiliation is almost unavoidable for youths in prisons, because the conditions are so violent that gangs often offer the only protection from aggressive inmates and prison guards.

Ironically, even the chief of the Los Angeles Police Department publicly opposed Proposition 21 earlier this month. No wonder the fight against criminalization of youth has become the civil rights movement of our generation. The punishment decade is exploding our children's futures like grenades. Or, as the poet Langston Hughes once put it, like dreams deferred.

What will you do to stop it?

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San Jose Mercury News

February 29, 2000, Tuesday

**SECTION: STATE AND REGIONAL NEWS****KR-ACC-NO: K3305****LENGTH: 1428 words****HEADLINE:** Measure emerges as something different for many groups and minority youth**BYLINE:** By Sandra Gonzales**BODY:**

SAN JOSE, Calif. \_ With his brown skin, baggy clothes and red sports cap worn backward, Jesse Osorio already sees himself as a ripe target for cops.

The 17-year-old Latino says he can't even count the number of times he's been quizzed about being a suspected gang member \_ an affiliation he flatly denies. But the San Francisco teen-ager fears it may get worse if voters approve the Gang Violence and Juvenile Crime Prevention Act, also known as Proposition 21, on the March 7 ballot.

Though the measure's supporters call it a necessary response to the plague of youth crime, Proposition 21 has emerged as something far different for many civil-rights groups and minority youth. They see the measure \_ and the anti-gang campaign behind it \_ as the latest evidence of intolerance toward minorities in a state that already has approved initiatives rolling back affirmative action, denying services for undocumented immigrants and limiting bilingual education.

Osorio is one of thousands of youth across the state who are making a vocal and visible statement against the measure's promises to crack down on young offenders. Their efforts have transformed the juvenile crime initiative \_ little noticed just a few weeks ago \_ into one of the March 7 ballot's most contentious issues.

"Why are they so interested in incarceration; why not after-school programs?" asks Osorio, who wears a "No on Prop 21" button on his jacket. "'Why are they so afraid of us? We need love like anybody else."

The proposition's supporters say they are seeking to target criminals \_ not minorities \_ and to date their arguments have struck the most powerful emotional chord with voters. A Field survey of 1,048 voters

released Tuesday found 55 percent favoring Proposition 21, and just 32 percent opposed.

The survey found voters were particularly moved by the ballot's description of the crimes Proposition 21 seeks to combat: "gang-related felonies, home invasion robbery, car jacking, witness intimidations and drive-by shootings." Voters who heard a more general description of the initiative tended to oppose it.

Proposition 21 is in large part the handiwork of former Gov. Pete Wilson, who courted heavyweight corporations for financial backing and got enough signatures to put the measure on the ballot after the Legislature rejected crime bills he backed that contained some of the same provisions.

As governor, Wilson also championed the initiatives aimed at illegal immigration, affirmative action and bilingual education. That history is not lost on Proposition 21's opponents, who see the measure as part of Wilson's broader strategy.

"If we defeat it, it may signal the end to the divisive politics that have harmed Californians," said Dorothy Elrich, executive director of the American Civil Liberties Union of Northern California.

The initiative provides no money, and the non-partisan Legislative Analyst's Office estimates that, if approved, the measure could cost more than \$1 billion, largely due to the construction of prison and local correctional facilities needed to house additional offenders, who may be eligible for longer sentences under the proposed laws.

The National Council on Crime and Delinquency and Commonwealth puts the price tag even higher, estimating a \$5 billion cost over 10 years, with an additional 1,900 youths a year who could be sent to adult prisons.

"It's an insane attack on young people," said J. Imani, a 27-year-old African-American who helped organize the Week of Rage Coalition. The loosely knit coalition \_ which is made up of predominantly minority youth groups \_ was formed specifically to stage protests and rallies against Proposition 21.

"Young people of color are on the chopping block. We're seen as disposable, obviously, since this will affect young people of color in a disproportionate and completely unacceptable and immoral way," Imani said.

Many point to recent studies that show minority youths are overrepresented at all stages of the criminal-justice system.

"**The Color of Justice**," a study released this month and co-authored by the Justice Policy Institute \_ a criminal-justice think tank based in San Francisco and Washington, D.C. \_ showed that African-American, Latino and Asian-American youth are twice as likely as white youth to be arrested for a violent felony, and three times as likely as white juveniles arrested for violent crimes to be tried in adult court and sentenced to California Youth Authority.

For example, though Latinos comprised 35 percent of California's population ages 10 to 17 in 1996 through 1998, 51 percent of those sentenced to the California Youth Authority by adult court were Latinos, the study indicated. White youths in the same age group, however, comprised 44 percent of the population but only 8.9 percent of those who were sentenced to CYA by adult court.

The initiative will make it even easier for violent juveniles age 14 and older to wind up in adult court, because it gives district attorneys the authority to bypass the juvenile system \_ rather than requiring a juvenile judge to assent. Critics say that change will only widen the racial divide.

"There is no question that the disproportionate impact of Proposition 21 on minorities is going to be profound," said Dan Macallair, associate director of the Center on Juvenile and Criminal Justice \_ the umbrella group of the Justice Policy Institute.

"The results of the study create an ominous projection if Proposition 21 passes. Clearly right now...we are making judgments that kids of color are less redeemable and not rehabilitative."

But David La Bahn, deputy executive director of the California District Attorneys Association, dismisses the study, saying it failed to take certain aspects of the juvenile cases into account. "That is a worthless study," La Bahn said.

La Bahn insists Proposition 21 does not unfairly target youth, but focuses on violent offenders regardless of the color of their skin. He points out that when police get 911 calls, they don't have the luxury to sift through calls and make decisions based on the race of the offender or victim.

"When you talk about the criminal justice system, you talk about a system that responds to incidents," La Bahn said.

But young minorities do feel they will be targets, and are willing to pound the pavement to fight for their cause, as they have in recent days.

In San Jose, 23-year-old Cathy Rion helped organize a protest against Proposition 21 last week in front of City Hall. She's also part of a statewide group who feel so strongly about the measure that they're canvassing neighborhoods including those in East San Jose.

Social service providers, educators and community activists will underscore that effort with an 11 a.m. press conference at the Mexican American Community Services Agency's East San Jose Youth Center today.

Rion is particularly incensed over a provision in the measure that will reduce confidentiality protections for juvenile suspects.

"What they're saying is you're not allowed to make a mistake, and this will end up following you everywhere and affect your future in getting jobs," Rion said.

And in Oakland, despite the light drizzle, 15-year-old Ming Loo joined about 350 other youths as they marched through downtown Oakland on Thursday, clutching signs that called for schools instead of jails and chanted slogans that denounced the measure.

"It's scandalous, sending 14-year-olds to prison, just scandalous," said Loo as he shook his head while police cruisers trailed the group along their two-mile march.

Other provisions in the measure call for increasing the penalties for gang-related crimes for adults and juveniles, and requiring convicted gang members to register with local law-enforcement agencies. It also would revise specific crimes as violent and serious for both adults and juveniles, making them eligible for longer prison terms under existing law and possible 25-year-to-life sentences under the "three strikes, you're out" law.

"We don't want this because it affects all of us \_ especially people of color," said Nydia Gutierrez, a 15-year-old Latina from Oakland. "They want to treat us like adults, yet they don't give us the same rights as adults

and allow us to vote. So we're here doing what we can to let people know it's unfair."

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**Building Blocks for Youth for March 8 2000**

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Pittsburgh Post-Gazette

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**SECTION:** EDITORIAL, Pg. E-2

**LENGTH:** 754 words

**HEADLINE:** BIAS IN BLACK AND WHITE; RACE SKEWS SENTENCING FOR THE SAME OFFENSES

**BODY:**

Many white Americans are outraged about the thumb on the scale that blacks and Hispanics receive in the form of affirmative action in college admissions and hiring. The scales of justice, however, tip, the opposite way. Just being white seem to be worth a few extra points.

In two recent studies, one looking at sentencing disparities in Pennsylvania and the other looking at disposition of juvenile cases in California, the disadvantages of walking into court wearing black skin or speaking a language other than English are apparent and disturbing. \* \* \*

In Pennsylvania, according to an Associated Press investigation, blacks charged with the same crimes as whites, under similar circumstances and with the same prior record, were generally sentenced to longer prison terms, ranging from a few extra months to several additional years. Those disparities contribute to, even if they do not account for the fact that blacks make up 56 percent of prison inmates despite accounting for only 9 percent of the population.

Judges in the state have more latitude than their counterparts around the nation, with sentencing guidelines that spell out recommended punishments in fairly broad terms, and with no requirement that the guidelines actually be followed. Judges argue that they need such room to maneuver to do their difficult job. And appellate courts tend to defer to the trial judges on matters of sentencing, because they have had personal dealings with the accused and therefore have a better sense of a convicted defendant's credibility.

In the complex array of factors that come into play in meting out justice, it's nearly impossible to say that race is determinative in individual cases of sentencing disparity. What seems obvious, however, is that race is a factor, even if its influence is indirect.

For example, Philadelphia Common Pleas Court Judge Lisa Richette, who is white, told the AP that she is colorblind in handing out sentences. But she acknowledged that white defendants do a better job of making themselves sympathetic, of articulating remorse and of organizing campaigns of support from family and friends on their behalf. Black defendants, on the other hand, appear uncomfortable in the criminal justice system and often simply clam up.

Maybe blacks don't trust the system to treat them fairly and fear that speaking on their own behalf will backfire. Maybe for cultural reasons some of them affect an attitude that puts judges off. Maybe they don't

have the funds to hire experienced attorneys, or maybe they themselves are not as educated and so not as articulate. Perhaps poverty, which affects blacks at three times the rate it does whites, is at the heart of the matter.

In the California study, conducted by the **Justice Policy Institute**, it was found that black, Hispanic and Asian juveniles were more than twice as likely as whites to be tried as adults for the same crimes. Because the results of moving juveniles to the adult system are so severe and rehabilitation and services are no longer even considered part of the solution, uneven treatment at this level is particularly devastating.

And as the penalties ratcheted up, in the California study, so did the inequalities. Once they were transferred to the adult system, young blacks were 18 times more likely than whites to be jailed, Hispanics seven times more likely and Asians four times as likely to be imprisoned.

It was at least in part a response to wide variations in sentencing for similar crimes that led to sentencing guidelines (or "grids") and mandatory minimum sentences. But mandatory sentencing straitjackets judges while creating its own brand of injustice. \* \* \*

Few judges are blatantly racist, but they all have prejudices that they carry with them, as does everyone. They may treat minority defendants differently without any realization that they are doing so. With the computer-age ability to collect and analyze data, at least those disparities should be tracked and placed before all judges.

Once confronted with the information, we are hopeful that most judges would rule with heightened awareness and greater sensitivity, trying not to allow cultural and economic differences to influence outcomes.

The nation's prison population has swelled to all-time highs, and blacks and other minorities are wildly overrepresented. To the extent it represents differential crime rates, that reality is bad enough; to the extent it represents differential treatment, it is intolerable.

### **Building Blocks for Youth for March 8 2000**

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## Minority Youth Disproportionately Transferred to Adult Prisons

Scott Harris, Between the Lines

For decades, researchers and activists have pointed to the presence of institutional racism in the U.S. criminal justice system. Despite evidence of racial disparity in the arrests, bail and sentencing, little has been done to rectify the situation on either the state or federal level.

A report released Feb. 2 by the Justice Policy Institute, strengthened the call for change by documenting how California's African American, Latino and Asian American youth are significantly more likely to be transferred to adult court and sentenced to incarceration than white youths who commit comparable crimes. As a result of the study, titled the "Color of Justice," a coalition of civil rights organizations is demanding that California's Gov. Gray Davis investigate the report's conclusions and take measures to address racial bias in juvenile transfers.

Between The Lines' Scott Harris spoke with Mike Males, senior research fellow with the Justice Policy Institute and co-author of the report, who summarizes the "Color of Justice" study and how its findings resonate far beyond the borders of California.

Mike Males: We looked at the available data from the Dept. of Justice and the Dept. of Corrections on youth arrested for violent crimes in California by race and transferred to adult court in Los Angeles county. Los Angeles is one of the few counties that had information on that subject. Then we looked at the figures statewide on youths who were sentenced to prison by adult court.

What we found was that Asian, African American and Latino youth were much more likely than white youth to be transferred to adult court even after they were arrested for violent crime. It wasn't simply the higher violent crime arrest rates of minority youths, but something else within the system was transferring them to adult court more often and then sentencing them to prison more often.

It hasn't been a secret for decades that minority youth are much more likely to go to prison than white youth are, but some studies have been criticized, because they failed to take into account the fact that minority youth are arrested for violent crimes more than white youths are, and there might be allegations of some kind of racial disparity within the arrest process. We were interested in what happened after the arrest occurred. And the thing that's unique about this study is that we factor out the violent crime arrest rate differential between white and minority youth and we still found, even after the arrest, that minority youth are three times more likely to be sentenced to prison. This is an enormous disparity that occurs within the system.

We first looked at whether or not minority youth commit more heinous crimes than white youth do, even though they're all arrested for violent crimes. The structure of violent crimes for the races is not that different, so that does not seem to be the reason.

The second thing we looked at was whether or not minority youth have longer records at the time they are arrested. We found there was no data on this subject to make a conclusion. But it would have to be an enormous and a consistent difference to produce a 300 percent difference in the sentencing to prison by the courts.

So essentially, that's why we called for an investigation. We were not able to find a plausible reason why this large disparity was occurring.

**Between The Lines:** What are the consequences for a youthful offender on being transferred to an adult court in California?

**Mike Males:** One of the ironic penalties is that adult courts do not appear to sentence any more harshly than juvenile courts. Just to give some perspective here on what kind of numbers we're talking about, minority youth in California account for 72 percent of the felonies and 77 percent of the violent felonies for which a youth is arrested in the state. But they account for 84 percent of the youths sent to prison by a juvenile court and 91 percent of the youths sent to prison by adult courts.

So the first thing adult court does is enhance the racial disparity of the system. It exacerbates the racial gaps that we already see. But ironically, when you look at the average sentence that's handed out, the adult court was supposed to be the institution for getting tough on kids. Actually, juvenile courts are every bit as tough as adult courts when it comes to handing down sentences. The big problem is the racial disparity of who gets sentenced.

**Between The Lines:** In the course of your study, did you find that people of color who are in the justice system have less access to competent legal counsel? Could this be another factor that explains the harsher sentences that many of these folks who've been convicted of crimes receive?

**Mike Males:** That is a point actually we hadn't thought of at the time, but it was raised both by reporters and at the press conference we had where a white youth who had committed an armed robbery with a Latino youth as an accomplice had his dad purchase the services of a very good lawyer and the white youth got eight weeks and probation. The Latino youth had a court appointed lawyer and he got two years and was later shot to death.

This hadn't really occurred to us, but this would really be another extremely important part of any investigation into why these disparities occur. Lack of good legal representation would be another form of serious discrimination, either racial or economic, that is causing minority youth to be treated more harshly by the system.

The only way I know to counter this sort of thing is to keep putting out information: that crime,

and unemployment and other social ills are not a problem specific to the behaviors of racial groups. The races behave remarkably similarly under similar circumstances, and that's the point I've been trying to make. Especially with youth, where young people have opportunity and reasonable affluence, it doesn't matter what their race is. They have low crime rates and low rates of misbehaviors.

We insist on raising 30 to 40 percent of our minority youth in this country in poverty through no fault of their own -- certainly not the youths' fault -- and then we're surprised that the things that go with poverty and lack of opportunity happen to occur. So it's a process of continually trying to make the point that in similar circumstances, people behave in remarkably similar ways.

*Mike Males is senior research fellow with the Justice Policy Institute and co-author of the "Color of Justice" report.*

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