

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

JUVENILE JUSTICE BRIEFING BOOK

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**Senate and House
Major Provisions**



Pending Federal Juvenile Justice Legislation: KEY PROVISIONS IMPACTING YOUTH UNDER STATE AND FEDERAL LAW

Prepared by the Youth Law Center ♦ Washington, D.C. ♦ (202) 637-0377

STATE ISSUES	Current Law ¹	House Bill (H.R. 1501) ²	Senate Bill (S.254) ³	Recommendation
IDS IN JAIL Separation from adult inmates: Removal from adult jails:	Youth under juvenile court jurisdiction may not be detained where there is any physical or sustained sight or sound contact with adult inmates. - sight contact means "clear visual contact between incarcerated adults and juveniles within close proximity to each other." - sound contact means "direct oral communication between incarcerated adults and juvenile offenders." - all contact is prohibited in the residential areas of a facility.	Prohibits states from detaining youth under juvenile court jurisdiction where they have regular contact or unsupervised incidental contact with incarcerated adults. Requires staff in co-located facilities to be trained to work with juveniles. Sec. 1310 amending 42 U.S.C. 5633(a)(13).	Delinquent youth under juvenile court jurisdiction may not be detained: - where they have prohibited physical contact or engage in sustained oral communication with incarcerated adults that provides an opportunity for the adult to physically harm the youth; - an exception to prohibited contact allows for supervised proximity between a youth and an adult inmate that is brief and inadvertent or accidental, in secure nonresidential areas not dedicated to use by youth offenders. Sec. 103 amending 18 U.S.C. 5031, sec. 222(a)(12).	Prefer Senate language. House language as currently written creates a loophole to allow for supervised incidental contact, which could lead to dangerous situations for incarcerated youth (e.g., allowing for contact in the exercise yard, the infirmary and during intake). As of 1996, 53 States and jurisdictions (of 57) are in compliance with the current law's separation provision.
	Youth may be detained in adult facilities for the following purposes: - 6 hours for processing, or 6 hours before or after a court appearance; - in rural areas, for 24 hours plus weekends & holidays for delinquent youth who are awaiting an initial court appearance; - during and up to 24 hours after emergency conditions that make travel unsafe.	Extends current law to allow detention with adults subject to separation requirements described above. For juveniles accused of nonstatus offenses and detained in a jail/lockup for a period not to exceed 6 hours: (i) for processing or release; (ii) while awaiting transfer to a juvenile facility; or (iii) in which period such juveniles make a court appearance; - In rural areas, for 48 hours plus weekends & holidays for youth accused of nonstatus offenses who are awaiting an initial court appearance; - in rural areas, for up to 20 days prior to sentencing whenever parents consent, the child's views are represented by counsel, and the court determines detention in the child's best interest. Subject to review every 5 days in the presence of the juvenile; - During and up to 24 hours after emergency conditions making travel unsafe have cleared. Sec. 1310 amending 42 U.S.C. 5633(a)(14).	Extends current law to allow detention with adults: - in rural areas for 48 hours plus weekends & holidays for delinquent youth awaiting an initial court appearance; - in rural areas, indefinitely whenever parents consent, the child's views are represented by counsel, and the court determines detention as in the child's best interest. Subject to review every 5 days; such review <u>may</u> be in the presence of the juvenile. - during and up to 48 hours after emergency conditions making travel unsafe. Sec. 222(a)(13).	Recommend striking the parental consent exception. This exception is a radical change to current law and will result in children being placed in adult jails for unacceptably long periods. As of 1996, 48 States and jurisdictions are in compliance with the current law's jail removal provision (with 3 States on hold pending submission of additional data, and only 2 States of those participating in the OJJDP Formula Grants Program out of compliance with this provision (Maine and Massachusetts)).
DISPROPORTIONATE MINORITY CONFINEMENT	State plans must "address" efforts to reduce any disproportionate confinement of minority youth.	State plans must address delinquency prevention and system improvement efforts to reduce the disproportionate number of minority juveniles who come into contact with the juvenile justice system. Numerical standards or quotas may not be established. Sec. 1310 amending 42 U.S.C. 5633(a)(23).	State plans must address efforts to reduce disproportionate confinement "to the extent that segments of the juvenile population" are confined more than the proportion of these groups in the general juvenile population. Sec. 222(a)(27).	Recommend House language. The Senate language, by removing any reference to minority groups, will significantly hinder efforts to address the disparate treatment of minority youth in the system. (all states in compliance with current req.)

Juvenile Justice Legislation: **IMPACT ON STATE AND FEDERAL** (continued)

Current law	House Bill	Senate Bill	Recommendation
PROTECTING THE RIGHTS OF INCARCERATED YOUTH	Under the Prison Litigation Reform Act (PLRA) of 1995, prospective relief in any civil action (or the entering of any consent decrees) with respect to prison conditions shall extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief unless it is narrowly drawn and extends no further than necessary to correct the violation of the federal right. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief. (The court is also precluded from approving a consent decree unless the same limitations described above are met). Under the Act, "prison" includes facilities where juveniles are confined. In any civil action with respect to prison conditions, the court may enter a temporary restraining order or an order for injunctive relief. Such relief must be narrowly drawn, extend no more than necessary to correct the harm, and be the least intrusive means necessary to correct that harm. No court shall enter a prisoner release order unless a court has previously entered an order for less intrusive relief that has failed to remedy the deprivation of the Federal right sought to be remedied through the order, and the defendant had a reasonable amount of time to comply with previous court orders. The court shall enter a prisoner release order only if it finds by clear and convincing evidence that crowding is the primary cause of the violation of a Federal right and no other relief will remedy the violation.	No court shall have jurisdiction to enter or carry out any prisoner release order that would result in the release from or non-admission to a prison, on the basis of prison conditions of any person subject to incarceration, detention, or admission to a facility because of a conviction of a felony under the laws of the relevant jurisdiction, or a violation of the terms or conditions of parole, probation, pretrial release, or a diversionary program, relating to the commission of a felony under the laws of the relevant jurisdiction. Sec. 110 amending 28 U.S.C. 3626(a). Any consent decree that was entered into before the date of the enactment of the Prison Litigation Reform Act of 1995, that is in effect on the day before the date of the enactment of this Act, and that provides for remedies relating to prison conditions shall cease to be effective on the date of the enactment of this Act. Sec. 110 amending 28 U.S.C. 3626(c).	No similar provision. Strike provisions from HR 1501. The provision which terminates consent decrees entered into prior to passage of the PLRA in 1995, (§3626(c)) is likely to be found unconstitutional by the courts. The PLRA in its current form <u>already</u> poses serious barriers to protecting the constitutional rights of incarcerated youth. The proposed revisions in HR 1501 will further hinder these efforts and place more youth in danger.

Juvenile Justice Legislation: *IMPACT ON STATE AND FEDERAL LAW* (continued)

	<i>Current law</i>	<i>House Bill</i>	<i>Senate Bill</i>	<i>Recommendation</i>
GRADUATED SANCTIONS	Not in current law.	As a requirement for the Juvenile Accountability Block Grant, states that implement a system of graduated sanctions, but shall ensure at a minimum that: (1) sanctions are imposed on a juvenile offender for each delinquent offense; (2) sanctions escalate in intensity with each subsequent, more serious, delinquent offense; (3) there is sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender; and (4) appropriate consideration is given to public safety and victims of crime. Sec. 102 amending Title I, sec. 1802(c). States or local governments who do not impose graduated sanctions shall require each juvenile court within its jurisdiction – (i) which has not implemented graduated sanctions to submit an annual report explaining why such court did not do so; (ii) which has implemented graduated sanctions, but has not done so in one or more specific cases, to submit an annual report explaining why such court did not impose graduated sanctions in each such case. Sec. 102 amending Title I, sec. 1802(d). For the definition of graduated sanctions under Title XIII Section 104 (24), see "Recommendation" column.	As a requirement for the Juvenile Accountability Block Grant, states must impose "graduated sanctions" for every delinquent act or probation violation, and the sanction must be more severe with each subsequent more serious act. This policy entails providing substantial and appropriate sanctions that are graduated in such a manner as to reflect (for each act of delinquency or offense) the severity or repeated nature of that act or offense, and in which there is sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender. Sec. 321 amending Title I, sec. 1801(c)(1). For states that use graduated sanctions, additional funding is available from the Attorney General for technology and training to improve their juvenile justice systems. Sec. 321 amending Title I, sec. 1803(b).	Recommend House Title XIII language with definition of graduated sanctions as "an accountability-based, graduated system of sanctions (including incentives and services) within the juvenile justice system to hold juveniles accountable for their actions and to protect communities from the effects of juvenile delinquency by providing appropriate sanctions for every act for which a juvenile is adjudicated delinquent, by inducing their law-abiding behavior, and by preventing their subsequent involvement with the juvenile justice system." Recommend House language under JAIBG to provide states with discretion to implement a system of graduated sanctions.

Juvenile Justice Legislation: **IMPACT ON STATE AND FEDERAL LAW** (continued)

	Current law	House Bill	Senate Bill	Recommendation
CONFIDENTIALITY OF RECORDS	No similar provisions.	Funding from the Juvenile Accountability Block Grant is available to states providing an adult-equivalent records system for all juveniles committing a felony-equivalent offense, with info available to law enforcement, FBI, all courts, and school officials. Sec. 102 amending Title I, sec. 1801(b)(10). Authorize a grant program for states to improve record-keeping systems. In order to qualify, states must have in place a system to make juvenile records available for firearm background checks. This system must assure that records of violent juvenile offenses are not expunged and are available as if it were an adult record. Sec. 504. An amendment to the Juvenile Justice and Delinquency Prevention Act requires that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court. sec. 1310 amending 42 U.S.C. 5633(a)(26).	In order to receive funds from the Attorney General, states must provide adult-equivalent records system for all juveniles committing a felony-equivalent offense, with info available to law enforcement, FBI, all courts, and youth's school/college. Sec. 321 amending Title I, sec. 1802(b)(2). If a juvenile is adjudicated delinquent, the records of that adjudication are transmitted to the FBI. Records of the most serious felony offenses shall be maintained and disseminated in the same manner as adult criminal records. Records of any other felony offense shall only be made available within the criminal justice system. There is also a provision that allows for the record to contain a notation of expungement under state law. Sec. 321 amending Title I, sec. 1802(b)(1)(A). Within 2 years of this bill's enactment, each State receiving Federal funds under this Act shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, full-time or part-time, in the school. Sec. 1104 amending 20 U.S.C. 8921 et seq. Part F, sec. 14604(b).	Prefer Senate language. However, we recommend restricting information sharing to courts and law enforcement agencies with a requirement that schools and colleges can only access information with courts' permission.
INDIVIDUALS WITH DISABILITIES EDUCATION ACT	IDEA was amended in 1997 to strengthen protections for special education and disabled students by giving more flexibility to school officials when disciplining students with disabilities, especially in situations involving drugs or weapons. The new regulations provide guidance and clarification on behavioral assessment and development of intervention plans. School administrators and staff are not required by law to take any immediate disciplinary action.	Amends current law so that school personnel are allowed to discipline students with disabilities who carry or possess <i>weapons</i> in the same manner as those students without disabilities. Any weapons infraction would result in cessation of educational services. Sec. 118 amending 20 U.S.C. 1415(k) sec. 615(k)(10)(A).	Amends current law so that schools can cease all educational services to a student with a disability who carries to or possesses a <i>firearm</i> in school. A child expelled or suspended under this provision shall not be entitled to continued educational services during the term or expulsion/suspension. However, a school system can choose to provide educational services even though it is not required to do so. Sec. 1699 amending 20 U.S.C. 1415(k) sec. 615(k)(10). Schools can and should remove children who bring guns to school and should be allowed to report such crimes to law enforcement authorities. Additionally, immediate mental health intervention services must be provided for any child removed from school for any act of violence, including carrying or possessing a weapon. Sec. 1636(b).⁴	Prefer Senate language. However, there should be no amendments under the guise of school safety since the 1997 regulations have yet to be implemented. Expelling or suspending students without education only increases drop out rates, incarceration rates, and drug use rates. Also, House language is overly broad about allowing any weapon to result in suspension or expulsion. Furthermore, Senate language ensures mental health services, which are essential for maintaining safe learning environments in schools and preventing future violence.

Juvenile Justice Legislation: **IMPACT ON STATE AND FEDERAL LAW** (continued)

	<i>Current law</i>	<i>House Bill</i>	<i>Senate Bill</i>	<i>Recommendation</i>
FEDERAL ISSUES	Current Law	House Bill (H.R. 1501)	Senate Bill (S.254)	Recommendation
KIDS IN JAIL Separation from adult inmates:	A juvenile under age 18 may be detained only in a suitable juvenile facility or other suitable place designated by the Attorney General with a preference for a foster home or community-based facility. The juvenile may not be detained in a facility where he or she has regular contact with an adult convicted of a crime or awaiting trial on a crime. Insofar as possible, alleged delinquents should be kept separate from adjudicated delinquents.	<i>To the maximum extent feasible</i>, a juvenile prosecuted <u>as an adult</u> in federal court shall not be detained prior to sentencing in any facility in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges. Sec. 104 amending 18 U.S.C. 5035(b). A juvenile who is proceeded against <u>as a juvenile</u> shall not be detained prior to disposition in any facility in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges. Sec. 104 amending 18 U.S.C. 5035(c).	Delinquent youth in federal court may not be detained: - where they have prohibited physical contact or engage in sustained oral communication with incarcerated adults that provides an opportunity for the adult to physically harm the youth; - an exception to prohibited contact allows for supervised proximity between a youth and an adult inmate that is brief and inadvertent or accidental, in secure nonresidential areas not dedicated to use by youth offenders. Sec. 103 amending 18 U.S.C. 5031, sec. 222(a)(12). To the extent practicable, violent juveniles shall be kept separate from nonviolent juveniles. Sec. 105(b) amending 18 U.S.C. 5035(a)(2)(B).	Prefer Senate language. House language creates substantial loophole which could allow certain youth as young as age 13 who are prosecuted in federal court to have extensive contact with adult inmates.
PROSECUTING YOUTH IN FEDERAL COURTS Expanding federal jurisdiction:	There is a state court preference for prosecuting youth that have violated federal law. In order to bring the case in federal court, the U.S. Attorney must certify that the following conditions exist: 1) the state court does not have jurisdiction or refuses to assume it, or 2) the state does not have available services for the juvenile offenders, or 3) the offense is a felony crime of violence, and 4) there is a substantial federal interest to warrant federal jurisdiction.	A juvenile may be proceeded against as a juvenile in federal court if the Attorney General, after investigation, certifies that the state or Indian tribe does not have jurisdiction or declines to assume it or there is a substantial federal interest in the case. If the Attorney General does not certify or if the Attorney General does not have jurisdiction, then the case shall be surrendered to state or tribal authorities. Opens the juvenile proceedings to the public unless good cause is shown why certain people should be excluded. Sec. 201 amending 18 U.S.C. 5032(a)(2)-(4)	The juvenile will be proceeded against in federal court if there is a substantial federal interest in the case to warrant federal jurisdiction or if the ends of justice so require. The United States Attorney certifies to these conditions but the certification is not reviewable by the court. If there is concurrent jurisdiction between the states and the federal system, the United States Attorney shall exercise a presumption in favor of state court jurisdiction unless the state or tribal court cannot or will not take the case and there is a substantial federal interest. Sec. 101.	Oppose provisions that would federalize offenses already prosecuted at the state/local level.

Juvenile Justice Legislation: **IMPACT ON STATE AND FEDERAL LAW** (continued)

	Current law	House Bill	Senate Bill	Recommendation
Trying youth as adults in federal court:	A child over 16 years of age may be prosecuted as an adult if accused of committing a violent felony or serious drug offense. Federal juvenile court jurisdiction may be waived in favor of a federal adult criminal trial on the motion of the Attorney General with respect to a juvenile who: (a) when 13 years of age or older is alleged to have committed murder, attempted murder, or armed robbery (b) when 16 years of age or older is alleged (1) to have committed a felony involving the use of physical violence against the property of another; (2) drug felonies; or (3) serious firearms offenses. In such cases, the juvenile court may transfer jurisdiction when it is in the interest of justice to do so, upon written findings with respect to the juvenile's age, prior record, maturity, past treatment, and nature of the alleged offense.	A juvenile shall be prosecuted as an adult in federal court if the juvenile has requested in writing at the advice of counsel to be prosecuted as an adult; or 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. Decision is not reviewable in any court. A juvenile <i>may</i> be prosecuted as an adult for any felony offense if the Attorney General decides to do so. However, there is no discretion for the prosecution for serious felonies – the juvenile shall be prosecuted as an adult. Sec. 201 amending 18 U.S.C. 5032(b),(c).	By federal law, youths 14 and older accused of a serious violent felony/drug offense or previously tried as an adult can be prosecuted as adults in federal court at the discretion of the Attorney General. Such prosecution is also allowable for federal offenses. Several offenses were added to list of crimes, including gang-related offenses and using minors to commit crimes. Sec. 102(a)(1). The youth may seek an order to have the case transferred back to juvenile court under the following conditions: 1) 14 and 15-year-old youth may seek an order in all cases; 2) 16 and 17-year-old youth may seek an order in cases that are not serious violent felonies or drug offenses. Sec. 102(d). Decisions to prosecute youth as an adult are not reviewable by courts unless the youth is under 16 years of age. Prosecutors hold the presumption of trying youth as an adult. Sec. 102(a)(2).	Oppose policies which would remove decision-making authority from the court and result in more youth transferred to adult court.

Juvenile Justice Legislation: *IMPACT ON STATE AND FEDERAL LAW* (continued)

	<i>Current law</i>	<i>House Bill</i>	<i>Senate Bill</i>	<i>Recommendation</i>
CONFIDENTIALITY OF RECORDS	Records of juvenile proceedings may be released to: other courts, an agency preparing a report for another court, law enforcement agencies for use in an investigation or law enforcement employment check, the treatment agency or facility to which a juvenile has been committed, an agency conducting a national security employment check, the victim of the juvenile's act of delinquency indicating final disposition; they may not be released for any other employment, check, license, bonding, or similar request.	A juvenile delinquent's records shall be made available for official purposes, including communications with any victim or, in the case of a deceased victim, such victim's representative, or school officials, and to the public to the same extent as court records regarding the criminal prosecutions of adults are available. When a juvenile has been adjudicated delinquent for an act that, if committed by an adult, would be a felony or for a violation of section 924(a)(6), the court shall transmit to the FBI information concerning the adjudication, including name, date of adjudication, court, offenses, sentence, and notation that it was a juvenile adjudication. Sec. 207 amending 18 U.S.C. 5038(a),(c).	When a juvenile is adjudicated delinquent, courts shall transmit such records to the FBI, which will maintain an adult-equivalent records system. These records will be available to schools/colleges, provided that their content is not used for the sole purpose of denying admission. Sec. 108 amending 18 U.S.C. 5038(b)(3). In addition to all the ways that juvenile records can be released under current law, there is an additional that requires juvenile records to be made available to a law enforcement agency for a position within that agency. If a juvenile is adjudicated delinquent, the records are transmitted to the FBI. Records of the most serious felony offenses shall be maintained and disseminated in the same manner as adult criminal records. Records of any other felony offense will also be transmitted to the FBI but will only be made available within the criminal justice system or for purposes of responding to a national security clearance. Sec. 108 amending 18 U.S.C. 5038(b)(2)(B)(ii). A juvenile may petition the court after 5 years to have such records removed from the FBI database if that juvenile can establish by clear and convincing evidence that the juvenile is no longer a danger to the community. Sec. 108 amending 18 U.S.C. 5038(c).	Prefer Senate version, which limits sharing of records and contains a 5-year provision for the person to petition to have his/her records removed. However, we recommend restricting information sharing to courts and law enforcement agencies with a requirement that schools and colleges can only access information with courts' permission.
MANDATORY SENTENCING	Bans possession of a firearm in a school zone, punishable by imprisonment for not more than 5 years to be served concurrently with any other sentencing imposed for related misconduct.	(1) Juveniles convicted in federal court of <i>recklessly</i> discharging a firearm in a school zone will be sentenced to a maximum of 20 years in prison, 25 years if serious bodily harm results, and life imprisonment if death results and the juvenile is over 16 years of age. Sec. 601 amending 18 U.S.C. 924(a)(4). (2) Juveniles convicted in federal court of <i>knowingly</i> discharging a firearm in a school zone shall be fined, imprisoned <i>not less</i> than 10 years, or both, except that if serious bodily injury results, shall be fined, imprisoned <i>not less</i> than 15 years, or both, or if death results and the juvenile is 16 years or older shall be fined, sentenced to life imprisonment, or both. Sec. 601 amending 18 U.S.C. 924(a)(4).	(1) Any youth using interstate commerce to recruit another youth into a gang is punishable by a prison sentence <i>not less</i> than 4 years and not more than 10 years, and a fine. Sec. 201(b).	Strike provisions on mandatory sentencing for juveniles.

Juvenile Justice Legislation: **IMPACT ON STATE AND FEDERAL LAW** (continued)

	Current law	House Bill	Senate Bill	Recommendation
OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION	No similar provisions.	House language could result in sunseting of JJDP in five years by providing that if Title II of the JJDP Act is not reauthorized before Oct. 1, 2004, on that date Title II Parts B through I, and sections 205, 206, and 299, will expire. Effective Oct. 1, 2005, Title I and the remaining part of Title II will expire, provided the act is not reauthorized. Sec. 120.	The National Institute of Justice will be responsible for independent evaluation of delinquency and youth violence prevention programs, tasks formerly supervised by OJJDP. Sec. 241. The Bureau of Justice Statistics will be responsible for collecting, analyzing, and disseminating statistical data and information relating to juvenile crime, the juvenile justice system, and youth violence, tasks formerly supervised by OJJDP. Sec. 242A.	Strike provisions. Language to reorganize OJP by removing juvenile justice functions currently consolidated in OJJDP and/or any efforts to sunset JJPA will seriously hinder delinquency prevention and research efforts.
FEDERAL SENTENCING GUIDELINES	The maximum term of probation and/or official detention for a juvenile found delinquent and who is less than 18 years of age is the lesser of: - the juvenile's 21st birthday, or - the maximum term available had the juvenile been convicted as an adult. Several drug trafficking crimes (for which juveniles may be tried as adults) carry mandatory minimum sentences (e.g. 21 U.S.C. 841, 848). In calculating a convicted defendant's criminal history for purposes of the Sentencing Guidelines, 3 points are assigned for prior sentences of 1 year and 1 month or more regardless of the age of the defendant, but other prior sentences for conduct committed prior to the age of 18 (whether imposed after juvenile or adult proceedings) are only scored if they were served within 5 years of the "instant" offense (2 points for confinement of at least 60 days; 1 point in other cases). U.S.S.G. §§ 4A1.1, 4A1.2. The Sentencing Commission is authorized to study the feasibility of guidelines for the disposition of juvenile delinquents. 28 U.S.C. 995(a)(19).	The United States Sentencing Commission, in consultation with the Attorney General, shall develop a list of possible sanctions for juveniles adjudicated delinquent. Such list shall: (a) be comprehensive in nature and encompass punishments of varying levels of severity; (b) include terms of confinement; and (c) provide punishments that escalate in severity with each additional or subsequent more serious delinquent conduct. Sec. 206 amending 18 U.S.C. 5037(f). The maximum term for which probation may be ordered for a juvenile found delinquent is the maximum term for an adult (5 years). The term for which official detention may be ordered for a juvenile found delinquent may not extend beyond the lesser of the maximum term of imprisonment if the juvenile had been convicted as an adult, ten years, or the date at which the juvenile becomes 26 years old. Sec. 206 amending 18 U.S.C. 5037(b), (c).	The United States Sentencing Commission must set guidelines within one year that effectuate a policy of an accountability-based juvenile justice system that provides substantial and appropriate sanctions, that are graduated to reflect the severity or repeated nature of violations, for each delinquent act, and reflect the specific interests and circumstances of juvenile defendants. Sec. 111(b) amending 28 U.S.C. 994(z)(3)(B)(ii). In calculating a criminal history score, prior juvenile records within the last 15 years may be considered. The Sentencing Commission should amend the guidelines to provide that the computation of a career offender should include previous convictions or adjudications by juveniles. There is an exception to the application of minimum sentences – for juveniles under the age of 16, the court is not required to impose mandatory sentences if the court finds after consultation with the government that the juvenile does not have a previous conviction or adjudication for a serious violent felony or a serious drug offense. Sec. 102(b)(2) amending 18 U.S.C. 3553(g), (h).	Prefer maintaining current law, but the House language is better than the Senate language because there are no mandatory provisions.

1. Currently, there are four core requirements for Juvenile Delinquency Prevention Block Grant funding: separation, removal, deinstitutionalization of status offenders, and efforts to reduce disproportionate minority confinement. States failing to comply with these mandates lose 25% of Title II Part B formula grants for each mandate not met. Additionally, non-compliant states will be ineligible to receive any funding unless they expend all remaining funds for that fiscal year on achieving compliance with the requirements that they have not met.
2. Amends Section 223(c) to require that states failing to comply with any core mandate lose 12.5% of Title II Part B formula grants for each one not met. States receive 50% of their state formula grant regardless of compliance with the four core requirements.
3. Under Section 222(c), states failing to comply with any core mandate lose 10% of Title II Part B formula grants for each one not met, unless waived by the administrator. States receive 50% of their state formula grant regardless of compliance with the four core requirements.
4. The Senate bill adds a fifth core requirement which mandates that states have a policy in effect requiring children to be detained for evaluation for bringing a gun to a school.
5. Because the House and Senate language on the deinstitutionalization of status offenders is identical, this is a nonconferencable issue.

Priority Prevention Provisions

Side – by – Side Comparison of Engrossed Versions of S254 and HR1501

July 8, 1999

S254 The Violent and Repeat Juvenile Offender Act of 1999	HR1501 The Juvenile Justice Reform Act of 1999	Current Law The Juvenile Justice and Delinquency Prevention Act of 1974	Recommendation:
Authorizes the Juvenile Accountability Block Grants Program for a variety of juvenile justice system activities, focusing primarily on prosecution and punishment of juvenile offenders. The Senate provision also allows JABG funds to be used for prevention programs, drug and alcohol treatment and school counseling and other school-based programs. Of the total Juvenile Accountability Block Grant allocation, not less than 25 percent shall be used for prevention programs, drug and alcohol treatment and school counseling and other school-based programs.	Authorizes the Juvenile Accountability Block Grants Program for a variety of juvenile justice system activities. There is no allowance or set-aside for use of JABG funds for prevention activities.	Not authorized in current law. The Juvenile Accountability Block Grant Program has received appropriations for fiscal years 1998 and 1999.	Recommend the Senate language. Include prevention programs as an allowable use of JABG funds and set-aside at least 25 percent of the Juvenile Accountability Block Grant for Prevention, School Counseling, and Drug and Alcohol Treatment. This provision, sponsored by Senators Hatch and Biden, was adopted by a vote of 96-3 during Senate consideration of S. 254 and would go a long toward ensuring that prevention programs actually receive some level of appropriations. Such programs could include after-school and youth mentoring programs.

S254 The Violent and Repeat Juvenile Offender Act of 1999	HR1501 The Juvenile Justice Reform Act of 1999	Current Law The Juvenile Justice and Delinquency Prevention Act of 1974	Recommendation:
Authorizes a National Parenting Support and Education Commission and Parenting Support and Training Programs to identify the best practices for parenting and provide advice for parents and caregivers based on the best available research data and for training to (1) promote early brain development and childhood development and education, (2) provide parenting support for adolescents and youth, and (3) provide parenting support and education resource centers.	No similar provision.	Not in current law.	Recommend the Senate language. Include a "Parenting as Prevention" provision modeled after the Senate's Stevens-Kennedy amendment. This provision recognizes that many parents are ill equipped to meet the challenges associated with raising their children. It would support parents by providing funding for family counseling and other services. This provision was adopted unanimously during Senate consideration of S. 254. In addition, this provision would provide much needed resources to help victims of abuse and neglect, sexual abuse, violence, and other traumas that, if left untreated, can sharply increase the risk that a child grows up to be violent.

Prepared by Andrea Palm, Volunteers of America. (703) 739-3960.



S.254 Amendments

The Violent and Repeat Juvenile Offender and Accountability Act of 1999 (Shaded cells indicate amendments that passed)

Date of Vote	Vote #	Vote Total	Sponsor	Amdt. #	Description
5/11/99	106	Adopted 94-5 R 50-5 D 44-0	Gregg (R-NH)	324	"Safe Students Act" that allows \$200 million in FY2000 for grants to local law enforcement agencies to assist in the planning, establishing, operating, coordinating and evaluation of school violence prevention and school safety programs.
5/11/99	107	Motion to table agreed to 55-44 R 55-0 D 0-44	Robb (D-VA)	325	Creates the National Resource Center for School Safety and Violence Prevention, which would distribute grants for emergency response programs and anonymous hotlines. Also would provide grants for after-school violence prevention programs.
5/11/99	108	Adopted 96-3 R 52-3 D 44-0	Hatch (R-ID) Biden (D-DE)	322	Allows for grants for additional prosecutors and equipment to combat youth violence and gang activity and to eliminate backlog in the courts.
5/12/99	109	Motion to table agreed to 54-44 R 54-0 D 0-44	Leahy (D-VT)	327	A comprehensive crime bill which would increase the number of cops, expand funds for police training and criminal prosecution, drug crime penalties, and would create grants for gun violence prevention programs as well as youth crime prevention programs.
5/12/99	110	Adopted 98-0 R 55-0 D 43-0	Brownback (R-KS)	329	Creates a one year commission to study whether the entertainment industry markets television, video games, internet content, and music lyrics with violent and/or adult content to children.
5/12/99	Voice	Passed by voice	Boxer (D-CA)	330	Creates a one year commission to study the marketing practice of the firearms industry towards children.
5/12/99	111	Motion to table agreed to 51-47 R 49-6 D 2-41	Lautenberg (D-NJ)	331	The original Lautenberg gun show amendment, which would require all gun show dealers to conduct a background check on all sales.
5/12/99	112	Adopted 53-45 R 52-3 D 1-42 (R Nays)	Craig (R-ID)	332	Republican gun show proposal that would allow gun show dealers to conduct background checks, but not require it. Would also require the elimination of background check

Date of Vote	Vote #	Vote Total	Sponsor	Amdt. #	Description
		Chafee, Fitzgerald (Roth)			material after a 90 day period.
5/13/99	113	100-0	Hatch (R-ID)	335	This amendment would require all Internet Service Providers (ISPs) with more than 50,000 subscribers to provide to each customer computer software or other filtering technology to allow the subscriber to prevent minors from accessing material on the Internet. The amendment would require ISPs to offer the technology either free or at cost.
5/13/99	114	Motion to table agreed to 60-39 R 41-14 D 19-25	Hollings (D- SC)	328	Limits the hours that violent video programming can be shown during hours when children are not reasonably likely to comprise a substantial portion of the audience.
5/13/99	115	Adopted 96-2 R 53-2 D 43-0	Ashcroft (R-MO)	342	Amendment to enhance penalties for the unlawful use by or transfer to juveniles of a handgun, ammunition, large capacity ammunition feeding devices, or semiautomatic assault weapons.
5/13/99	116 and voice vote	Motion to table rejected 39-59 R 35-20 D 4-39 Later adopted by voice vote	Feinstein (D-CA)	343	Provides for a ban on importing large capacity ammunition feeding devices, to prohibit the transfer to and possession by juveniles of semiautomatic assault weapons and large capacity ammunition feeding devices, and to enhance criminal penalties for transfers of handguns, ammunition, semiautomatic assault weapons, and large capacity ammunition feeding devices to juveniles.
5/13/99 - 5/14/99	117, 118	Motion to table rejected 3-94 R 3-52 D 0-42 Adopted 48-47 R 47-7 D 1-40	Hatch (R-ID)	344	Amendment that would increase mandatory minimum and maximum penalties for the illegal transfer or use of firearms, authorize funding to hire additional prosecutors to prosecute drug cases and require anyone who attends a gun show with the intent of selling a firearm to have a background check conducted on purchasers.
5/14/99	119	Motion to table agreed to	Schumer (D-NY)	350	Would allow only federally licensed and registered gun dealers to operate Internet Web sites designed to sell 10

Date of Vote	Vote #	Vote Total	Sponsor	Amdt. #	Description
		50-43 R 45-7 D 5-36			or more guns.
5/18/99	121	Adopted 85-13 R 54-0 D 31-13	Allard (R-CO)	351	States that Congress finds that prayers as part of a memorial Service at a public school to honor anyone slain at the school does not violate the First Amendment. The Allard amendment also would require that any party bringing a lawsuit challenging the constitutionality of such a memorial service pay its own attorney's fees and costs, notwithstanding any other provision of law.
5/18/99	122	Adopted 78-20 R 34-20 D 44-0	Kohl (D-WI) Hatch (R-ID) Chafee (R-RJ)	352	Amendment that would prohibit the sale or transfer of handguns unless a secure gun storage or safety device is provided for each handgun. It also would provide civil liability exemptions for individuals who legally possess a handgun and use a secure gun storage or safety device, and would impose penalties of up to \$2,500 and license suspension or revocation for manufacturers, dealers or importers who sell a handgun without the device.
5/18/99	123	Adopted 85-13 R 53-1 D 32-12	Hatch (R-RJ) Feinstein (D-CA)	353	Amendment that would increase sentences for gang offenders, prohibit violent felons from possessing body armor, authorize grants for the purchase of bullet-resistant equipment and vehicle video cameras and prohibit the teaching or distribution of bomb-making instructions if the information is intended to aid someone in a federal crime of violence.
5/18/99	124	Adopted 80-17 R 46-7 D 34-10	Byrd (D-WV)	339	Allows state attorney generals to bring a civil action in federal district court against an individual if the state "has reasonable cause to believe" that the person is engaged in, has engaged in or plans to engage in a violation of a state law regarding liquor transportation.
5/18/99	125	Motion to table agreed to 55-44 R 54-1 D 1-43	Wellstone (D-MN)	359	Amendment that would authorize grants to aide children who have witnessed domestic violence and to train adults on how to work with them.

Date of Vote	Vote #	Vote Total	Sponsor	Amdt. #	Description
5/18/99	126	Rejected 26-73 R 24-31 D 2-42	Asncroft (R-MO)	348	Would provide financial incentives for states to try juveniles 14 or older who possess a firearm while conducting a violent crime as adults.
5/19/99	127	Adopted 56-43 R 55-0 D 1-43	Sessions (R-AL)	357	Amendment that would require a Disclaimer be placed on all materials produced, procured or distributed with funding authorized by the bill. The disclaimer would state that government funding has paid for at least a portion of the printing, procurement or distribution of the material, and would encourage anyone who objects to the material to contact the attorney general.
5/19/99	128	Motion to table agreed to 61-38 R 55-0 D 6-38	Wellstone (R-MN)	358	Amendment that would authorize \$340 million per year for five years for states and localities to recruit, train and hire 141,000 additional school-based mental health personnel.
5/19/99	129	Adopted 81-17 R 46-8 D 35-9	Santorum (R-PA)	360	Amendment that would require the federal government to reimburse a state for the costs of incarceration, prosecution and apprehension of any person who had previously been convicted of murder, rape or a sexual offense against a child in another state. The attorney general would transfer the money to the state apprehending the offender from the previous state's federal crime funding.
5/19/99	130	Motion to table agreed to 52-48 R 52-3 D 0-45 (R Nays: Chafee, Jeffords, Specter)	Kennedy (D-MA) Wellstone (D-MN)	364	Amendment that would require states to address the disproportionate number of racial minorities in the juvenile justice system.
5/19/99	Voice	Passed by Voice Vote	Hatch (R-ID) Leahy (D-VT)	363	The Managers' Amendment, which includes a number of amendments from tightening the definition of 'separation' to prevention activities.
5/19/99	131	Adopted	McConnell	365	Amendment to require federal

Date of Vote	Vote #	Vote Total	Sponsor	Amdt. #	Description
		66-34 R 50-5 D 16-29	(R-KY)		agencies to consider whether a movie promotes violence when asked for permission to shoot scenes of the movie on federal property.
5/19/99	132	Motion to table agreed to 53-47 R 53-2 D 0-45	Boxer (D-CA)	319	Adds an After-School Education and Prevention Act which would create grants for after-school prevention programs for at-risk youth.
5/20/99	133	Adopted 79-21 R 34-21 D 45-0	Smith (R-NH) Jeffords (R-VT)	366	Amendment to require background checks on all purchasers of handguns at pawn shops, regardless of who originally owned the gun.
5/20/99	134	Adopted 50-50 R 6-49 D 44-1	Lautenberg (D-NJ)	362	Democratic gun proposal that would require criminal background checks on all gun sales at gun shows, would prohibit non-federal licensees from participating in gun shows and would direct the U.S. attorney general to hold background files collected on gun owners for 90 days. Vice President Al Gore, who also serves as president of the Senate, broke the tie and voted in favor of the amendment.
5/20/99	137	Adopted 74-25 R 51-3 D 23-22	Frist (R-TN)	355	Allows local school officials to discipline federally defined special education students in the same manner as other students when they bring guns or bombs onto school grounds.
5/20/99	138	Rejected 41-56 R 38-16 D 3-40	Ashcroft (R-MO) Bond (R-MO)	345	Amendment that would provide \$1 million to create an independent panel to study the motion picture industry and make recommendations to promote accountability in the industry and to reduce juveniles' access to violence, pornography and other harmful material.
5/20/99	139	Rejected 48-50 R 4-50 D 44-0 (R Nays: Abraham, Roth, Jeffords, Specter)	Biden (D-DE)	371	Amendment that would authorize \$1.15 billion a year for fiscal 2000 through 2005 to encourage and support community policing programs.

Date of Vote	Vote #	Vote Total	Sponsor	Amdt. #	Description
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Date of Vote	Vote #	Vote Total	Sponsor	Description
5/20/99	140	Passed 73-25 R 31-23 D 42-2	Hatch (R-ID)	Passage of the bill to authorize \$5 billion over five years to states to help reduce juvenile crimes and punish juvenile offenders and allow federal prosecution of juvenile offenders age 14 and older. As amended.

March 8, 1999

The Honorable Trent Lott
Senate Majority Leader
S-230, U.S. Capitol
Washington, DC 20510

Dear Senator Lott:

We understand that in the coming months, the Senate may consider S. 254, the Violent and Repeat Juvenile Offender Act of 1999, legislation which is currently pending on the Senate Legislative Calendar and has not been referred to the Senate Judiciary Committee. We, the undersigned organizations, urge that you not rush this bill through the Senate.

Rather, we call on you to take a closer look at the issues raised by this bill, especially in light of the most recent crime data which highlight the 39% decrease in juvenile homicides over the past four years. We strongly urge you to allow for careful and deliberative discussion of S. 254 at the committee level before taking this legislation to the Senate floor.

We recognize that a number of revisions have been made to this legislation which make it different from its predecessor, S. 10, in the 105th Congress. Nevertheless, we believe that the bill in its current form contains a number of controversial provisions that will present dangers for children. Among our concerns are the following:

S. 254 fails to adequately invest in crime prevention. Although there is funding for a "prevention block grant," there is no set-aside for prevention funding: without a significant guarantee of funding (e.g., 50%), there is no assurance that any funds will ever be appropriated for prevention programs. Moreover, many of the uses authorized under the block grant are actually interventions for youth who have already committed delinquent offenses, rather than prevention programs to keep young people from committing crimes in the first place.

S. 254 fails to provide adequate core protections for children. The bill would weaken 25 years of federal policy regarding children in adult jails. It would allow "incidental" contact between children and adult inmates, which in many jails will mean that children will be walked down hallways past adult cells and thereby subjected to verbal abuse. It would also allow funds to be used for construction of "colocated" facilities, which is a strong incentive for counties to increase the number of children held in jails by building new jails with juvenile wings. All of this is of great concern, since research has shown that children commit suicide in adult jails eight times as often as children held in juvenile detention facilities.

The Honorable Trent Lott

March 8, 1999

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S. 254 undermines efforts to deal with the issue of disproportionate confinement of minority youth. 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. S. 254, 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.

S. 254 fails to recognize the importance of juvenile justice research, training, and technical assistance. The bill transfers 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.

S. 254 fails to adequately address gun violence. The bill fails to take significant action to make guns safer or less accessible to young people. At a time when, on average, 12 young people are killed by firearms every day, it is critically important that the bill address gun violence in a meaningful way.

S. 254 proposes 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 14 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.

In sum, we have serious concerns about S. 254 and we call on you to allow for careful consideration of this legislation at the committee level and by the full Senate. If these matters are not addressed, we would expect a significant number of amendments to the bill when it reaches the floor of the Senate.

The Honorable Trent Lott
March 8, 1999
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Thank you for your consideration of our views.

Sincerely,

The Alliance for Children and Families
The American Civil Liberties Union
The American Civil Liberties Union National Prison Project
The American Psychological Association
Campaign for an Effective Crime Policy
Child Welfare League of America
The Children's Defense Fund
Covenant House
Family Watch
Federation of Families for Children's Mental Health
Friends Committee on National Legislation
The Justice Policy Institute
Mennonite Central Committee
Minorities in Law Enforcement
National Association for School Psychologists
National Association of Blacks in Criminal Justice
National Council of Churches of Christ - Washington Office
National Mental Health Association
The National Network for Youth
The Union of American Hebrew Congregations
United Church of Christ, Office for Church in Society
Youth Law Center

CC: The Honorable Thomas Daschle, Senate Minority Leader
The Honorable Orrin Hatch, Chairman, Senate Judiciary Committee
The Honorable Patrick Leahy, Ranking, Senate Judiciary Committee

Update:

Juvenile Justice Legislation, S. 254

May 3, 1999

In mid-May, S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999, introduced by Senator Orrin Hatch (R-UT) is expected to be debated and amended by the Senate. While better than its predecessor S. 10 in the 105th Congress, S. 254 contains several controversial provisions that, if enacted, would pose a serious risk of harm to our nation's young people:

Inadequate Attention to Prevention

⇒ S. 254 includes a funding authorization for a "prevention block grant," however, there is no percentage set-aside for prevention. Without a significant (e.g., 50%) percentage set-aside for prevention there is no assurance that any funds will ever be appropriated for prevention. For example, in the 1994 crime bill \$3.89 billion was authorized for prevention, but only a few million of those dollars have been appropriated during the past four years.

⇒ The "prevention block grant" in S. 254 includes several uses of funds that are actually interventions for young people who have already committed delinquent offenses. Historically, when intervention and prevention uses of funds are combined, prevention tends to receive minimal funding attention. Title V of the JJDPa was created because there was inadequate attention to prevention in the prior JJDPa state grants. Therefore, the "prevention block grant" should include only prevention uses of funds.

Weakening of the Core Protections of the JJDPa

Disproportionate Minority Confinement

⇒ The current language of S. 254 requires states to address disproportionate confinement of "segments" of the juvenile population which fails to address the real issue of disproportionate confinement of racial and ethnic minorities in the juvenile justice system. S. 254 must address this issue directly (as the House bill, H.R. 1150, does) to ensure that states focus on and effectively address disproportionate minority confinement.

Removal of Juveniles from Adult Prisons

⇒ S. 254 requires the removal of juveniles from adult jails and includes an exception to the jail removal requirement for rural areas if the parent consents. However, S. 254 omits three key protections that are included in H.R. 1150 as part of that exception: 1) the judge must find that placement in an adult jail is in the juvenile's best interest (e.g., to be closer to family); 2) the parent must be able to revoke their consent at any time (e.g., if the youth gets assaulted while in jail); and 3) the youth must be present at all court reviews of the adult jail



placement. Without these key protections, this exception could endanger young people.

Separation of Juveniles from Adult Inmates

⇒ S. 254 requires the separation of juveniles from adult inmates when they are briefly in the same facility. However, the bill allows juveniles to be walked through adult confinement areas when being transferred to another part of the facility, thus subjecting them to verbal abuse and threats by adult inmates. In the past, youth have committed suicide after being walked by adult cells and threatened by adult inmates. This problem could be addressed by changing the definition of “prohibited physical contact” to require that any such contact be accidental (i.e., change “or accidental” to “and accidental”).

Other Concerns with S. 254

⇒ S. 254 provides for unreviewable prosecutorial discretion and, for some cases, mandatory jurisdiction for juveniles to be tried as adults in federal court despite research demonstrating that trying juveniles as adults increases recidivism. The bill would also apply federal sentencing guidelines to juveniles in federal court, contrary to the individualized approach that is more effective in addressing juvenile crime. In addition, S. 254 would open records of juveniles tried in federal court. The comparable House bill, H.R. 1501, has eliminated these provisions.

⇒ S. 254 would make it likely that more juveniles would be tried in federal courts, as opposed to state courts, despite the fact that state courts are better equipped to handle such cases and that federalization of such offenses actually hampers effective federal law enforcement. This point was recently discussed in a report by Edwin Meese and the American Bar Association, as well as comments last year by Chief Justice Rehnquist. The comparable House bill, H.R. 1501, has eliminated these provisions.

⇒ S. 254 includes a “Sense of Congress” statement urging states to try juveniles age 10 or over as adults for certain crimes. As indicated above, this is counterproductive to any crime-fighting effort.

⇒ S. 254 would consolidate juvenile justice and adult criminal justice research, training and technical assistance. By combining these systems, research, training and technical assistance efforts in the field of criminal justice would most likely be directed towards the adult system, thus resulting in less information about what works in preventing and addressing juvenile crime.

⇒ S. 254 would encourage states to open juvenile court records to schools, thereby impeding the rehabilitation and further education of former juvenile offenders.

For further information please contact Miriam Rollin at 202-783-7949, ext. 109 or Susan Goldberg at ext. 112.





General Board of Church and Society of The United Methodist Church

100 Maryland Avenue, N.E., Washington, D.C. 20002 • (202) 488-5600

The United Methodist Church, General Board of Church and Society Opposes S.254 The New Juvenile Crime Bill

The Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999 (S.254), is this year's version of S.10 that never reached the Senate floor for a vote in the last Congress. Introduced by Senator Orrin Hatch (R-UT), we expect S.254 to see action very soon. This bill would allow children as young as age 14 to be treated as adults for certain crimes. It would require such juveniles, if found guilty, to serve their entire sentences, in adult prisons, comply with mandatory restitution provisions, and have their records treated as we treat those of adults for purposes of criminal and security background checks.

Below are several problem provisions in the bill for United Methodists:

S.254 does not guarantee funding specifically for crime prevention. Without funding for prevention many Community Policing and delinquency prevention programs for at risk youth will be discontinued.

This bill does not address the issue of gun violence. An average of 12 children die each day from gunfire in America. Children and youth are at much greater risk of being the victims than the perpetrators of a violent crime. Therefore we must address the issue of gun violence in this bill.

S.254 would weaken current law and allow states to stop addressing the problems of race discrimination in their juvenile detention centers. Minority youths are detained in disproportionate numbers in almost every state in the union. Under a 1992 law, states are allowed to review and address this problem in a manner best suited for the states as well, hopefully, of their ethnic minority populations. This bill would allow states to discontinue this effort and throw away years of hard work.

There are provisions of the bill that would place a mandatory four-year prison sentence on youths who are found to be a member of a gang, even though the youth in question has not committed a crime.

Among the worst provisions in the bill are those that allow the states to house juvenile and adult offenders in the same facility. This would overturn a 20 year old federal law that prevents any contact between adult and juvenile inmates. Studies show that children commit suicide in adult jails eight times as often as children held in juvenile detention facilities. Exposing children to adult offenders is morally offensive and is tantamount to throwing away their lives.

United Methodist Policy:

As "United Methodists we [must] ask the following questions of any pending legislation...Will this program develop in children a sense of responsibility for themselves and their communities? Will this program or policy provide young people with opportunities for a meaningful future?" (*Putting Children and Their Families First*) When considering the bill S.254, the answers to these questions are a resounding NO. The United Methodist Church "...believe(s) in reconciliation and redemption, ... we will support...separation of juvenile offenders from adult offenders, with correction given to them outside the traditional courts and correctional system." (*Resolution on Criminal Justice*)

The United Methodist Church believes that transferring juveniles to adult courts, ignoring discrimination in juvenile sentencing, as well as detaining or incarcerating youth with adults is "careless, callous, and discriminatory enforcement of law." (*Social Principles*, ¶ 68F)

AMERICAN ACADEMY OF CHILD & ADOLESCENT PSYCHIATRY

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Lily Hechtman, M.D.

March 29, 1999

Honorable Orrin G. Hatch
United States Senate
131 Russell Senate Office Building
Washington, DC 20510

Dear Senator Hatch:

The American Academy of Child and Adolescent Psychiatry (AACAP), a national professional association representing 6,900 child and adolescent psychiatrists, and the American Psychiatric Association (APA), a medical specialty society representing more than 40,000 psychiatric physicians nationwide, are concerned that your legislation, the "Violent and Repeat Juvenile Offender Act of 1999" (S. 254), does not adequately address the reasons for, or best response to, youth violence in our country. Furthermore, we were disappointed to learn that S. 254 was placed on the Senate's legislative calendar without consideration by the Senate Judiciary Committee.

Our particular concern is with the high number of children and adolescents that come into the system because of behavior symptomatic of a mental illness. The bill, S. 254, does not address that population, nor does it expand the investment in violence prevention, provide adequate protections for children and adolescents in the system, or regard the importance of juvenile justice research, training, and technical assistance. We are also concerned that the bill fails to properly address gun violence.

Despite recent positive trends, our nation continues to record one of the highest violent crime rates in the world. According to the U.S. Department of Justice's Office of Justice Programs, "Homicide victimization and offending rates for younger groups - teenagers and young adults - rose sharply in the late 1980's and early 1990's before falling more recently . . . Despite the encouraging improvement since 1993, levels of youth homicide remain above those of the early and mid-1980's."

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Email executive@aacap.org
<http://www.aacap.org>

Studies from the child and adolescent psychiatry community have shown that youth violence is often a reflection of other problems in a youth's life, such as substance abuse, mental illness and abuse and neglect. Services are needed where these children can be identified and appropriate intervention and treatment programs can be easily available. A serious emotional disturbance touches every part of a child's life, so they and their families need access to services from a variety of sources, such as schools, community-based mental health centers, and social service organizations. Without these services, entering the justice system often becomes inevitable.

According to the Department of Education, twenty percent of students with severe emotional disturbance (SED) are arrested at least once before they leave school as opposed to 9 percent of students with disabilities and 6 percent of all students. Fifty-eight percent of youth with SED are arrested within five years of graduating from school, as opposed to 30 percent of all students with disabilities. Of those students with SED who drop out, 73 percent are arrested within five years of leaving school. These are frightening statistics that need to be reversed, and your legislation is the appropriate vehicle to do so.

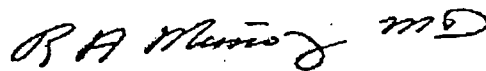
We urge you to refer S. 254 to the Judiciary Committee, and to amend the bill to address the issues of young offenders, especially those with mental illnesses. If you have questions or comments, please contact Mary Crosby at AACAP's National Office (202-966-7300 ext. 127) or Hilary Wilson at APA's Central Office (202-682-6049).

Please find enclosed information the AACAP has distributed on "Conduct Disorders" and "Understanding Violent Behavior in Children." I hope this material is helpful to you.

Sincerely,



David B. Pruitt, M.D.
President
AACAP



Rodrigo A. Muñoz, M.D.
President
APA

cc: Members, Senate Judiciary Committee
Senator Trent Lott
Senator Tom Daschle

Enclosures

AMERICAN BAR ASSOCIATION'S KEY CONCERNS WITH S. 254
The Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999

S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999, has addressed many serious concerns that existed in its predecessor, S. 10. However, the American Bar Association still has significant concerns with key provisions of the bill, based on ABA policies and the IJA/ABA Juvenile Justice Standards.

1. **The bill's procedures for trying children give prosecutors, not judges, the power to decide which children should be tried as adults. S. 254 also ill-advisedly encourages the waiver of very young children.**

Under Section 102, federal prosecutors are given the discretion to try as adults juveniles 14 years or older who are charged with certain offenses. This discretion is "unreviewable in any court." A reverse transfer hearing is permitted in some circumstances, but a prosecutor who loses a reverse transfer hearing is permitted an immediate appeal while a juvenile defendant who loses must wait until the end of the case to appeal.

Under Section 326, the Sense of Congress calls upon States to enact - legislation which would allow children between the ages of 10 and 14 to be tried as adults for any offense for which the maximum sentence an adult could receive is death.

ABA Policy: The ABA opposes trying children 14 and younger as adults. Children who are 15 years old or older should only be tried as adults upon the motion of a prosecutor and after a hearing by a judge. In order for a juvenile to be waived to adult court, the judge must find that (1) probable cause exists to believe that the juvenile committed the alleged offense, and (2) the juvenile is not a proper person to be handled by the juvenile court under a standard of clear and convincing evidence. The decision by the court must be written, setting forth its findings and the reasons therefor. Both the defendant and prosecuting attorney should have the right to an immediate appeal of the decision.

2. **S. 254 destroys many of the traditional confidentiality protections of the juvenile court that promote rehabilitation.**

Section 102 allows all federal juvenile proceedings to be open to the public.

Section 108 permits records from federal juvenile proceedings to be made available to a variety of third parties without providing safeguards that the information is necessary, accurate or kept confidential.

Section 108 directs the director of the Federal Bureau of Investigation to maintain fingerprint records of juveniles accused of certain offenses, and to disseminate those records in the same manner and for the same purposes as adult criminal history records. Such records would also be available to an official of any elementary, secondary or post-secondary school if the juvenile is enrolled at the school, or seeks or intends to enroll at the school. While the bill provides that such information cannot be used for the purpose of making an admission determination, the information will be difficult to keep confidential in practice and any abuse of such information would be quite difficult to prove. Section 321 creates a grant for similar databases at the State level.

ABA Policy: ABA standards provide for a juvenile's right to public trial. When a juvenile has waived that right to public trial, specified members of the public may be permitted to attend at the request of the juvenile, juvenile's attorney or family. According to the standards, members of the public who are permitted to attend are prohibited from revealing the identity of the juvenile.

The ABA believes privacy is an important goal within the juvenile courts, and juvenile records should not be public records. The maintenance and dissemination of juvenile records must be carefully controlled to minimize the risk that juvenile records are incomplete, inaccurate, misused or misinterpreted. The ABA urges Congress to, at minimum: define the term "record" to exclude social histories, or information of a subjective or evaluative nature;

create penalties for the disclosure of juvenile records to unauthorized persons; implement tighter controls for the dissemination of juvenile records.

3. The language of the core requirements in S. 254 (section 302) must be strengthened in order to protect children and ensure that the juvenile justice system is administered fairly and humanely.

- a. *The core requirement language in S. 254 compelling Sight and Sound Separation of juvenile and adult inmates has been improved over language proposed in previous bills. However, 'prohibited physical contact' as defined in S. 254 still allows 'supervised proximity between a juvenile and an adult inmate that is brief and incidental or accidental'. This language can be interpreted to allow routine, albeit brief, exposure of children to adult inmates. For example, guards could escort children past open adult cells every day on their way to the dining area.*

ABA Policy: The ABA urges Congress to clarify the language of S. 254 to ensure that children in adult jails and lockups may not be routinely exposed to adult inmates, however briefly. Routine exposure creates the risk that children are intimidated and harassed by adult inmates. Only accidental contact should be permitted.

- b. *The Jail Removal core requirement in S. 254 provides that children should not be locked up in adult jails or lockups except in limited circumstances. Exceptions to the jail removal core requirement require two safeguards: a parent must consent to having a child placed in an adult facility, and the juvenile must have an attorney. These protections, however, are incomplete. With parental consent, children can be held for an unlimited amount of time.*

ABA Policy: The jail removal core protection language should be strengthened by (1) requiring a finding by the judge that placement in an adult jail is in the child's best interest and (2) providing that parental consent to place the child in jail is revocable.

- c. *The Disproportionate Minority Confinement core requirement in S. 254 requires states to address prevention efforts to reduce the disproportionate confinement of 'segments' of the juvenile population.*

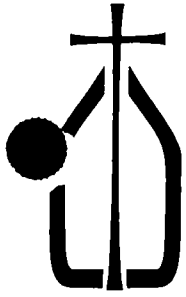
ABA Policy: This change in language de-emphasizes the race of children involved in the juvenile justice system. The extremely disproportionate representation of children of color in the juvenile justice system requires that race remain a specific focus of federal legislation.

4. S. 254 needs to more strongly emphasize and support a child's right to competent and effective legal counsel to ensure that the level of due process provided to a child is commensurate with the punitive sanctions and legal disabilities that a child now faces in juvenile court.

With many existing state statutes and pending legislation calling for extended sentences, incarceration in adult prisons, and use of juvenile records for adult sentencing, competent counsel for juveniles is needed now more than ever. Many children do not receive legal counsel because they are pressured to waive their right to counsel or their families cannot afford to retain counsel and do not qualify for a public defender. Moreover, when children are represented by counsel, their attorneys are frequently overwhelmed by high caseloads, are paid extremely low rates for their time, and do not receive specialized training on how to represent children.

ABA Policy: The ABA urges Congress to provide, at minimum, that all children have the ability to consult with counsel before waiving their right to counsel, so that they are apprised of all the possible consequences of their decision. The ABA further urges Congress to specifically allocate funds in grants to states for the hiring, adequate compensation and training of attorneys who represent children in juvenile court.

For more information, contact Wendy Shang at (202) 662-1508 or shangw@staff.abanet.org.



Catholic
Charities
USA

April 22, 1999

Dear Senator:

Today, as we pray for everyone affected by the tragedy that occurred at Columbine High School in Littleton, CO, we wonder what can be done to prevent tragedies like this one from happening again. Some will cry out for stiffer penalties for delinquent children, penalties that will send a clear message to at-risk juveniles. In behalf of Catholic Charities USA and its 1,400 independent member agencies and institutions, I urge you to carefully scrutinize S. 254, *The Violent and Repeat offender Accountability and Rehabilitation Act of 1999*. While well intentioned, some provisions of the bill are unlikely to help prevent juveniles from committing crime and may add to the problems of juveniles who have committed crimes.

Catholic Charities USA supports a balanced approach to intervention and prevention. We support helping people who have made mistakes to re-enter the community, but we also believe in preventing at-risk youth from making mistakes that would merit their removal from the community in the first place. S. 254 does not set aside funding specifically for prevention services. If both intervention and prevention are funded by the same source, programs for at-risk youth may be last on the list of priorities.

For the past 25 years, federal policy has forbidden juvenile/adult contact in prison. S. 254 would allow "incidental" contact between children and adult inmates, and fund construction of "collocated" facilities, a strong incentive to detain more children in new jails with juvenile wings. Research showing that children in adult jails commit suicide eight times more often than children in juvenile jails gives us reason for concern.

Without requiring release of juveniles or incarceration quotas or any other specific change of policy or practice, current law requires states to study the problem of disproportionate minority confinement in our juvenile justice system. By deleting all reference to "minority" or "race," and instead referring to "segments of the juvenile population," S. 254 would undermine efforts to remedy the disproportionate incarceration of minority youth.

Lastly, the bill would authorize **federal** prosecutors (not judges) to transfer juveniles as young as 14 years old to adult status. Once waived into adult court, it would be the juvenile's responsibility to prove that his/her transfer back to juvenile status is in the interest of justice.

I urge you to oppose these provisions of S. 254.

Sincerely,

Fred Kammer, SJ
President

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Joseph M. Sullivan, DD

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May 5, 1999

The Honorable Robert G. Torricelli
United States Senate
113 Dirksen Senate Office Building
Washington, DC 20510-3003

Dear Senator Torricelli:

On behalf of the over 1,000 member agencies of the Child Welfare League of America, I urge you to support critical changes to S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act, without which the bill will remain unacceptable. This proposal, expected to be on the Senate floor soon, would unnecessarily overhaul the current system at a time when violent crime by juveniles is declining dramatically. It would not guarantee any new resources for prevention efforts that continue to demonstrate broad effectiveness in delinquency prevention. This proposal would turn back the clock on our juvenile justice system and thwart recent successes.

Actual prevention funding is not guaranteed:

S. 254 proposes to create a block grant to the states to provide resources for prevention. However, this block grant is totally separate from the law enforcement block grant, and as such would likely never be adequately funded. Fifty percent of all block grant dollars in this bill must be for prevention!

The DMC core requirement is gutted:

One of the four core requirements in current law requires states to make efforts to reduce the proportion of minority juveniles detained or confined in secure facilities if such proportion exceeds the general population. S. 254 significantly weakens this mandate by eliminating references to minorities and requiring only that efforts be put in place to reduce overrepresentation of any segment of the population.

Sight and Sound Separation requirement is weakened:

S. 254 weakens current legal requirement to separate adult and juvenile inmates, by allowing some contact between these two distinct and separate populations. If signed into law, juveniles could be subjected to abuse from adult inmates.

Gun violence is not addressed:

S. 254 fails to make guns safer or less accessible to young people. At a time when, on average, 12 young people are killed by firearms every day and especially after recent events in Littleton, Colorado, it is critical that the bill address gun violence in a meaningful way.

PROTECTING AMERICA'S CHILDREN: IT'S EVERYBODY'S BUSINESS™

The Honorable Robert G. Torricelli
May 5, 1999
Page 2

Court Records could be made broadly available to the public:

S. 254 allows records to be released to non-law enforcement or court personnel. Once this happens there is no way to control who gets them. They could be sent to schools. Even adult criminal records are not sent to schools. The purpose of the privacy protections is to keep the records private and to give kids a chance at rehabilitation.

Protections in court proceedings are weakened:

S. 254 weakens the provision to keep juvenile proceedings closed. The reason to keep juvenile proceedings closed is to protect the juvenile from establishing a reputation that will permanently impact his or her future. Allowing open proceedings will make the case completely public, with exposure to the media and no hope of maintaining the privacy rights of the child.

In light of the continued decline of violent crime committed by juveniles why persist in proposals based on a mistaken belief in a "massive increase" in juvenile offenders? When reports continue to point to prevention and early intervention as effective anti-crime strategies why insist on punitive approaches based on increased prosecutions and incarcerations?

We understand there will be no opportunity to debate this proposal in committee and therefore urge you to take a close look at the above mentioned provisions. If there are any questions we might be helpful with please don't hesitate to contact our public policy department at 202/942-0256.

Thank you for your consideration.

Sincerely,

David S. Liederman
Executive Director



**NATIONAL
ASSOCIATION OF
SCHOOL
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May 7, 1999

Dear Senator:

On behalf of the National Association of School Psychologists (NASP), I urge you to amend S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999. Although revisions were made to S. 10 from the 105th Congress, NASP believes that this bill still lacks the most essential ingredient: an adequate investment in crime prevention.

As an association representing 21,000 school psychologists, we are gravely concerned that the lack of focus and funding directives for prevention and intervention programs will add to the population of juvenile delinquents rather than work to reduce this number. Most of the funding authorized under the proposed "prevention block grant" are actually interventions for youth who have already committed delinquent offenses, rather than prevention programs to keep young people from committing crimes in the first place. Interventions within the juvenile justice system are vital to reducing crime and future criminal involvement. However, to **reduce and prevent** crime, there must be a substantial and proportionate investment made to diverting youth from crime **before** they commit it.

The GAO report on "Existing Federal Youth Crime Prevention Programs" actually reveals minimal federal funding to prevent juvenile crime. The majority funds are spent on interventions such as child abuse prevention, drug abuse prevention and treatment, and job training. These are *very important programs, but they are not youth crime prevention*. The programs that are actually related to youth crime are either relatively small, or oriented toward dealing with offenders after they have committed an offense. An funding allocation as a prevention set aside is necessary to ensure that any significant percentage of funds will be spent on effective prevention programs. I request that you authorize a guaranteed 50 percent allocation of Juvenile Justice appropriations specifically for delinquency prevention programs.

School psychologists work with a broad array of students and youth. Many of these young people are at-risk of delinquency or involvement in gang-related or criminal activity. **Effective youth crime prevention must involve coordinated programs and services, must work within the schools and the community, reach youth in non-school hours and meet the diverse needs of at-risk youth.** To be most successful, this effort must also involve greater investments in after-school and community-based programs to encourage young people to become involved in more positive activities. **School Psychologists are the ideal providers for such school-based preventive interventions and mental health services.**

Despite this overwhelming evidence, S. 254 falls far short of the level of investment necessary to give our nation's at-risk kids the tools to become good neighbors instead of criminals. The evidence is clear that prevention programs are effective in reducing crime. Make the smart investment in prevention and put real dollars toward the programs that can keep kids from becoming criminals and put troubled kids back on track. I urge you to make the necessary and very critical changes to S. 254 which will **strengthen prevention and intervention** in the community and within the Juvenile Justice system. Thank you for your consideration.

Sincerely,

Libby Kuffner, MSW
Director of Public Policy

H. R. 1501



HR 1501 Votes

Consequences for Juvenile Offenders Act of 1999

Date	Vote #	Vote	Sponsor	Amdt #	Description
6/16/99	210	Adopted 240-189 R 222-0 D 18-188 (Opposed by CDF)			Adoption of the rule (HRes209) to provide for House floor consideration of two bills: HR1501, the bill to provide legal consequences for juvenile offenders, and HR2122, the bill to require background checks for firearms purchases at gun shows.
6/16/99	Passed by Voice	Passed by Voice (Opposed by CDF)	Kucinich (D-OH)	40	Helps states in obtaining assistance in compiling the records of violent juveniles and establishing statewide computer systems for their records. In addition, states would have the option of making these records available to the National Crime Information Center and the FBI where they could be accessed by law enforcement officials from other states.
6/16/99	Passed by Voice	Passed by Voice	Hutchinson (R-AR)	69	Adds a new category of permissive uses for grant money authorized under the Juvenile Accountability Block Grant in the bill to allow states and localities to use funds in the bill to implement "restorative justice" programs.
6/16/99	Passed by Voice	Passed by Voice	Dreier (R-CA)	80	Expands the authorized uses of the Juvenile Accountability Block Grant created by H.R. 1501 to include pro-active programs, such as anti-gang programs, developed by law-enforcement agencies to combat juvenile crime.
6/16/99	Passed by Voice	Passed by Voice	Capuano (D-MA)	3	Recognizes state and local juvenile witness assistance programs as authorized activities eligible for the bill's block grant funds.
6/16/99	Passed by Voice	Passed by Voice	Wise (D-WV)	28	Specifies that the Juvenile Accountability Block Grant can be used for supporting a confidential toll-free school safety hotline and training of personnel to operate the hotlines.
6/16/99	211	Adopted 249-181 R 186-34 D 63-146 (Opposed by CDF)	McCollum (R-FL)	162	Reduces the age at which juveniles can be tried as adults to 13, broadens the number of crimes for which a juvenile can be charged as an adult, and imposes mandatory minimum sentences on children; Increases penalties for juveniles who are convicted of possession of a firearm and for those who provide a firearm to a juvenile, including a mandatory minimum of three years for an adult who gives or sells a firearm to a child if the adult knows the child intends to bring the firearm to school; not less than ten years if the child intends to commit a violent felony; up to one year for a minor who illegally possesses a firearm; other various increases in criminal penalties for gun offenses; prohibits distribution of information on how to build explosives on the Internet; permits the death penalty for the use of a firearm to kill

Date	Vote #	Vote	Sponsor	Amdt #	Description
					someone in a school zone; raises the penalty for the purchase, sale or trade of firearms with altered or missing serial numbers; creates an "instant check" system for the purchase of explosive materials.
6/16/99	212	Adopted 412-15 R 218-0 D193-15	Salmon (R-AZ)	7	Commonly known as Aimee's Law, this amendment would provide additional funding to states that convict a murderer, rapist, or child molester, if that criminal had previously been convicted of one of those crimes in a different state. The cost of incarcerating the criminal would be deducted from the federal crime funds intended to go to the first state, and instead be sent to the state that obtained the second conviction. The amendment would not require the funds if the criminal had served 85 percent of the original sentence, and if the first state was a "truth-in-sentencing" state with a higher than average typical sentence for the crime.
6/16/99	Passed by Voice	Passed by Voice	Green (D-WI)	37	Requires mandatory life imprisonment for an offender convicted of a second sex offense against a child.
6/16/99	Passed by Voice	Passed by Voice	Canady (R-FL)	95	Provides an increased penalty for the transportation and sale to minors under age 16 of obscene material.
6/16/99	Passed by Voice	Passed by Voice	Kelley (R-NY)	55	Toughens penalties against any person who takes a child, 18 years of age or younger, hostage in order to resist any officer or court in the U.S., or to compel the federal government to do or to abstain from any act.
6/16/99	Passed by Voice	Passed by Voice	Hutchinson (R-AZ)	68	Makes it unlawful to transfer any firearm to a juvenile if the transferor knows or has reason to believe that the firearm will be used in a school zone or in the commission of a serious violent felony.
6/16/99	Passed by Voice	Passed by Voice	Gallego (R-CA)	165	Makes it a federal crime to recruit persons who use interstate or foreign commerce to recruit another person to become a member of a criminal street gang.
6/16/99	Passed by Voice	Passed by Voice	Goss (R-CA)	11	Provides 4 new federal district judges for the middle district of Florida, 3 for Arizona, and 2 for Nevada.
6/16/99	Passed by Voice	Passed by Voice	Traficant (D-OH)	57	Provides that if a state does not have a law which suspends, until age 21, the drivers license of a juvenile who illegally possesses or commits a crime with a firearm, then that state shall lose 25% of its juvenile justice funding under the bill.
6/16/99	Passed by Voice	Passed by Voice	Meehan (D-MA)	50	Provides that the Secretary of Treasury shall expand to 75 the number of cities and counties with law enforcement agencies that submit and share identifying information about crime guns

Date	Vote #	Vote	Sponsor	Amdt #	Description
					through the Youth Gun Crime Interdiction Initiative (YCGII). Requires the Secretary to provide an annual report on the types and sources of recovered crime guns and the number of investigations associated with the YCGII.
6/16/99	214	Adopted 401-27 R 214-4 D 186-23	Cunningham (R-CA)	48	Amendment to direct the U.S. Sentencing Commission to amend the federal sentencing guidelines to provide a sentencing enhancement of not less than five levels above the offense level otherwise provided for a crime of violence, if the crime was against a child under age 13; to authorize the FBI to assist state and local authorities in murder investigations in cases where the victim is less than 13 years of age.
6/16/99	215	Adopted 296-133 R 215-4 D 81-128	DeLay (R-TX)	23	Amendment to prohibit federal courts from issuing orders in civil cases regarding prison conditions that would require the release from prison, or the non-admission to a prison, of any person who was subject to incarceration of a felony or for violating parole, on the basis of prison overcrowding.
6/16/99	216	Adopted 293-134 R 218-2 D 75-131	Stearns (R-FL)	88	Amendment to establish a set of congressional findings, including the fact that with thousands of federal, state and local firearms laws in existence, there have been very few prosecutions under those laws, and that enhanced punishment and aggressive prosecution are key to deter gun violence.
6/16/99	217	Adopted 423-3 R 218-2 D 205-1	Latham (R-IA)	8	Amendment to make drug dealers liable for certain crimes and provide a civil remedy for victims of illegal drugs; to specifically make controlled substance manufacturers are liable for any person harmed directly or indirectly by the use of that controlled substance; users filing liability suits would be required to disclose all information to narcotics agents.
6/16/99	219	Adopted 300-127 R 214-6 D 86-120	Tancredo (D-OH)	9	Amendment to declare that a memorial or memorial service on public school campuses to honor the memory of a person slain on that campus may contain religious speech without violating the U.S. Constitution.
6/16/99	220	Adopted 238-189 R 206-14 D 32-174	DeMint (R-SC)	59	Amendment that would require each side in a court action against a public school based on a claim that permitting or accommodating a student's religious expression violates the Establishment of Religion Clause of the First Amendment must pay its own attorneys' fees; under the amendment, if the school loses its case, it would not have to pay the attorneys' fees of the person bringing the suit.
6/16/99	213	Rejected	Hyde	112	Amendment to prohibit the sale, loan, or

Date	Vote #	Vote	Sponsor	Amdt #	Description
		146-282: R 127-92; D 19-189	(R-IL)		exhibition to juveniles any material that contains sexual or violent depictions or detailed verbal descriptions, including any picture, drawing, sculpture, video game, motion picture, book, magazine or sound recording. Under the amendment, anyone convicted of providing such materials to a juvenile would be subject to a fine and/or up to five years imprisonment for a first offense and a fine and/or up to ten years imprisonment for a second offense. The amendment would also recommend that all retail establishments make the lyrics available for review by a customer before purchase, and require the National Institute of Health study the effects of violence on children.
6/16/99	218	Rejected 184-243 R 136-84 D 48-158	Rogan (R-CA)	31	Amendment to require any school accepting federal education funds to adopt a "zero tolerance" policy regarding possession of felonious quantities of drugs, or drugs determined to be for the purpose of distribution; students caught in possession of that amount of drugs would be required to be expelled for one year.
6/17/99	221	Adopted 248-180: R 203-15; D 45-164	Aderholt (R-AL)	76	Allows states to publicly display the Ten Commandments under the Tenth Amendment to the Constitution. Would not require the display of the Ten Commandments, but rather would declare the power to do so to be among the powers reserved to the States respectively.
6/17/99	222	Adopted 346-83: R 216-3 D 130-79	Souder (R-IN)	13	Expands the principle of nondiscrimination against faith-based organizations that desire to compete to provide services consistent with the goals of juvenile justice programs.
6/17/99	223	Rejected 210-216: R 174-43; D 36-172 (Opposed by CDF)	Souder (R-IN)	12	Prohibits the Office of Juvenile Justice and Delinquency Prevention (OJJDP) from producing literature, curriculum, etc., which "undermines or denigrates" the religious beliefs of any juvenile or adult in programs authorized in the bill, e.g. anti-hate crime literature.
6/17/99	Passed by voice	Passed by voice	Emerson (R-MO)	18	Sense of the Congress condemning the entertainment industry for its use of pointless acts of brutality in movies, television, music, and video games.
6/17/99	225	Adopted 417-9: R 212-6 D 204-3	Markey (D-MA)	30	Commissions a study of the firearms industry's marketing practices towards juveniles.
6/17/99	Passed by voice	Passed by voice	Markey (D-MA)	73	Requires the Surgeon General to provide the country with a new Surgeon General's report that reflects our contemporary crisis, that takes into account both the promise and problems of interactive media, and that makes findings, and

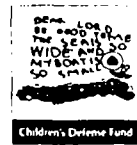
Date	Vote #	Vote	Sponsor	Amdt #	Description
					recommendations regarding how to combat the sickness of violence and to rebuild our national spirit.
6/17/99	224	Rejected 161-266: R 114-105; D 47-160	Wamp (R-TN)	46	Creates a consistent and comprehensive system for labeling violent content in audio and visual media products (including the labeling of products in the advertisements); Waives anti-trust laws, and the industries are given six months to work together in developing a standardized product labeling system; bans the domestic sale or commercial distribution of unlabeled products after one year; and retailers are required to enforce the age restrictions on such products, subject to a fine of up to 10,000 for failure to do so.
6/17/99	226	Adopted 424-2: R 216-2; D 207-0	Goodling (R-PA)	154	Revises the current Juvenile Justice and Delinquency Prevention Act to provide States and local governments increased flexibility in how they address issues related to juvenile crime; consolidates existing discretionary grant programs into a flexible block grant to the States to be used for prevention activities.
6/17/99	Passed By Voice	Passed By Voice	Roemer (D-IN)	77	Adds an additional allowable activity to the Juvenile Delinquency Prevention Block Grant to support projects that are geared toward improving school security, including the placement and use of metal detectors.
6/17/99	Passed By Voice	Passed By Voice	Wilson (R-NM)	43	Makes grant money available for promoting or developing partnerships with established mentoring programs to provide mentors for violent and non-violent juvenile offenders
6/17/99	227	Adopted 300-128: R 208-10; D 92-117	Norwood (R-GA)	72	Amends the Individuals with Disabilities Education Act to allow school personnel to discipline students with disabilities who have weapons in the same manner as school personnel would discipline non-disabled students.
6/17/99	228	Adopted 422-1 R 215-0 D 206-1	Fletcher (R-KY)	84	Allows state and local education agencies to form partnerships designed to implement character education programs that reflect the values of parents, teachers, and local communities, and incorporate elements of good character, including honesty, citizenship, courage, respect, personal responsibility and trustworthiness.
6/17/99	Passed by Voice	Passed by Voice	Franks	101	Requires schools and libraries to install filtering or blocking technology on their computers to filter out material deemed harmful to minors, if they accept federal funds from the E-Rate (Universal Service Fund) to connect to the Internet. Requires schools and libraries (when being used by minors) to install the technology on every computer with Internet access. Leaves it

Date	Vote #	Vote	Sponsor	Amdt #	Description
					up to the school or library board to determine the type of filtering technology to use.
6/17/99	Passed by Voice	Passed by Voice	McIntosh (R-IN)	61	Provides limited civil litigation immunity for teachers, principals, local school board members, and other education professionals who engage in reasonable actions to maintain order, discipline, and a positive education environment in America's schools and classrooms.
6/17/99	230	Adopted 364-60: R 210-6; D 153-54 (Opposed by CDF)	Schaffer	21	Sunsets JJDPA on October 1, 2004, and requires certain reports from OJJDP.
6/17/99	232	Withdrawn Motion to recommit Rejected 191-233 R 1-215 D 189-18	Conyers (D-MI)	137	Retains four core protections for juveniles, including the fundamental tenet of the juvenile justice system, that juvenile delinquents shall not be jailed with adult criminals; requires States to address the disproportionate confinement of juveniles in secure facilities; retains basic labor protections afforded state juvenile justice and youth service workers; consolidates the discretionary program for Mentoring, State Challenge Activities, Boot Camps, and the Title V Delinquency Prevention Block Grant Program into a flexible Juvenile Delinquency Prevention Block Grant Program; allows funds to be used for activities designed to prevent and reduce juvenile crime in communities which have a comprehensive juvenile crime prevention plan, including projects that provide treatment to juvenile offenders and juveniles who are at risk of becoming juvenile offenders; provides that eligible recipients include community-based organizations, law enforcement agencies, local education authorities, local governments, social service providers and other entities with a demonstrated history of involvement in juvenile delinquency prevention; authorizes \$500 million under the Omnibus Crime Control and Safe Streets Act of 1968 for the "Cops on the Beat" grant program through fiscal year 2002; funds \$700 million for crisis prevention counselors and anti-violence initiatives for each of the fiscal years 2000 through 2004 with fifty percent of the grants going to fund crisis prevention counselors and crisis prevention programs and the remaining 50 percent going to school districts for projects which would best improve security at their schools; includes an expansion of the Youth Crime Gun interdiction Initiative; holds adults responsible for death and injury caused by child

Date	Vote #	Vote	Sponsor	Amdt #	Description
					access to firearms, requires thefts from common carriers to be reported; allows federal firearms licensees to voluntarily submit business records to ATF; increases penalties on gun kingpins, for the most serious record keeping violations committed by federal firearms licensee, for firearm conspiracy, and for knowingly transporting or possessing a firearm with an obliterated or altered serial number; requires that the National Institutes of Health conduct a study of the effects of video games and music on child development and youth violence and that the study would address whether, and to what extent, video games and music (1) affect the psychological and emotional development of juveniles and (2) contribute to youth violence; provides limited antitrust immunity to the entertainment industry so that it may work (1) to respond to concerns about violence in the media, (2) to develop voluntary guidelines to restrict youth access to violence, and (3) to implement those guidelines. Included in the entertainment industry are television, motion picture, music, and video game producers, broadcasters, writers, and distributors.

FINAL PASSAGE

Date	Vote #	Vote	Description
6/17/99	233	Passed 287-139 R 206-11 D 81-127	Passage of the bill to authorize \$1.5 billion through fiscal 2002 for states seeking to improve their juvenile justice systems, provided they adopt a system of sanctions for every juvenile crime or misdemeanor; build or expand corrections facilities and hire additional juvenile court judges and prosecutors; imposes mandatory minimum sentences on juveniles for gun crimes.



House Juvenile Crime Amendments

Today, the House is scheduled to consider amendments to juvenile justice legislation, H.R. 1501. The Children's Defense Fund supports amendments that would reauthorize and maintain the core protections of the Juvenile Justice and Delinquency Prevention Act (JJDP); assure that children are not placed at risk of assault and abuse in adult jails; and dedicate funding for prevention programs, childrens' mental health needs, and parenting support.

CDF SUPPORTS:

Conyers Amendment (#137)

The Conyers amendment protects children by reauthorizing and maintaining the core protections of the Juvenile Justice and Delinquency Prevention Act (JJDP), which has served as sound juvenile justice policy for over 25 years and by focusing attention on juvenile crime prevention, and provides \$700 million for crisis prevention counselors and anti-violence initiatives.

Davis Amendment (#164)

The Davis amendment protects children by assuring that the right of children to receive counsel is not waived without counsel.

Goodling Amendment (#154)

The Goodling amendment protects children by reauthorizing the Juvenile Justice and Delinquency Prevention Act (JJDP), which has served as sound juvenile justice policy for over 25 years and by focusing attention on juvenile crime prevention.

Payne Amendment (#106)

As few prevention dollars address the needs of children before they get into trouble, the Payne amendment is necessary to assure that prevention dollars are specifically dedicated for this purpose. Prevention works and prevention programs can keep children safe and prevent delinquency before it starts.

Quinn Amendment (#155)

The Quinn amendment recognizes the need to expand activities in communities to assist parents of children of all ages to obtain the care, support and special services they need. It builds on the evidence that early intervention with parents can significantly reduce children's chances of later being abused or neglected and arrested, and it helps parents of teenagers who need help during these often turbulent years to keep their children on track.

Roukema (#105)

As an estimated two-thirds of juveniles in the juvenile justice system need mental health services, the Roukema amendment is critical to ensure that the mental health needs of these children are addressed.

Slaughter (#39)

The Slaughter amendment is necessary to assure that prevention dollars are actually allocated as it guarantees that 50% of Juvenile Accountability Incentive Block Grant funds are dedicated to prevention programs. The evidence is clear that we need to dedicate funds specifically for prevention programs if we are to see real dollars going toward the programs that can keep youth safe and out of trouble. When faced with a choice between investing limited juvenile justice funds in prevention programs or in punitive sanctions, states and local jurisdictions too often shortchange prevention in an effort to appear tough on crime.

Scott Amendment (#38)

The Scott amendment is critical to ensure that children are not at risk of assault and abuse in adult jails as it would strike provisions in the McCollum amendment #162 that would allow more children to be tried as adults and would allow more children to come into contact with adults in adult jails in the federal system.

Tauscher Amendment (#58)

The Tauscher amendment is necessary to assure that Juvenile Accountability Incentive Block Grant funds can be used for prevention programs. Prevention works and prevention programs can prevent delinquency before it starts, as well as get troubled youth back on track.

Waters Amendment (#128)

The Waters amendment is essential to supporting the rehabilitative approach of the juvenile court system by striking provisions in the McCollum amendment #162 that impose new mandatory minimum sentences for children. These new "mandatory minimums" undermine the juvenile courts ability to deal with juveniles on a case-by-case basis, are draconian and would have serious negative consequences for children.

CDF OPPOSES:**McCollum Amendment (# 162)**

The McCollum amendment would negatively impact children by placing children at risk of assault and abuse in adult jails and would shut the door on future educational and employment opportunities for countless children who come into contact with the juvenile justice system. The McCollum amendment allows federal prosecutors rather than judges the discretion to try children as adults, lowers the age to 13 in some cases at which children can be tried as adults in the federal system, and broadens the scope of federal crimes for which juveniles can be tried as adults. This provision would mean that more children would be placed in adult jails and children are not specifically prohibited from contact with adults. This places children at serious risk of abuse and assault, and flies in the face of current studies which indicate that trying children as adults increases rather than decreases youth crime. The McCollum amendment allows children to come into contact with adults in adult jails in the federal system. Children as young as 13 years old would be allowed to be in the same jail cell with adults. Allowing contact between juveniles and adults in adult jails would place children at risk of assault and abuse, as children 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. The McCollum amendment imposes new mandatory minimum sentences for children who are convicted of certain offenses. These new draconian mandatory minimums would likely impose harsher penalties on youthful offenders than adult criminals guilty of the same offenses under current law. Under the McCollum amendment, juvenile records could be shared with law enforcement, courts, the FBI, and schools, including schools in which the child is seeking to enroll. Opening juvenile records and allowing for broad dissemination of these records would have devastating consequences for the future employment and education of many children.

Schaffer Amendment (#21)

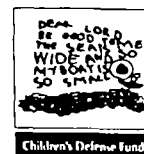
The Schaffer amendment removes core protections for children by allowing the Juvenile Justice and Delinquency Prevention Act to sunset. The core requirements of the JJDP Act must be retained if we are to have a humane juvenile justice system that focuses on the protection and rehabilitation of children. Under the JJDP Act, states are required to ensure that children who have not committed criminal offenses are not placed in jails and prisons; that children are not placed in adult jails except in limited circumstances, and in those cases to be separated from adults by both sight and sound; and to address the disproportionate confinement of minority juveniles who come into contact with the juvenile justice system.

Kucinich Amendment (#40)

The Kucinich amendment opens juvenile records and allows for broad dissemination of these records, and therefore would have devastating consequences for the future employment and education of many children. Two-thirds of children who commit a first offense, never commit another one. Expanding the availability of juvenile records will shut the door to a second chance.

Barr Amendment (#139)

The Barr amendment would negatively impact children by placing children at risk of assault and abuse in adult jails and would shut the door on future educational and employment opportunities for countless children who come into contact with the juvenile justice system.



House Juvenile Crime Amendments

CDF SUPPORTS:

Roukema/McCarthy/Blagojevich Amendment

As nearly 13 children die every day from gunfire, any juvenile justice legislation must address the accessibility and availability of guns. This amendment would reduce access to guns by unauthorized users by requiring background checks at gun shows.

Blagojevich Amendment

It is currently illegal for licensed importers, manufacturers, dealers and collectors to sell a handgun to someone younger than 21 years old. But, it is only illegal to possess a handgun for individuals under 18. This amendment would close the purchase/possession loophole. No one under 21 would be able to possess a handgun.

Scott Amendment

This amendment would strike provisions in the Hyde/McCollum amendment that would allow more children to be tried as adults and would allow more children to come into contact with adults in adult jails in the federal system. The Scott amendment is necessary to ensure that children are not at risk of assault and abuse in adult jails.

Waters Amendment

This amendment would strike provisions in the Hyde/McCollum amendment that impose new mandatory minimum sentences for children. These new "mandatory minimums" are draconian and would have serious negative consequences for children. Sentencing for children should only occur after a careful review of a child's case, on a case by case basis, not by an automatic mandate.

Goodling Amendment

This amendment protects children by reauthorizing the Juvenile Justice and Delinquency Prevention Act (JJDP), which has served as sound juvenile justice policy for over 25 years and by focusing attention on juvenile crime prevention.

CDF OPPOSES:

Hyde/McCollum Amendment

This amendment should be rejected as it weakens the Senate passed gun provisions, ignores prevention programs that are proven to be effective in keeping our children safe and out of trouble, and places children in danger in adult jails.

Schaeffer Amendment

This amendment would sunset the Juvenile Justice and Delinquency Prevention Act. The core requirements of the JJDP must be retained if we are to have a humane juvenile justice system that focuses on the protection and rehabilitation of children. Under the JJDP, states are required to ensure that children who have not committed criminal offenses are not placed in jails and prisons; that children are not placed in adult jails except in limited circumstances, and in those cases to be separated from adults by both sight and sound; and to address the disproportionate confinement of minority juveniles who come into contact with the juvenile justice system.

Kucinich Amendment

This amendment would expand the availability of juvenile records. Opening juvenile records and allowing for broad dissemination of these records would have devastating consequences for the future employment and education of



McCollum Juvenile Injustice

Amendment: A Danger To Children

Subcommittee on Crime Chairman Bill McCollum (R-FL) will be offering a juvenile justice amendment, #162. This new juvenile "injustice" amendment presents dangers to children by:

Trying more children as adults

The McCollum amendment allows federal prosecutors rather than judges the discretion to try children as adults, lowers the age to 13 in some cases at which children can be tried as adults in the federal system, and broadens the scope of federal crimes for which juveniles can be tried as adults. This provision would mean that more children would be placed in adult jails, and children could be placed in the same jail cells with adults. This places children at serious risk of abuse and assault, and flies in the face of current studies which indicate that trying children as adults increases rather than decreases youth crime.

Placing children at risk of assault and abuse in adult jail

The McCollum amendment allows children to come into contact with adults in adult jails in the federal system. Children as young as 13 years old would be allowed to be in the same jail cells with adults. Allowing contact between juveniles and adults in adult jails would place children at risk of assault and abuse, as children 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.

Imposing new mandatory minimum sentences for children

The McCollum amendment imposes new mandatory minimum sentences for children who are convicted of certain offenses. These new draconian mandatory minimums would likely impose harsher penalties on youthful offenders than adult criminals guilty of the same offenses under current law. For example, any juvenile who discharges a firearm in a school zone would get a minimum 10 year sentence. An adult currently charged with the same offense would not be subject to the same mandatory penalty.

Opening juvenile records

The McCollum amendment requires records of juveniles who are convicted of felonies in the federal system to be maintained in the same manner as adult records. Also, the McCollum amendment requires that all juvenile records be available for background checks with no protections to assure that the records would not be made widely available. Under the McCollum amendment, juvenile records could be shared with law enforcement, courts, the FBI, and schools, including schools in which the child is seeking to enroll. Opening juvenile records and allowing for broad dissemination of these records would have devastating consequences for the future employment and education of many children.

YOUTH LAW CENTER

Protecting America's most vulnerable children

1325 G Street, NW ~ Suite 770 ~ Washington, DC 20005 ~ (202) 637-0377

H.R. 2037 - HYPER-VIOLENCE JUVENILE CRIME BILL A POISON PILL PLAYING POLITICS WITH AMERICA'S CHILDREN

H.R. 2037, the new juvenile "injustice" bill written to placate conservative republicans in the House of Representatives, will be taken directly to the floor without debate in committee. H.R. 2037 proposes draconian juvenile justice policies and NRA crafted "gun control" measures with the goal of killing any chance for reasonable legislation to be passed by Congress. H.R. 2037 will not promote public safety and will only result in endangering children. H.R. 2037 will harm children and increase crime by:

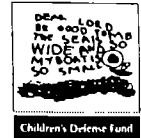
Prosecuting More Children as Adults : H.R. 2037 allows federal prosecutors unreviewable discretion to try children as young as 13 as adults, and broadens the scope of federal crimes for which juveniles can be tried as adults. This provision would mean that more children would be placed in adult jails, and children could be placed in the same jail cells with adults. This places children at serious risk of abuse and assault, and flies in the face of current studies which indicate that trying children as adults increases rather than decreases youth crime.

Placing Children At Risk of Assault and Abuse in Adult Jails: H.R. 2037 allows children to come into contact with adults in adult jails in the federal system. Children as young as 13 years old would be allowed to be in the same jail cell with adults. Allowing contact between juveniles and adults in adult jails places children at enormous risk of assault and abuse, with children 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.

H.R. 2037 Imposes New Mandatory Minimum Sentences for Youthful Offenders: H.R. 2037 imposes new mandatory minimum sentences for children who are convicted of certain offenses. These new draconian mandatory minimums would likely impose harsher penalties on youthful offenders than adult criminals guilty of the same offenses. For example, any juvenile who discharges a firearm in a school zone would get a minimum 10-year sentence. An adult charged with the same offense would not be subject to the same mandatory penalty.

Opening Juvenile Records: H.R. 2037 requires juvenile records of juveniles who are convicted of felonies in the federal system to be maintained in the same manner as adult records. Also, H.R. 2037 requires that all juvenile records be available for background checks with no protections to assure that the records would not be widely disseminated. Under H.R. 2037, juveniles' records could be shared with law enforcement, courts, the FBI, and schools, including schools in which the child is seeking to enroll. Opening juvenile records and allowing for broad dissemination of these records would have devastating consequences for the future employment and education of many children.

FOR MORE INFORMATION, CONTACT THE YOUTH LAW CENTER AT (202) 637-0377
WWW.YOUTHLAWCENTER.ORG



SUPPORT THE WATERS AMENDMENT TO STOP MANDATORY MINIMUMS FOR CHILDREN

Today, the House is scheduled to consider the Waters amendment to the McCollum juvenile injustice amendment (#162). The Children's Defense Fund supports the Waters amendment. The Waters amendment is essential to protect children. The Waters amendment would strike provisions in the McCollum amendment #162 that impose new mandatory minimum sentences for children.

These new "mandatory minimums":

- ♦ Create new federal crimes specifically targeted at children
- ♦ Reverse federal policy by imposing new unprecedented penalties on children
- ♦ Undermine the juvenile courts ability to deal with juveniles on a case-by-case basis
- ♦ Impose draconian penalties on children which would have serious negative consequences for children such as housing more children with adults in adult jails

These "mandatory minimums" were not included in the Senate passed juvenile justice bill, S. 254.

The House Judiciary Committee and the Subcommittee on Crime have not held hearings on these proposals, nor have these proposals been marked up at the subcommittee or full committee level.

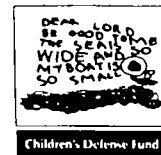
These "mandatory minimum" provisions were never part of the juvenile justice debate in the past two congressional sessions and are purely a "poison pill" to passing common sense juvenile justice measure which keep children safe and out of trouble.

FOR IMMEDIATE RELEASE

JUNE 16, 1999

Contact: Grace Reef, 202-662-3558

Charles Fulwood 202-662-3613



CHILDREN'S DEFENSE FUND OPPOSES HYDE/MCCOLLUM JUVENILE CRIME BILL

WASHINGTON, D.C. – The Children's Defense Fund (CDF) today urged Members of the U.S. House of Representatives to oppose the new Hyde/McCollum juvenile crime bill and to adopt prevention programs to keep children safe and out of trouble.

Under the pending juvenile crime bill in the House, more children would be tried as adults, which would place children at risk of assault and abuse in adult jails. The Hyde/McCollum amendment adopted today gives federal prosecutors rather than judges the discretion to try children as adults, lowers the age to 13 in some cases in which children can be tried as adults in the federal system, and broadens the scope of federal crimes for which juveniles can be tried as adults. More children would be placed in adult jails with no prohibition on contact with adults. These children could even be placed in the same jail cell as an adult.

"With as much progress as we made on keeping children separate from adults in the Senate passed bill, it is simply incredible that the House would choose to now turn the clock back 25 years to a time when children routinely were housed with adults in adult jails," said Children's Defense Fund President Marian Wright Edelman. "Study after study has shown the dangers children face in adult jails. **Children 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.**"

The Hyde/McCollum bill would impose new mandatory minimum sentences for children and allow for broad dissemination of juvenile records. "Mandatory minimums are a mistake for children. For years, the juvenile justice system has been geared toward rehabilitating youth, but mandatory minimum sentences go in the opposite direction," said Edelman.

"I am also troubled by provisions in this legislation that would allow juvenile records to be shared with law enforcement, courts, the FBI, and schools, including schools in which the child is seeking to enroll. Broad dissemination of these records would have devastating consequences for the future employment and education of many children. The majority appears to want to **write-off large numbers of children**. But, two-thirds of those who commit a first offense, never commit another one. Have we slipped back so far as a society that we are beyond attempting to rehabilitate our youth?"

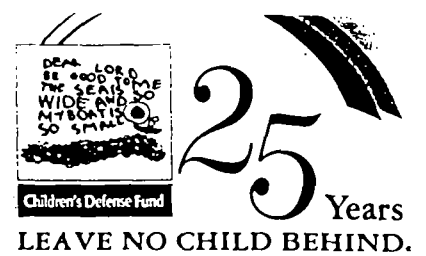
"This legislation is about politics, not policy. Prevention programs work and are cost effective. But, there is little in this bill in the way of prevention. Given the recent tragedies in Colorado, Georgia, Arkansas, and other states, it is unfortunate that the House decided not to focus on prevention programs to ensure that our schools and communities are safe and that at-risk children have mentors in the community to follow. Instead, the House focused on providing a small percentage of children who come into contact with the law with new adult mentors – adult inmates at federal penitentiaries."

"We hope to work with the members of the conference committee to restore balance to our nation's approach to working with troubled youth," said Edelman.

June 14, 1999

The Honorable David Dreier
Chairman
Rules Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Joseph Moakley
Ranking Member
Rules Committee
U.S. House of Representatives
Washington, D.C. 20515



Dear Representatives Dreier and Moakley:

As the House Rules Committee considers juvenile crime legislation this week, I urge you to assure that House members have the opportunity to vote on the following amendments on the floor:

Roukema/McCarthy/Blagojevich Amendment

As nearly 13 children die every day from gunfire, any juvenile justice legislation must address the accessibility and availability of guns. The Roukema/McCarthy/Blagojevich amendment would significantly reduce access to guns by unauthorized users by requiring background checks at gun shows.

Blagojevich Amendment

It is currently illegal for licensed importers, manufacturers, dealers and collectors to sell a handgun to someone younger than 21 years old. But, it is only illegal to possess a handgun for individuals under 18. This amendment would close the purchase/possession loophole. No one under 21 would be able to possess a handgun.

Scott Amendment

The Scott amendment would strike provisions in the Hyde/McCollum amendment that would allow federal prosecutors (rather than judges) the discretion to try children as adults, lower the age at which children can be tried as adults in the federal system, broaden the scope of federal crimes for which juveniles can be tried as adults, and allow children to come into contact with adults in adult jails in the federal system. The Scott amendment is necessary to ensure that more children would not be placed in adult jails, or placed in the same jail cells with adults. Allowing contact between juveniles and adults in adult jails places children at risk of assault and abuse. Children 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.

Waters Amendment

The Waters amendment would strike provisions in the Hyde/McCollum amendment that would impose new mandatory minimum sentences for children who are convicted of certain offenses. These new "mandatory minimums" are draconian and would have serious negative consequences. Sentencing for children should only occur after a careful review of a child's case, on a case by case basis, not by an automatic mandate.

The Honorable David Dreier and Joseph Moakley

June 14, 1999

Page Two

Goodling Amendment

The Goodling amendment protects children by reauthorizing the Juvenile Justice and Delinquency Prevention Act (JJDP), which has served as sound juvenile justice policy for over 25 years, and by focusing attention on juvenile crime prevention.

At the same time, I urge you to reject consideration of the following amendments:

Hyde/McCollum Amendment

The Hyde/McCollum amendment should be rejected as it weakens the Senate passed gun provisions, ignores prevention programs that are proven to be effective in keeping our children safe and out of trouble, and places children in danger in adult jails.

Schaffer Amendment

The Schaffer amendment would sunset the Juvenile Justice and Delinquency Prevention Act. The core requirements of the JJDP must be retained if we are to have a humane juvenile justice system which focuses on the protection and rehabilitation of children. Under the JJDP, states are required to ensure that children who have not committed criminal offenses are not placed in jails and prisons; that children are not placed in adult jails except in limited circumstances, and in those cases to be separated from adults by both sight and sound; and to address the disproportionate confinement of minority juveniles in the juvenile justice system. We should not sunset protection for children; the risk is too great.

Kucinich Amendment

The Kucinich amendment would expand the availability of juvenile records. Opening juvenile records and allowing for broad dissemination of these records would have devastating consequences for the future employment and education of many children. Two-thirds of children who commit a first offense, never commit another one. Expanding the availability of juvenile records will shut the door to a second chance. This amendment should be rejected.

On behalf of our nation's children, thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Marian Wright Edelman", written in a cursive style.

Marian Wright Edelman

CC: Members, House Rules Committee
Members, House of Representatives

June 9, 1999

The Honorable Henry J. Hyde, Chairman
House Judiciary Committee
2138 Rayburn House
U.S. House of Representatives
Washington, D.C. 20005

The Honorable John Conyers, Jr.
House Judiciary Committee
2138 Rayburn House
U.S. House of Representatives
Washington, D.C. 20005

Dear Chairman Hyde and Representative Conyers:

As the House Judiciary Committee considers juvenile justice legislation this week, we urge you and your colleagues to take steps to ensure that this legislation represents sensible juvenile justice policy. We encourage policy that does not place children at risk of assault or abuse in adult jails and effectively restricts their access to guns.

We urge the Committee to retain the legislation approved several weeks ago by the Subcommittee on Crime, H.R. 1501, as the principal vehicle for considering juvenile justice legislation at the full committee. This legislation was crafted in a bipartisan manner. Your co-sponsorship, along with all the members of the Subcommittee on Crime, ensured the unanimous approval of H.R. 1501 at the subcommittee level.

We also urge you to oppose any efforts to include provisions in this legislation which would harm children or place children at risk of assault and abuse in adult jails, such as provisions which would require states to try more juveniles as adults or remove current protections on disclosure of juvenile records. In the same vein, we urge you to support inclusion at a minimum of those portions of S. 254 pertaining to firearms regulation such as gun show background checks, handgun safety locks, and banning importation of high capacity ammunition clips.

We look forward to full and fair debate in the Judiciary Committee. We remain deeply concerned that some may seek to abuse the debate and the amendment process to attach extreme measures intended to preclude passage of the legislation. We look to you for leadership to defeat any and all amendments that would harm children or place children at risk of assault and abuse in adult jails in addition to any "poison pill" amendments. In the interests of our nation's children, we thank you in advance for your efforts to that end and look forward to working with you in the weeks ahead.

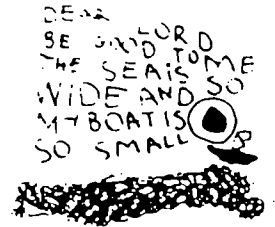
Sincerely,

Alliance for Children and Families
American Academy of Child and Adolescent Psychiatry
American Academy of Pediatrics
American Psychiatric Association
Bazelon Center for Mental Health Law
Child Welfare League of America
Children's Defense Fund
Coalition on Human Needs
Friends Committee on National Legislation (Quaker)
Mennonite Central Committee US Washington Office
National Association of School Psychologists
National Mental Health Association
Office for Church in Society/United Church of Christ
The Center on Juvenile and Criminal Justice
The Justice Policy Institute
Youth Law Center

June 8, 1999

The Honorable William F. Goodling
Chairman
Education & the Workforce Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable William Clay
Ranking Member
Education & the Workforce Committee
U.S. House of Representatives
Washington, D.C. 20515



Children's Defense Fund

Dear Representatives Goodling and Clay:

As the House Education and the Workforce Committee considers juvenile crime legislation this week, I would like to take this opportunity to share my thoughts with you.

Earlier this year, the Subcommittee on Early Childhood, Youth and Families approved juvenile crime legislation, H.R. 1150, with overwhelming bipartisan support. This legislation protects the core requirements of the Juvenile Justice and Delinquency Prevention Act (JJDP) by reauthorizing the act, which has served as sound juvenile justice policy for over 25 years. The measure also focuses attention on juvenile crime prevention.

The core requirements of the JJDP must be retained if our juvenile justice system is to protect and rehabilitate our nation's children who have come into contact with the law. Under the JJDP, states are required to ensure that children who have not committed criminal offenses are not placed in jails and prisons; that children are not placed in adult jails except in limited circumstances, and in those cases to be separated from adults by both sight and sound; and to address the disproportionate confinement of minority juveniles in the juvenile justice system (where it exists). To assure that children are not placed in danger of assault and abuse in adult jails, I urge you to strengthen the separation standard contained in the legislation.

In addition, H.R. 1150 emphasizes juvenile crime prevention by providing funds for juvenile crime prevention programs. The evidence is clear that we need to dedicate funds specifically for prevention programs if we are to see real dollars going toward programs that keep children safe and out of trouble. Unfortunately, when limited juvenile justice funds are available, prevention programs are too often shortchanged. The prevention block grant should be strengthened to assure that funds are specifically dedicated for prevention activities that serve at-risk youth designed to keep them safe and out of trouble in the first place.

On behalf of our nation's children, thank you for your consideration.

Sincerely yours,



Marian Wright Edelman

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Washington, DC 20001
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Fax 202 662 3510
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www.childrensdefense.org



Child Welfare League of America, Inc.

440 First Street, NW, Third Floor, Washington, DC 20001-2085 • 202/638-2952 • FAX 202/638-4004

June 8, 1999

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<http://www.cwla.org>

The Honorable William F. Goodling
House Education and the Workforce Committee
2107 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

On behalf of over 1,000 child serving agencies throughout the country that make up the Child Welfare League of America, I'm writing to support a number of changes to H.R. 1150, the Juvenile Crime Control and Delinquency Prevention Act. We fully support major elements of the legislation, i.e. to reauthorize the Juvenile Justice and Delinquency Prevention Act and to consolidate a number of block grants and programs into a single authority. We also are pleased to see the strong provision in the bill on the disproportionate confinement of minority youth.

We especially favor the creation of the Juvenile Delinquency Prevention Block Grant. However, we urge two needed improvements to this block grant. First, the block grant would be strengthened by making sure that at least 80% of the funds in it are used for primary prevention programs and only up to 20% for intervention activities or non-prevention purposes. Secondly, the legislation needs to state clearly that the prevention block grant and the state formula block grant are to be funded at equal levels.

We also urge your support to amend the bill to ensure strict separation of juveniles from adults in those instances when they are incarcerated in the same facility. Incidental contact must not be allowed. There are too many tragedies about juveniles being abused by adult inmates.

In addition, we must keep court records confidential. The experience of service providers and law enforcement officers alike shows that young people who get in trouble with the law can and do turn their lives around more frequently than not. Making records permanent and available to a broader segment of the public will make rehabilitation unnecessarily harder for many youths and those who work with them. These records should be kept confidential except only in the most serious cases and after a judge has ruled on the records.

We look forward to working with you as the Congress debates these issues. If you have any questions please do not hesitate to contact me.

Sincerely,

Karabelle Pizzigati
Director of Public Policy

June 8, 1999

The Honorable Henry Hyde
Chairman
House Judiciary Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable John Conyers
Ranking Member
House Judiciary Committee
U.S. House of Representatives
Washington, D.C. 20515

DEAR LORD
BE GOOD TO ME
THE SEA IS SO
WIDE AND SO
MY BOAT IS
SO SMALL

Children's Defense Fund

Dear Representatives Hyde and Conyers:

As the House Judiciary Committee considers juvenile justice legislation this week, I urge you to protect children in the juvenile justice system as well as keep children safe from guns.

Earlier this year, the Subcommittee on Crime approved a bipartisan juvenile justice bill, H.R. 1501, which would authorize the Juvenile Accountability Incentive Block Grant. Your cosponsorship along with every member of the Subcommittee on Crime ensured the unanimous passage of this legislation by the subcommittee. This legislation represents a substantial improvement over legislation considered in the last Congress, H.R. 3, in several critical ways. H.R. 1501 protects children from assault and abuse in adult jails whereas H.R. 3 did not. H.R. 1501 does not require very young children to be tried as adults while H.R. 3 did; H.R. 1501 maintains the confidentiality of juvenile records while H.R. 3 would have opened them to the public (possibly limiting future employment and educational opportunities for young offenders who many never commit another crime), and H.R. 1501 does not impose new onerous mandates while H.R. 3 included a number of new mandates in order for states to receive grant money.

As the Judiciary Committee reviews juvenile justice legislation, I urge you to consider H.R. 1501 as the principle vehicle for consideration and to resist any attempts to include provisions from H.R. 3 that will harm children. At a minimum, I urge you to include along with H.R. 1501 the gun safety provisions as approved in May by the Senate in S. 254, such as requiring handgun safety locks, requiring background checks at gun shows, and banning importation of high capacity ammunition clips. I believe these measures will go a long way toward addressing the high death toll of our nation's children – nearly 13 children die from gunfire in America every day.

On behalf of our nation's children, thank you for your consideration.

Sincerely yours,



Marian Wright Edelman

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Internet
www.childrensdefense.org

June 16, 1999

United States House of Representatives
Washington, D.C. 20515

Dear Representative:

We are writing to urge you to oppose the amendment to H.R. 1501 offered by Mr. Schaffer regarding the Office of Juvenile Justice and Delinquency Prevention.

The Schaffer amendment (#21) could result in sunseting authorization for the Juvenile Justice and Delinquency Prevention Act which has served as sound juvenile justice policy for the past 25 years. This Act includes the core requirements that have provided the most basic protections against harm to children in correctional facilities for the last 25 years. Sunseting JJDPA would also eliminate critical funding under the Act to states and communities for improvements to their juvenile justice systems.

This amendment is an attack on an agency that has demonstrated effectiveness in reducing juvenile crime and a threat to basic protections for young people in the juvenile justice system. OJJDP has provided critical funding, training, technical assistance, research, publications, monitoring, and evaluation for states to use in their efforts to prevent juvenile crime and provide needed programs for children and youth. In turn, there has been a dramatic decrease in juvenile crime, including violent crime, over the past five years. In addition, OJJDP has overseen the successful implementation throughout the country of basic protections for young people, particularly the prohibition on incarcerating children with adult inmates in jails and other adult facilities. This is not the time to eliminate an effective agency, but rather the time to bolster and continue our efforts to keep children safe and out of trouble.

Thank you for your consideration of this important issue.

Sincerely,

Child Welfare League of America
Children's Defense Fund
Girls Incorporated
National Association of Counsel for Children
National Association of School Psychologists
National Mental Health Association
National Network for Youth
YMCA of the USA
Youth Law Center



Child Welfare League of America, Inc.

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Liss M. Karet
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John C. Korz
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<http://www.cwla.org>

June 15, 1999

Dear Representative:

The Child Welfare League of America represents over 1,000 child serving agencies throughout the country. As the House of Representatives begins debate on juvenile justice reform, we urge you to keep the interests of our nation's children in the forefront of your deliberations and to respect the basic rehabilitative goal of the juvenile justice system. Children who get in trouble with the law deserve a chance at turning their lives around. The vast majority of troubled youth do benefit from this approach and go on to productive, law-abiding adulthood. We urge you to:

Include real and significant prevention funding. A growing body of evidence demonstrates that prevention works. Unfortunately, there is also a growing body of evidence that prevention programs do not get nearly the support and financial resources to realize their potential and reach the children who need them. The House should do at least as much as the Senate on funding for prevention. For example, 25 percent of the Juvenile Accountability Incentive Block Grant has been set aside for prevention, and a new program to support parenting as prevention has been included in the Senate bill.

Reject draconian measures. A new proposal for mandatory minimum sentences would likely impose harsher penalties on youths than on adults for the same offenses. For example, any juvenile who discharges a firearm in a school zone would get a minimum 10-year sentence. An adult charged with the same offense would not be subject to the same mandatory penalty.

Allowing federal prosecutors rather than judges the discretion to try children as adults, lowering the age to 13 in some cases at which children can be tried as adults in the federal system, and broadening the scope of federal crimes for which juveniles can be tried as adults would mean that more children would be placed in adult jails, and children could be placed in the same jail cells with adults. This places children at serious risk of abuse and assault, and runs counter to current studies which indicate that trying children as adults increases rather than decreases youth crime. We must not go back to the days of placing juveniles with adults in the same jails and in the same cells. We must maintain strict separation as in current law, and only make exceptions in emergencies.

Further, juvenile crime records should not be viewed by schools, employers and others, except in only the most serious cases and after a judge has ruled on the matter. Doing otherwise makes it impossible for children to leave their pasts behind them and have a real opportunity to become productive members of society.

Support efforts to reduce disproportionate confinement of minority youth.

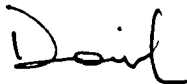
H.R. 1150 contains a fair and reasonable provision on disproportionate minority confinement (DMC). This measure should be supported and whatever legislation emerges must include provisions to address DMC.

Adopt sensible gun safety provisions. The House should support inclusion at a minimum of those portions of the Senate-passed bill, S. 254 pertaining to firearms regulation such as gun show background checks, handgun safety locks, and banning importation of high capacity ammunition clips. These common sense measures will help keep guns out of the hands of children and will help to address the high death toll of our nation's children.

Reject broadly written attacks on First Amendment rights. The proposed measure that would criminalize the distribution of "sexual or violent materials" to minors is so broadly written that its prohibitions could affect museums, libraries, schools and even news photographs or broadcasts.

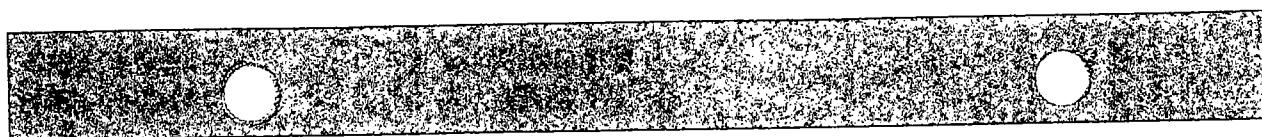
After the tragic episodes in Littleton, Colorado, Conyers, Georgia and elsewhere, there is no question that our nation's youth are in crisis. What would be an appropriate response? We suggest the House adopt H.R. 1501 and H.R. 1150 as they were approved by their respective subcommittees, with amendments to increase prevention funding, strengthen the separation provision, and add the Senate passed gun safety measures. This would be a strong, comprehensive bill that would take us a long way in addressing the needs of our nation's children. They deserve nothing less.

Sincerely,

A handwritten signature in black ink, appearing to read "David", with a stylized flourish at the end.

David Liederman
Executive Director

JJDP A



The Juvenile Justice and Delinquency Prevention Act (JJDPDA)

Under the Juvenile Justice and Delinquency Prevention Act, states are required as a condition of receiving federal funds to maintain four core protections for children:

✓ Deinstitutionalization of Status Offenders (DSO)

Status offenders may not be held in secure detention or confinement. (Status offenses are non-criminal offenses that only apply to children under 18, such as skipping school, running away, and breaking curfew.) There are several exceptions to this rule that allow for temporary confinement for up to 24 hours.

This provision seeks to ensure that status offenders who have committed no criminal offenses are not placed in jails and prisons, including adult jails and prisons, for extended periods of time. These children need community responses – including alternative schools, residential homes, counseling, mentors, and jobs – not jail.

✓ Separation

Children may not have *any* type of contact with adult offenders in confinement. This prohibition includes both 'sight' and 'sound' contact.

This provision protects children from abuse – physical and verbal – and physical assault. Under this provision, children can not be put in adjoining cells with adults, or placed in circumstances that allow them to be subject to threats and verbal abuse from adults in dining halls, recreation areas, and other common spaces.

✓ Removal

Children may not be detained in adult jails and prisons, except for limited times before or after a court hearing (6 hours), in rural areas (24 hours plus weekends and holidays), and in unsafe travel conditions (24 hours.)

This provision protects children from abuse – physical and verbal – and physical assault because children housed in adult prisons are 8 times more likely to commit suicide; 5 times more likely to be sexually assaulted; 2 times more likely to be assaulted by staff; and 50% more likely to be attacked with a weapon compared to children in juvenile facilities.

✓ Disproportionate Minority Confinement (DMC)

States are required to address the disproportionate confinement of minority juveniles in secure facilities.

This provision is important because it requires states to address the issue of minority confinement. Minority children are one-third of the youth population, but two-thirds of the children in long-term facilities. Studies indicate that minority youth receive tougher sentences and are more likely to be put in jail than non-minority youth *for the same offenses*.

ISSUES IN FEDERAL JUVENILE JUSTICE LEGISLATION:

THE DISPROPORTIONATE MINORITY CONFINEMENT (DMC) MANDATE:

What Is Meant By "Disproportionate Minority Confinement" and Why Should We Be Concerned?

Disproportionate minority confinement (DMC) is defined in the Juvenile Justice and Delinquency Prevention Act as existing when "the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups . . . exceeds the proportion such groups represent in the general population."¹

While the language of the JJDP Act specifically refers to juveniles who are "detained or confined," minority overrepresentation is often a product of actions that occur at earlier points in the juvenile justice system, well before placement in secure facilities. In the past 10 years, a growing body of evidence has documented the disproportionality at all stages of the system:

- ❑ Although African-American youth age 10-17 constitute only 15% of the U.S. population, they account for 26% of juvenile arrests, 32% of delinquency referrals to juvenile court, 41% of juveniles detained in delinquency cases, 46% of juveniles in secure corrections facilities, and 52% of juveniles transferred to adult criminal court after judicial hearings.²
- ❑ As the statistics indicate, the overrepresentation of minority youth is greater as youth go deeper into the system, with the result being that an African-American youth is twice as likely to be arrested and seven times as likely to be placed in a detention facility than a white youth.³

It would be easy to simply attribute this large discrepancy to the fact that young people of different racial groups commit different types of crimes. However, the data shows this not to be the case, with significantly higher rates of confinement for African-American juveniles for *every* offense group:⁴

- ❑ Black males are 6 times more likely to be admitted to state juvenile facilities for crimes against persons than their white counterparts, 4 times more likely for property crimes, and an astonishing 30 times more likely to be detained in state juvenile facilities for drug offenses than white males.
- ❑ Black youth are also much more likely to end up in prison with adult offenders. In 1995, nearly 10,000 juvenile cases were transferred to adult criminal court by judicial waiver, with cases involving black youth 50% more likely to result in waiver than cases involving white youth.
- ❑ A study of the juvenile justice system in California found that minority youth consistently receive more severe dispositions than white youth and are more likely to be committed to state institutions than white youth *for the same offenses*.⁵

What is the DMC Mandate?

In 1988, after hearing extensive testimony from such groups as the National Council on Crime and Delinquency and the Coalition for Juvenile Justice (formerly the National Coalition of State Juvenile Justice Advisory Groups) concerning the significant overrepresentation of minority youth in State juvenile justice systems, Congress amended the Juvenile Justice and Delinquency Prevention Act to require the States to address the disproportionate confinement of minority juveniles in secure facilities.

In the 1992 amendments to the Act, DMC was elevated to a core requirement, with future funding eligibility tied to State compliance. Specifically, the DMC mandate requires States to (1) identify the extent to which DMC exists in their State; (2) assess the reasons for DMC if it exists; and (3) to develop intervention strategies to address the reasons for DMC. The DMC mandate neither requires or suggests the use of numerical quotas for arrests or release of any juvenile from custody based on race.

Since 1992 prevalence studies to examine the likelihood of juveniles being incarcerated in a juvenile corrections facility were conducted in 16 States. These studies showed that African-American youth had the highest prevalence rates in 15 of the 16 States, and in two States it was estimated that 1 in 7 African-American males (compared with 1 in 25 white males) would be incarcerated before the age of 18.⁶ In addition, although minority youth constituted only about 32% of the youth population in the country in 1995, they represented 68% of the juvenile population in secure detention and 68% of those in secure institutional environments such as training schools.⁷

As of 1997, over 40 States had completed the identification and assessment phases and are either implementing or formulating intervention plans. These states are taking important steps to address the factors that contribute to minority overrepresentation in the juvenile justice system, and to date no State has lost any funding for failure to comply with the DMC mandate. As more states are completing the assessment phase, it is clear that DMC remains a serious problem requiring an ongoing and continuous effort to move us closer to a juvenile justice system which treats every youth fairly and equitably, regardless of race or ethnicity.

1. See § 223(a)(23) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

2. Sickmund, M., Snyder, H.N., *Juvenile Offenders and Victims: A National Report*. Washington, D.C. Office of Juvenile Justice and Delinquency Prevention, 1995.

3. *Id.*

4. Austin, J. and Krisberg, B. et. al., *Juveniles Taken Into Custody: Fiscal Year 1993*. Washington, D.C. Office of Juvenile Justice and Delinquency Prevention, 1995.

5. Jones, M. and Krisberg, B., *Images and Reality*. San Francisco, CA, National Council on Crime and Delinquency, 1994.

6. Hsia, H. and Hamparian, D., *Disproportionate Minority Confinement: 1997 Update*. Bulletin. Washington, D.C. Office of Juvenile Justice and Delinquency Prevention, 1998.

7. *Id.*

For More Information, contact the Youth Law Center at 202/637-0377.

Fact Sheet:

Disproportionate Minority Confinement

The National Network for Youth advocates maintaining disproportionate minority confinement (DMC) as a core requirement of the JJDP.

Under current law, the Juvenile Justice and Delinquency Prevention Act (JJDP) requires states:

- (1) to determine whether there is racial disparity in their juvenile justice system; and, if so,
- (2) to address that disparity *in whatever manner the state determines*.

This rather flexible state requirement ensures that the increasing problem of minority over-representation in the juvenile justice system is a focus of state effort.

How much racial disparity exists in the juvenile justice system?

Minority over-representation in the juvenile justice system is a significant problem in the majority of states across the country. A recent national report (dated December 1997) from Community Research Associates compiled data from states on juvenile arrests, juvenile secure detention and corrections, and juveniles in the adult system. In most of the states that reported *arrest* data (34 of 36), minority juveniles are over-represented at an average rate of 1.7 times their percentage of the state's juvenile (ages 10-17) population. In all states reporting *detention* data (44), except Vermont, minority juveniles are over-represented at an average rate of 2.8 times their percentage of the relevant population. In all states reporting *corrections* data (42), except Nebraska and Vermont, minority juveniles are over-represented at an average rate of 2.6 times their population percentage. In most states reporting *adult jail* data (19 of 23), minority juveniles are over-represented at an average rate of 2.5 times their population percentage. Finally, 18 of 23 states report over-representation of minorities in juveniles *transferred for trial as adults*. In fact, in most states (31 of 36 reporting), over-representation increases from the point of arrest through other points in the system to the final point of secure corrections.

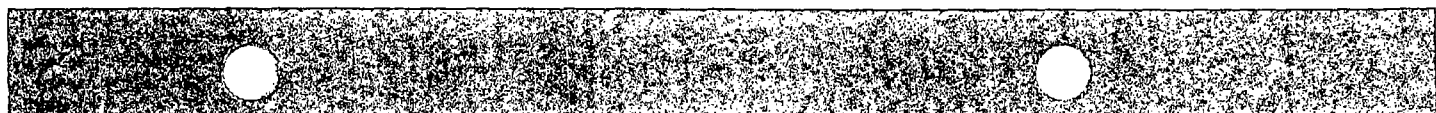
What have states done under the current JJDP requirement?

State activities to address racial disparity in their juvenile justice system have included efforts to: (1) increase the cultural diversity of program staff, through improved hiring and promotion policies and practices; (2) support training for juvenile justice system personnel, including law enforcement personnel, judges, and juvenile intake, detention and corrections workers; (3) develop, support and expand programs to prevent delinquency; (4) increase the availability and improve the quality of diversion programs; (5) develop community-based alternatives to secure detention and corrections facilities; and (6) review and change policies and procedures, including the development and monitoring of screening guidelines for secure detention.

Does the current JJDP requirement mean that states have to meet "quotas"?

NO! The JJDP DMC requirement encourages states to address the role that minority status plays in the juvenile justice system. This requirement does not establish or require numerical standards or quotas.

**Children in
Adult Jails**



Separation of Children and Adults in Adult Jails

The Children's Defense Fund

During debate on S. 254, the Violent and Repeat Juvenile Offender Act, Senators Feinstein and Chafee will offer an amendment to ensure that children are kept separate from adults in an adult jail.

Under current law, juveniles (who are not being tried as adults) cannot have any contact with adult inmates. When a juvenile is in an adult facility, that juvenile cannot be within "sight or sound" of any adult. That's a core requirement under the Juvenile Justice and Delinquency Prevention Act. Why? In the early 1970s, before there were protections for children who came into contact with our court system, a number of studies found that children in adult jails were subject to rape, assault, sodomy, murder, and other acts, which sometimes led to suicide. Congress responded to these studies in 1974 by enacting the JJDPa (and subsequent renewals) to ensure that children would be treated fairly by the juvenile justice system and would be kept safely away from adults in jail.

The Exclusion to "Prohibited Physical Contact"

Under S. 254, as currently drafted, physical contact is prohibited. However, there is an exclusion to the definition, which could lead to harm to children. The exclusion says, "*the term [prohibited physical contact] does not include supervised proximity between a juvenile and an adult that is brief and incidental or accidental.*" That standard is too weak. That standard is a loophole for harm for children.

- This standard would allow children to be paraded in front of adult inmates as they are being transported from one area of a jail to another. That means that every day the same youth could be required to walk by the adult cell block. Adult inmates would have a chance to tease, taunt, harass, use suggestive body language, expose themselves, spit, or otherwise scare juveniles as they are being transported through the facility.
- While juvenile offenders might appear tough on the outside, inside they are just children, scared stiff in an adult environment. A few years ago in a Kentucky jail, it was the practice of the facility to walk juveniles past the adult cell block in an effort to scare them from committing future crimes. Robbie Horn won't be committing future crimes; he committed suicide. Juveniles in adult jails are eight times more likely to commit suicide in an adult jail than in a juvenile facility.

Feinstein-Chafee amendment: The Feinstein-Chafee amendment would ensure that "prohibited physical contact" also includes that a juvenile cannot be in close proximity such as supervised brief and incidental parades by adult cells or other actions by adults to transport children from one area of a jail to another where they could be harassed or have contact with adults.

MYTHS: One of the most far-fetched rumors we have heard this week is that if the Feinstein-Chafee amendment is adopted, adult inmates would not be able to mow the lawn at an adult jail if juveniles are kept at the facility because juveniles might see them. That makes no sense. That's not what this amendment is about. Adult inmates could mow the lawn and it would be alright for juveniles to see them, it's just that juveniles couldn't be close enough for the adult to run them down with the lawnmower. Hence, "sight" is not the issue. The issue is physical proximity.

The Children's Defense Fund urges you to support the Feinstein-Chafee amendment to ensure that children are safe in adult jails in a common sense manner.

INCARCERATION WITH ADULTS IS NOT THE ANSWER FOR YOUTHFUL OFFENDERS

Incarcerating Youth in Jails with Hardened Criminals Results in Tragedies

Research demonstrates that children in adult institutions are five times more likely to be sexually assaulted, twice as likely to be beaten by staff, fifty percent more likely to be attacked with a weapon,¹ and eight times more likely to commit suicide² than children confined in a juvenile facility.

- In Ohio, six adult prisoners murdered a 17- year-old boy while he was incarcerated in the juvenile cellblock of an adult jail.³
- In Florida, a 17-year-old mildly retarded boy who had pleaded guilty to sexual battery was strangled to death by his 20-year-old cellmate. Both the youth's attorney and the sentencing judge had tried unsuccessfully to get the boy into treatment rather than prison.⁴
- In Ironton, Ohio, a 15-year-old girl ran away from home overnight, then returned to her parents, but was put in the adult county jail by the juvenile court judge "to teach her a lesson." On the fourth night of her confinement she was sexually assaulted by a deputy jailer. More than 500 children had been incarcerated in the jail over a three year period, many for truancy and other status offenses (which would not be crimes if committed by adults).⁵
- In Boise, Idaho, a 17-year-old boy was held in the adult jail for failing to pay \$73 in traffic fines. Over a 14-hour period, he was tortured and finally murdered by other prisoners in the cell. Another teenager had been beaten unconscious by the same inmates several days earlier. More than 650 children had been held in the jail over a 3-year period, 42% for traffic offenses and 17% for status offenses.⁶
- In LaGrange, Kentucky, a 15-year-old boy was confined in the adult jail for refusing to obey his mother. Soon after he got in the jail, he took off his shirt, wrapped one sleeve around his neck and the other around the bars of his cell, and hanged himself. Jail records showed that 1,390 children were held over a 4-year period, most for minor and status offenses.⁷
- In rural Glenn County, California, a 15-year-old girl was taken to the local jail for staying out past curfew. After several days, she had a detention hearing, but was not released. When she went back to her cell, she hanged herself.⁸
- In Knox County, Indiana, a 17-year-old girl was held in the county jail for shoplifting a \$6 bottle of suntan lotion. Despite a history of emotional problems, she was put in an isolation cell. Several hours later, she committed suicide by hanging herself.⁹

Prevention -- The research demonstrates that aggressive prevention programs and alternatives to incarceration are most effective in reducing crime. In fact, when asked to rank the long-term effectiveness of possible crime fighting approaches, police chiefs picked "increasing investment in programs that help all children and youth get a good start" as "most effective" nearly four times as often as "trying more juveniles as adults."¹⁵ Numerous studies have established the effectiveness of prevention programs which successfully address the risk factors that often lead to children engaging in delinquent activities.

- A study of the Big Brothers/Big Sisters mentoring program showed that children participating in the program were 46% less likely to initiate drug use, 27% less likely to initiate alcohol use, 33% less likely to commit assault, and skipped 50% fewer days of school than children who did not participate in the program.¹⁶
- A Columbia University study of low income housing developments in which Boys and Girls Clubs had been established showed that drug activity was 22% lower, and juvenile arrests were 13% lower than in similar developments without a Club.¹⁷
- A 1996 RAND study found that crime prevention efforts were three times more cost-effective than increased punishment. Arrests for students who participated in graduation incentive programs were 70% lower than non-participants.¹⁸
- Studies of a number of community recreation programs showed that the services are effective crime reduction investments that yield dramatic results. For example, Cincinnati's violence prevention, education, social and recreation programs resulted in a 24% drop in crime. A similar gang reduction program in Fort Worth, Texas, resulted in a 26% drop in gang-related crime.¹⁹

Congress should follow the advice of law enforcement professionals and others who have studied these issues and worked in the trenches and know that increased incarceration and jailing children with adults will not solve any problems and will only make the situation worse.

**FOR MORE INFORMATION
CONTACT THE YOUTH LAW CENTER
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Washington, D.C. 20005
(202) 637-0377**

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July, 1997

POLICY REPORT

The Risks Juveniles Face When They Are Incarcerated With Adults

by
Jason Ziedenberg and Vincent Schiraldi

Introduction

Close to a century ago, the juvenile justice system was developed because children were subjected to unspeakable atrocities in adult jails, and were returned to society as hardened criminals. As the system developed, it became clear that housing young offenders and adult prisoners together was self-destructive and, ultimately, self-defeating in that it helped create more career criminals.

Despite the lessons of history, Congress stands poised to reunite adults and juveniles in the same prison system. The new juvenile justice legislation calls for the jailing of juveniles with adult criminals, and would force state Correction Departments to transfer large numbers of young offenders to adult prisons in order to be eligible for federal funds. Child advocates, law enforcement officials, and criminologists have urged Congress to consider the destructive effects of placing youth in adult jails and prisons. A substantial body of research has evidenced that placing youth in adult institutions accentuates criminal behavior after release.¹

In a recent full page advertisement, sheriffs, district attorneys and legal professionals explained why they think the proposed legislation will make their jobs more difficult: "lock up a 13-year old with murderers, rapists and robbers, and guess what he'll want to be when he grows up?"² Even John Dilulio, head of the conservative Council on Crime in America—a group that has provided much of the, albeit flawed, statistical and analytical support for the juvenile crime bill—has come out against locking children up with adults. Dilulio wrote in *The New York Times* that "most kids who get into serious trouble with the law need adult guidance, and they won't find suitable role models in prison. Jailing youth with adult felons under Spartan conditions will merely produce more street gladiators."³

Juvenile Suicide rates in Adult Prisons

The most recent American study on juvenile suicide in adult institutions and youth facilities was done in 1980. Funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Michael G. Flaherty, a researcher with the Community Research Forum at the University of Illinois, surveyed the number of suicides in one thousand jails and juvenile detention centers.¹¹ The study found that the suicide rate of juveniles in adult jails is 7.7 times higher than those in juvenile detention centers. In stark contrast, the survey also found that the juvenile institution suicide rate was lower than that of the general population.¹²

A more recent report on prison suicides completed by the British Prison Reform Trust supports the findings of the Flaherty study. Analyzing data collected by Her Majesty's Prison Service, the Trust found that while people aged 15 to 21 made up only 13 percent of the prison population, they comprised 22 percent of all suicide deaths.¹³

These studies confirm what law enforcement officials have been telling Congress. Juvenile offenders are abused more regularly and driven to desperation in prison facilities more quickly than adults. Adult prisons and jails are ill-equipped to protect young offenders, and, unfortunately, create an adverse environment where they are more likely to be further victimized.

Sexual attacks in Adult Prisons

A 1989 study by a team of researchers compared how youth reported being treated at a number of juvenile training schools, with those serving time in adult prisons.¹⁴ Five times as many youth held in adult prisons answered yes to the question "has anyone attempted to sexually attack or rape you" than those held in juvenile institutions. Close to 10% of the youth interviewed reported a sexual attack, or rape attempt had been levied against them in the adult prisons, while in juvenile institutions the figure was closer to 1%.¹⁵

Another set of studies suggests which system is more likely to result in an inmate being raped. A group of researchers in 1983 found that among the residents of six juvenile institutions, 9.1% of youth inmates reported being a "victim" of a sexual attack.¹⁶ Conversely a 1996 study of adult prisoners in Kansas found that 15% of inmates reported to being "forced to have sex against their will."¹⁷

Surveys in other countries have found similarly higher rape rates for young offenders in adult institutions. An Australian survey shows that of 183 inmates aged 18 to 25 surveyed in a New South Wales prison, one quarter reported being raped or sexually assaulted, and more than half said they lived in fear of it.¹⁸ A recent Canadian survey showed that among 117 inmates surveyed in a federal prison, 65 incidents involving sexual assault were reported. Among those, the odds of victimization were eight times higher for a twenty year old prisoner than the oldest inmates in the system.¹⁹ Compared to non victims, the study reports, "victims tended to be younger, housed in higher security settings, and in the early part of their prison term."²⁰

The Justice Policy Institute recommends that Congress put much needed resources into a two year, state-by-state evaluation of the changes in America's juvenile justice system. We further recommend that Congress hold off on sweeping and ill-advised legislation at this time. During that period, it is our recommendation that funds be specifically allocated to research:

- The different reoffense rates of similar groups of youth offenders held in juvenile and adult institutions.
- The different rates of sexual and physical victimization and suicides of juveniles in adult institutions, as compared to the rate in juvenile centers.
- A comparison of the different rates of juvenile crime in states with a large number of youth offenders in adult jails, as compared to the rates of states with few or no juveniles in adult institutions.

No legislation that would reverse a century of juvenile justice reform and put thousands of young people into the adult prison system should be undertaken until this kind of research is done.

**This research was made possible through
generous funding from the
Center on Crime, Communities and Culture,
The Public Welfare Foundation, and the
Van Loben Sels Foundation**

**The Justice Policy Institute (JPI) is a
policy development and research body
that promotes effective and
sensible approaches to America's justice system.
JPI is a program of
The Center on Juvenile and Criminal**

The Stories of Children Confined In Adult Prisons

Excerpts from If I Get Out Alive, a Public Radio Documentary

"Dad, I'm really scared, scared that I will die in here. Please pray for me. I want to live with you when I get out...If I get out alive."

— Rodney Hulin, 16, writing to his father from an adult prison in Texas.
Eighty-three days after he arrived in the adult prison, Rodney Hulin hanged himself.

"Whatever happens in the dorm is between you and the inmates. If you come out there and tell the officer anything about it, "Go back to your bunk, we don't want to hear this." Somebody, um, hit you with a pipe in your head, or somethin' like that, they don't care about ya, you know, they just take you to the clinic, wrap you up, put you back in the same pod with the same men that did this to you."

"You get 'bout two or three people on you and then they bring out knives and force you to have sex with 'em. Okay, you got bunk beds, and, and one hand tied up to this pole, one hand tied up to this pole, the feet tied up to one pole. So you spread open and the man is doin' what he do. And, and they're and...after this man get up a next man get on. And after this man get up a next one goes on. And it's like that.

— Larry Lambert, first went to an adult prison at age 14

"My first day I got into about probably four or five fights. And I didn't win probably any of those four or five fights. Everything that I had that I brought with me was stolen from me while I was fighting. And they were like animals."

"They use a lot of ice picks and stuff like that...they walk up in the line when you're going to eat at the cafeteria, and they might walk up behind somebody and just stab 'em...when I wake up every mornin' I'm on the lookout for that, 24 hours a day."

— Steve Raker, first incarcerated in an adult prison at age 16

"When I first got there, there was this lady that...looked at me and said, "Look at my name tag, remember who I am, what I can do and how I'll do it." And I'm sitting here thinking, "Oh, my God, I'm not going to make it."

"There was this one girl, she had a very violent background. And she was constantly telling me things and, you know, she made sexual advances to me...I'd just sit there and shake. I think its always going to hurt, and no one can take that away."

— Donna Ratliff was locked in a women's correctional facility at age 14

If I Get Out Alive, is a report based on a one-year investigation of youth in adult prisons. The documentary was produced by Lichtenstein Creative Media, Inc. 1999.

Fact Sheet: Youth in the Adult Criminal Justice System

The National Network for Youth advocates maintaining current requirements for removing juveniles from adult jails, and for separating juveniles from adult inmates when, for brief periods of time, the juveniles are placed in adult facilities. The National Network for Youth also opposes policies that would result in more youth under age 18 being tried as adults either in federal or state courts.

Removal and Separation

Children who are locked up in adult jails are at great risk for abuse. They are five times more likely to be sexually assaulted, twice as likely to be assaulted by staff, and 50% more likely to be attacked with a weapon than children in juvenile facilities.¹ They are also eight times more likely to commit suicide.² One of the core protections of the JJDPa requires the removal of juveniles from adult jails and the separation from adult inmates when, for brief periods of time, juvenile are placed in adult facilities. All but two states are in compliance with the jail removal and separation requirements. States in compliance with these requirements have experienced a 96% reduction in cases of youth being inappropriately housed in adult jails since enactment of the JJDPa.

The most recent data shows that there are over 5,200 juveniles in adult correctional facilities (double the number of juveniles in adult facilities ten years before) including over 100 juveniles ages 13-15.³ Tragedies like these, which had become less frequent because of the current federal protections, can happen again if young people are locked up with adult inmates:

- ◆ A 15-year-old girl in Ohio who ran away from home was put in the county jail because the judge wanted to "teach her a lesson." This girl was then raped by the deputy jailer.⁴
- ◆ In Idaho, a 17-year-old boy who had not paid a \$73 traffic fine was held in an adult jail where he was tortured and eventually murdered by the other prisoners in his cell.⁵
- ◆ A 17-year-old boy in Ohio was murdered by six adult inmates who were able to enter the juvenile area and stab him 79 times with homemade knives.⁶
- ◆ A 12-year-old girl who hanged herself was one of six children to attempt suicide in a Milwaukee adult detention facility since it opened in April 1996.⁷

Besides being dangerous places for youth, adult jails do not provide the services needed to turn youth around. Many youth who come into contact with the juvenile justice system are in need of mental health services, social/family services and special education services, which are critical to the process of turning these children away from future crime. Adult jails are not prepared to offer these and other specialized services for young people, making adult jails an inappropriate place for juveniles.

Trying Children As Adults

Many states have recently changed their laws to try more children as adults.⁸ This "get tough" approach does not reduce recidivism; in fact, research demonstrates that trying more children as adults can actually have the opposite effect:

- ◆ Children tried as adults have a higher recidivism rate than comparable children tried as juveniles (children tried as adults re-offend sooner and more frequently, and commit

more serious new offenses).⁹ This is not surprising, since children can learn all the wrong lessons from the adult inmates with whom they may be placed.

- ◆ States with high rates of transferring children to adult courts do not have lower rates of juvenile homicide.¹⁰
 - ◆ The majority of children transferred to adult courts were charged with property or drug-related offenses, as opposed to serious, violent offenses or other offenses against persons.¹¹
 - ◆ The court process prior to sentencing in adult court takes longer than in juvenile court,¹² despite the developmental psychology findings that the swiftness of a sanction is crucial to meaningful behavior modification in children and adolescents.¹³
 - ◆ The conviction rate in adult courts is lower than that in juvenile courts¹⁴ (and some research indicates juvenile courts hand out longer sentences than adult courts).¹⁵
 - ◆ Deterrence, through potential sanctions in tough-sounding laws is particularly ineffective with regard to adolescents.¹⁶
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D.M.C.

August 5, 1999

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

Dear Senator Hatch:

On behalf of the civil rights and children's advocacy communities, we would like to take this opportunity to bring to your attention a matter of serious concern to us.

As you know, current law directs states to identify the extent to which disproportionate minority confinement (DMC) exists in their states, to assess the reason that it exists, and to develop strategies to address the disproportionate number of minority children in confinement. While the House-passed juvenile justice bill, H.R. 1501, retains the DMC requirement in the Juvenile Justice and Delinquency Prevention Act, the Senate-passed juvenile justice bill, S.254, substantially revises the current DMC language by removing any reference to minority groups. The Senate provision attempts to bury the issue, is offensive to many, and will significantly hinder efforts to remedy the disparate treatment of minority youth in our juvenile justice systems. We believe it is critically important to retain this core requirement in federal law.

It is well documented that in nearly every state, minority youth are over-represented at every stage of the juvenile justice system, particularly in secure confinement. Federal and state research -- ironically much of it funded through the provision which the Senate has substantially repealed -- has consistently shown that minority youth are more likely than non-minority youth to be detained for the same charges and minorities are detained at higher rates even when other factors are taken into account, such as arrest charge, prior offenses, gender and home living situation.

The research has shown that African American youth are 7 times more likely to be held in public detention facilities than white youth, and the incarceration rate for Hispanic youth nationwide is 60% greater than for white youth. In addition, a study in California showed that minority youth consistently received more severe punishments and are more likely to be incarcerated than white youth who committed the same offenses.

As a result of the current law requirement, 40 states to date are implementing or developing interventions plans to address DMC. The Department of Justice issued a report several months ago, "Disproportionate Minority Confinement: Lessons Learned From Five States" which acknowledged the differential treatment between white and minority juveniles, and highlighted some of the promising interventions undertaken in these five states to address the disparity. To our knowledge, despite claims by some members of Congress, no state has ever released a minority youth from secure confinement on the basis of race as a result of this provision, and all states are in compliance with the current DMC provision in federal law.

We strongly believe that by gutting the DMC provision, the issue of the widespread disparity in the treatment of minority youth will be minimized and current efforts underway in the states to remedy the disparate treatment of minority youth would be seriously undermined. We urge you to continue to support states in building on the progress that has been made to date by ensuring that the DMC provision is part of the final juvenile justice conference report.

We appreciate your consideration, and look forward to working with you on what we believe to be a most basic issue of fundamental fairness in the justice system.

Sincerely,

American Civil Liberties Union
Amnesty International
Center on Juvenile and Criminal Justice
Child Welfare League of America
Children's Defense Fund
Florida Avenue Baptist Church (Progressive National Baptist Convention Home Mission Board)
Friends Committee on National Legislation (Quaker)
Human Rights Watch
Justice Policy Institute
Juvenile Law Center
Latino Civil Rights Center
Lawyers Committee for Civil Rights
Leadership Conference on Civil Rights
LULAC
National Association for School Psychologists
National Association for the Advancement of Colored People
National Association of Council for Children
National Council of Churches
National Council of La Raza
National Council of Negro Women
National Network for Youth
National Urban League, Inc.
The Sentencing Project
Youth Law Center

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



Children's Defense Fund



Disproportionate Minority Confinement (DMC)

Children's Defense Fund • Issue Basics • April 1999

What is Disproportionate Minority Confinement (DMC)?

Under the Juvenile Justice and Delinquency Prevention Act (JJDP), disproportionate minority confinement (DMC) is defined as existing when the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups exceed the proportion such groups represents in the general population.

How widespread is DMC?

In virtually every state, minority youth are over-represented at every stage of the juvenile justice system, particularly in secure confinement, and receive disparate treatment by the system. For example, a study in California showed that minority youth consistently received more severe punishments and were more likely to receive jail time than white youth *for the same offenses*. Moreover, Black males are 6 times more likely to be admitted to state juvenile facilities for crimes against persons than their white counterparts, 4 times more likely for property crimes, and an astonishing 30 times more likely to be detained in state juvenile facilities for drug offenses than white males.

To comply with the DMC mandate, what are states required to do?

Current law directs states to identify the extent to which disproportionate minority confinement exists in their states, to assess the reason that it exists, and to develop intervention strategies to address the causes for disproportionate minority confinement. The law does not require and has never resulted in the release of juveniles, or require numerical quotas for arrest or release of any youth from custody based on race. No state's funding under the Juvenile Justice and Delinquency Prevention Act has ever been reduced as a result of non compliance with this provision.

What are states doing to implement DMC?

As a result of the current law requirement, 40 states to date are implementing or developing intervention plans to address DMC. The Department of Justice issued a report several months ago, "*Disproportionate Minority Confinement: Lessons Learned From Five States*" which notes the differential treatment of white and minority juveniles and highlights some of the promising interventions undertaken in these five states to address the disparity.

Should the DMC mandate be retained?

Yes, current DMC language should be retained. By removing the current law language, the widespread disparity in treatment would be significantly minimized and current efforts to remedy the disparate treatment of minority youth that are underway in the states would be seriously undermined. States are unlikely to continue to address the problem in the absence of the DMC language in current law.

June 9, 1999

The Honorable William F. Goodling
Chairman, House Education and Workforce Committee
2107 Rayburn House Office Building
Washington, DC 20515

The Honorable William Clay
Ranking Minority Member, House Education and Workforce Committee
2306 Rayburn House Office Building
Washington, DC 20515

Dear Congressmen Goodling and Clay:

On behalf of the civil rights and children's advocacy communities, we would like to take this opportunity to bring to your attention a matter of serious concern to us.

As you know, the Juvenile Crime Control and Delinquency Prevention Act of 1999 (H.R. 1150), which is currently pending before the House Education and the Workforce Committee, retains the core Disproportionate Minority Confinement (DMC) requirement in the Juvenile Justice and Delinquency Prevention Act. Current law directs states to identify the extent to which disproportionate minority confinement exists in their states, to assess the reason that it exists, and to develop strategies to address the disproportionate number of minority children in confinement. The DMC language in the current bill is identical to the language in last year's bill (H.R. 1818), which received bi-partisan support in the House when it was passed by a 414-16 vote. We believe it is critically important to retain this core mandate in federal law.

Unfortunately, S.254 -- the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999 -- which recently passed in the Senate, substantially revises the current DMC language by removing any reference to minority groups. This change attempts to bury the issue, is offensive to many, and will significantly hinder efforts to remedy the disparate treatment of minority youth in our juvenile justice systems.

It is well documented that in nearly every state, minority youth are over-represented at every stage of the juvenile justice system, particularly in secure confinement. Federal and state research -- ironically much of it funded through the provision which the Senate has substantially repealed -- has consistently shown that minority youth are more likely than whites to be detained for the same charges and minorities are detained at higher rates even when other factors are taken into account, such as arrest charge, prior offenses, gender and home living situation. This research has shown that African American youth are 7 times more likely to be held in public detention facilities than white youth. In addition, although surveys indicate that blacks and whites use drugs at about the same rates, African American youth are 30 times more likely to be confined in a state facility for drug offenses than their white counterparts. Thus, a study in California showed that

minority youth consistently received more severe punishments and were more likely to receive jail time than white youth who committed *the same offenses*.

As a result of the current law requirement, 40 states to date are implementing or developing intervention plans to address DMC. The Department of Justice issued a report several months ago, "*Disproportionate Minority Confinement: Lessons Learned From Five States*" which acknowledged the differential treatment between white and minority juvenile, and highlights some of the promising interventions undertaken in these five states to address the disparity. To our knowledge, despite claims by some members of Congress, no state has ever released a minority youth from secure confinement on the basis of race as a result of this provision, and all states are in compliance with the current DMC provision in federal law.

We strongly believe that by gutting the DMC provision, the issue of the widespread disparity in the treatment of minority youth will be minimized and current efforts underway in the states to remedy the disparate treatment of minority youth would be seriously undermined. We urge you to continue to support states in building on the progress that has been made to date by ensuring that the DMC provision in H.R. 1150 is a part of any juvenile justice bill considered by the full House.

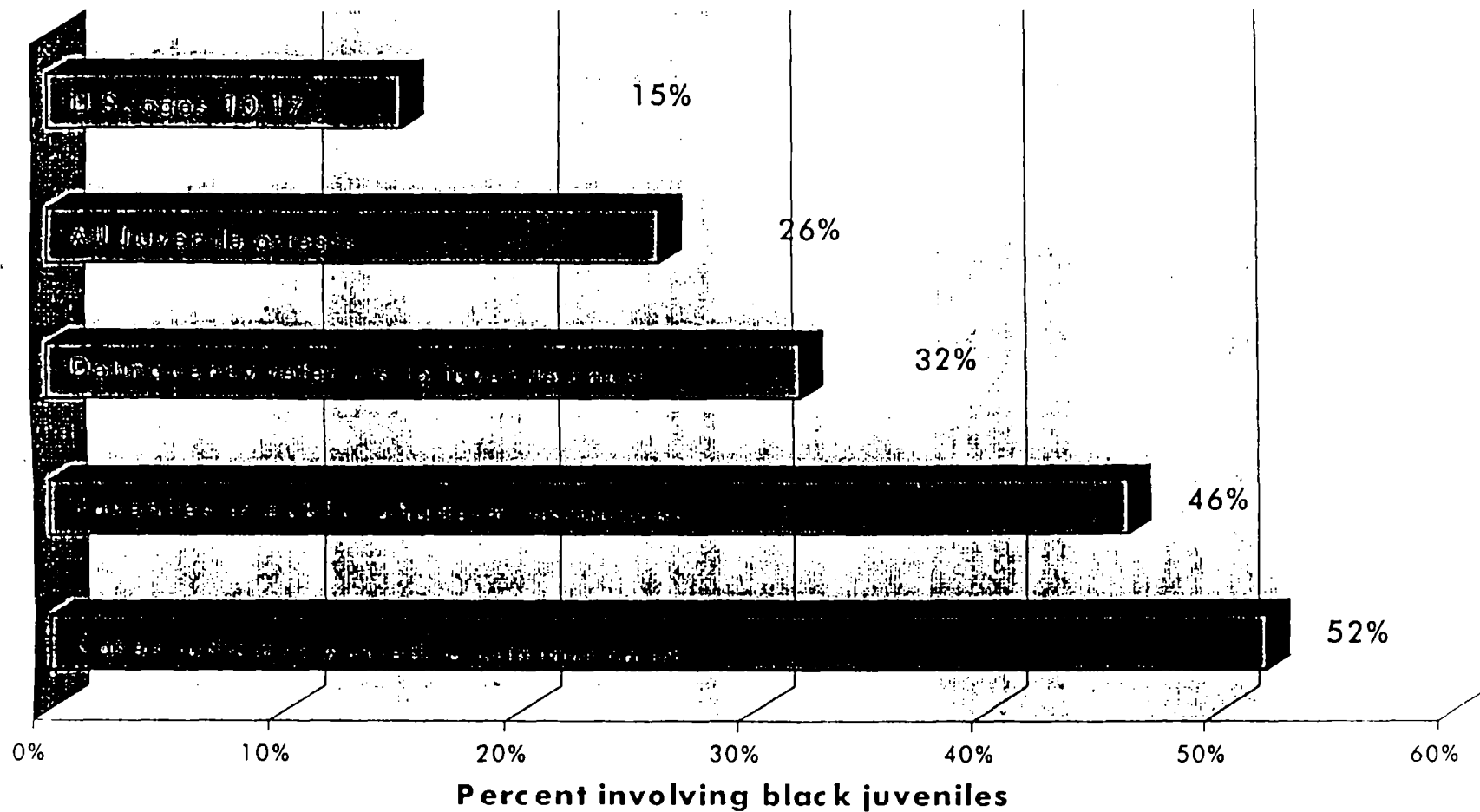
We appreciate your consideration, and look forward to working with you on what we believe to be a most basic issue of fundamental fairness in the justice system.

Sincerely,

American Civil Liberties Union
Amnesty International
Center on Juvenile and Criminal Justice
Children's Defense Fund
Child Welfare League of America
Human Rights Watch
Juvenile Law Center
Lawyers' Committee for Civil Rights Under Law
Leadership Conference on Civil Rights
League of United Latin American Citizens
NAACP
NAACP Legal Defense & Educational Fund, Inc.
National Council of La Raza
National Network for Youth
National Urban League, Inc.
The Sentencing Project
Youth Law Center

CC: Members, House Education and Workforce Committee
Members, House Judiciary Committee

BLACK JUVENILE REPRESENTATION AT DIFFERENT STAGES OF THE JUVENILE JUSTICE SYSTEM

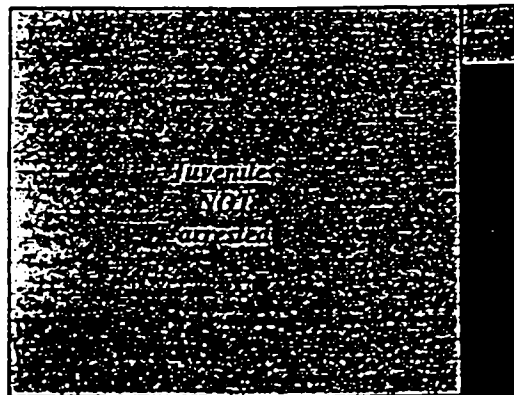


Source: Snyder, H. and Sickmund, M. (1995). *Juvenile Offenders and victims: A National Report*. Office of Juvenile Justice and Delinquency Prevention.

AMERICA'S ASSAULT ON MINORITY YOUTH

THE PROBLEM OF OVERREPRESENTATION OF MINORITY YOUTH IN THE JUSTICE SYSTEM

While juvenile crime, including violent crime, has decreased in recent years¹, legislators throughout the country have supported increasingly punitive responses to youthful misconduct. Thus, despite the fact that in an average year less than one-half of one percent of juveniles in the U.S. are arrested for a violent offense more than 40 states have changed their laws to allow increased prosecution of juveniles in adult criminal court (see chart#1). Moreover, in a radical change in federal policy, Congress is considering legislation that would also encourage states to prosecute even more juveniles as adults, allow young people -- even those accused of very minor misbehavior -- to be held in jails with adult inmates, allow records of juvenile arrests -- not necessarily convictions -- to be made available to schools (including colleges and vocational schools), and force school districts to create policies to require expulsion from school for regular possession of drugs, alcohol or even tobacco.²



Juveniles arrested for violent offenses

Juveniles arrested for all other offenses

CHART 1

These legislative changes are taking place despite clear evidence that more punitive approaches do not reduce crime. Indeed, careful research in Florida, and in New York and New Jersey, has demonstrated that juveniles sent into the adult system are significantly more likely to be rearrested than those kept in juvenile court, commit new offenses sooner, and commit more serious offenses than juveniles kept in juvenile court.³ Yet many legislators and other policymakers ignore the research, and there is little informed public debate on juvenile justice issues. Equally disturbing, the evening news is regularly filled with stories of young (usually minority) perpetrators, sometimes even referring to these youth as "superpredators." Consequently, the public consistently ranks "fear of crime" among its highest concerns, drops in crime notwithstanding.⁴

MINORITY YOUTH GET HIT THE HARDEST

The great weight of these punitive juvenile justice policies falls disproportionately on minority youth. For example, although African-American youth age 10 to 17 constitute 15% of the U.S. population, they account for 26% of juvenile arrests, 32% of delinquency referrals to juvenile court, 41% of juveniles detained in delinquency cases, 46% of juveniles in corrections institutions, and 52% of juveniles transferred to adult criminal court after judicial hearings (see chart#2).⁵

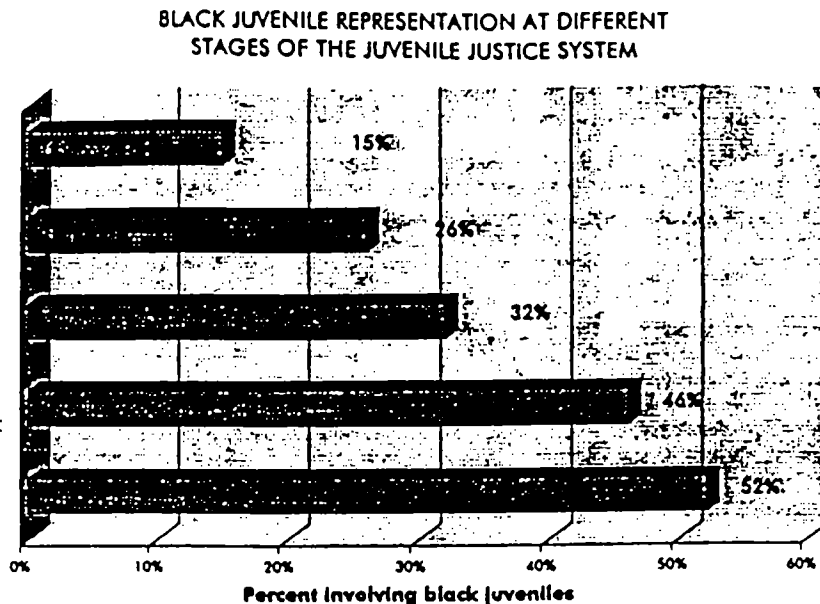


CHART 2

As the numbers indicate, the disproportionality is greater as youth go deeper into the system. In 1991 the long-term custody rate for African-American youth was nearly five times the rate for white youth,⁶ and in 1995 a black youth was seven times as likely to be held in a public detention facility as a white youth. During that same year, minorities constituted over 68% of the incarcerated population in training schools – the most restrictive, most secure public institutional environment for juveniles, and yet they were just under 32% of the general youth population.⁷

It would be easy to simply attribute this large discrepancy to the fact that young people of different racial groups commit different types of crimes. In 1992, though, there were significantly higher rates of admission of African-American juveniles for *every* offense group.⁸

crimes against persons – black males and females were 6 times more likely to be admitted to state juvenile facilities than their white counterparts.

property crimes – black males were almost 4 times more likely to be admitted to state juvenile facilities than white males and black females were almost 3 times more likely than white females.

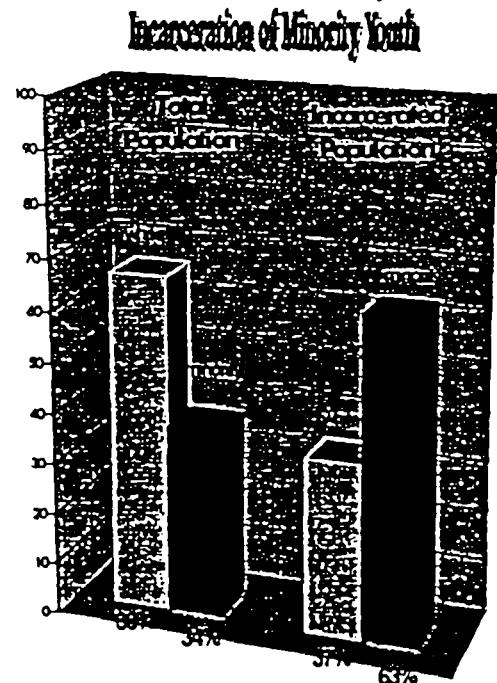
drug offenses – black males were confined at a rate 30 times that of white males.

In fact, among *all offense categories*, black youth were more likely to be detained than white youth during every year between 1985 and 1994.⁹ Minority youth are also more likely to be removed from their families than white youth. For example, between 1987 and 1991, out-of-home placements for non-white youth *increased* significantly for property, drug and public order offenses (29%, 30% and 32%, respectively). During that same period in these same categories, out-of-home placements for white youth noticeably *decreased* (by 1%, 29% and 15%, respectively).¹⁰ Black youth are also much more likely to end up in prisons with adult offenders. In 1995, nearly 10,000 juvenile cases were transferred to adult criminal court by judicial waiver.¹¹ Of these proceedings, cases involving black youth were 50% more likely to be waived than cases involving white youth. Overall, black youth were 52% of all the children and adolescents waived to adult court,¹² and in most states, minority juveniles were over-represented, on average, in these adult jails at a rate more than 2 ½ times their proportion of the total youth population.¹³

African-American youth are not the only juveniles disproportionately impacted by the juvenile justice system. The number of minority youth held in detention centers increased by 79% from 1983 to 1991, while the number of white youth increased by only 8%. In a single-day census of all juvenile detention centers on February 15, 1991, minorities made up two-thirds of the detained youth.¹⁴ Indeed, a study of the juvenile justice system in California found that minority youth, particularly African-Americans, consistently receive more severe dispositions than white youth and are more likely to be committed to state institutions than white youth for the same offenses (see chart #3).¹⁵

THE HARSH CONSEQUENCES

The disproportionate impact of the system on minority youth raises particular concerns in the context of the new laws increasing prosecution of juveniles as adults (see chart #3). Many young people prosecuted as adults will go to prison, some for many years. Yet a national survey of Departments of Corrections conducted for the National Institute of Corrections found that in more than half the states, young people under 18 are housed in the general prison population or, as the study said, "in protective custody if necessary."¹⁶ Thus, for many youth, the choice will be between the dangers of mixing with adult inmates or years of isolation in protective custody.



These disparate rates of involvement in the juvenile justice system, leading to incarceration, have a dramatic impact on minority youth as they become adults. The Sentencing Project has reported that one-third of all African-American males age 20 to 29 in the United States are under the jurisdiction of the criminal justice system -- either in jail, in prison, on probation, or on parole.¹⁷ In some cities, such as Baltimore and Washington, DC, the number actually approaches 50%.¹⁸ The primary factors contributing to this extraordinary level of social control over young black men are drug enforcement policies and prior criminal records of minority defendants. Since minority youth are disproportionately

impacted by the juvenile justice system, where they pick up those prior-records, the juvenile system in effect acts as a feeder system for minority youth into the adult criminal justice system.

The impact of these incredibly high rates of incarceration on minority families and communities is profound. For example, one of the consequences of an adult felony conviction in most states is the loss of voting rights for a period of time, and sometimes for life. Thus, as a result of increasing numbers of young black males being supervised in the criminal justice system, currently approximately 1.4 million black males (which represents 14%, or one in seven, of the 10.4 million black males of voting age) are now either currently or permanently disenfranchised from voting.¹⁹ It is clear that the cumulative impact of such large numbers of black males being excluded from the electoral process will increasingly dilute the political power of the African American community. Another significant impact of incarceration (or even simply arrest), is the reduction of potential future wage earning and employability. For example, Richard Freeman's study of the impact of imprisonment on earnings potential concluded that among a sample of youth incarcerated in 1979 there was a 25% reduction in the number of hours worked over the next eight years.²⁰ Therefore, as we see increasingly disparate and astoundingly high rates of incarceration for minority youth and adults, the result is likely to be a similarly disparate and devastating impact on the minority communities in which many of these young men live, with the removal of large numbers of potential wage earners, a disruption of family relationships, and a growing sense of isolation and alienation to the larger society.

A CLOSER LOOK AT WHAT'S HAPPENING AROUND THE COUNTRY

Compared to their representation in the general population, minority youth are overrepresented at all stages of the justice system. A closer look at various states across the country provides a glimpse of this bleak picture.

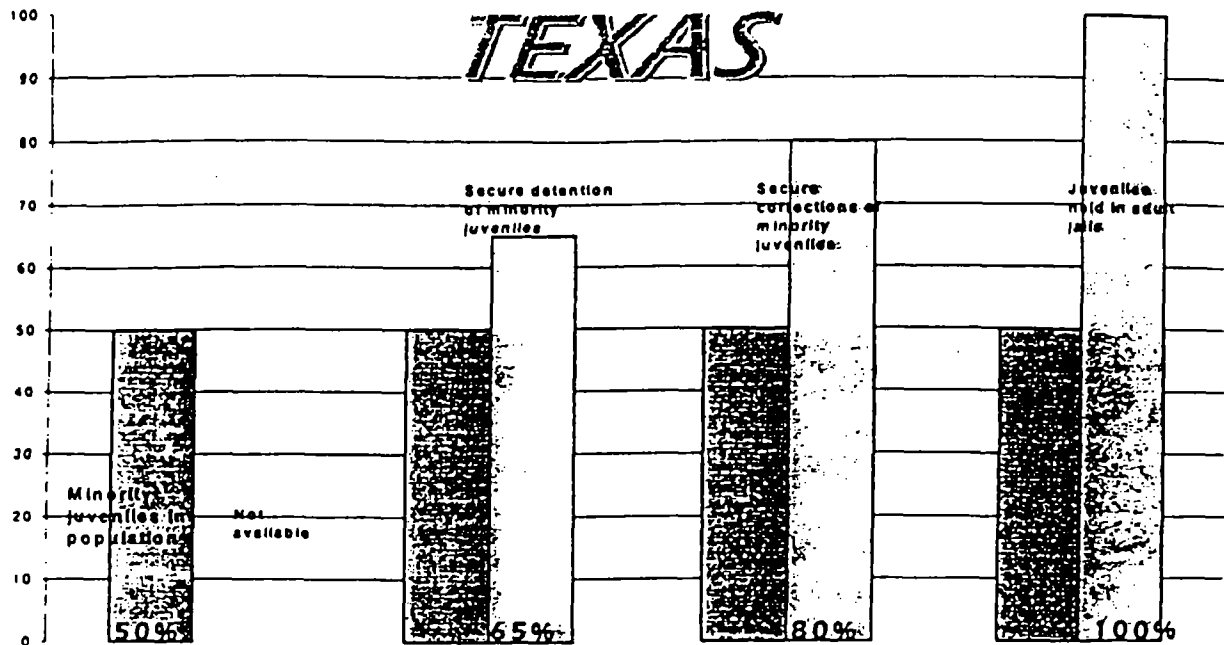
THE STATE PERSPECTIVE

In the majority of states, overrepresentation of minority youth increases from the early stage of arrest through other decision points in the system to the final stage of secure corrections or transfer to criminal court.²¹ When particular states are isolated and highlighted, the disparities and the amplification become glaringly apparent.

- On February 15, 1995, three states together – California, Ohio, and Texas – held nearly 40% (26,623) of all the juveniles in custody in public facilities throughout the nation.²²
 - ❖ California had the highest number of juveniles – 19,567 – in custody in public facilities.²³ Minorities comprise 53.4% of the youth population statewide but they account for 59% of all juveniles arrested, almost 64% of the juveniles held in secure detention and 70% of the juveniles placed in secure corrections.²⁴
 - ❖ In Ohio, there were 3,551 juveniles held in custody in public facilities.²⁵ Minorities comprise 14.3% of the youth population statewide but they account for 30% of the juveniles arrested and 43% of the juveniles placed in secure corrections.²⁶

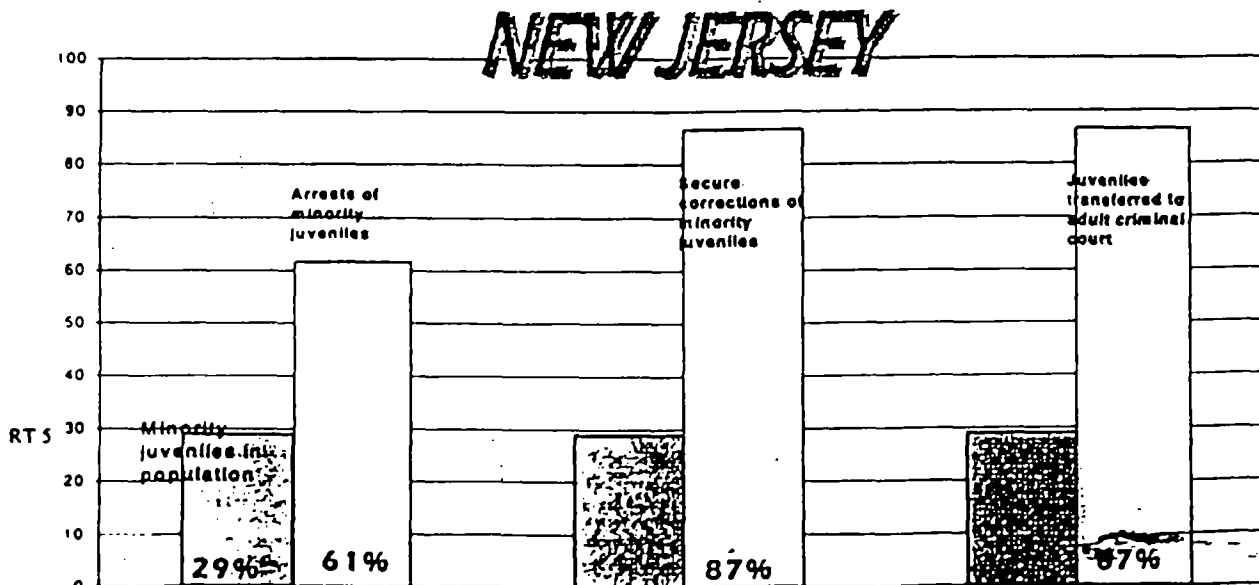
- ❖ In Texas, there were 3,505 juveniles held in custody in public facilities.²⁷ Minorities comprise 50% of the youth population statewide but they account for 65% of the juveniles held in secure detention, 80% of the juveniles placed in secure corrections, and 100% of the juveniles held in adult jails. (SEE CHART 4)²⁸

CHART 4



- ❖ In Virginia, minorities constitute 27% of the youth population statewide but they account for nearly 60% of the juveniles arrested and 57% of the juveniles placed in secure corrections.²⁹

- ❖ In New Jersey, minorities constitute 29% of the youth population statewide but they



= account for 61% of the juveniles arrested, 87% of the juveniles placed in secure corrections, and 87% of the juveniles transferred to adult criminal court (see chart #5).³⁰

- ❖ In Pennsylvania, minorities constitute 14.3% of the youth population statewide but they account for 30% of the juveniles arrested, 79% of the juveniles held in secure detention, over 87% of the juveniles placed in secure corrections, and 74% of the juveniles transferred to adult criminal court.³¹
- ❖ In Wisconsin, minorities constitute 11% of the youth population statewide but they account for 19% of the juveniles arrested, 61% of the juveniles placed in secure corrections and 75% of the juveniles confined in adult prisons.³²
- ❖ In Connecticut, minorities constitute 15.3% of the youth population statewide but they account for 46% of the juveniles arrested, 73% of the juveniles held in secure detention, 69% of the juveniles placed in secure corrections, 80% of the juveniles transferred to adult criminal court, and 100% of the juveniles held in adult jails.³³
- ❖ In Massachusetts, minorities constitute 17.2% of the youth population statewide but they account for 52% of the juveniles arrested, 65% of the juveniles held in secure detention, 57% of the juveniles placed in secure corrections, 81% of the juveniles held in adult jails, and 86% of the juveniles transferred to adult criminal court.³⁴

THE LOCAL PERSPECTIVE

- A 1993 study of the Dallas County juvenile justice system in Texas demonstrated overrepresentation of minority youth, especially blacks, at every stage of the process. As the degree of formal contact in the system increases, the overrepresentation of black youths becomes even more profound and disturbing. While only 25% of the county's population, black juveniles represent 38% of all arrests, 44% of all referrals to the Dallas County Juvenile Department, 57% of the youth in secure detention, 60% of the county's referrals to the Texas Youth Commission, and an astounding 64% of the youths certified to be tried as adults.³⁵
- A study conducted by the National Center on Institutions and Alternatives shows the devastating effects of the drug war in Baltimore, Maryland. A total of 18 white juveniles were arrested in the city of Baltimore in 1980 and charged with drug sales; by 1990, that number had actually dropped to 13 such arrests. In stark contrast, 86 black juveniles were arrested in Baltimore in 1980 for drug sales; by 1990, with the drug war in full swing, that number burgeoned to 1,304 black juveniles. *Black juveniles in Baltimore were being arrested for drugs at roughly 100 times the arrest rate for whites of the same age.*³⁶
- One-fourth of all black youngsters aged 15-17 living in Duval County, Florida had been arrested during the last four months of 1991 alone.³⁷ In 1994, the one adult jail in Duval County, Florida held upward of 500 teenagers under 18 years old – 85% of them were black.³⁸

BEYOND THE STATISTICS

While clearly these numbers tell the story of a generation of minority youth being arrested and incarcerated at frightening rates, this is really only part of the story. What the numbers don't and can't reveal is the physical brutality and danger of a system that treats young minority youth as if they are animals needing to be restrained and placed in cages. For example, although we know the shocking statistics that show that youth in adult institutions are five times more likely to be sexually assaulted, twice as likely to be beaten, and 50% more likely to be attacked with a weapon as youth in juvenile facilities,³⁹ without actually seeing the inside of such an institution or talking with a youngster who has been confined in an adult facility, we can't really appreciate these statistics. And what about what is happening on the streets of our nation's cities? Knowing that a black youth in Baltimore is 100 times more likely to be arrested for a drug offense than a white youth is clearly disturbing, but these numbers don't tell the story of young black youth being harassed, intimidated and sometimes beaten in the name of curfew enforcement and neighborhood drug sweeps. The numbers also don't tell the story of what's happening on "the other side of town," and how the treatment of white youth in our communities and justice systems may "look and feel" decidedly different than the way in which minority youth are treated.

**FOR MORE INFORMATION, CONTACT THE
YOUTH LAW CENTER AT (202) 637-0377.**

¹ Federal Bureau of Investigation, Uniform Crime Reports for the United States 1995 216 (1995); Michael A. Jones and Barry Krisberg, *Images and Reality: Juvenile Crime, Youth Violence and Public Policy* 37 (National Council on Crime and Delinquency 1994).

² Juvenile Crime Control Act of 1997 (H.R. 3); Violent and Repeat Juvenile Offender Act of 1997 (S.10)

³ Donna M. Bishop, *et al.*, "The Transfer of Juveniles to Criminal Court: Does It Make A Difference," 42 *Crime and Delinquency*, 171 (1996); Jeffrey Fagan, "Separating the Men From the Boys: The Comparative Advantage of Juvenile Versus Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders," *A Sourcebook on Serious, Violent and Chronic Offenders* (Sage Press 1995).

⁴ Frank D. Gilliam, Jr. and Shanto Iyengar, "Super-Predators or Wayward Youth? Framing Effects in Crime New Coverage," *The Dynamics of Issue Framing: Elite Discourse and the Formation of Public Opinion* (Cambridge Univ. Press, In press); Franklin D. Gilliam, Jr., *et al.*, "Crime in Black and White: The Violent, Scary World of Local News," 1 *Harvard International Journal of Press/Politics* (1996); Franklin Gilliam, Jr., and Shanto Iyengar, "Violence and Race in Television News Coverage of Crime: Does It Matter?" (Paper prepared for the Benton Foundation Conference on Media and Society, September 1995); Lori Dorfman and Katie Woodruff, "Local TV News, Violence, and Youth: who Speaks?" (Paper prepared for Media Matters: The Institute on News and Social Problems September 1995).

⁵ Howard N. Snyder and Melissa Sickmund, *Juvenile Offenders and Victims: A National Report* 91 (Office of Juvenile Justice and Delinquency Prevention 1995).

⁶ Id. At 166.

⁷ Melissa Sickmund, Howard Snyder and Eileen Poe-Yamagata. (August 1997). *Juvenile Offenders and Victims: 1997 Update on Violence*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, p. 42

⁸ James Austin, Barry Krisberg Robert, DeComo, Sonya Rudenstine, Dominic Del Rosario. (September 1995). *Juveniles Taken Into Custody: Fiscal Year 1993*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, Figure 4-3 and 4-4, p. 120-1.

⁹ Eileen Poe-Yamagata. (March 1997). *OJJDP Fact Sheet #56: Detention and Delinquency Cases, 1985-1994*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

¹⁰ James Austin, Barry Krisberg Robert DeComo, Sonya Rudenstine, Dominic Del Rosario. (September 1995). *Juveniles Taken Into Custody: Fiscal Year 1993*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, Figure 3-17, p. 77.

¹¹ Anne Stahl. (May 1998). *OJJDP Fact Sheet #79: Delinquency Cases in Juvenile Courts, 1995*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

¹² *S. 10 will hurt all children but especially minority children*. (January 8, 1998). Washington, DC: Children's Defense Fund.

¹³ Donna Hamparian and Michael Leiber. (December 1997). *Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report*. Champaign, IL: Community Research Associates, p.9.

¹⁴ Id. at 144.

¹⁵ Jones and Krisberg, Images and Reality, at 6.

¹⁶ Lis, Inc., Offenders Under Age 18 in State Adult Correctional Systems: A National Picture (National Institute of Justice 1995).

¹⁷ Marc Mauer. (January 1997). *Intended and Unintended Consequences: State Racial Disparities in Imprisonment*. The Sentencing Project

¹⁸ *Hobbling a Generation: African American Males in the District of Columbia's Criminal Justice System*, (NCIA, Washington, DC, March 1992); *Hobbling II, African American Males in Baltimore's Criminal Justice System*, (NCIA, Washington, DC, June 1992)

¹⁹ Marc Mauer (January 1997). *Intended and Unintended Consequences: State Racial Disparities in Imprisonment*. The Sentencing Project

²⁰ Id.

²¹ Donna Hamparian and Michael Leiber. (December 1997). *Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report*. Champaign, IL: Community Research Associates, p.21-22.

²² Joseph Moone. (November 1997). *OJJDP Fact Sheet #69: States at a Glance: Juveniles in Public Facilities, 1995*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

²³ Id.

²⁴ Donna Hamparian and Michael Leiber. (December 1997). *Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report*. Champaign, IL: Community Research Associates, p.21-22.

²⁵ Joseph Moone. (November 1997). *OJJDP Fact Sheet #69: States at a Glance: Juveniles in Public Facilities, 1995*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

²⁶ Donna Hamparian and Michael Leiber. (December 1997). Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report. Champaign, IL: Community Research Associates, p.21-22.

²⁷ Joseph Moone. (November 1997). *OJJDP Fact Sheet #69: States at a Glance: Juveniles in Public Facilities, 1995*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

²⁸ Donna Hamparian and Michael Leiber. (December 1997). Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report. Champaign, IL: Community Research Associates, p.21-22.

²⁹ Id.

³⁰ Id.

³¹ Id.

³² Id.

³³ Id.

³⁴ Id.

³⁵ Michael Lindsey. (January 16, 1996). *A Dallas County Report on the Overrepresentation of Ethnic Minority Youths in the Juvenile Justice System*. Dallas, TX: Raymine, Inc., p.20.

³⁶ Jerome Miller. (1996) *Search and Destroy: African American Males in the Criminal Justice System*. New York: Cambridge University Press, p.85-86

³⁷ Id.

³⁸ Id.

³⁹ Martin Forst, Jeffrey Fagan, and T. Scott Vivona, "Youth in Prison and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy," 40 Juvenile & Family Court Journal 9 (1989).



Shay Bilchik, Administrator

December 1998

JUVENILE JUSTICE BULLETIN

Disproportionate Minority Confinement: Lessons Learned From Five States

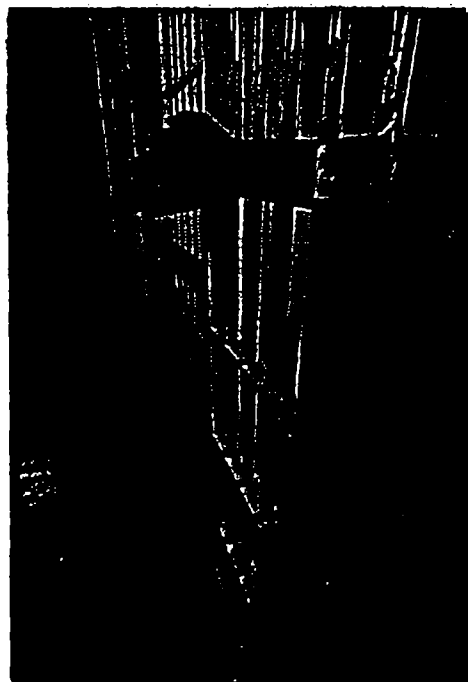
Patricia Devine, Kathleen Coolbaugh, and Susan Jenkins

The 1988 amendments to the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 (Pub. L. 93-415, 42 5601 *et seq.*) required that States participating in the JJDP Act's Part B Formula Grants program address the disproportionate confinement of minority juveniles in secure facilities. Specifically, this provision required State plans to assess the level of such confinement and implement strategies to reduce disproportionate minority representation where it is found to exist.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) created the Disproportionate Minority Confinement (DMC) Initiative in 1991 to help States comply with this State plan requirement of the Formula Grants program by testing various approaches for addressing disproportionate confinement. Through a competitive process, OJJDP selected five States—Arizona, Florida, Iowa, North Carolina, and Oregon—to pilot the DMC Initiative, which was carried out in two 18-month phases. During the first phase, the five States assessed the extent to which minority juveniles were disproportionately confined. During the second phase, the States designed and implemented corrective actions. OJJDP provided three types of assistance:

- ◆ Technical support for designing and developing the interventions, led by Portland State University's William Feyerherm, Ph.D., and a team of academic experts.
- ◆ Technical assistance for implementing the interventions.

The DMC Initiative also included a national evaluation, one objective of which



Grants to fund the DMC assessment and interventions in both phases.

From the Administrator

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is committed to ensuring that this country appropriately address situations where there is disproportionate confinement of minority offenders in the Nation's juvenile justice system. Accordingly, we should be concerned that nearly 70 out of 100 youth in secure confinement are minority juveniles—a rate more than double their percentage in the youth population.

In 1991, OJJDP established its Disproportionate Minority Confinement (DMC) Initiative to assist States in their efforts to address DMC issues, as provided by the Juvenile Justice and Delinquency Prevention Act. Subsequently, OJJDP awarded funds to five States (Arizona, Florida, Iowa, North Carolina, and Oregon) to test various approaches for addressing DMC.

This Bulletin describes how the pilot States assessed the extent to which minority juveniles were disproportionately confined by their juvenile justice systems, designed comprehensive DMC strategies, and implemented interventions to address identified problems.

While specific outcomes varied, the lessons learned from the collective experience of the pilot States should prove valuable in enhancing our efforts to reduce DMC and to guarantee appropriate treatment for every youth involved with the juvenile justice system.

Shay Bilchik
Administrator

was to document the lessons learned and factors in successful State and local efforts. This Bulletin summarizes lessons learned from the national evaluation, drawing on findings from related research and current State DMC practices as reported in OJJDP policy and management reports.

What Is Meant by "Disproportionate Minority Confinement"?

Disproportionate minority confinement is defined in the JJDP Act as existing when "the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups . . . exceeds the proportion such groups represent in the general population."¹ While the language of the JJDP Act specifically refers to juveniles who are "detained or confined," minority overrepresentation is often a product of actions that occur at earlier points in the juvenile justice system, well before secure placements. A growing body of literature has focused on the problem of selection bias² in juvenile justice systems. Much of this literature suggests that processing decisions in many State and local juvenile justice systems are not racially or culturally neutral. Minority juveniles are more likely than other juveniles to become involved in the system. This overrepresentation is apparent at various decision points in the juvenile justice system (arrest, detention, prosecution, and so forth) and may intensify as juveniles continue through the system (see, for example, Pope and Feyerherm, 1990, 1993).

The intent of the JJDP Act DMC requirement and its implementing regulation (28 C.F.R. Part 31) is to encourage States to address the role that minority status (defined in the regulation at 28 C.F.R. § 31.304 as African-American,

American Indian, Asian, Pacific Islander, and Hispanic) plays in juvenile justice processes, up to and including secure confinement, in a comprehensive manner. According to the research by Pope, Feyerherm, and others, multiple factors may contribute to disproportionate minority confinement, ranging from systemic racial bias to higher minority juvenile offense rates. Central to OJJDP's initiative, therefore, was the need to assess and address the full range of factors that could contribute to overrepresentation. The need for locally developed DMC solutions provided the context for the OJJDP pilot initiative.

Developing Solutions to Minority Overrepresentation

Each of the pilot States undertook a series of activities to assess and begin to develop responses to their respective DMC circumstances. These activities, which varied somewhat from one State to another, generally reflected the following problem-solving process:

- ◆ Assigning organizational responsibility for the DMC initiative.
- ◆ Analyzing juvenile justice data to identify the extent to which minority juveniles are overrepresented in State and local juvenile justice systems.
- ◆ Identifying the underlying factors that contribute to minority overrepresentation.
- ◆ Creating new and enhancing existing DMC interventions.
- ◆ Developing methods to measure the impact of DMC interventions.

These five steps, with examples of the pilot States' experiences and the lessons learned, are summarized in table 1 and described below.

Assigning Organizational Responsibility

A successful DMC initiative requires organizational capacity, commitment, leadership, and resources. Every DMC initiative should designate a lead agency to spearhead the effort. For the pilot

Table 1: Overview of the Five Pilot States' DMC Process and Lessons Learned

DMC Process	Lessons Learned
Assigning organizational responsibility.	◆ Determine the optimal lead organization. ◆ Appoint a coordinator. ◆ Allocate adequate resources.
Analyzing juvenile justice data.	◆ Acquire accurate quantitative data. ◆ Conduct systematic data analyses. ◆ Interpret data within the local social and political context. ◆ Engage stakeholders in the process.
Identifying underlying factors.	◆ Gather information on contributing factors. ◆ Synthesize contributing factors. ◆ Build consensus about contributing factors.
Creating and enhancing interventions.	◆ Clearly specify the role for State organizations. ◆ Focus on local planning and implementation. ◆ Involve all stakeholders. ◆ Develop multiple intervention strategies. ◆ Anticipate the transition from planning to implementation.
Developing methods to measure the interventions' impact.	◆ Design monitoring systems at the local level. ◆ Select an appropriate monitoring organization. ◆ Capture overall results and impacts.

¹ Juvenile Justice and Delinquency Prevention Act § 223(a)(23).

² Selection bias is a process in which justice systems scrutinize the actions or histories of minority juveniles more carefully or more strictly than they do the actions or histories of nonminority juveniles. For example, police officers are generally more likely to stop and question a group of minority youth, whereas they might simply glance at a similar group of nonminority youth.

Similarly, prosecutors have been shown to deem prior juvenile involvement on the part of a minority youth as a stronger indication of a predilection to crime and a danger to society than the same record attributed to a nonminority juvenile.

States, the first step was to designate the OJJDP grant recipient, which assumed overall responsibility for the DMC project. Because this responsibility ultimately must be assigned in every State, the general lessons learned from the pilot States can be instructive to other States' efforts.

Assigning responsibility for DMC-related initiatives entails (1) determining the lead organization, (2) appointing a coordinator, and (3) allocating adequate resources for both development and implementation.

Determine the Optimal Lead Organization

An essential first step in addressing DMC is to assign one agency lead responsibility for overseeing and coordinating the assessment of the problem and the intervention design and implementation. Because of the political, cultural, and social sensitivities associated with DMC, several factors should be considered when choosing a lead agency. These factors include location, political and funding stability, and the ability to provide ongoing leadership for the initiative. The lead agency should have credibility and standing with other juvenile justice system agencies to ensure the following:

- Collection and submission of data required for State and local DMC assessment.
- ◆ Analytical rigor in identifying factors that contribute to DMC.
- ◆ Organizational support for local interventions.
- ◆ Ongoing monitoring of DMC-related activities to determine their impact.
- ◆ Participation in the initiative by other juvenile justice agencies and related youth services.

One of the overriding responsibilities of the lead agency is to secure and maintain ongoing support at both State and local levels. The experiences of the pilot States reinforced the understanding that addressing DMC requires a long-term commitment from the juvenile justice system and other State and local community representatives. The responsible agency must, therefore, be positioned to ensure that DMC efforts can survive changes in administrations, political climate, and funding priorities. An agency's ability to secure and maintain necessary organizational relationships and funding will help serve stability for DMC objectives, and activities.

In four of the five pilot States, the lead agencies were the State agencies responsible for administering the JJDP Act. The lead agency in the fifth State, North Carolina, was the Division of Youth Services, which shared JJDP Act administrative responsibility with a sister State agency, the Department of Crime Control and Public Safety.

These State agencies assumed lead responsibility for DMC assessment and then supported counties and smaller organizational units in developing and implementing their DMC interventions. These agencies also provided technical assistance to support State, county, and local activities related to developing automated juvenile justice information systems. In some States, lead agencies coordinated activities throughout the State, encouraged collaboration among groups doing similar work, handled interactions with the media, and provided technical assistance.

The availability of technical assistance was of particular importance to the efficient and effective assessment of DMC and intervention identification and development. In reflecting on the process, the Juvenile Justice Specialist from Iowa noted that sufficient technical assistance early in the process can help avoid "reinvention of the wheel" by providing States with tools to successfully address DMC. He suggested that technical assistance on the following topics would greatly benefit the planning phase of any DMC initiative: descriptions of DMC model programs, "best practices" related to the development and implementation of DMC initiatives, and methods to develop minority community networks. These minority community networks would include local leaders who could advise projects and inform communities about DMC initiatives and programs.

Appoint a DMC Coordinator

One of the most critical tasks for each of the five lead agencies was to garner the support of other State and local agencies associated with DMC. The pilot States each designated one individual as the DMC coordinator to help engage all of the critical organizations and community representatives. A State-level staff person has the perspective to effectively promote DMC ideas and strategies at both the State and local levels. Also, State-level coordinators can assume responsibility for ensuring comprehensive DMC-related data collection, periodic reviews of state-

State Profile: Arizona

- ◆ Based on 1990 data from the Bureau of the Census, the State's racial composition was approximately 72 percent white, 10 percent Hispanic, 5 percent American Indian, 3 percent African American, and 1 percent Asian/Pacific Islander.
- ◆ The State Advisory Group assembled an interagency group of educators, local government officials, law enforcement representatives, and private and nonprofit service providers to advise it on DMC issues.
- ◆ The extent and nature of differential juvenile justice treatment varied between white and minority juveniles, among minority juveniles, and from point to point in the system.
- ◆ The initiative funded seven community-based programs targeting all at-risk populations in the State.

wide DMC initiatives, and dissemination of DMC information. The coordinator can also serve as a repository for and cataloger of local and statewide DMC data and other information.

Allocate Adequate Resources

The pilot States identified three important DMC-related resource requirements. First, the DMC identification process requires resources to cover DMC staff salaries and the collection and analysis of juvenile justice data. Second, providing interventions to address DMC can be resource intensive, particularly if new services must be created. Finally, resources are also required for ongoing monitoring of DMC activities and measuring their effects.

For the pilot States, the cost of the DMC assessment process was covered primarily by the OJJDP grant. When designing and implementing DMC interventions, however, all of the States encountered resource-related barriers. Moreover, none of the States fully resolved the problem of insufficient funding for juvenile services in general and DMC intervention services in particular. Nonetheless, recognizing the resource implications for DMC interventions

ensured that each of the States documented the extent of inadequate resources and attempted to address these resource issues.

Iowa, for example, addressed the issue of limited DMC resources by applying the OJJDP grant funds to the development of a program that integrated the services of several juvenile service providers. The goal of this approach was to reduce the number of agencies interacting with each juvenile and to assign primary responsibility for each juvenile to the most appropriate service provider. This cooperative, streamlined approach provided a model for improving the efficiency of service delivery and attracted the attention of other Federal grant programs, which resulted in the acquisition of additional resources.

Analyzing Data To Identify the Extent of the Problem

OJJDP has developed a standard equation for assessing the relationship between the proportions of minorities in the juvenile justice system and in the overall juvenile population. This equation, shown in Table 2, can be used to calculate rates of overrepresentation at any point in the

juvenile justice system, up to and including secure detention or confinement. The actual mathematical calculation is relatively straightforward. The experiences of the pilot States, coupled with lessons learned from the literature, suggest, however, that applying the calculation within a real world context is complicated by several factors. These factors include (1) acquiring accurate quantitative data about juveniles within the justice system and the broader community; (2) conducting systematic data analysis; (3) interpreting the data within the local social and political context; and (4) engaging stakeholders in the data analysis process.

The importance of two of these factors—conducting systematic analyses and interpreting data within the local social and political context—was a clear lesson from the pilot States. Systematically identifying the extent of minority overrepresentation and the associated decisions concerning juvenile justice system processing provides the basis for identifying the factors contributing to DMC and designing appropriate interventions. Lessons learned from this initiative, together with other findings from the DMC literature, provide guiding principles for assessing the extent and analyzing the causes of

disproportionate minority representation. One of the lessons from the pilot State experiences is that the problem of overrepresentation is reflected neither in a single decision nor in the presence or absence of a single attribute in a juvenile justice system. No single feature distinguished communities with high levels of overrepresentation from those with low levels. Even among communities with high levels of overrepresentation, no single decision point or decisionmaker was identified. Thus, understanding overrepresentation is a matter of understanding how a specific juvenile justice system operates, with all its interdependent parts, to result in more minority juveniles entering and penetrating further into the system. This knowledge is gained through the acquisition of accurate quantitative data and the application of a systemic analysis model. These principles and associated processes are described briefly below.

Acquire Accurate Quantitative Data

Accurate quantitative data about the number and characteristics of juveniles in the justice system are often difficult to obtain. Historically, information about juveniles in the justice system was agency specific, largely inaccessible, and lacking in standardization. The data typically used to assess DMC came from the records of juvenile justice and other relevant State agencies and, in some cases, from census records. As State and local juvenile justice systems moved to automated data collection systems, computerized records were frequently incomplete, missing and/or inaccurate, and rarely comparable across jurisdictions. The move by State and local juvenile justice agencies to develop more adequate information systems ironically creates a potential problem for analyzing DMC across local systems. The more reporting systems "aggregate up"—from local, to county, to State—the more likely that evidence of racial disparity may be lost or hidden (Pope and Feyerherm, 1993).

Conduct Systematic Data Analysis

The experiences of the pilot States, reinforced by significant research, suggest that a DMC assessment must employ a systemic approach. In doing so, overrepresentation is defined broadly as a situation in which minority juveniles have unequal probabilities (as compared with nonminority juveniles)

Table 2: Using an Index Value as a Measure of DMC

Minority overrepresentation index:

$$\frac{\% \text{ of minority juveniles in the juvenile justice population}}{\% \text{ of minorities in the overall juvenile population}}$$

An index value of:

- ◆ More than 1 indicates minority overrepresentation.
- ◆ 1 indicates proportional representation.
- ◆ Less than 1 indicates minority underrepresentation.

The following example shows how the index value is calculated and interpreted.

	Minority juveniles	Juvenile population	Percent minority
Justice-involved juveniles	640	2,000	32%
Overall juvenile population	720	4,500	16%

The index value is calculated as $32\% \div 16\% = 2$. An index value of 2 indicates that minority youth are represented among justice-involved juveniles at twice their rate in the overall juvenile population.

of negative processing decisions within the juvenile justice system. As discussed previously, focusing only on end result—confinement—instead on the overall process that creates overrepresentation limits understanding of the DMC problem, the contributing factors, and the need for a full range of coordinated interventions.

National research efforts have found that the process of quantifying disproportionality must examine multiple decision points in juvenile processing because race/ethnicity effects at any one point may be canceled out or enhanced at a subsequent point. For a more complete picture of how minority status does or does not influence confinement and other juvenile justice processing decisions, multiple decision points must be examined (Pope and Feyerherm, 1993).

To fully disentangle the effects of race/ethnicity on juvenile justice system decisionmaking, an analytic model developed by Feyerherm and colleagues was refined during the OJJDP DMC initiative. This generic model depicts the major decision points common to virtually all juvenile justice systems, including:

- ◆ Decision to arrest a juvenile, who then appears in juvenile court for intake processing.
- ◆ Decision at intake either to dispense or to process further.
- ◆ Decision to remove the juvenile from the current living arrangements during processing (e.g., detention or shelter home care).
- ◆ Decision to file a formal petition of delinquency, engage in other formal action such as a citation or fine, or seek informal resolution such as a warning or a remand of a juvenile to his or her parents without going to court.
- ◆ Decision to resolve the case by informal probation, formal probation, or custody transfer. Informal probation includes diversion programs and other mandated activities for nonadjudicated youth. Formal probation is for adjudicated youth who are not assigned to detention or confinement but have a court-appointed probation officer and court-defined responsibilities (e.g., frequency and type of contact, frequency of urinalysis, etc.).

Decision point charts specific to a particular juvenile justice system can be used in combination with the analysis

State Profile: Florida

- ◆ Based on 1990 data from the Bureau of the Census, the State's racial composition was approximately 73 percent white, 13 percent African-American, 12 percent Hispanic, 1 percent Asian/Pacific Islander, and 0.3 percent American Indian.
- ◆ The grantee for the DMC Initiative was the Florida Department of Health and Rehabilitative Services until the newly created Department of Juvenile Justice became the lead agency.
- ◆ African-American juveniles were overrepresented at every stage of the juvenile justice process.
- ◆ The intervention strategy focused on intake assessment. Reducing the disproportionate representation of minority juveniles at this early stage was expected to have a positive effect throughout the system.

model to specify all possible decision combinations and summarize the operation of the overall system. This approach helps to identify the decisions, or combinations of decisions, potentially influenced by race/ethnicity. Through probability analysis, the effects of race/ethnicity at each decision point, or combination of points, in the juvenile justice system can be assessed for minority overrepresentation.³

This analysis model can also be used to identify the probability of moving from one point in the juvenile justice system to another. For example, if there is an intake referral and the juvenile is detained (e.g., removed from current living arrangement), the probability that a petition will be filed can be calculated. A comparison of these probabilities for majority and minority juveniles may identify combinations of decisions that are likely to impact minority juveniles differently. In addition, the model provides the opportunity to identify the extent to which the overall system appears to operate differently for majority and minority juveniles by calculating the "accumulation" of small race/ethnic-related discrepancies.

Several of the pilot States applied this model to the assessment of DMC within their juvenile justice systems to support their analysis of disproportionate minority representation. This approach also helped to assess the availability of appropriate data for the analysis because the model requires specific juvenile justice data for each juvenile justice processing decision.

³For a full description of the analytic model, see Pope and Feyerherm, 1993.

Interpret the Data Within the Local Context

Researchers have long recognized that findings from quantitative data analysis are meaningful only if they accurately reflect the context of the information. Context is revealed through the collection of qualitative information about the juvenile justice system and the community. The importance of interpreting the data within the local social and political context was reinforced by the pilot State experiences. For example, one site's quantitative data indicated that minority juveniles were not attending their diversion programs and, ultimately, were confined. An examination of client case records revealed, however, that many juveniles were referred to diversion programs far from their homes and lacked transportation to and from the programs. An analysis of the client case records showed that these juveniles were noncompliant because of physical barriers to program completion. This example illustrates how qualitative information can support meaningful interpretation of the quantitative data analysis.

Accurately identifying the scope and intensity of DMC requires an understanding of social and political forces that may account for, or artificially inflate or suppress, the appearance of disproportionality. For example, in one pilot State, the DMC incidence increased from 1990 to 1994. An investigation of the contributing factors revealed that this time period coincided with the "war on drugs" and the resultant intensification of daily law enforcement activities within urban areas. A closer examination of the county data revealed that the largest increases in disproportionate

arrest rates were in those counties with urban populations and that increases in arrests were associated with drug-related offenses. Although the explanation of increased minority confinement does not minimize its importance, the social and political events that precipitated the increase help to put it in perspective and identify opportunities for DMC interventions.

Engage Stakeholders in the Data Analysis Process

Disproportionate minority confinement encompasses wide-ranging issues involving many stakeholders: policymakers, juvenile justice system professionals, the broad community of service providers, minority juveniles, and their families. Among the DMC pilot States, the lead agencies sought full participation of all key stakeholders to assist in data collection and to support the analysis and interpretation of results. Stakeholder participation increased access to data under their control and their confidence in the quality of data provided. This, in turn, appeared to increase stakeholders' consensus as to the meaning of the data and their commitment to the findings from the data analysis. Creating a common understanding of DMC also promoted stakeholder agreement about factors contributing to DMC. By jointly addressing DMC issues, key stakeholders learned to work together and build a foundation for future collaboration on DMC, the contributing factors, and the need for interventions.

Identifying Underlying Factors

Devising appropriate, community-based DMC intervention strategies requires an accurate assessment of the factors that contribute to minority overrepresentation. Because the contributing factors are known to be complex and interrelated, all key system representatives must be consulted and engaged in the problem-solving process.

Although specific activities varied, the pilot States all used a similar approach to identify factors that potentially contribute to DMC. The DMC Phase I assessment activities and the early Phase II planning activities included extensive data gathering and opinion polling about the evidence of DMC and perceived reasons for its occurrence. Once potential DMC contributing factors had been identified, each State DMC coordinator synthesized his or

her respective information and attempted to develop consensus about the most critical factors, which could then be addressed through DMC interventions.

The Phase I analysis indicated that the extent of DMC varied among counties and/or local jurisdictions. Each State, therefore, targeted its DMC efforts in a location showing the highest rates of overrepresentation and/or the largest minority populations. DMC coordinators focused their attention on these areas to identify all possible contributing factors.

Gather Information on Potential Contributing Factors

The DMC coordinators employed several information-gathering strategies to expand the understanding of DMC within specific communities and for the State as a whole. These strategies included:

- ◆ Public forums, hearings, and town hall meetings with representatives of the juvenile justice system and of education, social service, civic, religious, and community groups.
- ◆ Interviews and mail surveys of staff and managers within juvenile justice agencies.
- ◆ Interviews with minority juveniles and their families.
- ◆ Case record reviews within local juvenile justice agencies.

Information collected from public meetings, surveys, interviews, and case records revealed a wide array of perceptions about DMC contributing factors, which covered the gamut from systemic racism to criminal predilection. In other words, perceptions of DMC causes ranged

from "blaming the system" to "blaming the individual" or, as some would argue, "blaming the victim." The fact that those involved with or touched by DMC hold such extremely divergent views necessitated a full analysis and synthesis of the factors identified and then consensus-building among these individuals.

Synthesize Contributing Factors

Although perceptions of the factors that contribute to DMC varied within and between local communities, the inventory of all possible factors was consistent across the five pilot States. The overall list of contributing factors generally fell into four interrelated domains:

- ◆ The juvenile justice system.
- ◆ The educational system.
- ◆ The family.
- ◆ Socioeconomic conditions.

Examples of the contributing factors in each of these domains and their interrelationships are illustrated in figure 1 and described below.

The Juvenile Justice System. Community representatives from each of the pilot States, including minority juveniles and their families, identified racial/ethnic bias within the juvenile justice system as contributing to DMC. Typically, this bias was viewed as unintentional rather than overt. For example, many State-level participants concluded that societal biases were mirrored in the juvenile justice system, resulting in minority overrepresentation. Other examples of juvenile justice system contributing factors included the lack of adequate diversion programs for minority



juveniles, the lack of culturally appropriate juvenile services, a lack of cultural understanding among juvenile justice system and perceived barriers to parental advocacy because of minority parents' often limited understanding of the system.

The Educational System. All of the local community representatives identified some aspect of the educational system as contributing to DMC. Opinions diverged, however, when attributing causality. In general, perceptions focused on either the failure of schools to adequately serve minority juveniles or the failure of minority juveniles to fully participate in the educational system. Specific examples of educational system failings included inadequate early childhood education, inadequate programs to prevent students from dropping out early, and a lack of appropriate cultural education, together with minority juvenile truancy, suspensions, and expulsions.

The Family. The most sensitive and controversial of factors believed to contribute to DMC were family composition and family functioning. Single-parent families and their often associated high poverty levels were recognized as potential contributing factors, because justice-involved minority juveniles reside disproportionately in single-parent, low-income households. State data also indicate that minority juveniles receive more out-of-home placements than do majority juveniles, partly because of perceptions that minority family home environments are less stable. Similarly, the lack of strong family support may contribute to juveniles' succumbing to negative peer pressure, including gang involvement, substance abuse, and other delinquent behaviors, which, in turn, may contribute to increased delinquent behaviors.

Socioeconomic Conditions. A majority view held that economic and/or social conditions contribute to DMC. Perceived economic factors include the higher likelihood of low incomes, few job opportunities, and urban density among minority families. Contributing social factors include a lack of cultural awareness among the majority community, coupled with a lack of positive role models and social opportunities for minority juveniles, and limited social support services in minority neighborhoods.

Taken together, these four overarching domains—the juvenile justice and educational systems, the family, and prevailing socioeconomic conditions—provide a framework for identifying the underlying

State Profile: Iowa

- ◆ Based on 1990 data from the Bureau of the Census, the State's racial composition was 95 percent white, 2 percent African-American, 1 percent Hispanic, and 1 percent members of other racial groups.
- ◆ A task force of juvenile justice professionals from the State and county levels, and the Division of Criminal and Juvenile Justice Planning guided the DMC State project and provided recommendations to the lead agency.
- ◆ Quantitative data analysis indicated that minority juveniles were overrepresented in secure facilities and that they tended to experience longer stays than did white juveniles.
- ◆ Qualitative data analysis from four pilot counties indicated that the effect of race/ethnicity on decisionmaking varied by decision point and county and that unintentional decisionmaking bias, social factors, and community factors were significant contributors to DMC.
- ◆ Interventions focused primarily on community-based problem identification and solutions.

causes of minority overrepresentation, as illustrated in figure 1. This initiative and other research demonstrate that minorities are disproportionately affected by poverty and that educational systems do not adequately serve minority juveniles. The data also clearly show that racial bias exists in some juvenile justice systems, if only because of inadequate cultural awareness. Although causality cannot be ascribed, minority juveniles tend to be disproportionately subjected to multiple social, economic, and educational stressors. To the extent that these stressors contribute to negative behaviors, and if the juvenile justice decisionmaking process is in any way influenced by racial/ethnic characteristics, then disproportionate minority involvement in the juvenile justice system will result.

Build Consensus About Contributing Factors

Although individuals' opinions varied as to specifics, significant agreement existed among all participants that DMC is associated with multiple underlying factors that must be addressed with multiple interventions. The consensus-building process that was employed in the pilot States was extremely important in moving groups of diverse individuals toward common understanding and agreement on these highly sensitive DMC issues. The process of listening to, hearing, and addressing individual concerns helps to neutralize divergence and enables disparate community representatives ultimately to work together on strategies to address their DMC problem. All members of the

community are needed for the successful implementation of solutions to DMC, and using an inclusive approach encourages each of the diverse players to contribute to the solution. Specifically, inclusion helps to keep State-level participants involved in monitoring progress and offering appropriate technical assistance and to keep community-level participants involved in ensuring client-level "buy in" and participation.

Creating New and Enhancing Existing DMC Interventions

One of the primary objectives of the DMC initiative was to design a broad range of strategies to address minority overrepresentation. During the DMC initiative, the pilot States' strategies were only partially implemented. As a result, a full assessment of the interventions' effectiveness was not possible at the time. Critical lessons were learned, however, about the DMC planning process and about factors that support a smooth transition from planning to implementation. Collectively, these lessons stress how important it is to:

- ◆ Clearly specify a role for State organizations.
- ◆ Focus on local planning and implementation.
- ◆ Involve all significant juvenile justice and community representatives.
- ◆ Develop multiple intervention strategies.

- ◆ Anticipate the often protracted transition from planning to implementation.

Examples of pilot State experiences associated with each of these lessons are described below.

Clearly Specify a Role for State Organizations

Although the focus of DMC interventions must be local, State organizations can play a significant role in supporting local planning and implementation efforts. In all of the pilots, staff at the State level took responsibility for developing statewide DMC plans, conducting and monitoring the Phase I data collection and analysis, and supporting the development of Phase II strategies.

Oregon's approach provides a model for clearly delineating State and local roles. In Oregon, the State DMC team:

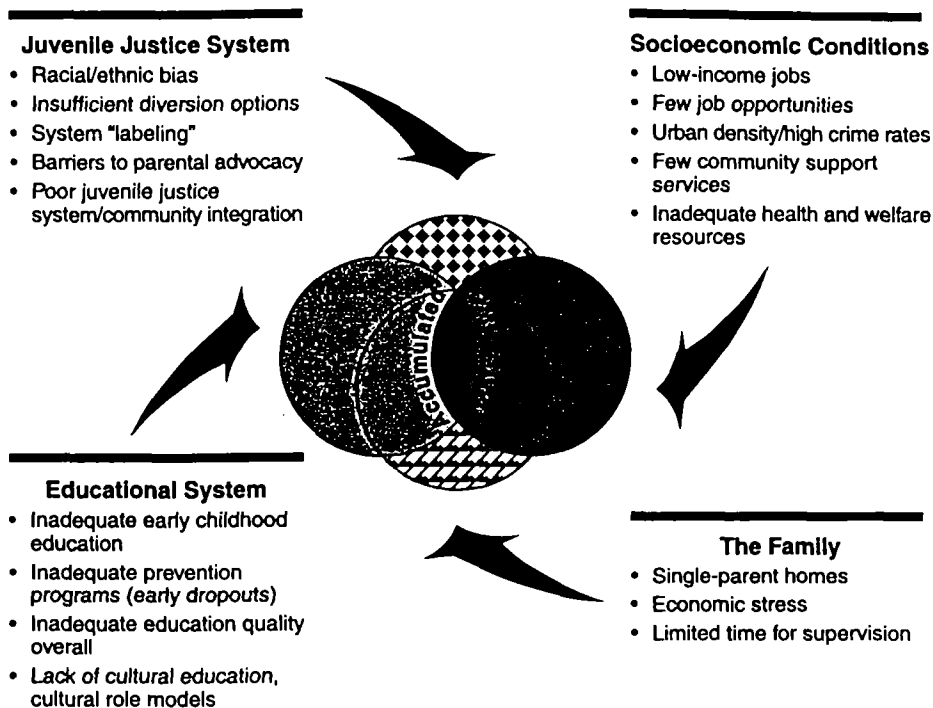
- ◆ Provided the Phase I research expertise.
- ◆ Introduced the DMC research findings to State and local stakeholders.
- ◆ Identified and financially supported DMC interventions in three counties.
- ◆ Provided monitoring throughout the project and a local process evaluation at a conclusion of the planning activities.
- ◆ Served as a repository of information on additional DMC resources and technical assistance.
- ◆ Facilitated county efforts to seek additional funds. The approach was based on a philosophy of collaboration and encouragement to stimulate community-inspired interventions.

Focus on Local Planning and Implementation

There is no single model solution to eradicate minority overrepresentation at either the Federal or the State level. Juvenile justice is primarily a function of local government. The development of solutions to the high rates of minority confinement must, therefore, involve local communities. Local staff are most knowledgeable about available community resources and best positioned to muster the resources needed for DMC interventions.

The experiences of the five pilot States recognized and reinforced the importance of local involvement. North Carolina developed a DMC committee within each of its pilot counties to identify local contributing factors and to develop and implement interventions to reduce DMC. Florida organized a Core Planning Group in its pl-

Figure 1: Underlying Factors That Contribute to Minority Overrepresentation



lot county to coordinate DMC planning and implementation efforts. In Arizona, Iowa, and Oregon, existing county and local organizations developed plans for DMC pilot projects. Each of these pilot communities demonstrated that local involvement of juvenile justice and other community agencies, together with local minority community representatives, was effective in identifying DMC contributing factors and mobilizing existing resources.

Involve All Significant Juvenile Justice and Community Representatives

The pilot States demonstrated that all components of the juvenile justice system must be involved in the assessment, planning, and implementation of DMC interventions, including peace officers, prosecutors, court officials, and corrections personnel. The involvement of these key system players will greatly

State Profile: North Carolina

- ◆ Based on 1990 data from the Bureau of the Census, the State's racial composition was approximately 75 percent white, 22 percent African-American, 1 percent Hispanic, 1 percent American Indian, and 1 percent Asian/Pacific Islander.
- ◆ An initial study found that within 10 pilot counties, minority juveniles were more likely to be arrested, presented to intake, referred to juvenile court, and referred to secure confinement facilities. A second study concluded that race did not significantly affect the likelihood of being referred to juvenile court.
- ◆ State-level DMC stakeholders facilitated DMC activity by identifying potential local leadership, providing information-sharing forums, and offering planning grants to support local efforts.
- ◆ Interventions included the development of detailed plans for corrective actions within both the local juvenile justice systems and other juvenile service delivery systems.

Increase the probability that DMC interventions can effect lasting change. Furthermore, since many of the DMC contributing factors are beyond the realm of the juvenile justice system, social service agencies and other community organizations must also be involved in developing DMC interventions. Pilot State experiences demonstrated at least two benefits of involving all significant stakeholders: (1) they meet, often for the first time, and engage in discussions about DMC and other juvenile justice issues; and (2) the stakeholders who are essential to DMC interventions create a shared vision of an enhanced and more equitable distribution of juvenile justice and other agency services.

Develop Multiple Intervention Strategies

Given that multiple factors contribute to minority overrepresentation in the system, multiple strategies are needed to address it. The analysis of contributing factors suggests a framework of several categories of DMC intervention strategies. Specific types of interventions within a given category can stand alone as useful models to reduce DMC, and all are complementary. Approaching DMC reduction from several of these perspectives simultaneously is likely to multiply the impact of the overall effort.

- ◆ **Advocacy** strategies seek to improve the ability of juveniles and their families to navigate the system and the ability of the system to serve its minority juveniles. Examples include:
 - ◆ Providing information, expertise, and/or advocates to assist minority juveniles and their families to interact more successfully with the juvenile justice system.
 - ◆ Exerting pressure on the system to change policies and practices that lead to DMC, such as revising decisionmaking guidelines and modifying existing services to better serve minority juveniles.
- ◆ **Collaboration** strategies stress cooperation between community-based interventions and the juvenile justice system. Examples include:
 - ◆ Addressing cultural competency and attitudinal change among professionals within the system.
 - ◆ Creating coalitions among juvenile justice agencies, other public agencies, community organizations, and

State Profile: Oregon

- ◆ Based on 1990 data from the Bureau of the Census, the State's racial composition was approximately 91 percent white, 4 percent Hispanic, 2 percent African American, 2 percent Asian/Pacific Islander, and 1 percent American Indian.
- ◆ African American juveniles were overrepresented at every stage of the juvenile justice process. The greatest magnitude of African American overrepresentation occurred at the back end of the system. The pattern of overrepresentation was less pronounced and more variable for other minority groups.
- ◆ The intervention strategy focused on three different county-level approaches simultaneously, each providing a continuum of DMC programs impacting various aspects of the juvenile justice system.

Individual community representatives to address factors leading to DMC.

- ◆ **Alternative resource development** strategies are appropriate both within and outside the traditional juvenile justice system. Examples include:
 - ◆ Developing diversion programs that are appropriate to minority juveniles.
 - ◆ Developing prevention programs and services within minority communities.

Pilot State examples of DMC interventions for each of the strategies are described below.

One Oregon county developed an **advocacy** approach to addressing DMC. In this county, minority juvenile justice specialists support minority juvenile offenders who are processed through intake at the Division of Youth Services and provide additional counseling and mentoring services to juveniles in minority communities. The goal is to improve communication between minority juveniles and the juvenile justice system, improve system outcomes (e.g., reduce confinement decisions), and strengthen the ability of minority juveniles and their families to negotiate the juvenile justice system.

The **collaboration** approach is exemplified by several of the pilot State initiatives. For example, Iowa developed a statewide cultural competency training program. A major goal of the training is to offer those who interact with minority juveniles better tools for providing meaningful education, guidance, and supportive and rehabilitative services. The training is provided to juvenile justice personnel who make decisions affecting the placement of minority juveniles in secure facilities.

The **alternative resources** strategy is demonstrated by Florida's Civil Citation

Program. Juvenile civil citation is a law enforcement option in Florida that allows a police officer to issue a sanction of up to 40 hours of community service to a juvenile for a nonserious offense without taking the juvenile into custody. The Florida DMC project provided this option, which had not been used previously in the county implementing the DMC initiative in Florida, to divert juveniles from the justice system at the point of initial contact.

Anticipate the Often-Protracted Transition From Planning to Implementation

The five pilot States learned that, when they shifted from planning to implementation, all stakeholders remained essential but their roles were changed. By anticipating and planning for changes in organizational roles and clearly defining the roles for each stakeholder and participating agency, interpersonal and interagency tensions were averted or reduced.

Pilot States reported that the State leadership role was less critical to implementation than to planning. As the focus changed to implementation, State roles were commonly limited to monitoring statewide and local DMC activities, offering technical assistance to local projects related to securing funding, and reviewing local implementation plans. It was at this point that local agencies, organizations, and communities typically took the lead in the DMC initiative process. While the role of the State decreased, pilot States reported that the State role should still be clearly defined and that State-level continuity of staff, objectives, and funding was crucial to local DMC program implementation.

The amount of time needed to reach full implementation was underestimated by everyone involved with the pilot State plans. Phase II of the DMC initiatives was slated for implementation and completion within an 18-month timeframe. Without exception, the implementation of new initiatives had not been completed at the conclusion of the 18 months. In fact, several pilot States obtained 12-month extensions for implementation, which also proved inadequate. The primary lesson here is that the process needed to identify DMC and its contributing factors, obtain full cooperation of diverse community factions, and design and implement DMC interventions can be lengthy, costly, unpredictable, and not easily controlled by any single organization or group.

Monitoring DMC Interventions

DMC rates must be monitored on an ongoing basis to assess the effectiveness of interventions. The pilot States' early efforts to establish systematic monitoring processes suggest several factors to consider when developing monitoring systems, including (1) designing them at the local level, (2) selecting an appropriate organization to carry out the monitoring function, and (3) focusing on capturing overall results, including early impacts of the initiative.

Design Monitoring Systems at the Local Level

The capacity to assess progress toward achieving DMC goals should be designed and should function at the local level. Local monitoring of program operations and systems is more likely to provide the detailed and timely information necessary to position the community and its system of providers to respond to emerging needs and incorporate new DMC strategies.

North Carolina, for example, focused on building local monitoring information systems and developed a procedural and resource manual to support local efforts. The manual described a process for planning and implementing a DMC monitoring system and identified the data elements needed for DMC monitoring.

Select an Appropriate Monitoring Organization

Within the pilot States, at both the State and local levels, acceptance of the

overrepresentation message depended largely on the credibility of the participants or agencies reporting the DMC findings. Any DMC monitoring system must, therefore, be perceived as having a legitimate basis for continuing to raise questions about progress toward DMC goals. DMC intervention efforts can be monitored successfully when the monitoring is based on objective data and is carried out under the auspices of an appropriate group or agency. The monitoring process must engage all stakeholders in examining the results, conclusions, and assumptions of those generating the information.

Capture Overall Results and Impacts

The key question about DMC interventions—as with any program—is: “Did they make any difference?” The challenge in answering that question is that many of the strategies and interventions undertaken are designed to effect changes in deeply ingrained beliefs and systems, a process that may take some time. Although developing and implementing monitoring systems are essential first steps toward assessing ongoing, long-term improvements in levels of minority overrepresentation, it is also important to identify and acknowledge other early impacts of DMC initiatives. Several important improvements resulting from the DMC activities in the five pilot State juvenile justice systems are described below.

Recognize Information Needs and Create Appropriate Information Systems. The assessment approach used by the five States revealed important information gaps. None of the States had existing information resources sufficient to meet the needs of the DMC assessment. In North Carolina, for example, no automated juvenile justice information existed. As a result of the development of information for the DMC project, North Carolina recognized that DMC and related information is useful for a variety of assessment purposes and moved to develop information systems. Florida, on the other hand, had a fairly complete juvenile justice information system, but the DMC project identified ways to link information systems with the State Departments of Education and Labor to provide additional information on juveniles. For all of the pilot States, the initial focus on DMC identification frequently had the effect of making local officials more aware of what information resources were avail-

able and how to access them, and whether critical information was collected by other agencies or at other jurisdictional levels. As these States continue to monitor the effects of DMC activity, they plan to continue to refine their information systems.

Develop New Community Collaborative Relationships. One feature common to most of the DMC projects was the effective use of collaboration among community agencies to develop and enhance the provision of juvenile services. For example, the Florida pilot project resulted in new partnerships among State government, the Urban League, the Hillsborough County Children's Board, a set of 18 juvenile service agencies, and the local Juvenile Assessment Center. In Iowa, the project involved strengthening the relationship between the juvenile justice system and the Jane Boyd House, an organization providing “wraparound” community services to Cedar Rapids neighborhoods.

As collaborative efforts take more of a foothold in communities across the country (for example, with Title V Community Prevention Grants), DMC interventions can continue to benefit from existing collaborative structures. Ideally—and it is a goal of the JJDP Act—communities that are seeking to effect systemwide changes in how they prevent and respond to juvenile problems will infuse all of their efforts with an awareness of the issue of disproportionate representation of minority juveniles in the system. With ongoing collaborative processes, attention to DMC issues can become “institutionalized” in all decisions made about youth services.

Institutionalize Mechanisms To Examine and Respond to DMC Issues. In each of the five pilot States, DMC activities resulted in the development of additional institutionalized mechanisms to continue the assessment of DMC issues and the development of responses. Florida developed an entirely new Department of Juvenile Justice, with a major commitment to the overrepresentation issue and significant resources with which to address the problem. In Iowa, staff hired for DMC issues have been retained in positions created to help eliminate DMC. In two Oregon county projects, the county government found ways of “picking up” the DMC activities as ongoing county functions. In North Carolina, a new section was created in the Human Services Department to extend the State audit capacity to examine and improve DMC conditions throughout the State.

Official Business
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Bulletin

NCJ 173420

Office of Juvenile Justice and Delinquency Prevention

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This Bulletin was prepared under grant number OJP-95-C-006 from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. DMC evaluation activities occurred under contract number OJP-91-C-011 from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice.

Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of OJJDP or the U.S. Department of Justice.

Acknowledgments

This Bulletin was prepared by Patricia Devine and Kathleen Coolbaugh, principals at Caliber Associates, and Susan Jenkins, a senior associate of the firm. The authors are grateful to Dr. William Feyerherm of Portland State University for his considerable contributions throughout the evaluation and to the many people at both the State and local levels in the pilot States, particularly the juvenile justice specialists, who gave generously of their time in granting interviews, providing data, following up on issues or questions, and in general making the evaluation a rewarding and meaningful process.

The Office of Juvenile Justice and Delinquency Prevention is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime.



Shay Bilchik, Administrator

September 1998

JUVENILE JUSTICE BULLETIN

Disproportionate Minority Confinement: 1997 Update

Heidi M. Hsia, Ph.D., and Donna Hamparian

The disparate treatment of minorities in America's juvenile justice systems, as evidenced by the disproportionate confinement of minority juveniles in secure facilities, was brought to national attention by the Coalition for Juvenile Justice (formerly the National Coalition of State Juvenile Justice Advisory Groups) in its 1988 annual report to Congress, *A Delicate Balance* (Coalition for Juvenile Justice, 1988). In the 1988 amendments to the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 (Pub. L. 93-415, 42 U.S.C. 5601 et seq.), Congress required that States address disproportionate minority confinement (DMC) in their State plans. In the 1992 amendments to the JJDP Act, DMC was elevated to a core requirement, with future funding eligibility tied to State compliance. Prevalence studies to examine the likelihood of juveniles being incarcerated in a juvenile corrections facility before the age of 18 were subsequently conducted in 16 States (DeComo, 1993). These studies showed that African-American youth had the highest prevalence rates of all segments of the population in 15 of the 16 States. In 2 States, it was estimated that 1 in 7 African-American males (compared with approximately 1 in 125 white males) would be incarcerated before the age of 18. Although minority youth constituted approximately 15 percent of the youth population in the country in 1995, they represented

68 percent of the juvenile population in secure detention and 68 percent of those in secure institutional environments such as training schools (Sickmund, Snyder, and Poe-Yamagata, 1997). These figures reflect significant increases over 1983, when minority youth represented 53 percent of the detention population and 56 percent of the secure juvenile corrections population. Additional research has consistently substantiated that minority overrepresentation has not been limited to confinement in secure facilities; it also is significant at each of the major decision points in the juvenile justice system process (e.g., arrest, detention, prosecution, adjudication, transfer to adult court, and commitment to secure facilities). This holds true in most States and the District of Columbia. Thus, the term "minority overrepresentation" has been used to describe the phenomenon of disproportionately large numbers of minority youth who come into contact with the juvenile justice system at various stages, including, but not limited to, secure confinement.¹ During the past decade, the Office of Juvenile Justice and Delinquency Prevention

¹ In this Bulletin, the term "DMC" refers to the impact of minority overrepresentation across the juvenile justice system because nearly all local, State, and Federal efforts to address DMC include the examination of minority overrepresentation at multiple points of juvenile justice system processing.

From the Administrator

A prerequisite of an effective juvenile justice system is to treat every offender as an individual and provide needed services to all. There are troubling indications that the system is not meeting this standard. As one reflection of this problem, we find that the percentage of minority youth in secure confinement is more than double their representation in the general juvenile population—comprising nearly 7 out of 10 juveniles in such environments.

As part of its overall mission, the Office of Juvenile Justice and Delinquency Prevention provides leadership and resources to our Nation's efforts to address disproportionate minority confinement (DMC). This Bulletin offers an overview of the status of the DMC Initiative and describes one State's efforts to meet the needs of minority youth served by its juvenile justice system. Pennsylvania's multiyear, systematic approach demonstrates how important it is to have sound data as a basis for raising public awareness, mobilizing support and resources, and planning and implementing an effective DMC strategy.

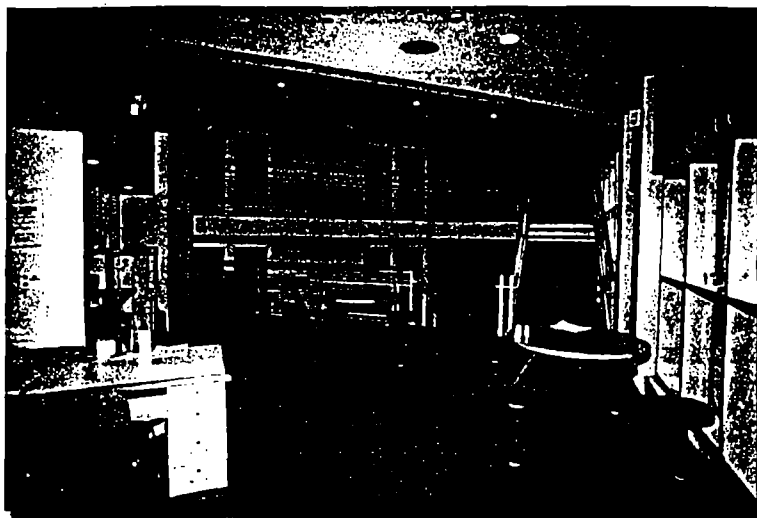
All youth who come into contact with the juvenile justice system must receive an appropriate response, including the treatment they need. We have not yet reached that goal, but this Bulletin tells us that the DMC Initiative is bringing about change and focusing attention on a problem that must be addressed.

Shay Bilchik
Administrator

(OJJDP) has assumed a leadership role, going on the Nation to address the DMC issue in a deliberate and systematic manner that includes the following:

◆ **DMC as a core requirement of the JJDP Act Formula Grants Program.** OJJDP administers the Formula Grants Program under Title II, part B, of the JJDP Act. Under the Formula Grants Program, each State must address efforts to reduce the proportion of youth detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if it exceeds the proportion of such groups in the general population.² For purposes of this requirement, OJJDP has defined minority populations as African-Americans, American Indians,³ Asians, Pacific Islanders, and Hispanics (OJJDP Formula Grants Regulation, 28 C.F.R. Part 31). Because addressing DMC is one of the core requirements of the JJDP Act, States failing to meet the DMC plan requirement are ineligible to receive 25 percent of their annual formula grant allocation.⁴

◆ **DMC training and technical assistance.** Publications such as the OJJDP Fact Sheet *Disproportionate Minority Confinement* (Roscoe and Morton, 1994) and the DMC national reports cited in footnote 4 have been disseminated widely as technical assistance tools. OJJDP also has sponsored a variety of national and regional training sessions for juvenile justice practitioners, researchers, and policymakers. To further assist States, OJJDP contracted with Community Research Associates (CRA), Inc., in Champaign, IL, to provide training and technical assistance upon request on all aspects of this core requirement. In addition, a



technical assistance manual was produced in 1990 by OJJDP, in conjunction with CRA, to provide State juvenile justice specialists and State advisory group members with a step-by-step blueprint for systematically addressing DMC. This manual is currently being updated. Portland State University also was contracted to provide training and technical assistance to five competitively selected pilot States (Arizona, Florida, Iowa, North Carolina, and Oregon) in their efforts to address DMC. The DMC Initiative in the five pilot States is described below.

◆ **The DMC Initiative.** To enhance States' ability to comply with the DMC requirement, test various approaches to assessing DMC, and experiment with approaches to reducing DMC, OJJDP established the Disproportionate Minority Confinement Initiative in 1991. Over the next 3 years, five competitively selected pilot States aggressively assessed the extent of DMC in their juvenile justice systems, designed comprehensive strategies, and implemented interventions to address the problems identified. OJJDP's national management evaluation contractor, Caliber Associates, Inc., provided all five States with technical assistance and design support to develop a process and/or impact evaluation, evaluate their efforts, and share relevant information nationwide. Five final reports (one on each of the pilot States), produced under the DMC Initiative, were products of this effort.⁵ An OJJDP Bulletin focusing on lessons learned from this initiative is in preparation (Devine, Coolbaugh, and Jenkins, in press).

◆ **National Innovations to Reduce DMC.** This discretionary grants program is also known as the Deborah Ann Wysinger Memorial Program in memory of a deceased OJJDP staff person who spearheaded OJJDP's DMC efforts. Grants have been awarded under the program to States, local units of government, private not-for-profit organizations, and American Indian tribes to develop interventions that address DMC. The program's goals are to refine previous assessment findings and improve data systems, develop new interventions to reduce DMC, develop model DMC programs, and encourage multidisciplinary collaborations at the community level to reduce DMC. In fiscal years 1995 and 1996, 11 DMC discretionary grants were awarded (one program was given a 2-year grant).⁶ The awards included research, training and technical assistance, and demonstrations to test innovative interventions designed by States and local communities. Grants to 10 of the projects have been completed, with the remaining project to be completed in September 1998.

² See § 223(a)(23) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

³ In practice, this category has been interpreted to include American Indians, Eskimos, Aleutians, and others (Hamparian and Leiber, 1997).

⁴ For a detailed historical account of DMC as a "core requirement" of the Formula Grants Program; descriptions of the identification, assessment, and intervention phases of DMC that States are required to address in their State plans; and States' DMC activities in these phases, see *The Status of the States: A Review of State Materials Regarding Overrepresentation of Minority Youth in the Juvenile Justice System* (Feyerherm, 1993).

⁵ *Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report* (Hamparian and Leiber, 1997).

⁶ In 1996, Caliber Associates, Inc., Fairfax, VA, published the following reports: *Evaluation of the Disproportionate Minority Confinement (DMC) Initiative: Arizona Final Report*, *Evaluation of the Disproportionate Minority Confinement (DMC) Initiative: Florida Final Report*, *Evaluation of the Disproportionate Minority Confinement (DMC) Initiative: Iowa Final Report*, *Evaluation of the Disproportionate Minority Confinement (DMC) Initiative: North Carolina Final Report*, *Evaluation of the Disproportionate Minority Confinement (DMC) Initiative: Oregon Final Report*. These reports are available from the Juvenile Justice Clearinghouse by calling 800-638-8736 (\$15 each, \$39 for all five).

◆ **National DMC training, technical assistance, and information dissemination initiative.** In 1997, recognizing the need to foster development and documentation of effective strategies nationwide using training, technical assistance, information dissemination, practical and targeted resource tools, and public education, OJJDP launched a 3-year national initiative. Through an OJJDP cooperative agreement with Cygnus Corp., interested jurisdictions will be provided with information designed to enable them to successfully address those factors that contribute to DMC. Cygnus will review and synthesize current State and local practices and policies; develop and deliver training to grantees, personnel involved with the juvenile justice system, policymakers, and others regarding effective interventions; and identify effective approaches for improving States' DMC efforts.

Update on State Compliance With the DMC Core Requirement

As noted, the 1992 reauthorization of the JJDP Act substantially strengthened the national effort to address DMC by bringing it to a "core requirement" of the Formula Grants Program along with deinstitutionalization of status offenders, removal of juveniles from adult jails and lockups, and sight and sound separation of juvenile offenders from adults in secure institutions.⁷ States participating in the Formula Grants Program are required to

address the DMC issue in three phases: (1) identification (identify the extent to which DMC exists); (2) assessment (assess the reasons for DMC if it exists); and (3) intervention (develop an intervention plan to address these identified reasons). Progress is reported by each State and territory in its comprehensive JJDP 3-year plan and subsequent plan updates (in compliance with Section 223(a)(23)). OJJDP reviews the plan updates annually. The status of State compliance with the DMC core requirement based on the States' 1997 plans is summarized below. Readers desiring additional information concerning individual States are encouraged to contact the State's juvenile justice specialist.⁸

Based on OJJDP's review of FY 1997 State plans, 39 States have completed the identification and assessment phases and are implementing the intervention phase of DMC. Three States have completed the identification and assessment phases and are formulating their intervention plans. These States are making a concerted effort to address the factors that contribute to minority overrepresentation in the juvenile justice system. However, DMC remains a serious concern, requiring an ongoing and continuous effort. Recommendations for future action discussed in the *1996 National Report* (Hamparian and Leiber, 1997), including the need for comprehensive data collection and analysis, the development of research- and data-based State intervention plans, and the strategic importance of prevention and early intervention, remain valid actions for States in refining and improving their approaches to reducing DMC.

This Bulletin provides the updated status—as of December 1997—of compliance with the DMC core requirement among the jurisdictions participating in the JJDP Formula Grants Program (48 States, 6 territories, and the District of Columbia). However, unlike previous national reports, which highlighted DMC activities undertaken by various States in the identification, assessment, and intervention phases, this Bulletin provides an in-depth description of how Pennsylvania moved from one DMC phase to the next in a systematic, data-driven, and targeted effort to comprehensively address DMC.

⁸ A directory of State juvenile justice specialists is available by contacting OJJDP. See "For Further Information."

Pennsylvania's Process as an Example of a Systematic DMC Approach

Description of the Pennsylvania Model

Pennsylvania's DMC efforts began in 1986, 2 years prior to the inclusion of DMC as a Formula Grants Program plan requirement. During that year, the Pennsylvania Commission on Crime and Delinquency (PCCD) and the State advisory group, the Juvenile Advisory Committee (JAC), recognized the problem of minority overrepresentation. In 1990, JAC established the Minority Confinement Subcommittee to focus on the DMC issue.⁹ The subcommittee's analysis of 1988 juvenile justice data for detention and other secure holding programs revealed that, although representing just 12 percent of the juvenile population, minority juveniles accounted for 70 percent of secure placements statewide. To help determine which decision points in the juvenile justice system and which jurisdiction(s) the State's DMC efforts should target, further analysis was conducted using 1989 data both statewide and in the 18 counties with the highest minority populations. Statewide Pennsylvania data indicated that minority juveniles represented 27 percent of all juveniles arrested and 48 percent of all juveniles formally charged in juvenile court. All of the State's counties showed minority overrepresentation, which was amplified as cases moved through the system. In response to these preliminary analyses, the subcommittee funded outside research to identify causes and develop options to address the problem while simultaneously implementing prevention and intervention programs. This two-pronged approach has guided the subsequent State DMC strategy.

Target Area #1: Dauphin County

Dauphin County, including the State capital, Harrisburg, was selected as the first target site because it showed the greatest difference between the proportion of minorities arrested (50 percent) and the proportion of minorities (22 percent)

⁹ The Minority Confinement Subcommittee reports to JAC, which reports to PCCD. JAC submits an annual report to the Governor on juvenile justice and delinquency prevention issues and activities.

⁷ The following programs were awarded discretionary grants: TeenCourt Youth Diversion Program (Lummi Indian Nation, Bellingham, WA); Interventions to Reduce Disproportionate Minority Confinement (Academy, Inc., Columbus, OH); Disproportionate Minority Confinement (New Jersey Superior Court Probation Division, Patterson, NJ); Comprehensive Intensive Aftercare for Incarcerated African American Youth (Louisiana Department of Public Safety and Corrections, Baton Rouge, LA); Interventions to Reduce Disproportionate Minority Confinement (Washoe Tribe of Nevada and California, Gardnerville, NV); Disproportionate Minority Confinement (Pima County Juvenile Court Center, Tucson, AZ); Community Alternatives to Detention (Chatham-Savannah Youth Futures Authority, Savannah, GA); Disproportionate Minority Confinement (Wayne County Neighborhood Legal Services, Detroit, MI); Interventions to Reduce Disproportionate Minority Confinement (Project Heavy West, Los Angeles, CA); and Disproportionate Minority Confinement: A Time for Change (American Correctional Association, Lanham, MD).

⁸ (c)(3) of the Juvenile Justice and Delinquency Act of 1974, as amended.

Summary of State Compliance With DMC Core Requirement¹ as of December 1997)

- ◆ States that have completed the identification and assessment phases and are implementing the intervention phase:

Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa

Kansas
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nevada
New Jersey
New Mexico
New York
North Carolina

North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
Tennessee
Texas
Virginia
Washington
Wisconsin
Utah

- ◆ States that have completed the identification and assessment phases and are formulating a time-limited plan of action for completing the intervention phase:

Alabama
South Dakota

West Virginia

- ◆ States (and the District of Columbia) that have completed the identification phase, submitted a time-limited plan of action for the assessment phase, and agreed to submit a time-limited plan for addressing the intervention phase:

Delaware
District of Columbia

Louisiana
Nebraska

- ◆ Territories that have completed the identification phase (It has been determined that minority juveniles are not disproportionately arrested or detained in the following territories):

American Samoa
Guam
Northern Mariana Islands

Republic of Palau
Virgin Islands

- ◆ States that have completed the identification phase and are exempt from the DMC requirement because the minority juvenile population in the State does not exceed 1 percent of the total juvenile population:

Maine
Vermont

- ◆ State that has now reached 1 percent minority population (statewide) and will begin conducting the identification phase:

New Hampshire

- ◆ Territory that is exempt from complying with the DMC requirement (as it has been exempted by the U.S. Census Bureau from reporting racial statistics due to the homogeneity of the population):

Puerto Rico

- ◆ States that were not participating in the Formula Grants Program in FY 1997:

Kentucky
Wyoming

¹Pursuant to Section 31.303(j) of the OJJDP Formula Grants Regulation (28 C.F.R. Part 31).

in the at-risk population (ages 10 to 17 years). The subcommittee convened local community-based organizations serving minorities along with Dauphin County Juvenile Probation, the Harrisburg Bureau of Police, the Harrisburg School District, and other community representatives to discuss the problem.

In 1991, PCCD provided subgrant funds to initiate five prevention and intervention programs in Harrisburg for a period of 30 months:

- ◆ **The Business Entrepreneur Club.** This program helps young minority females learn work and life skills.
- ◆ **Targeted Outreach.** This program helps identify and recruit minority youth within its service area to take advantage of the educational, physical, social, and vocational programs available through the Boys & Girls Club of Harrisburg.
- ◆ **Positive Choice.** This program, previously known as Teens Together, provides minority juveniles with tutoring, homework assistance, and special classes with speakers who address topics of interest and also helps youth make positive choices for their future.
- ◆ **It Connect.** This program, now part of the Boys & Girls Club, prevents youth from dropping out of school by improving school attendance and academic achievement and addressing other social and familial needs.
- ◆ **Hispanic Center After-School Program.** This program helps at-risk Hispanic students improve their school performance, reducing the rate of school failure and dropping out among Hispanic youth.

The community-based organizations of Dauphin County continued to meet monthly with the directors and staff of the funded programs. Through these repeated interactions, and as the group became aware of the advantages of working together, the Youth Enhancement Services (YES) coalition was formally established in 1993. PCCD, based on a recommendation of JAC, funded YES' executive director position. Despite a sometimes fluid membership, the coalition model has continued to encourage the networking of resources and support services and has successfully driven the local planning process. A subsequent evaluation showed that these community-based DMC programs achieved levels of service provision and funding enhancement that would not have been possible without the YES coalition. For example, after the PCCD seed money expired in March 1994, the programs collectively increased their funding level by 2½ times the original funding by expanding their funding sources and contracting with county and State youth services agencies, such as Dauphin County Children and Youth Services (Clouser, 1994).

Moreover, the DMC community assessment evaluation information was utilized extensively for the development of Dauphin County's application for a grant under the JJDP Act's Title V Community Prevention Grants Program. Through the Title V Program, which assesses risks and resources in the community, school, family, and personal domains, Dauphin County developed a delinquency and violence prevention program based on the Communities That Care (CTC) process in the same neighborhoods as the minority programs, thus expanding and enhancing the prevention efforts in targeted areas with a high

concentration of minorities. The Dauphin County CTC program includes economic empowerment, family support, community mobilization against violence and drugs, and youth advisory council components.

Target Area #2— Philadelphia

After gaining experience with the coalition model in Dauphin County, the JAC subcommittee identified a second target area in 1992. Based on the original data analysis, which identified Philadelphia as having the highest number and percentage of minority juvenile arrests statewide (65.9 percent), further analysis of data from all 23 police districts was conducted to identify the police district in which the DMC effort could have the greatest possible impact. The 25th Police District was chosen because of its high number of juvenile offenses, high rate of juvenile crime per 100,000 population (the total number of offenses divided by the total juvenile population), high percentage of drug-related offenses, and diverse racial population (40 percent African-American, 35 percent Hispanic, 23 percent white, and 2 percent Asian-American).¹⁰ Like Dauphin County's coalition model, the formative meeting of the Philadelphia coalition involved police; probation officers; school personnel; city, State, and Federal representatives; and citywide youth-serving agencies. This group, now known as the East Division Coalition, has held monthly meetings since 1992. A director was hired in 1994 with seed subgrant funds provided by PCCD per JAC's recommendation.

Programs implemented in Philadelphia include:

- ◆ **Dreams of Tomorrow.** This program provides educational and social support to minority juveniles who have had or are at risk of having minor involvement with the juvenile justice system.
- ◆ **Project Youthlead.** This project helps minority juveniles develop and attain positive goals for their future.
- ◆ **Checkmate.** Checkmate decreases the delinquency rate and increases the level of school retention and success among targeted youth through life skills workshops, tutoring and homework



¹⁰ Although there are 23 police districts in Philadelphia, some police districts have maintained their numerical designations from a time when there were more than 23 districts in the city.

assistance, physical fitness and sports, community service projects, and monthly parent group meetings.

Youth Self-Empowerment Project.

This project empowers youth to lead drug-free, crime-free, peaceful, and productive lives through training, tutoring, community service, recreational activities, and special outings.

- ◆ **Student Anti-Violence Education (SAVE).** SAVE focuses on preadolescents by offering conflict resolution and impulse control training for juveniles and adults in addition to positive discipline strategies.

- ◆ **Truancy and Dropout Prevention Project.** This program provides staff intervention and family support in working with schools and courts.

Encouraged by the success of these programs and the effectiveness of the East Division Coalition, the Philadelphia Department of Human Services has assumed the responsibility of providing funding for these programs.

Target Area #3—Allegheny County

In 1995, a similar process to address issues began in Allegheny County, the third target area. A local analysis of minority crime and an identification of community-based youth and family programs were completed in 1995. Minority neighborhoods in and adjacent to the east end of Pittsburgh were identified as having high numbers of minority juvenile arrests and were selected as the focus in Allegheny County. This focus was affirmed by the Allegheny County Youth Crime Prevention Council's representatives from the Pittsburgh mayor's office, the Allegheny County Human Services Department, and the U.S. Attorney for the western region of the State. The Allegheny County Youth Crime Prevention Council serves as the coordinating body for prevention and intervention programs, which include both the Title V Delinquency Prevention/CTC and DMC programs. Additionally, across the State, 10 of the 14 Title V/CTC sites (including 2 in Allegheny County) focus on minority neighborhoods, thus beginning prevention work at an early stage in the lives of at-risk children.

Three DMC programs began in Allegheny County in April 1996:

Great Start Program. Great Start provides juveniles with basic skills training, participatory sports, part-time employ-



ment, educational support, career guidance, socialization, and cultural enrichment.

- ◆ **Project Africa and Operation Hammer.** This program offers tutoring, mentoring, community services (e.g., gardening and trash removal), job readiness assistance, nonviolent conflict resolution skills training, healthy recreation, and a youth crime prevention program with community police.

- ◆ **Targeted School-Based Outreach Worker's Program.** This program offers life skills classes, tutoring, job readiness assistance, job referrals, counseling, pregnancy prevention information, recreational activities, and educational trips.

After considerable negotiation among the programs, Allegheny County's Youth Coalition of Western Pennsylvania was formed and the position of director was funded in July 1996 through the same mechanism as in the first two target areas. Subsequently, the coalition decided to use a consultant rather than a director to assist with program development and support. The 30 months of DMC funding will be completed in October 1998.

Target Area #4 (A New Direction)—Lehigh and Northampton Counties

Based on a review of State DMC data, the Minority Confinement Subcommittee is exploring the development of community-

based minority prevention and intervention programs serving primarily Hispanic youth in the Lehigh Valley (Lehigh and Northampton Counties). These two counties are among the top four in reported juvenile arrests of Hispanic youth: 753 arrests in Lehigh County and 483 arrests in Northampton County. Lehigh and Northampton Counties are located in an area of the State that has not previously been served by this program. The director of the Governor's Advisory Commission on Latino Affairs has joined the subcommittee to ensure that the perspectives of the Latino community are taken into consideration and to help identify existing programs in the focus area. The subcommittee anticipates holding meetings with Latino service providers and representatives from the police department, probation department, and local schools. A significant portion of the State's 1998 allocation of Formula Grants Program funds for DMC will be subgranted to support programs developed in the Lehigh Valley.

Evaluation of DMC Efforts in the Target Areas

An integral element of Pennsylvania's approach is the incorporation of evaluation from the very beginning. In the first year of implementation, the National Center for Juvenile Justice Training and Research (the Center) at Shippensburg State University was contracted to perform the first-year evaluation of the Harrisburg programs. Through this evaluation, the Center found that of the 200 adolescent clients referred to the coalition during its first year of operation, 169 satisfied a minimum attendance criterion. While 50 percent of the coalition clients had prior involvement with the juvenile justice system, just 20 percent were referred to juvenile probation subsequent to their involvement with the coalition. Further, involvement in coalition programs was associated with significantly lower levels of truancy and suspension and with slight improvements in academic performance.

As the model expanded to Philadelphia in the second year, a more comprehensive study was commissioned in 1993 through Temple University to evaluate nine funded programs in the two minority overrepresentation initiatives (five in Harrisburg and four in Philadelphia).¹¹ The

¹¹ SAVE and the Truancy and Dropout Prevention project, the other two Philadelphia programs, started more recently and were not included in the Temple evaluation.

evaluation consisted of three parts: a community assessment of the target which included social, economic, crime indicators; an evaluability assessment (i.e., ability to be evaluated) and process evaluation, which included clarification of program goals, activities, and objectives and an examination of service delivery; and an outcome evaluation of client performance both during and after participation in the programs through a review of police, juvenile justice, and school records from 1992 to 1995. The evaluation strategy is an interactive model in that the programs and coalition receive feedback from the evaluators regarding areas of success and difficulty, which is used on an ongoing basis to improve the programs. For example, certain program implementation issues were noted as impeding successful intervention and valid evaluation (Welsh, Harris, and Jenkins, 1995). Ways to rectify these issues, rendering the programs more effective

and more evaluable, were subsequently suggested (see table). In terms of outcome evaluation, the most positive outcome reported was for the 1992-93 Harrisburg target site. The rate of recidivism over a 3-year period for the high-attendance group (25.8 percent) was impressive, especially considering that nearly half of the clients had arrests prior to their referral. In contrast, the low-attendance control group had a recidivism rate of 53 percent for the same period.

The Training and Education Component

To provide relevant information on DMC to juvenile justice practitioners, youth workers, public officials, and the general public, a number of training and educational opportunities have been developed that create awareness of the issue and focus attention on possible solutions. The Juvenile Court Judges' Commission (JCJC) offers periodic training for

judges and probation staff on managing cultural diversity. In 1992, JCJC's annual statewide training conference had as its theme Crime, Kids, and Color: The Issue of Race and Juvenile Justice. The first DMC-related conference, Crisis of Minority Overrepresentation, was held in Philadelphia in January 1993. A second conference, Promising Approaches: Prevention and Intervention Services for Minority Youth, was held in Harrisburg in May 1997. This was recently followed by a third conference, Promising Approaches II: Building Blocks for Prevention and Intervention Services for Minority Youth, in Pittsburgh in May 1998. The goal of the most recent conferences was to highlight the proactive approach Pennsylvania has taken on the DMC issue, focus on effective use of media, and feature both the prevention and intervention programs and coalitions funded by PCCD and the many other State programs that have an impact on minority delinquency.

Program Implementation Issues That Affect Program Effectiveness and Evaluability*

Program Implementation Issues	Suggested Actions
Client selection procedure	Clearly define characteristics of intended clients and regularly monitor client population.
Client participation and completion of program	Develop incentives for participation. Provide outreach to clients. Provide an interesting and challenging array of services.
Staffing levels and staff turnover	Increase program resources. Provide ongoing staff training and development. Realistically address staff qualifications.
Information and recordkeeping	Provide program resources. Emphasize importance of accurate, complete data to staff.
Family component	Provide tangible incentives for family involvement. Conduct parent support groups.
Educational component	Provide tutoring and learning opportunities on a daily basis. Use volunteers. Provide positive feedback to students and volunteers. Work with the neighborhood school system.
Volunteers/mentors	Recruit, screen, train, monitor, and support.
Program structure	Engage in goal-oriented activities that are implemented in a consistent manner at a regular time.
Adequacy of physical facilities	Send positive messages through pleasant, clean, and well-maintained physical space.
Monitoring by program director/ executive director	Employ hands-on directors. Engage in a continuous process of growth and self-evaluation. Welcome criticism in addition to positive feedback.

*Based on information found in Welsh, W.N., Harris, P.W., and Jenkins, P. 1995. *Evaluation of Minority Overrepresentation Programs in Pennsylvania: Evaluability Assessment and Process Evaluation. Report #2*. Philadelphia, PA: Department of Criminal Justice, Temple University.



Pennsylvania's Strengths

The strengths of the Pennsylvania process in addressing DMC follow.

The active support of the Governor, PCCD, and JAC. Governor Tom Ridge has provided strong support for juvenile justice and children's issues. In 1997, the Governor met with representatives of JAC, including Daniel Elby, chair of the Minority Confinement Subcommittee, to discuss recommendations to strengthen the juvenile justice system and prevent delinquency. The Governor has acted on six of these recommendations, including the creation of a delinquency prevention policy specialist position in PCCD. This individual will assist with the coordination of State and local prevention initiatives and oversee the DMC and Title V/CTC programs. From 1991 to 1997, PCCD and JAC have awarded nearly \$4 million to support the DMC Initiative. For 1998, \$500,000 has been reserved to continue support for the initiative.

The effectiveness of the subcommittee. JAC's Minority Confinement Subcommittee was established to ensure that the issue of minority overrepresentation would receive adequate attention and would not become lost among JAC's many responsibilities. The subcommittee has been meeting three to four times a year since 1990 and has set up quarterly meetings for 1998. Nine of the ten subcommittee members are minorities (eight African-Americans and one Hispanic) with rich experience in working with minority juveniles. Their strong dedication and expertise are important to the subcommittee's overall effectiveness. The subcommittee

has further benefited from the strong and continuous leadership of its chair, Daniel Elby, the executive director of Alternative Rehabilitation Communities, Inc. Moreover, this subcommittee provides regular DMC reports (both verbal and written) to both JAC and PCCD to keep them advised of subcommittee activities and program implementation. These reports serve as information dissemination tools and help maintain and promote the State's focus on the DMC issue. Through the JCJC, cultural diversity training is offered to court staff and minorities are actively recruited for court positions. In addition, a staff position within PCCD provides critical support to the subcommittee, supports program planning and development, and provides technical assistance under the DMC Initiative.

The utility of the coalition model. The coalition model encourages networking and resource consolidation. This model requires dedication by a wide range of concerned people and organizations over an extended time period. Because of the sheer number of individuals and organizations involved, initiating and sustaining coordination and momentum are inherently challenging. The importance of having the police, schools, probation, and community-based agencies involved in the coalition's decisionmaking cannot be overemphasized. Pennsylvania's effort in forming coalitions in its first three targeted DMC areas has proven effective in breaking down barriers among agencies and securing local funding. Funding staff positions for the coalitions proved critical to maintaining and enhancing these community-based groups.

The data-driven and data-based approach and ongoing data analysis. Pennsylvania's need-based selection of DMC sites was determined by total arrest rates, size of the minority population, and the overrepresentation of minorities in arrest rates. In addition, using data from the Pennsylvania State Police, the JCJC, the State Data Center, and the National Center for Juvenile Justice, Pennsylvania analyzes minority overrepresentation annually to determine changes that have occurred in disproportionate minority processing in the juvenile justice system at arrest, detention, prosecution, adjudication, transfer to criminal court, and State and local confinement. These annual analyses are conducted for the State as a whole and for the 18 counties in which 96 percent of the State's total minority juvenile population resides. This ongoing monitoring helps guide the actions of the subcommittee and JAC and provides valuable feedback regarding the impact of Pennsylvania's program efforts. For example, the State's 1995 DMC data showed encouraging signs of progress as compared with its 1988 data. Although the minority juvenile population who are at risk increased from 12 percent in 1988 to 13 percent in 1995, minority juveniles confined in secure detention and correctional facilities decreased from 73 percent to 66 percent and minority juvenile arrests decreased from 30 percent to 29 percent. Minority juveniles transferred to adult court, however, increased from 71 percent in 1988 to 72 percent in 1995.

The systematic and stepwise approach. Instead of tackling the DMC issue throughout the State all at once, Pennsylvania has adopted the strategy of first targeting jurisdictions or communities with the greatest DMC concerns (Harrisburg in Dauphin County, the 25th Police District in Philadelphia, and Allegheny County, in that order, plus Lehigh and Northampton counties for Hispanic juveniles). Within each of the first two target areas, planning and program funding were facilitated by a local coalition of community organizations brought together to address the DMC problem. As Harrisburg and Philadelphia began the evaluation phase, Pennsylvania formed a local coalition and planning process in Allegheny County, the third target area, which is expected to benefit from the cumulative experience of the earlier two.

The emphasis on prevention and intervention. In Pennsylvania, presentation of minorities in the juvenile justice system begins at arrest—minorities are arrested at a rate two times their proportion in the general population. Overrepresentation more than doubles at the detention stage and increases slightly at the point of commitment to juvenile corrections. More than five times as many minority juveniles are transferred to criminal court compared with their numbers in the general population (Center for Juvenile Justice Training and Research, 1989 and 1995). Because the difference between minority and nonminority juvenile representation is amplified at each decision point from early to later stages, Pennsylvania has elected prevention and early intervention as its primary DMC strategy. All five DMC projects in Harrisburg, six in Philadelphia, and three in Allegheny County are designed to reduce DMC at the front end of the juvenile justice system. Reducing overrepresentation in the early stages is expected to further reduce minority representation at later stages in the system. It is important to note that, based on an early and deliberate subcommittee decision, all of these projects are located in established, neighborhood-based organizations with a history of working with at-risk minority youth.

The inclusion of evaluation in the implementation phase. All too frequently, DMC programs and initiatives have neglected to build in an evaluation component. The Temple evaluation is an interactive approach, which means that the evaluators work with the programs during the course of the study to identify ongoing problems and to suggest options

for change. The programs address issues as they arise rather than waiting until the evaluation is complete. Evaluation assessments of process and program content are ongoing. The results are used to design valid outcome measures for each individual program and for the initiative as a whole. However, the overall goal of reducing the number of minority youth in the juvenile justice system and the extent to which the programs meet their other objectives, such as improving educational performance, employment, and interpersonal relationship skills, are addressed for all programs.

Conclusion

Because of multiple factors that are unique to each State, OJJDP does not specify a process or strategy that States must use to address DMC. Instead, OJJDP outlines the phases that the States need to move through to address the DMC core requirement and offers sample intervention strategies for State consideration.¹² However, the principles that emerge from the Pennsylvania process, such as stable leadership by the JAC subcommittee, data-based and systematic strategies, broad community involvement and coalition building, significant financial commitment from the advisory committee, strong support from the State's top officials, and investment in evaluation that, in turn, is used to strengthen prevention and inter-

¹² For example, Pennsylvania's intervention strategies are primarily programmatic in nature. Future DMC national updates may feature different intervention strategies employed by other States, such as legislative, administrative, or policy changes in juvenile justice system processing.

vention projects in a continuing and ongoing manner, are applicable to all settings. States' efforts to reduce DMC are likely to be greatly facilitated if they can be guided by these principles. OJJDP resources will continue to be available to provide technical assistance to State and local governments working to address DMC.

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Bulletin was prepared under contract
OJP-95-C-004 from the Office of
Justice and Delinquency Prevention,
Department of Justice.

Views or opinions expressed in this
Bulletin are those of the authors and do not
represent the official position or
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Office of Juvenile Justice and Delin-
quency Prevention is a component of the Of-
fice of Justice Programs, which also includes
the Office of Justice Assistance, the Bureau of
Prisons, the National Institute of Jus-
tice, and the Office for Victims of Crime.

Acknowledgments

This Bulletin was written by Heidi M. Hsia, Ph.D., State Representative, State
Relations and Assistance Division, OJJDP, and Donna Hamparian, Contract
Consultant to Community Research Associates.

OJJDP gratefully acknowledges the efforts of States and local agencies to reduce
disproportionate minority confinement. We thank Reggie Morton of Community
Research Associates and Individual OJJDP staff who reviewed the draft and
provided valuable input. Also, thanks are due Ruth Williams and Mary Ann Rhoads
of the Pennsylvania Commission on Crime and Delinquency and Daniel Elby, chair
of the Minority Confinement Subcommittee of the Pennsylvania Juvenile Advisory
Committee, who contributed materials and assistance to ensure an accurate
account of Pennsylvania's DMC efforts.

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**RACIAL DISPARITIES IN OFFICIAL ASSESSMENTS
OF JUVENILE OFFENDERS:
ATTRIBUTIONAL STEREOTYPES AS MEDIATING MECHANISMS**

**GEORGE S. BRIDGES
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**REPRINTED FROM
AMERICAN SOCIOLOGICAL REVIEW
VOLUME 63, NUMBER 4 AUGUST 1998**

RACIAL DISPARITIES IN OFFICIAL ASSESSMENTS OF JUVENILE OFFENDERS: ATTRIBUTIONAL STEREOTYPES AS MEDIATING MECHANISMS*

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Despite extensive sociological research, little evidence exists on how court officials' perceptions of offenders influence their classification, assessment, and final recommendations for punishment. We examine the links among these factors, focusing specifically on the race of the accused. Our analysis combines information from probation officers' written accounts of juvenile offenders and their crimes and court records about the offenders. We find pronounced differences in officers' attributions about the causes of crime by white versus minority youths. Further, these differences contribute significantly to differential assessments of the risk of reoffending and to sentence recommendations, even after adjusting for legally relevant case and offender characteristics. These results suggest that differential attributions about the causes of crime act as a mediating factor between race and sentencing recommendations.

How do professionals within organizations perceive and classify the clients they encounter? Professionals' perceptions help explain organizational outcomes, linking decisions about clients to professionals' diagnoses of their problems and needs (Abbott 1988). Perceptions shape diagnostic and treatment processes by forming the base of information professionals use to classify clients into meaningful categories (Farrell and Swigert 1978; Scull 1975; Sudnow 1965). Because the classification of clients sorts persons perceived as having similar diagnoses and requiring similar outcomes or dispositions, differential perceptions of individuals and groups of clients will yield different diagnoses and treatments (Heimer and Staffen 1995). Further, *inequalities* in professionals' perceptions and diagnoses of clients may produce inequalities in treatment.

Sociological accounts of inequalities in the treatment of persons by organizations are widespread. Studies of racial biases in juvenile courts over the past 30 years have examined whether court officials treat minority

youth more severely than white youth (Aday 1986; Arnold 1971; Bishop and Frazier 1988; Bortner and Reed 1985; Carter and Wilkins 1970; Fagan, Slaughter, and Hartstone 1987; Fagan, Forst, and Vivona 1987; Horowitz and Pottieger 1991; Piliavin and Briar 1964). Although such studies repeatedly raise the specter of racial discrimination in the courts, few identify the mechanisms by which the accused's race influences official assessments of youths and their cases.¹ A critical but overlooked concern is how court officials' perceptions of juvenile offenders contribute to racial differences in legal dispositions. Differential perceptions of youth and their crimes may legitimate racial disparities in official assessments of a youth's dangerousness and risk of future criminal behavior. They also may foster the differential treatment of minority and white offenders in the disposition of criminal cases.

¹ Racial bias is only one possible explanation for racial differences in sentencing. Researchers also have raised the possibility that differential access to resources (e.g., legal aid, psychiatric resources, the ability to arrange and pay for an alternative school) contributes to differential sentencing practices (Emerson 1981; Fagan, Slaughter, and Heartstone 1987; Farrell and Swigert 1978).

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Many scholars have studied the processes by which courts designate individuals as "criminal" or "delinquent." Most argue that court officials subjectively classify offenders, differentiating between offenders according to their backgrounds and the perceived likelihood of future crime. For example, Emerson's (1969) analysis of the juvenile court reasons that:

[T]he court is largely guided by its judgments and inferences regarding the nature of the delinquent actor involved. That is, the solution to the problem—What can and what must we do with this case?—generally depends on the answer to: what kind of youth are we dealing with here? This involves a process of inquiry into the youth's moral character. (Pp. 89–90)

In classifying youth, court officials make judgments about character—a youth's attitudes, motivations, and background—that influence the outcome of legal proceedings. These judgments and the supporting arguments made in court are persuasive organizational claims about the youth, about how he or she should be treated, and about how officials justify their actions.

We study juvenile offenders and their probation officers' written accounts of the decisions made about their cases. The written accounts are organizational documents that the probation officers design using information known to them to persuade judges to follow a certain course of action (Jacobs 1990; McCleary 1978). Using narratives from these reports and other information about the offenders, we examine the links between the offender's race and the probation officer's assessments of the youth, his or her crimes, the perceived likelihood of future criminal behavior, and sentence recommendations. We explore how attributions about the causes of crime, as reflected in the written narratives, explain the race-punishment relationship.

RACE AND ATTRIBUTION IN JUVENILE JUSTICE DECISION-MAKING

Racial and ethnic stereotypes are important to understanding whites' reactions to minorities, particularly in the administration of criminal and juvenile justice. When minority offenders are stereotyped as particularly predatory or disposed to chronic criminal of-

fending, they "are seen as more villainous and therefore as deserving of more severe penalties" (Peterson and Hagan 1984:67). Sociological theories of law and deviance view such stereotypes as essential to explaining racial differences in criminal penalties. Criminals and delinquents are "emergent products" (Albonetti 1991; Cicourel 1968; Foucault 1977)—persons who are transformed by the court process into officially recognized offenders. These theories explain the legal process, particularly the disposition of criminal cases, in terms of the reactions of court officials to the perceived behavioral and status characteristics of the accused. Reasoning that court officials develop and employ mental images of offenders as they interact with them, the theories argue that these images are often based on offenders' similarities to other offenders they have dealt with in the past or to officials' personal conceptions of such offenders (Albonetti 1991; Albonetti and Hepburn 1996; Emerson 1969, 1983, 1991; Sudnow 1965).

Three issues persist about race, definitions of youth, and how criminal cases are handled. First, do court officials perceive and judge minority offenders differently than similarly situated white offenders? In criminal courts, race is a marker of social status that many scholars believe directly influences how officials evaluate the offender's case and his or her character. For example, Cicourel's (1968) analysis of juvenile courts suggests that minorities are more likely than whites to be seen as disrespectful of authority and, in particular, disrespectful of court officials. Recent analyses report similar anecdotal findings—persons of color, despite having similar offense histories, are perceived differently than whites, often as presenting images of threat and danger (Bridges, Crutchfield and Simpson 1987; Bridges and Conley 1995; Farrell and Swigert 1978; Tonry 1995).

Few studies have analyzed officials' perceptions of youths or their accounts of decisions on juvenile offenders (but see Spohn 1994 for research on perceptual processes as they relate to adult offenders). While studies of adult offenders suggest that court officials use the offender's attitude as an aggravating or mitigating factor and adjust their sentencing recommendations accordingly, the research does not identify a relationship be-

tween race and attitudinal typifications (Ulmer and Kramer 1996). Most research offers anecdotes with no extensive comparison of racial differences in officials' perceptions or accounts. Further, none of the studies examines whether racial differences in assessments of youth are mediated by differences in alleged crimes. None of the studies adjusts for differences in either the severity of the presenting offense or in the offenders' prior offense history in examining judgments of the "good" or "bad" character of youth (but see Bortner 1982; Drass and Spencer 1987). Thus, it is impossible to ascertain whether race is related to judgments about youths independent of the characteristics of their criminal cases or criminal histories.

Theories of social cognition provide a conceptual framework for understanding how officials assess and describe youth and their crimes. Attribution theory explores the process through which individuals "arrive at causal explanations for events" (Fiske and Taylor 1991:23). In making attributions, persons typically assess whether factors perceived to be within an individual—*internal characteristics*—or within the environment—*external characteristics*—are responsible for how the individual acts (Heider 1958). Internal factors include aspects of personal disposition and attitudes.² External factors include situational factors, both immediate and distant, surrounding an act (Weiner et al. 1972).³ Individuals whose acts are viewed as stemming from external factors are generally held less responsible than those

whose acts are viewed as stemming from internal factors (Rotter 1966).

Analyses of official decision-making routinely incorporate external factors (e.g., family structure, substance abuse, associations with criminal others), while neglecting internal factors. Nevertheless, internal factors may be crucial in understanding officials' judgments about offenders. For example, probation officers are more likely to perceive offenders who are disrespectful of their victims, the law, or the legal process as more responsible for their offenses. Further, these offenders are then perceived as having the highest risks of reoffending (Albonetti 1991; Drass and Spencer 1987; Emerson 1969; Spencer 1983). *To the extent that court officials perceive minority offenders differently than whites, they may be more likely to perceive minorities' crimes as caused by internal forces and crimes committed by whites as caused by external forces.*

Second, do officials perceive minorities as more likely than white youths to commit future crimes? Marxist theories of law and social control argue that economic and political elites perceive racial and ethnic minorities as problem populations that threaten the social order (Blalock 1967; Bridges and Crutchfield 1988; Bridges and Myers 1994; Garland 1990; Liska 1994; Spitzer 1975). Courts and other legal institutions may punish minority offenders more severely than whites because they perceive minorities as more threatening, and therefore more deserving of punishment and control.

Despite the importance of perceived threat to sociological explanations of legal deci-

² Some youths, particularly middle-class youths, may have their delinquency explained in psychological terms, whereas such explanations are rarely offered to account for the conduct of lower-class children. This suggests that internal attributions locate a youth's problems in his or her "bad character" and are a product of complex psychological dynamics. We found, however, little evidence supporting this line of reasoning. Most of the narratives made little or no reference to complex psychological explanations of behavior. Instead, they typically referred to basic attitudinal problems such as a lack of remorse or being disrespectful to authority. Other references were made to social forces in the environment that were clearly external to the individual. Thus, there is no way to assess this claim with our data.

³ Attribution theory's emphasis on responsibility and the causation of behavior makes it an ap-

propriate theory for examining probation decisions, which combine assessments of prior conduct with predictions of future conduct. These assessments involve diagnostic attributions about the causes of crime and criminal behavior (Carroll and Burke 1990). Many researchers have attempted to identify salient factors in legal decision-making (e.g., the offender's prior criminal record, the characteristics of the presenting offense, the offender's age, race, and sex), but few have examined this process from an attributional perspective, using the concept of locus of control (internal causes versus external causes) as a central concept. Most studies suggest that attributions about control play an important role in predicting the risk of reoffending (Carroll and Payne 1977).

sion-making, few studies have examined how officials' assessments of offenders or their crimes influence their perceptions of threat. Indeed, most studies focus on legal outcomes (e.g., whether accused youths are detained, prosecuted, or sentenced to confinement) without regard to the perceptual processes involved. Although simulations of decision-making have analyzed how characteristics of the accused influence officials' perceptions of threat, no studies have examined actual cases (but see Bortner 1982; Drass and Spencer 1987). *To the extent that officials are more likely to attribute minority crimes to internal causes and white crimes to external causes, they may be more likely to view minorities as culpable and prone to committing future crimes. Thus, differential attributions about the causes of crime by minorities and whites may contribute directly to differential assessments of offender dangerousness and risk.*

Third, although anecdotal evidence suggests that officials view minority offenders differently than white offenders and that such attributions play a pivotal role in case dispositions, scholars disagree about the causal links between race, officials' assessments of youth, and recommended punishments. Racial differences in officials' recommendations may occur in part because minorities are more frequently involved in serious crimes and have more extensive criminal histories (Blumstein 1982; Carter and Wilkins 1970; Horwitz and Wasserman 1980; Langan 1985; Tonry 1995). Differences in perceived threat presented by white and minority offenders and differences in recommended sentences may occur because officials' perceptions are based primarily on the differences between minority and white youths in behaviors believed to predict future criminal acts (e.g., prior offenses). While attributions about youth and their crimes may contribute to perceived differences in threat and in recommended punishments, many researchers assume (often implicitly) that these attributions will be much less influential than factors such as the severity of the crime or the accused's prior criminal history.

In contrast, other scholars reason that differential punishments are closely linked to officials' perceptions and diagnoses of the offender and his or her crime. Officials who

judge minority offenders as having higher-than-average risks of reoffending do so in large part because they view minorities as more prone to criminal behavior, regardless of the severity of their offenses or backgrounds in crime (Bridges, Crutchfield, and Simpson 1987). According to this reasoning, attributions may be as influential or even more influential than case-related characteristics (Albonetti 1991). Thus, officials' judgments about the causes of crime along with relevant characteristics of a youth's case and criminal history will influence assessments of risk and recommended punishments. *If perceptions and attributions play a critical role in legal classification and decision-making, then differential attributions should contribute directly to racial differences in perceived risk and recommended punishments, above and beyond the influence of legally relevant case characteristics.*

THE STUDY

The primary sources of information used in this study are 233 narrative reports written by probation officers in three counties in a western state. These reports represent a subsample of reports drawn from a sample of juvenile court cases processed through the courts between 1990 and 1991 (Bridges et al. 1993).⁴ Probation officers write these narra-

⁴ The original study sample for the three counties included 1,300 cases. The subsample used in the present study was drawn as an interval sample—every fourth case was drawn from the larger sample for two counties, and every fifth case from the third county. The final subsample included 277 cases (23 cases were not available because they were in use by probation staff at the time of the sampling). The present study compares African American and white juveniles only, and therefore it is limited to 233 cases—170 whites and 63 blacks. The subsample overrepresents defendants with case files that included written documentation about the youths and their families. These cases tend to have higher proportions of minorities and juveniles with extensive criminal histories than occur in the population of all youths processed through the courts. To adjust for the possible effects of sampling biases associated with these differences, the data were reanalyzed using sampling weights. The weighted analyses yielded findings similar to those reported here.

tives for the court at disposition (typically following conviction). The reports offer summary information about a youth's social history and typically conclude with the probation officer's assessment of the likelihood of criminal recidivism and recommendations for sentencing. In each case, the reports are based on the probation officer's interviews with the youth, with his or her family, and on written reports such as school records. The narratives range in length from 2 to 12 single-spaced typed pages of descriptive and evaluative text.

The current study draws from the narratives to explore the relationship between race; officials' characterizations of youths, their crimes, and the causes of their crimes; officials' assessments of the threat of future crime by youths; and officials' sentence recommendations. The narratives play a pivotal role in juvenile justice decision-making, and are therefore prepared according to specific procedures taught in a training curriculum that probation officers are required to attend. The training manual used by officers in preparing narrative assessments specifies that evaluations of youths and the management of their cases should focus on youths' risk of reoffending and on factors in the offender's background influencing his or her criminal behavior:

The juvenile justice worker is . . . responsible for providing the community with protection from the offender . . . this requires an effort to determine the RISK potential presented by the offender. . . .

It is the goal [of the assessment] to identify the offender's strengths and weaknesses . . . to identify patterns of offense behavior and their early warning signals, and to . . . accurately identify the areas that need adjustment if the offender is to change his or her behavior. (Criminal Justice Training Commission 1995:28, 39, emphasis in original)

One senior probation officer, whose reports were included in the study, described how the court evaluates the narratives: "Typically, judges look for 'red flags' . . . things that say a kid is going to reoffend . . . or whether things are okay for the child, like whether they are not doing well at home."

We drew demographic information and legal histories from case files on all juvenile offenders. Demographic variables included

are the juvenile's sex, age, and race. We compare the cases involving black youths with those involving white youths—youths of other races were excluded from the analyses due to small numbers.⁵ Legal information collected from case files included the severity of the presenting offense in terms of interpersonal violence, whether the youth was detained prior to adjudication, and the youth's number of prior criminal convictions. These factors influence the outcomes of juvenile justice processing decisions (Bishop and Frazier 1988; Drass and Spencer 1987).

Equally important are aspects of social context. The typification of deviants may vary by context, with professionals more likely to label clients as deviant and sanction them severely in those courts and communities where the emphasis is on punishment and disintegration (Braithwaite 1989; Heimer and Staffen 1995). In contrast, professionals may be less likely to recommend severe sanctions in those contexts that emphasize rehabilitation or reintegration. Because the counties from which the cases were sampled varied in terms of the professional ideology of the court—one of the counties emphasized a rehabilitative model more than the others—we also collected information on contextual factors, including the identity of the court, the identity of the probation officer who prepared the report, and the probation officer's race. County and the name of the probation officer were drawn directly from the reports themselves; probation officer's race was determined by contacting each probation department.

Attributions about Youths and Their Crimes

We relied heavily on previous ethnographic research to identify attributions about the causes of youths' crime that juvenile court officials use in decision-making (Cicourel 1968; Emerson 1969). Categories of attributions made about youths' crimes were adopted from Emerson's (1969) analysis of the juvenile court. For each major type of attribution, we developed multiple indicators

⁵ Of the 277 cases sampled, 8 were Hispanics, 12 Native Americans, 18 Asian Americans, and 6 were other races or "race unknown."

for coding from the court narratives. In analyzing the content of the narratives, each indicator was coded +1 if the probation officer made explicit reference to it (e.g., "Joey's friends are delinquent"), -1 if the probation officer made explicit reference to its absence (e.g., "Joey's friends are not delinquent"), or 0 if the indicator was not referenced in the report. Discussions with probation officers support this general coding scheme. Because report narratives varied in the number and types of factors identified as causes, probation officers were asked about how reports with little or no information on factors causing delinquency should be interpreted. One officer referred to the absence of "descriptors or characterizations of youth" stating:

In these cases there will be no red flags [negative characteristics] and no real positive characteristics either. If there are no positive descriptors or characterizations either then it means that there is little about the child that's outstanding . . . that gives cause for alarm, . . . or few good things to believe that he or she will be successful with continued supervision. . . . Sometimes I get the sense [in these cases] that the child just truly went braindead for a day, did something stupid, and has done nothing prior to this offense and will not commit future crimes. Sometimes kids will be kids. . . .

Thus, the absence of information about a particular indicator was coded as 0, indicating that the attribution was neutral (i.e., that it was not considered an important factor in the youth's current or future offending).

Previous analyses of the juvenile court distinguish between attributions about the youth's immediate social environment and those about the youth's personality (Cicourel 1968; Emerson 1969). The first type of attributions entails *environmental influences* that officials believe cause delinquency and crime, which, if not addressed through interventions or treatment, are expected to contribute to subsequent criminal behavior. The second type of attributions points toward a delinquent or criminal *personality*. To distinguish between these two types of attributions, two summed scores were employed in the analysis. An eight-item summed score of *negative external attributions* was derived from indicators of factors in the youth's immediate social environment ("peers are de-

linquent," "peers are a negative influence," "dysfunctional family," "lots of family conflict," "poor grades," "poor attendance at school," "uses drugs and/or alcohol," and "has drug/alcohol problems"). A five-item *negative internal attributions* summed score was derived from those indicators referring to the youth's personality as reflected in his or her attitudes and cooperativeness with court officials ("does not admit guilt," "feels no remorse," "does not take offense seriously," "uncooperative with current probation officer," and "uncooperative in past encounters"). The scores capture the number and direction (positive or negative) of attributions made about the youths by the probation officers. The reliabilities of both scores were high ($\alpha = .72$ for the negative external attributions and $.74$ for negative internal attributions).

Threat of Future Crime

We also examined whether attributions about youths and their crimes are related to official assessments that youths will reoffend. Such assessments are the culmination of the probation officers' experiences with the youths, and along with the probation officers' sentencing recommendations these assessments constitute the central element of the summary section of the narrative reports. Assessments of the risk of reoffending—the perceived threat of future crime—act as a bridge between a probation officer's personal interaction with the youth and his or her sentencing recommendation. By translating the social and personal information about a youth into a judgment about her or his likelihood of reoffending, probation officers frame recommendations in probabilistic terms. Typically, probation officers in the final sections of each report assess youths in terms of their risk of reoffending. In effect, the probation officer evaluates the youth's dangerousness or threat of future crime. We coded this information on a three-point scale: 1 = "low risk," 2 = "moderate risk," and 3 = "high risk."

Sentence Recommendations

The final set of variables measured probation officers' sentencing recommendations. At the end of each report, the probation officer

made a recommendation to the court regarding the type and length of sentence the youth should receive. Typically, the recommendations were recorded in terms of the number of weeks and/or days the youth should receive under correctional supervision or confinement. The laws of the state require the presumptive sentencing of juvenile offenders—that is, types and terms of correctional supervision (i.e., sentencing guidelines) are specified by statute for each major class of offense and offender. Probation officers' sentencing recommendations typically take the form of a range of weeks and/or days corresponding to the statutory standard range or to periods and types of supervision greater than or less than the standard range.

We sought measures that would accurately reflect sentence variation across offenders and that captured important departures from the legally mandated standard ranges. Three measures of recommended sentences were constructed. First, we constructed an ordinal scale measuring the degree and direction of departure from the standard range specified by statute. If the recommended sentence was less than the mandated standard range, the variable was coded as 1. The variable was coded 2 if the recommended sentence was within the standard range but at its low end, 3 if the sentence was in the middle of the standard range, 4 if the sentence was at the high end of the standard range, and 5 if the sentence exceeded the standard range.⁶

Second, we constructed a measure of the length of sentence corresponding to the number of weeks of supervision in some form of confinement. If the probation officer recommended a range of weeks (e.g., 8 to 12 weeks) we took the mid-point of the range as the recommended sentence.

Third, we developed an "in/out" measure of confinement to a correctional institution, coding sentences of confinement to a correctional facility as +1 and any other sentence as 0. Although all the analyses were conducted using each of these measures, the analyses yielded no substantial differences in findings. Therefore, we report only results of

the analyses using the first measure.⁷ This measure is the most valid indicator of the discretion exercised by probation officers in sentencing recommendations, particularly insofar as they departed from the statutorily prescribed sentences.

Probation officers' written descriptions of youths are, in part, explanations of their recommendations and decisions about youths and their cases (Scott and Lyman 1968). As such, they are organizational claims intended to persuade judges and that reflect accepted explanations for case handling within the court. Do attributions about offenders reflect the perceptions and "diagnoses" of offenders by probation officers, or are they established legal rationales routinely offered by probation officers and accepted by juvenile court judges for justifying classification decisions? If the former, then the attributions are a critical link in the causal sequence of factors influencing sentencing outcomes. If the latter, then the attributions may play a less important role in treatment decisions. This latter possibility raises the additional question of whether the organizational norms of courts or the expectations of individual judges prescribe different explanations or rationales for different types of offenders. Some court professionals may tailor their arguments and claims to the expectations and perceived needs of individual judges, delivering rationales that produce the most desired outcomes.

Two aspects of our study suggest that the probation officers' attributions typically preceded rather than followed classification and treatment decisions. First, the state laws require presumptive sentencing of juveniles and thereby focus the attention of court officials on characteristics of the offense and offender in formulating sentencing recommendations. These laws establish a formal logic and order to the assessment process that limit the extent to which classification or sentencing may precede assessment. Second, observations and interviews of probation officers who completed the narrative reports also

⁶ Of the 233 cases, probation officers recommended higher than the standard range in 15 cases and lower than the standard range in 21 cases.

⁷ The other two measures showed significant mean differences between blacks and whites in sentences imposed, with blacks receiving more serious sentences on average than whites. Results of the additional analyses are available from the authors on request.

suggest that attribution precedes classification and treatment. Typically, classification decisions were made following careful consideration of the youth, his or her crimes, and the youth's risk of future criminal activity.⁸ None of the interviews or observations gave us reason to believe that rationales were developed following decisions about offenders or that probation officers considered individual judges' expectations or desires about case outcomes when formulating their descriptions of offenders and their crimes.

Nevertheless, dispositional decisions may precede assessment. In some instances typifications of offenders may reflect a gestalt of defendant characteristics that is used to justify a particular dispositional outcome (Maynard 1982). Although court officials clearly look to the characteristics of the offender and his or her crime as they contemplate the sentence and disposition, they may organize these characteristics according to different principles. Some may tailor their written assessment of the defendant's overall character and circumstances to the desired sentence outcome. Others may weigh each characteristic and circumstance of the defendant while making their sentence recommendation. We argue that the legal context of the state and the formal rationality associated with presumptive sentencing encourage the latter approach because of its established guidelines for determining sentence length.

ANALYSIS AND RESULTS

We examine the empirical relationships between race, attributions about minority and white offenders, probation officers' assessments of youths' risk of future crime, and final sentence recommendations. We examine three issues: Whether a youth's race is re-

lated to officials' attributions about youths (independent of other factors), whether attributions influence assessments of the risk of future crime and recommended sentences, and whether attributions mediate the relationship between an offender's race and officials' assessments of risk and recommended sentences, adjusting for the seriousness of the alleged offense and the offender's criminal history.

The analysis of probation officers' narratives reveal important differences in their attributions about white and black youths. Table 1 exhibits means by race for all variables included in the analysis. Two findings are noteworthy. First, reports on black youths were more likely to include negative *internal* attributions than reports on white youths (mean for blacks = .56 versus -.07 for whites). In contrast, reports on white youths were more likely to include negative *external* attributions than were those for black youths (mean for whites = 1.13 versus .75 for blacks). Thus, probation officers describe black and white youths differently, referring to negative personality traits for black youths and more to negative environmental influences for whites. Second, officers' assessments of the risk of reoffending differed significantly by race; black youths were judged to have a higher risk of reoffending than were white youths (mean for whites = 2.16 versus 2.42 for blacks). There was no significant difference by race in sentence recommendations, and the majority of sentences recommended by probation officers for both groups were within the standard ranges.⁹

The observed differences in attributions and risk assessments may be the result of factors other than the youth's race, as other characteristics of youths may shape or influence probation officers' perceptions or assessments. For example, the severity of a presenting offense or a youth's prior criminal record may affect how officers perceive and classify an offender (Farrell and Holmes 1991; Farrell and Swigert 1978; Sudnow 1965). Further, if these factors are also re-

⁸ For example, one probation officer, who completed many of the narratives in our study, was interviewed on at least three occasions and was observed and audiotaped as she prepared and completed a narrative report on a "typical" youth. The analysis of the offender and his case file proceeded logically, considering the offense, the prior history, and the "red flags" in the youth's file that suggested the type of sentence the probation officer should recommend to the court. Further, the probation officer repeatedly referred to the recommendations of the training manual.

⁹ Previous studies of juvenile dispositions from this state reveal no significant racial differences in juvenile sentencing after adjusting for statutorily mandated standard ranges (Bridges and Conley 1995; Bridges et al. 1993, 1997).

Table 1. Descriptive Statistics for Variables Used in the Study: Juvenile Offenders in Three Counties

Variable	White			Black			F-Difference
	Mean	S.D.	N	Mean	S.D.	N	
Age	15.84	1.33	170	15.57	1.29	63	1.79 [*]
Sex (male = 1)	.88	.32	170	.81	.40	63	7.68 ⁺
Prior convictions	3.12	3.35	170	4.90	4.50	62	10.63 ⁺
Detained prior to adjudication	.48	.50	147	.84	.37	56	23.28 ⁺
Violent offense	.33	.47	170	.48	.50	63	4.30 ⁺
Negative internal attributions ^a	-.07	1.33	145	.56	1.33	59	9.35 ⁺
Negative external attributions ^b	1.13	2.00	167	.75	1.86	61	1.65 ⁺
Risk of reoffending ^c	2.16	.79	155	2.42	.78	62	4.73 ⁺
Sentencing recommendation ^d	2.92	.71	165	3.00	.89	62	.57

^a Scores range from -2 to +2. Negative scores indicate positive internal characteristics; positive scores indicate negative internal characteristics.

^b Scores range from -3 to +3. Negative scores indicate positive external characteristics; positive scores indicate negative external characteristics.

^c Scores range from 1 (indicating a low risk of reoffending) to 3 (indicating a high risk of reoffending).

^d Scores range from 1 (indicating a recommendation below the standard range) to 5 (indicating a recommendation above the standard range).

⁺ $p < .05$ (one-tailed tests) ^{*} $p < .05$ (two-tailed test)

lated to race, they help explain the racial differences in internal and external attributions. Youths with prior criminal records may be perceived as more seriously entrenched in a lifestyle of delinquency and therefore more likely to have personality traits of chronic delinquents.

Internal and External Attributions

To identify the role of race in generating probation officers' attributions about youths and their crimes, we initially conducted two sets of regression analyses. Each set included the internal and external attribution scores as dependent variables. The first set of analyses adjusted for the influence of factors such as age, sex, nature of the presenting offense, and prior offense record. The second set of analyses added contextual variables, including county identity, identity of the probation officer, and probation officer's race.¹⁰ This

¹⁰ Many factors may contribute to differences in these reports, apart from differences among the cases' and offenders' characteristics. Different probation officers may use different criteria in assessing youths and their cases. Further, counties may differ in the criteria used for judging the moral character of youths; probation staff in each

second set of regressions was conducted with this part of the analysis because the policies and practices of court officials may vary significantly across jurisdictions and in relation to important social structural differences in the surrounding communities (Levin 1976; Eisenstein and Jacob 1977; Myers and Talarico 1987). Further, we expected that the structure and dominant ideology of the court would influence the extent to which officials recommend particularly harsh punishments.

Table 2 reports results from only the first of the regression analyses. The second set of analyses demonstrated that contextual factors had only limited influence on attributions about crime and on racial differences in attributions.¹¹ Further, no significant differences

of the counties may have its own policies and culture with respect to handling youths. To assess whether differences among probation officers and county courts contributed to the findings exhibited in Table 1, the analyses were performed twice, once with dummy variables indicating probation officers with a disproportionately large caseload (1 = those with 15 or more cases in our sample; 0 = other), and once with dummy variables indicating the county from which cases were drawn.

¹¹ Only race of the probation officer was a significant predictor of attributions, and then only of

Table 2. OLS Coefficients from the Regression of Probation Officers' Negative Internal and External Attributions on Selected Independent Variables: Juvenile Offenders in Three Counties

Independent Variables	Negative Internal Attributions		Negative External Attributions	
	Unstandardized Coefficient (b)	Standardized Coefficient (β)	Unstandardized Coefficient (b)	Standardized Coefficient (β)
Age	.003 (.082)	.003	.009 (.094)	.006
Race (black = 1)	.419 ^a (.228)	.139	-1.189** (.286)	-.269
Sex (male = 1)	.286 (.291)	.071	-.494 (.358)	-.085
Prior convictions	.409** (.151)	.210	.762** (.190)	.271
Detained prior to adjudication	.551* (.223)	.193	1.672** (.275)	.418
Violent offense	-.123 (.205)	-.043	-.032 (.257)	-.008
Intercept	-.433 (1.371)	—	-1.105 (1.541)	—
R ²	.129	—	.287	—

Note: Numbers in parentheses are standard errors.

^a Marginally significant at $p = .10$ (one-tailed test).

* $p < .05$ ** $p < .01$ (one-tailed tests)

were observed across courts in the characterization of delinquents or in attributions about the causes of their delinquent behavior.

Attributions about the causes of youth crime are heavily influenced by the severity of the youth's current criminal behavior and

internal attributions ($\beta = -.206$). However, the variation in the race of probation officers was limited (black probation officers handled only 23 of the total cases in our study). With this caution in mind, this finding suggests that black probation officers are less likely to make negative internal attributions than are white probation officers. In predicting internal attributions, youth's race remains marginally significant ($p < .10$; $\beta = .131$). These results led us to include an interaction term between youth's race and race of probation officer. An idea that has evolved from attribution theory is that of the "ultimate attribution error" whereby individuals attribute the causes of behavior differentially depending on whether the individual is in the "in-group" (same race) or "out-group" (different race). This predicts that the white probation officers will attribute the behavior of white youths to external characteristics, while attributing the behavior of black youths to internal characteristics. Similarly, black probation officers should attribute the behavior of black youths to external characteristics

the extensiveness of his or her prior criminal record.¹² Race also is important, exhibiting significant but different effects on external and internal attributions ($\beta = -.269$ for external attributions, .139 for internal attributions). Being black significantly reduces the likelihood of negative *external* attributions by probation officers and significantly increases the likelihood of negative *internal* at-

and the behavior of white youths to internal characteristics. Thus, the finding that race influences internal and external attributions differently, could be the result of the larger number of white probation officers. We tested this hypothesis by including an interaction term in the regression; the term was not significant, however, and is omitted from the analysis.

¹² Given the significance of prior record, the sample was divided into two groups—those youths with 0 to 2 prior offenses and those with 3 or more prior offenses—to determine whether social, legal, and contextual factors affect character judgments differently for youths viewed as new offenders versus those viewed as habitual offenders. While the difference in mean scores between the two groups was statistically significant for both internal and external attributions, the same variables were significant in the regressions run for each group.

tributions, even after adjusting for severity of the presenting offense and the youth's prior involvement in criminal behavior.¹³

These differential attributions are illustrated in the following excerpts drawn from the narratives of similar cases, both 17-year-old boys with no prior criminal history who were charged with first-degree robbery. Both crimes involved firearms. In the first case, the offender (Ed) held up a gas station with two friends. In the second case, the offender (Lou) robbed two motels with two friends. No injuries were sustained in either case. Ed is black, and Lou is white.

The probation officer attributed Ed's criminal behavior to unremorseful attitudes and an amoral character:

This robbery was very dangerous as Ed confronted the victim with a loaded shotgun. He pointed it at the victim and demanded that he place the money in a paper bag. This appears to be a premeditated and willful act by Ed. . . . There is an adult quality to this referral. In talking with Ed, what was evident was the relaxed and open way he discussed his life style. There didn't seem to be any desire to change. There was no expression of remorse from the young man. There was no moral content to his comment.

In contrast, Lou is portrayed as a victim of external circumstances (Sykes and Matza 1957):

Lou is the victim of a broken home. He is trying to be his own man, but . . . is seemingly easily misled and follows other delinquents against his better judgment. Lou is a tall emaciated little boy who is terrified by his present predicament. It appears that he is in need of drug/alcohol evaluation and treatment.

¹³ These effects may reflect a differential impact of race on the individual components of each scale. For example, regarding external attributions, race may strongly affect attributions about family but may have no effect on attributions about school, peer relations, or drug/alcohol use. To explore this possibility, separate regressions were run with each component acting as a dependent variable. Results showed that race has a significant effect on each component, except drug and alcohol use and youth's attitude. The effect of race on these two components, while not significant, was in the predicted direction (positive for external attributions and negative for internal attributions).

The Risk of Reoffending and Sentencing Recommendations

We also examined the relationship between race, attributions, and probation officers' assessments of the risk of reoffending and their sentence recommendations. Table 3 displays the results of regression analyses in which risk assessment, and sentence recommendations were regressed on case characteristics, youths' social and demographic backgrounds, and internal and external attributions about youths and their crimes.

Not surprisingly, Model 1 indicates that youths with prior histories of delinquent offending ($\beta = .312$), those judged by the court as dangerous enough to be detained prior to adjudication ($\beta = .399$), and those who committed more serious (violent) offenses ($\beta = .140$) were described as having a high risk of future offending. In contrast, none of the youths' demographic characteristics (including race) significantly influenced risk assessments after adjusting for these factors.¹⁴ In effect, case characteristics mediated the relationship between race and perceived risk.

Model 2 adds attributions about youths and their crimes to the analysis. Negative attributions have strong and significant effects on assessments of risk, independent of demographic and legal variables. The explanatory power of Model 2 is substantially higher than that for Model 1 ($R^2 = .540$ as contrasted to $.340$). Negative *internal* attributions are more influential on assessments of risk than are negative *external* attributions ($\beta = .442$ versus $.143$). This suggests that youths whose crimes are attributed to internal causes are more likely to be viewed as "responsible" for their crimes, engulfed in a delinquent personality and lifestyle, and prone to committing crimes in the future.

Excerpts from the narratives illustrate these processes. Typically, probation officers

¹⁴ Given previous research (Daly 1994; Steffensmeier, Kramer, and Streifel 1993), we expected gender to have a significant effect on the dependent variables. Our lack of significant effects for gender is likely due to the small number of females in the sample (32 of the 233 cases). Although not statistically significant, females received lower risk assessments and shorter recommended sentences than did males.

Table 3. OLS Coefficients from the Regression of the Risk of Reoffending and Sentencing Recommendations on Selected Independent Variables: Juvenile Offenders in Three Counties

Independent Variables	Model 1		Model 2		Model 3		Model 4	
	Unstandardized Coefficient (b)	Standardized Coefficient (β)	Unstandardized Coefficient (b)	Standardized Coefficient (β)	Unstandardized Coefficient (b)	Standardized Coefficient (β)	Unstandardized Coefficient (b)	Standardized Coefficient (β)
Age	-.003 (-.038)	-.005	-.001 (.035)	.001	.012 (.035)	.021	-.020 (.053)	-.028
Race (black = 1)	-.059 (.112)	-.034	-.134 (.102)	-.079	.041 (.111)	.023	-.001 (.154)	.003
Sex (male = 1)	.132 (.145)	.056	.045 (.129)	.019	.082 (.124)	.040	-.074 (.193)	-.029
Prior convictions	.349** (.075)	.312	.198** (.067)	.181	.171** (.065)	.171	.111 (.102)	.092
Detained prior to adjudication	.651** (.110)	.399	.439** (.105)	.268	.103 (.101)	.066	-.145 (.167)	-.080
Violent offense	.227* (.102)	.140	.225** (.087)	.133	-.139 (.091)	-.094	-.123 (.132)	-.070
Negative internal attributions	—	—	.248** (.035)	.442	—	—	.134* (.060)	.215
Negative external attributions	—	—	.054* (.026)	.143	—	—	-.011 (.040)	-.025
Risk of reoffending	—	—	—	—	—	—	.331** (.120)	.299
Intercept	1.572 (.620)	—	1.670 (.576)	—	1.572 (.620)	—	2.510** (.861)	—
R ²	.340	—	.540	—	.037	—	.217	—

Note: Numbers in parentheses are standard errors.

* $p < .05$ ** $p < .01$ (one-tailed tests)

take the youth's attitudes toward the current offense and toward court officials as a critical indicator of whether the youth has a "proper" attitude toward crime. Youths who acknowledge personal responsibility and who express remorse may be portrayed as knowing right from wrong and as more likely to avoid further criminal behavior:

Chris seems to be fully aware of the mistakes he has made in the past and he has been making deliberate efforts to do better. He seems sincere in his desire to stay out of further trouble with the law. He seems to have gained some insight and maturity in his outlook and appears willing to be more responsible in his behavior. He is making plans for the future and is attempting to put his criminal past behind him. He is not likely to reoffend at this time. (Low assessed risk of reoffending)

A disrespectful attitude, on the other hand, may indicate a lack of understanding of or agreement with the legal order. Youths displaying a disrespectful attitude are seen as lacking the internal restraints against committing future crimes:

Jason takes little responsibility for his actions and seems to be unaffected by consequences to date. This officer would not be surprised to see Jason reoffend in the future based on his lack of respect for the property of others, his disregard for the law, and his desire to experience the thrill of the moment. Jason demonstrates little, if any, remorse for his actions and seems to only be sorry that he got caught. (High assessed risk of reoffending)

Court officials view the family as having the same control functions as the justice system. If a probation officer views a youth's family as capable of controlling the youth's behavior, the youth is likely to be assessed as a lower risk to reoffend:

Sean is a likable and typical 16-year-old. The theft was out of character for him. He comes from a stable family which supplies a lot of love and support. They also provide discipline and guidance. The relationships within the family appear positive and constructive. Sean is sure he will never be back before the court. (Low assessed risk of reoffending)

Drug and alcohol use also are seen as serious inhibitors to internal controls. Youths with serious addictions are often deemed unable to control their criminal behavior be-

cause of the physical effects of alcohol and/or drugs:

Margaret is definitely unmanageable in the community. It is clear that until Margaret's addiction is adequately addressed, her behavior patterns will not change and are, in fact, likely to only escalate. It is clear that Margaret is not able to function in a responsible manner without a great deal of enforced structure. It is felt that such structure can best be provided for her within the juvenile justice system. (High assessed risk of reoffending)

Similarly, youths who have family members or friends who are engaged in criminal behavior, who use drugs or alcohol, or who lack motivation for employment and other conventional activities, may be seen as having a high risk of reoffending.

It appears that Joseph's family has been very dysfunctional for some time. Joseph did not have a positive role model. His family members had some serious problems with drugs and alcohol, which led to problems with the law. The family has enabled Joseph to continue in the pattern he is in now. If Joseph doesn't get help now, he will be a very high risk to reoffend. (High assessed risk of reoffending)

The environment may be a positive influence on the youth's behavior:

Reggie has made a positive attempt to change his behavior. He no longer associates with his old friends, has made new friends through his church, and attends group counseling on Sundays. . . . Reggie seemed very adamant that he was not going to reoffend because his work and family mean too much to him. (Low assessed risk of reoffending)

Finally, probation officers interpret lack of engagement in school as a sign of selfishness and a lack of maturity, both of which are viewed as risk factors, making a youth more likely to engage in criminal behavior:

It appears to me that Allen has no strong aspirations academically or vocationally and no desire to please anyone other than himself. His egocentric attitude and apparent indifference to others often throw him into conflict with authority figures at school and in the community. (High assessed risk of reoffending)

Model 2 also indicates that race has no significant direct effect on assessments of risk after adjusting for case characteristics, the accused's prior criminal record, and attribu-

tions made about offenders by probation officers. The single most influential factor on risk assessments is negative internal attributions. Negative internal attributions about the causes of crime, such as "feeling no remorse" or being "uncooperative," have greater influence on officers' assessments of risk than do attributions about a youth's social environment, the characteristics of their cases, or their criminal histories. In other words, youth whose crimes are attributed to negative personal traits are much more likely to be perceived as having a high risk of reoffending, above and beyond any risks associated with their presenting offense or criminal history.

Finally, Models 3 and 4 in Table 3 present the results of the regressions of probation officers' recommended sentences on the independent variables. Model 3, which includes only the legal and demographic variables explains little variance, with prior convictions being the only factor contributing significantly to recommended sentences ($\beta = .171$). In contrast, Model 4, which also includes attributions and the risk of reoffending, explains more variance ($R^2 = .217$) and reveals the importance of negative internal attributions and the perceived risk of future crime in sentence recommendations. Probation officers were much more likely to recommend sentences that exceeded the standard range specified under the state's sentencing guidelines for youths whose crimes they attributed to negative personality traits ($\beta = .215$) and for youths perceived as having a high risk of future crime ($\beta = .299$). Race has no substantial direct effect on recommended sentences in either model.

SUMMARY

Three findings are noteworthy. First, probation officers consistently portray black youths differently than white youths in their written court reports, more frequently attributing blacks' delinquency to negative attitudinal and personality traits. Their depictions of white youths more frequently stress the influence of the individual's social environment. Second, these attributions about youth shape assessments of the threat of future crime and sentence recommendations. Court officials rely more heavily on negative internal attributions than on the severity of the

youth's crime or his or her prior criminal history in determining the likelihood of recidivism. Finally, attributions about youths and their crimes are a mechanism by which race influences judgments of dangerousness and sentencing recommendations. Insofar as officials judge black youths to be more dangerous than white youths, they do so because they attribute crime by blacks to negative personalities or their attitudinal traits and because black offenders are more likely than white offenders to have committed serious offenses and have histories of prior involvement in crime. Insofar as officials recommend more severe sentences for black youths than whites, they do so because they recommend severe sentences for youths whose crimes they attribute to negative personality traits and who they perceive as more dangerous than others.

DISCUSSION

A critical issue in the sociology of law and social control is the role of institutions like the courts in reflecting and reproducing the patterns of inequality present in the larger society. Previous studies have explored how a person's social standing in the community influences the severity of punishments courts impose. However, most of these studies have ignored the mechanisms by which court officials' perceptions of offenders influence legal decision-making. Our research shows that officials' perceptions and decisions are critical to this relationship and may emanate in part from officials' ideas about the causes of criminal behavior. Some offenders are perceived as threatening and at risk of reoffending because their personal characteristics and their behaviors are salient in officials' working explanations of criminal behavior. Officials may perceive blacks as more culpable and dangerous than whites in part because they believe the etiology of their crimes is linked to personal traits. Further, officials may perceive these traits as not amenable to the correctional treatments the courts typically administer. That they recommend more severe penalties for these types of offenders, including commitments to confinement, is understandable given their perceptions and the limited alternatives for treatment available through the legal process.

A related concern in research on law is the question of "human agency"—how the values and beliefs of individuals and groups are transformed into the policies and practices of controlling organizations. Our findings identify important attributional processes in legal decision-making. These attributional processes transform the accused into an officially recognized offender, explaining his or her personal attributes in a manner that influences subsequent legal disposition. Further, officials' beliefs are linked to the organizational practice of courts in a causal sequence of perceptions, assessments, and decisions. Most sociological theories of law portray legal decisions as assembly-line products of offense and offender characteristics, and they portray legal decision-makers as unperceptive and unthinking actors (see Maynard 1982). These theories must now integrate the social psychology of decision-making into the interpretation of legal processes (Albonetti and Hepburn 1996).

The sociology of organizations and professions may prove useful in this integration. By incorporating knowledge about how professionals within organizations perceive and respond to the clients they treat, theories of law and control may more effectively specify how courts and other institutions respond to individuals and groups who commit crimes and other deviant acts.

Equally important is the role of organizational context on perceptions and responses to clients. In some organizations, the process of classifying and labeling clients as deviant may yield efforts to reintegrate rather than reject or punish deviants. For example, when the organization must expend substantial resources to correct deviant behavior and when professionals and their clients are extremely interdependent, organizations often react in an integrative rather than punitive manner (Heimer and Staffen 1995). Our analyses, however, found no differences across courts in attributions about juvenile offenders or in the recommended punishments, despite significant differences among the courts in structure and ideology. Clearly, additional research is needed on the role of organizational context on attributions and on how variation in the structure and ideology of courts may influence individual attributions.

Our research also suggests that analyses of organizations, regardless of type, must consider the issue of agency. Unless theory and research identify the mechanisms by which perceptions of individuals within organizations influence decision-making, they will misspecify causal relationships that explain organizational outcomes. To the extent that these mechanisms are common to professional decision-making across different types of organizations (Abbott 1988), research that explores the role of professionals' beliefs about their clients and their clients' problems is critical. At a minimum, this research must specify how professionals' diagnoses, judgments, and treatments of their clients are causally related. Further, research must specify how aspects of organizational structure (e.g., organizational norms, size, bureaucratization) limit the influence of perceptions and beliefs on the decision-making process.

In this direction, future research on law and social control must accord priority to subjective qualities of legal decision-making, including how court officials define and treat criminal offenders. Analyses restricted to the objective properties of offenders and their crimes offer little promise of extending knowledge about legal decision-making. That officials may have different theories about the causes of crimes for blacks and whites and perceive minority youths as more threatening than white youths indicates that a perceptual logic of explanation and assessment directs the disposition of offenders. Research must identify the important elements of this logic and how these elements relate to disposition decisions. Equally important is the professional doctrine of probation officers and court officials and aspects of the organization of courts that sustain perceptions of crime and criminal offenders. Studies must examine how philosophies of treatment give rise to systems of classification that categorize youth and the causes of their crimes as "treatable" or "untreatable." Research that explains the development of these systems will yield new and important conceptions of law and the legal process.

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A REPORT
ON THE
DELICATE BALANCE

to

**The President, the Congress, and the Administrator of the
Office of Juvenile Justice and Delinquency Prevention**

Presented by
**The National Coalition of State Juvenile Justice
Advisory Groups**

January, 1989

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NATIONAL COALITION OF STATE JUVENILE JUSTICE ADVISORY GROUPS

January, 1989

To: The President, the Congress, and the Administrator of the Office Of
Juvenile Justice and Delinquency Prevention

From: The National Coalition of State Juvenile Justice Advisory Groups

We are pleased to present our fourth Report on federal policies affecting juvenile justice and delinquency prevention and the operations of the Office of Juvenile Justice and Delinquency Prevention. The annual conference of the National Coalition is one of the means by which these tasks are addressed; it is the basis for our Report and our recommendations.

In the past, Congress has been most responsive to the National Coalition of State Juvenile Justice Advisory Groups' recommendations. For that response and subsequent Congressional support for the Juvenile Justice and Delinquency Prevention Act, we express our sincere appreciation. The children of the United States and its Territories thank you for your continued support for the Act at funding levels necessary to improve juvenile justice in the United States.

This year's Report will be of considerable interest to those who are concerned with our nation's future and the role of youth in that future. It examines the critically important matter of differential processing of minorities within the juvenile justice system. Our deliberations, by necessity, went far beyond the traditional province of the Office of Juvenile Justice and Delinquency Prevention. Yet, we believe that the Office and the federal government must be at the heart of any substantive effort to help redress grievances identified in our current system. Our recommendations are a first step in sketching out some strategic and operational suggestions that could redress some of the grievances identified.

Sincerely yours,



Richard Gardell, Chair
National Coalition of State
Juvenile Justice Advisory Groups

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EXECUTIVE SUMMARY

The 1988 Conference of the National Coalition of State Juvenile Justice Advisory Groups focused on the differential processing of minorities within the juvenile justice system. For some, the color of today's juvenile justice population represents a blatant example of racism, regardless of intent or practice, while, for others, it is nothing more than a reflection of the amount of crime minorities commit. Unfortunately, the ensuing rhetoric and rage serve to accentuate the problem, which, in turn, disturbs the delicate balance between equity and justice for those juveniles caught up in the system.

We know that some minorities do commit a slightly greater number of serious crimes but not at a rate or level of any great significance when compared to whites. We also know that small and repeated actions of hundreds of individuals in the juvenile justice system often add up to decisions and actions that are prejudicial and racist in consequence. Having said this, however, we have contributed little to our understanding of the problem.

Our deliberations suggest that the issue of differential processing within juvenile justice is more than simple prejudice by participants in that system. Indeed, we would suggest that the juvenile justice system is nothing more than a shadow of the larger society which defines and supports it. In that sense, equity and justice, the pillars of our justice system, require that we look at a great deal more than our juvenile justice system; it requires that we look at fairness and justice in all of our life pursuits—a delicate balance in a democratic society where differences and individuality are seen as fundamental strengths.

Our mission dictates that our recommendations cover both operational and strategic recommendations affecting juvenile justice and delinquency prevention. Because of our dual mission as a Coalition, the recommendations may appear eclectic. Yet, we believe they are variations on the same theme: leadership at the national level, based on partnership with the States and local jurisdictions coping with the problems of juvenile justice.

The following abbreviated versions of the recommendations that appear in the Report are provided as a quick reference to sections of the Report that may be of greater interest to an individual reader. We encourage the reader to use them in this way.

We recommend:

To the President

- 1. That the President designate his/her Domestic Affairs Advisor as Chairman of a Special Task Force to inquire into issues raised by differential juvenile justice processing practices and to take action to resolve inequities (Page 35).**

To the Congress

- 2. That the Congress hold special hearings to inquire into the multiple**

blems associate n differential incarceration — problems that
tion equity and justice (Page 38).

at the Congress appropriate special funds for the purpose of creating
small model youth correctional facilities (30 youth or less) that
ice the amount of differential incarceration for minorities (Page 39).

To the Administrator

at the Office of Juvenile Justice and Delinquency Prevention conduct
support research on the effects of police surveillance, offender
eanor, and police apprehension practices to understand why and
minority youth are at greater risk of being handled differentially
e 41).

at the Office of Juvenile Justice and Delinquency Prevention conduct
support research on the differential effects of detention decision-
ing on minority youth in institutional and/or non-institutional
ings (Page 42).

at the Office of Juvenile Justice and Delinquency Prevention sponsor
support research on the effects of dispositional guidelines and laws
dating penalties for chronic offenders (Page 42).

at the Office of Juvenile Justice and Delinquency Prevention take a
lership role in developing training curricula for police, prosecution,
rts, and probation officers on the ways their personal prejudices
ut race, gender, class and ethnicity can affect decisions (Page 43).

at the Office of Juvenile Justice and Delinquency Prevention offer
lership in the development and expansion of the use of highly-trained
enforcement personnel specifically committed to juvenile and youth
ices (Page 44).

at the Office of Juvenile Justice and Delinquency Prevention ensure
, whenever training, technical assistance, or research is supported
he Office, the principals and participants providing and receiving
service represent a rich and diverse mix of ethnic, cultural, and
ational backgrounds (Page 45).

at the Office of Juvenile Justice and Delinquency Prevention assume
dership role in identifying jurisdictions experimenting with or
cticing innovative approaches to juvenile justice and delinquency
vention and, further, that the Office provide appropriate training
technical assistance to other states wishing to learn from these new
roaches (Page 46).

at the Office of Juvenile Justice and Delinquency Prevention engage
cooperative project with the Department of Education to research,

develop, and promulgate new approaches or uses by which community
colleges can provide educational opportunities for youth, particularly
minority youth, who have not been successful in secondary educational
training (Page 46).

12. That the Congress amend the Act to require that the Administrator ask
appropriate State Advisory Groups to review and comment on
discretionary grants made within their States (Page 53).
13. That the Administrator of the Office of Juvenile Justice and
Delinquency Prevention develop more effective methods for sharing the
results of successful programs, through regional conferences, regional
training seminars, the National Coalition Conference, video tape
presentations, and publications (Page 53).
14. That the Office of Juvenile Justice and Delinquency Prevention offer
special training to State Juvenile Justice Advisory Groups on ways to
effectively coordinate and integrate the use of Federal funds available to
prevent delinquency and improve the juvenile justice system (Page 54).
15. That the Office of Juvenile Justice and Delinquency Prevention develop
and provide States with an effective grant review process, and, in
addition, offer training and technical assistance in the use of that
process (Page 55).
16. That the long and short-range planning process of the Office of Juvenile
Justice and Delinquency Prevention be expanded to include the
Chairman of the National Coalition of State Juvenile Justice Advisory
Groups, or his/her designee(s), in the development of the annual
program plan and long-range planning efforts of the Office (Page 55).

Many of our program recommendations encourage the Office of Juvenile Justice
and Delinquency Prevention to carry out the mandates of the original Juvenile
Justice and Delinquency Prevention Act of 1974, as well as its subsequent
amendments. Our recommendations call for involvement and cooperation. They
also call for a partnership in which the two partners make significant contributions
to achieving the goals of the Juvenile Justice and Delinquency Prevention Act of
1974.

Our strategic recommendations to the President and to the Congress remind us
that fairness, equity and justice in juvenile justice will be difficult to achieve
without action on some broader social and economic issues of critical interest to
our democratic society.

We have learned that equity and justice go beyond the juvenile justice system.
Differential justice stems from unresolved issues in our society. Our
recommendations are directed at some of these unresolved issues.

INTRODUCTION

Without this ridiculous vanity that takes the form of self-display, and is part of everything and everyone, we would see nothing, and nothing would exist.

Antonio Porchia
Voices

In 1984, Congress gave the National Coalition of State Juvenile Justice Advisory Groups a new and significant role in shaping juvenile justice and delinquency prevention policy at the national level. The Congressional mandate created the direct responsibility and opportunity for those of us at the State and local levels to share different points of view on juvenile justice and delinquency prevention with the President, the Congress, and the Administrator of the Office of Juvenile Justice and Delinquency Prevention. As the only statutory group mandated by the Congress to deal with juvenile justice on a national level, we take that responsibility seriously as our three previous Reports demonstrate. Amendments to the Act by the Congress in 1988 offer the promise of an even greater degree of cooperation in this important enterprise on behalf of the children and youth of this country.

This year, the National Coalition of State Juvenile Justice Advisory Groups' Conference focused on the critically important issue of differential processing of minorities within the juvenile justice system. Our deliberations, by necessity, went far beyond the traditional province of the Office of Juvenile Justice and Delinquency Prevention. Yet, we believe that the Office, in its leadership role at the national level, is an appropriate agency to begin to help redress grievances identified in our current system.

The Office, particularly in relation to the Federal Coordinating Council, is in a position to leverage Federal monies, organize and manage cooperative efforts, and demonstrate workable programs that will reduce discriminatory practices (intentional or unintentional) within the juvenile justice system. The section of this Report dealing with "The Delicate Balance" examines the problems, the issues, and possible remedies that the Office of Juvenile Justice and Delinquency Prevention, the Congress, and the President might wish to consider. The issues raised tear at the fabric of our society; they are at the heart of problems like poverty, delinquency, substance abuse, child abuse, dependent and neglected children, and violence—the subjects of so much media attention. These are the issues that we, as a Coalition, refuse to gloss over or ignore.

Our Agenda for 1989

During the 1988 Annual Conference, two special issues emerged from our discussions of racism within the juvenile justice system. 1) the quality of institutional care for juveniles and 2) the continued use of inappropriate confinement of juveniles by some States and regions. These issues deserve careful consideration, and, therefore, it is our intention to make them the focus of our 1989 Spring Conference. The quality-of-care issue will inquire into health

mental health services, education, and other treatment programs. It will cover both the public and private delivery of these services. Inappropriate institutions will cover the entire range of problems associated with both public institutions—jails, secure detention facilities, private clinics, private programs, training schools, etc.

The work undertaken this year bears directly on next year's work, i.e., whites to treatment services covered by private insurance and the population of minority children in secure public facilities. What are the issues in the quality of programs offered? What are the issues associated with racial rights and institutional placement? What were the consequences to us in our national drive to deinstitutionalize status offenders? The product of our discussions should lead to research and development projects by the Juvenile Justice and Delinquency Prevention.

Justice Is Fairness

The Conference of the National Coalition of State Juvenile Justice Advisory Groups presents an excellent example of how the Office of Juvenile Justice and Delinquency Prevention and the Coalition can work together to examine critical issues affecting the youth of this nation. Both can take pride in having raised the issue of differential juvenile justice to a level of critical debate by both public and private practitioners working in the field. Questioning the possibility of racism in the juvenile justice system is not a topic for casual inquiry. It is a subject that all people cannot ignore.

The issue of juvenile and criminal justice rates for minorities are not a new phenomenon. Yet, until recently, we have not been sufficiently concerned to ask the important questions: Why do these rates exist? What can we do about them? How can we avoid this continued problem in the future? These questions are not easy to ask, particularly for those of us who are participants in the operation and management of juvenile justice at the State or national level. Those of us who attended the Conference had to look at ourselves and our beliefs as they affect policy and practices. We had to explore our responsibility for differential rates as well as question those of others. The effort represents what can be achieved by partners working together to explore solutions to difficult problems in juvenile justice. It forces us to examine our own behavior as it affects

Ian Paton described it thus in his poem, "We mean nothing evil towards you" in his book Knocking On The Door.

... kman, we are going to shut you off
... re going to set you apart, now and forever.
... mean nothing evil towards you . . .

... resolve is immutable, our hands tremble
... with the greatness of our resolution.
... re going to set you apart, now and forever,
... mean nothing evil towards you.

EQUITY AND JUSTICE: A Delicate Balance

*I swear to the Lord
I still can't see
Why Democracy means
Everybody but me.*

*Langston Hughes
The Black Man Speaks*

The issue of differential criminal and juvenile justice rates for minorities is a growing problem in American society. Slowly, we are seeing greater attention being given to differential arrest, prosecution, conviction, and sentencing by many States and localities. Unfortunately, the problem is, more often than not, made more difficult by rhetoric and rage, which disturb the delicate balance between equity and justice. Many people believe that the differential rates of arrest, conviction, and incarceration are, of themselves, a prima facie case for racism within corrections and the juvenile justice system. Others, just as vehemently, believe that ethnic or racial disproportionateness is primarily a result of greater involvement of minorities in crime.

For some, the color of today's juvenile justice population represents a blatant example of racism, regardless of intent or practice. The argument of those believing the system is racist is as follows: The dominant society defines that from which it wishes to be protected—that is, what it fears most, an image of abhorrent behaviors that blacks and other minorities are believed to engage in more than others. There is less opportunity for legitimate activities for minorities, and this lack of opportunity encourages them to engage in prohibited behaviors in order to achieve the rewards of society. Enforcement practices reflect the interest of the majority; hence, more minorities are likely to be arrested.

Strangely, those having opposite solutions to a problem often use the same rationale to arrive at their position. Those with divergent viewpoints and ideologies often agree that it is the unfairness and inequality of opportunity that account for differential rates of processing for minorities. Both agree that social reforms are needed. It is in their interpretation of problems and the solutions for resolving them that these two groups move apart from their original agreements. Both tend to look for solutions that are individual and personal, such as accountability and responsibility, rather than institutional, which are more difficult to address.

Trying to restructure the nuclear family, to revitalize our educational system, to shift an economy from production to service without dislocating present and future employees, and to ensure that government is responsive to the legitimate needs of individuals are monumental tasks that are easier to ignore than address. Like the classic drunk of vaudeville, we search for our lost object under the street light where we can see, rather than in the dark where we lost it. Our recommendations and discussions will not ignore these institutional issues; indeed, they will focus on them.

we know about the two opposing explanations for differential juvenile rates, initial rates of substantial magnitude are evidence of racism and 2) differences in rates are the result of differences in behavior by minority groups? In fact, we know a great deal—as the 1988 Annual Conference of the National Coalition of State Juvenile Justice Advisory Groups demonstrated.

Facts on Incarcerated Minority Youth

Agreement in the literature that minority youth are overrepresented at all levels of the juvenile justice system, as compared to their numbers in the general population. Much of this research has focused on black youth; however, other studies have demonstrated high incarceration rates of Hispanic youth, Native Americans and Japanese Americans (Sheflin, 1979; Taft, 1981; Maxwell et al., 1981; Lloyd and Howell, 1977).

Studies in the field of mental health and developmental disabilities show that minority youth are more likely to be channeled into the juvenile justice system than into health care facilities (Prescott and Houten, 1982). Studies by Peterson (1975), Perry (1980), and Dunnefer and Schutt (1982) have all shown that race emerges as the single best predictor of arrest, incarceration, and delinquency, even when the influences of other variables are controlled.

Minority youth are being incarcerated in public correctional facilities at rates three times those of whites. Their numbers are growing even though overall juvenile crime rates are declining. FBI data and self-report studies show that minority youth are more likely to be involved in serious crime than white youth but not to the extent that generally has been assumed (Krisberg, 1987; et. al., 1987).

Minority youth represented 45 percent of those in custody; in 1982, minority youth represented 53 percent of those held in public correctional facilities. Today, the figure is closer to 60 percent.

From 1977-1982 witnessed large shifts in public policy on youth crime. A period in which deinstitutionalization was in vogue, national policy had a different effect upon youth from different racial groups. For example, during years of declining youth incarceration (1977-1979), whites accounted for 50 percent of the entire decline in youth incarceration, while Hispanic youth incarceration increased by 10 percent (Drisberg and Schwartz, 1987).

Between 1979 and 1982, when the numbers of juveniles confined in public facilities began to climb, minority youth bore the brunt. Blacks in public facilities increased by 269; Hispanic youth increased by 1,336. There were also significant increases in the number of Native American and Asian American youth. In total, the number of minority juveniles increased by 5,759, representing 93% of the entire increase in incarceration in public facilities.

White youth constituted 65% of the residents of all private juvenile

correctional facilities, as compared with 47% of public facilities. As institutions were becoming the holding place for minority youth, while, at the same time, private institutions were becoming the placement of choice for white youth.

Some Facts About Arrest Rates

In the public perception, no group is more associated with crime than young blacks. The arrest data for this group, both in numbers and in relative proportions, are astonishing. In 1979, 456,000 blacks in the 16-19 age group were arrested (Gibbs, 1984). Tillman (1986) has data showing that nearly seven in ten black males in California face at least one arrest in their early adult years. For whites, the rate is three in ten. America now confines more young black males in its public correctional institutions than it has in its colleges and at far greater costs.

If the large minority presence in correctional facilities is due to discriminatory policies and practices, there are definite remedial actions that can be taken. If minority incarceration is principally the result of inadequate community-based resources, a completely different series of policies and action are required. A third possibility is that the large numbers of incarcerated minority youth are a direct result of higher rates of involvement of minority youth in violent and repetitive delinquency. Indeed, the research of Wolfgang et al (1972) and Blumstein (1982), among others, lends support to this last possibility. If such is the case, then ameliorative strategies must look beyond the decision process of the juvenile justice system for answers. We must examine the health of the minority community, the stability of family life, and the highly constrained life chances of youth who live on the streets.

Arrest data by race for Part 1 offenses (serious crimes of rape, murder, robbery, aggravated assault, burglary, etc.) reveal that white youth accounted for approximately two-thirds of all Part 1 juvenile arrests during 1977-1982. During this same period, blacks accounted for about one-third of all Part 1 offenses. If only the most violent crimes (murder, forcible rape, robbery and aggravated assault) are examined, then blacks account for about half of all youth arrested for violent offenses. Data on Hispanics, not collected until 1980, are still unreliable.

On the surface, the FBI arrest data do not explain the proportions of each racial group found in juvenile correctional facilities. The data on violent arrests do present a picture more in line with the racial composition of the residents of juvenile correctional facilities. But, and this caveat is an important one, only a small proportion of arrests results in court dispositions, and an even smaller proportion of arrests results in placements in correctional facilities. Therefore, one cannot assume that arrest patterns by race will be translated into incarceration patterns, and, indeed, self-report crime studies suggest that arrests do not even approximate the numbers of crimes committed in our communities.

Differential incarceration cannot be explained on the basis of greater involvement in violent crime. Research based on Federal Bureau of Investigation data indicates that black youth are arrested for violent crimes more often than other youth and that this may partially account for their presence in public correctional facilities,

Violent crimes are more likely to result in a formal petition and stricter sentence penalties. Yet, these same data cannot be used to explain the high Native American incarcerations (Elliott, et al), which show a much lower arrest rate. Furthermore, the populations of most correctional institutions do not consist of violent offenders. On the contrary, the majority are arrested for property crimes, drug and alcohol related offenses, and violations of public order. Thus, the high number of minority youth arrested for violent crimes cannot, by itself, account for the overrepresentation of minorities among incarcerated.

Facts About Unreported Crime

The disproportionate rate of incarceration among minority youth, one fact alone, helps but asks whether this rate reflects differences in individual behavior or responses to behavior or both. As has been reported, some hold that minorities have a greater involvement in delinquent and criminal behavior (Lang, 1978). This greater involvement would then be anticipated to result in more frequent arrests, more frequent juvenile court appearances, and higher incarceration rates. A recent work (Huizinga and Elliot, 1987) examines this in the light of juvenile self-reported crimes and comes to different conclusions.

The National Youth Survey, conducted by Elliott, et al, is an ongoing, longitudinal study of delinquent behavior, alcohol and drug use, and problems related to substance abuse in the American youth population. This survey covers the period from 1976 to 1983 and includes the 11-17 year-old population of the continental United States. Survey staff annually question a panel of youth about self-reported involvement in delinquent behavior and substance abuse.

We know that only a small proportion of crime is detected and reported, the importance of using information about self-reported delinquent behaviors instead of official data to examine differences between groups is critical to our understanding of whether or not different ethnic or racial groups commit crimes proportionately. Based on the self-reports of the youth panel, 84% are not arrested for serious offenses they have committed. Not all crimes are reported or known to the police, and not all crimes that are known result in an arrest. The survey indicates that over 80% of serious violent offenders are officially unknown to the police or are known only as minor offenders (Elliott et al, 1986).

In comparison with other racial groups in this continuing study, a larger proportion of blacks report involvement in general delinquency. In general, minority groups have larger proportions reporting involvement in felony assaults. The differences between racial groups are statistically significant, however.

Incarceration rates between racial groups cannot be explained by differences in proportions of persons of each racial group that engage in delinquent behavior. The slightly higher rates for more serious offenses among minorities were of more importance than is statistically indicated, the relative proportions of whites and minorities involved in delinquent behavior could not account for the difference in incarceration rates.

Given these findings, researchers explored the possibility that differences in incarceration rates could be explained by differences in official responses to offenders. Their findings showed that among minority offenders, the "risk" of being apprehended and charged with an Index offense is substantially and significantly higher than it is for whites who report involvement in the same kinds of offenses.

Most researchers stress that "risk" of being arrested, prosecuted, etc., is probably more a function of class characteristics than race. Because the majority of minority individuals are in the lower socio-economic class (estimates of 73%-75%), it is likely that social class and social conditions materially affect 1) the ability to avoid apprehension, 2) the ability to avoid arrest if apprehended, 3) the lack of presence of parental and legal support at both arrest and court processing stages, and 4) general demeanor at points of contact with the juvenile justice system. There are indications of differences in offending rates among social classes (see, for example, Elliott and Huizinga, 1983, Elliott et al., 1985). It is possible that differences about which we are deeply concerned are class-linked rather than race-linked. If so, our questions must begin to focus on institutional processes, as well as individual behavior. As the Honorable Bruce Wright, Justice of the New York Supreme Court and keynote speaker at the National Conference of State Juvenile Justice Advisory Groups, reminded Conference delegates, "We cannot avoid our endings without first avoiding our beginnings."

Contradictory Themes

The cry that the juvenile justice system is racist is an expression of personal experience or observation, rather than of definitive studies of the matter. When aggregate data are analyzed, there appears to be evidence of subtle differential practices that are cumulatively disadvantageous to minorities. The disadvantages are extremely small, but they are incremental in their consequences.

The primary factors affecting this disadvantaged outcome are most important at the beginning of the system, i.e., the police, differential charging, differential arrest probabilities, etc., all contribute their indirect effects. In the total scheme of things, the discriminatory consequences are hidden within a maze of covert activities carried out by literally hundreds of different persons acting independently of one another. It is not a conscious plot directed or orchestrated by mean individuals. Rather, it is a fragmented and regionalized series of actions, that while sometimes washing out and counterbalancing one another, are, at other times, discriminating and racist. The closer to the street, the more confusing the data on what is really happening, because the "street" hides and protects decision makers from scrutiny or disciplined review. Interestingly enough, the more the system relies on a social service model or helping model, the greater the opportunity for discrimination. The more the system represents the legal model, the less the discrimination because of the rules guiding action and decisions. Hence, the philosophical conundrum, equity and sameness or individualized justice?

We do have some evidence on the impact of race on the juvenile justice process.

of Fagan, Slaughter, and Hartstone, 1987, demonstrates racial disparity in making from apprehension through judicial commitment decisions. If whites and minority youth were drawn at each point, controlling for severity, other offense characteristics, and extralegal factors, in addition the results show racial disparities at each point, with minorities consistently receiving harsher dispositions. And, at the "deepest" end of the scale where the consequences are most serious, no factor other than race could be used to explain the harsher responses to minority youth.

Disparities were observed at several seemingly separate decision points, but a consistent pattern was discerned, since discrimination takes different forms at different decisions and personnel. While race is linked to decision outcomes in many ways, the results are identical: minority offenders are at a consistent disadvantage in their efforts to receive equal protection under the law.

The evidence for racial discrimination in the Fagan et al study is disturbing. While we have the sources of discrimination lie in the individual attitudes of decision makers in the system's independent agencies, it is unlikely that these decision makers of different backgrounds would produce such consistent behaviors. Like other social institutions, the juvenile justice system is the product of ethnic and racial differences. To understand the differential treatment of minorities in the juvenile justice system, we need to look at the system in relation to the larger society. Aside from the issues of fairness, equity, and justice, racial disparities make a mockery of the notion of accountability. The system's goals are weakened by practices that lead to racial disparities in the juvenile justice system.

But Another Kind of Crime

The economic status of blacks is not only far below that of whites, but also the economic status of white and black economic well-being has not improved in the past 20 years. On measures of income, wealth, poverty, and unemployment, economic conditions between blacks and whites have not lessened, they have, in fact, worsened (Joe, 1987).

The consequences of this imbalance are reflected in the fact that blacks are overrepresented in public custodial facilities and are more likely to be both the perpetrators and the victims of crime. Blacks also have higher infant and maternal mortality rates, shorter life spans, and a greater incidence of teenage pregnancy.

Ultimately, we are in danger of becoming a dual society: one full of opportunity, with limited avenues and few options for movement up the traditional ladder. This problem is not a white or black problem, it is a structural problem of American society that must be addressed by a variety of actions, by all means and at all levels of public and private life.

The median income of black families was \$15,432 as compared to \$25,000 for white families for the same year. What is startling about these figures is that they have remained unchanged for the past 24 years. Black family income

was calculated in constant 1984 dollars) as a percentage of white families. Income was 55% in both 1960 and 1984.

The income distributions for white families and black families are also very different. Whereas fewer than four percent of white families have incomes under \$5,000, nearly 15% of black families have incomes this low. Conversely, whereas 17% of white families have incomes over \$50,000, only six percent of black families have an income this high.

These figures tell us little about long-term economic stability. For this information, we need some measure of total wealth—that is, the net worth of a household. Wealth is important, because it provides a cushion against adversities such as unemployment and divorce. Research reveals that blacks are even more disadvantaged because they have accumulated so few assets compared to whites. While the ratio of median income of whites to blacks is nearly 2:1, the ratio of median net worth of whites to blacks is 12:1. The median net worth of all white households was \$39,140 in 1984, for blacks it was \$3,400. Most strikingly, whereas 92% of white households have at least some net worth, only 70% of black households have any positive net worth. The remaining 30% have either zero net worth or a negative net worth because their liabilities exceed their assets (Bureau of the Census, 1984).

The poverty rate for black children in 1984 was 46.5%. Only 16.7% of white children are officially poor. If you are black and under the age of six years and are living with a single parent, your chance of living in poverty is 70%.

Unemployment among blacks is twice the national rate. For each black man counted as unemployed, another two are not even in the labor force. Since 1960, the number of black men out of the labor force has almost tripled. In 1960, nearly three-quarters of all black men included in census data were working. Perhaps society's attention should be directed to the deteriorating employment status of black men. If young black males grow up knowing that only half of them will be employed as adults, it is not surprising that more of them will view crime and the underground economy as their only means of survival. Recent trends, particularly in the area of drugs, suggest that crime has become the opportunity of choice for large numbers of minority children and youth, as well as adults.

The Ladder of Success—The Rungs Are Broken, Uneven, or Missing

A traditional American view is that anyone who is willing to work long and hard can climb the ladder of success. But, as increasing numbers of minority youth are discovering, the rungs of their ladders to success are broken, uneven, or missing.

Dr. Troy Duster of the Institute for Social Change at Berkeley, California, argues that America has experienced a deep bifurcation of the social structure and a corresponding development of a possible permanent "underclass." In particular, he recommends that any program of crime or delinquency reduction must address the structural transformations that have so altered the unemployment differences between black and white youth (Duster, 1987). Although the analysis focuses on the black male, primarily because of the availability of the data and scope of the

we must change beliefs regarding how people succeed. Our present reactive. We assume that every individual has the right to fail rather than to succeed. In the field of education, we must ensure an environment in which teachers can teach and students can learn. We need to have preventive programs that change the way very young people learn to live in the world. Head Start represents one such example. However, we know that children who are intellectually and emotionally starved need more than a "fix" to enter the main educational stream. We know now that the problem is of considerably longer duration than once thought, but the result is a long-term investment.

We need to invest in home-based programs for the entire family that teach parents and/or inadequate parents how to function as individuals and as family. We need family life skill training in our public schools, just as we need to teach simple survival skills for some adolescents.

The problem is not one of making the present system more efficient and capable of serving more people. Instead, we are interested in strong community based programs that reduce the numbers of youth coming into the system and make us more effective with those who do. Experience consistently shows that small facilities, i.e., of 30 or fewer children, rather than large, conglomerate facilities do more, reduce the problem of differential incarceration by reducing the number of minorities held. Small facilities require that we reserve our limited resources for the most serious juvenile offenders.

We need parent training for the children who are the parents of babies. We need more care and organized nurturing for segments of our population which now lack it. We also need to become realistic about what we can do with the children of the youth who end up in the justice system, many of whom are beyond rehabilitation. Where that is the case, we need a whole panoply of family surrogates, which may be employers, teachers, foster grandparents, etc.

We need to rediscover and encourage community development, responsibility, and accountability. Local support groups, advocates for the young, community groups, and local councils for action on crime, delinquency, and drug abuse are ways through which communities and neighborhoods can be revitalized and community values maintained.

We tend to make generalists of juvenile justice employees (in the interest of efficiency) have not achieved the promises made regarding the effectiveness of their services. The juvenile justice system must have trained and qualified specialists working with juvenile offenders at all levels, in law enforcement, the courts, probation, and institutions. In turn, these specialists must be highly sensitive to cultural, ethnic, and racial differences. Our measure of success is not efficiency in processing numbers of cases but effectiveness in solving the problem of delinquent youth in appropriate programs that can reduce delinquency.

Programmatic suggestions are rooted in the knowledge that our future crime prevention strategies must focus public attention on the demographic and social

factors impacting urban neighborhoods. Emphasis must be placed on preventive programs that (a) augment child protective services and expand resources for early childhood development, (b) improve the educational achievement of low income youth and (c) enhance the vocational skills of urban youth seeking to enter a rapidly changing labor market.

A Nagging Question

In the interest of presenting issues such as differential incarceration, processing, etc., in juvenile justice, we use forms of shorthand that cloak, rather than clarify. Race is an excellent example. We use the concept of race as if it means the same thing to all of us; it does not. For example, we speak of the Asian race or Hispanic group as if they were homogeneous groups of different colors. Yet, in the Asian community, there are Chinese, Thai, Indian, Japanese, etc., all of whom represent different cultures, traditions, and characteristics. The same may be said of Hispanics. Is the Puerto Rican the same as the Cuban or the Mexican American of the far West? Obviously, the answer is no; yet, in our hurry to make things understandable, we simplify differences that should not be simplified. These cultural and traditional differences are extremely important in understanding the ways we, as individuals, are or are not assimilated into American life. We, as members of the juvenile justice community, must be sensitive to these cultural and ethnic differences about which we speak.

For some, our discussion of racism within juvenile justice may seem unreal, in that individuals within minority communities have always been able to climb up the traditional ladder of success. They still can and do, but only when they have certain common characteristics. Two of these characteristics are a strong sense of family tradition and a value of education as the means by which they can achieve success. In many of our urban, central city neighborhoods, neither of these values is in good currency. Witness the following quote from James Baldwin's Nobody Knows My Name.

It is not to be wondered at, therefore, that the violent distractions of puberty, occurring in such a cage, annually take their toll, sending female children into maternity wards and male children into the streets. It is not to be wondered at that a boy, one day, decides that if all this studying is going to prepare him only to be a porter or an elevator boy—or his teacher—well, then, the hell with it. And there they go, with an overwhelming bitterness which they will dissemble all their lives, an unceasing effort which completes their ruin. They become the menial or the criminal or the shiftless . . . (1954)

Or perhaps a contemporary note taken from Time Magazine, May, 1988, which says about "Kids Who Sell Crack":

While the most successful young dealers may be venal and vicious, at least some of them have first-rate intellects that in a better environment could be put to healthier use . . . the kids selling the drugs are the bright and articulate youngsters. They understand how the system works and how to work the system . . . It is almost a corporate mentality.

these are young people who, by the time they reach puberty, have given up the dream of leading normal lives free from crime and brutality. They say, "they will live as good as they can today since they do not see their life continuing." They do not have hope and they are unfazed that drug dealing will send them to prison or the grave.

Researchers who work on the causes of delinquency hold that three variables are critical in determining whether or not a child becomes delinquent: 1) support by the family, 2) success in school, and 3) positive peer involvement. Balance among all three is regarded as the ideal. The argument states that any one of these three can be weak or nonexistent, and a child may still avoid delinquency. The loss of two of these supports leads, almost invariably, to delinquency.

Research also suggests that, for some minorities, these supports, for whatever reason, are not present or, in the worst scenarios, are negative pressures encouraging delinquent behavior. It explains a great deal about why certain groups are so vulnerable to the juvenile justice system. It also suggests possible solutions.

It begins to answer the nagging question of why some groups can be successful in a lawful society in spite of severe hardships, language barriers, and economic status that borders on poverty. It suggests that members of any new immigrant "under class" will need something more than encouragement to make themselves up by their own bootstraps. It suggests a substantially greater investment in proactive programs for children and a more thoughtful use of resources for older youthful offenders. It suggests that equity and justice mean more than fairness just within the juvenile justice system; they mean fairness in all of our life pursuits—a difficult and delicate balance in a pluralistic society where differences and individuality are valued.

Recommendations to the President

I recommend that, within the Office of the President, the Domestic Policy Advisor be designated the Chairman of a Special Task Force to address the issues raised by differential incarceration of minority youth, and, wherever possible, to take action to correct or resolve the inequities identified.

Findings: In examining this question of differential incarceration, we found that the causes and consequences transcend the juvenile justice system and cut to the heart of much of our domestic policy. For us to pursue specific reforms to improve the system from within will make only marginal improvements. Greater gains can be made by addressing the cardinal issues connected with the quality and kinds of education, family life, and employment and opportunities for young minorities.

I want to say that, when we in the United States experience natural disasters, the Office of the President brings together those agencies and resources appropriate to address the consequences of that disaster. Only in the human realm do we fail to label national disasters as such.

Our contention that a school dropout rate of over 50 percent, unemployment rates reaching as high as 80 percent for 16-17-year-old black males, median family incomes for many minorities at 50 percent that of white families, 55 percent of the population of public detention and correctional facilities composed of minority inmates, and the growing participation of a significant proportion of our minority youth in the underground drug economy suggest something more than just a problem. It is a social disaster of major proportions. It is a disaster that will become increasingly worse, if Federal, State, and local governments, in cooperation with business and industry, do not develop some new strategies for resolving these "problems." While it would be appropriate for the Office of Juvenile Justice and Delinquency Prevention to provide staff and resources for this effort, the scope of the work goes beyond its recognized mandate. Such an effort requires the authority and the stature of the Office of the President if it is to be successful. The Federal Coordinating Council is a mechanism for testing and implementing pilot programs, but it will not do so without the leadership and support of the White House.

The issues raised by our inquiry into differential incarceration and processing of minorities require that a senior official carefully review cutbacks in government employment and domestic spending. These twin policies disproportionately affect minorities. Moreover, declining revenues for cities, with their concentration of blacks, plant closings, and plant relocations in the Third World, the Sunbelt, and suburban America exacerbate an already difficult situation. There is no way that the private sector, by itself, can take up the slack of high minority unemployment, because of the changing character of the occupational structure and the related credentialing needed to obtain these new advanced service-sector jobs. These matters, along with the problems of an educational system that does not work for an increasing number of minorities, require the authority and stature of someone who can help put the pieces back together in a pattern that permits families to function, teachers to teach, students to learn, and adolescents to make the important transition to significant jobs in the world of work.

We believe the problem is of sufficient importance to be treated as a significant concern by top-level persons within the Administration. It is not time to rediscover "A War on Whatever." It is a time to assemble the best minds in government, in education, child development, industry, and labor in creative new mixes of each to develop strategies for the next decade and the next century. The Federal Government has funded many failed programs in the past, but it has also funded many successful programs that addressed the problem about which we are concerned: Head Start, Career Employment Training Act, tax credits for employers, educational incentives for community colleges, family life education, alternative education models, relevant vocational training, childcare for working parents, permanent substitute parenting, and homemaker programs. These are but a few examples. What made them successful? What has happened to them? What would it take to expand them? These are the questions that the Special Task Force for the President's Domestic Advisor should be asking as it searches for answers that are improvements over the ones we have today.

Recommendations to the Congress

We recommend that the Congress hold public hearings to investigate the multiple problems associated with the differential incarceration and processing of minority youth.

Discussion: It is impossible to inquire into the problems associated with differential incarceration and not be confronted with even more critical questions growing up a minority in contemporary American society. The issues we considered in our brief inquiry into the matter raise profound questions about a social anomie for large segments of our society associated with nurturing, life, education, and work. They raise the specter of reason behind the youth growing up in the underground economy generated by illegal activities. It is a long journey that raises important questions about whether or not society has the right to allow children to elect to fail, let alone the right of an adolescent to choose strategies for life on the streets of America. Our recommendation is to encourage the Congress to share our experience and perhaps to use its prestige and position to amend existing laws to change the way young people live in America.

We recommend that the Congress appropriate additional funds to the Office of Juvenile Justice and Delinquency Prevention for the purpose of creating five State or local model youth correctional facilities, serving no more than 100 or fewer youth, in five different regions of the U.S. and/or U.S. territories.

Discussion: Throughout the United States, several bellwether States are in the midst of major juvenile justice reforms associated with abandoning large, expensive juvenile correctional institutions in favor of smaller program-oriented program-designed facilities. These facilities replace the older and larger institutions which previously represented the single, most important correctional resource. By electing to use smaller facilities and reducing custodial sentences, differential incarceration declines. Smaller institutions result in lower incarceration rates for minority populations, because they are designed for serious and violent offenders, not property offenders per se. These new facilities are tied to a wide range of community-based alternatives to institutional care. Their design reflects the state-of-the-art in architecture but also demonstrates the state-of-the-art in juvenile corrections. The State of Utah, at present, has three such facilities. We would suggest that models be developed elsewhere, as well.

One of the purposes of these juvenile correctional models is four-fold: 1) to create a laboratory in which learning and skills can be tested in order to develop alternatives for juvenile corrections; 2) to demonstrate state-of-the-art in juvenile corrections; 3) to require the development of alternative programs in the community; and 4) to require the states to examine their priorities in terms of child welfare. Only programs committed to significantly reducing the total number of institutional beds should be eligible for consideration as active candidates for this national effort.

One of the advantages to a subsidy is that it would permit the use of Federal funds for construction, as well as permit the Federal Government to require such things as land purchase and quality staffing as a prerequisite for participation in the program. It would also permit the Office to accomplish one of its basic mandates, the development and promulgation of state-of-the-art models. In addition, it would create five teaching laboratories, in which the States can learn modern technology in a correctional facility subsidized by the Federal, State, and local governments.

Recommendations to the Administrator of the Office of Juvenile Justice and Delinquency Prevention

4. The Office of Juvenile Justice and Delinquency Prevention should conduct and support research that explores the effect of police surveillance practices, offender demeanor, and police apprehension practices to understand why and how minority youth are at greater risk of being handled differentially.

Discussion: While a great deal is known about the consequences of police patrolling and surveillance as they affect minorities, much still needs to be learned, if we are to find ways to increase both the equity and justice of the juvenile justice system. Research is needed to help determine what is good and what is bad about current practices in order to make improvements for the future.

5. The Office of Juvenile Justice and Delinquency Prevention should conduct and support research on the differential effects of detention decision-making on minority youth in institutional and noninstitutional settings.

Discussion: The decisions made on pre-dispositional detention frequently have an impact on other decisions made throughout the adjudicatory and dispositional processes. Available research demonstrates that minority youth are detained in secure settings at a disproportionate rate. This fact requires additional study into the detention decision-making practices of those involved in the early screening process.

6. The office of Juvenile Justice and Delinquency Prevention should sponsor and support research on the effects of existing dispositional guidelines and laws mandating penalties for chronic offenders.

Discussion: Just as we need more information to shape future operations for policing, there is a need to understand the disparate effects and, therefore, consequences of law and dispositions on minorities. As we have seen in the earlier discussions, the happenstance of being a minority often puts him/her at a disadvantage in the orderly processing of offenders. It is in these areas that we find evidence of nonracist intent in procedures and practices that are, in fact, discriminatory in consequence.

7. The Office of Juvenile Justice and Delinquency Prevention should take

a lead role in developing training curricula and promoting technical assistance for the police, persecution, courts, and probation officers on the way their personal prejudices about race, gender, class and ethnicity can affect decisions.

Issue: The Federal Government took a leadership role in the 1960s to create awareness of and sensitivity to gender and different cultural, racial, and ethnic groups. Since that time, there has been an assumption that these differences are no longer a problem. The evidence presented amply demonstrates that the problem still exists. Training and active technical assistance must be an ongoing effort, and we strongly recommend that the Office of Juvenile Justice and Delinquency Prevention ensure such effort goes forward.

The Office of Juvenile Justice and Delinquency Prevention should offer leadership in the development and expansion of the use of highly-trained law enforcement personnel specifically committed to juvenile and youth services.

Issue: Many major law enforcement agencies have moved away from police specialists, except as part-time personnel in other operational units of a department or agency. The argument for making this move was increased efficiency in the use of human resources. Unfortunately, recent experience does not support this move away from specialization. Delinquency has not been reduced. Diversion from the system has declined. While we recognize the efficiency argument, our measure of effectiveness is different. Our measure of success is increased service to children and youth with problems, not just an increase in the number of children and youth processed by the juvenile justice system.

Law enforcement needs full-time personnel, who are trained to deal with the special and special needs of youth, particularly the inner-city youth, who are responsible for so much street crime. We are not talking about a "kiddy cop," the misaligned police officer of the 1950s and 1960s; we are recommending a well-trained, experienced cadre of officers, who can set the tone of youth work in the department for the present and into the next century. We are speaking of specialized personnel, who are informed about youth development, youth crime, ethnic and racial differences, as well as good police practices. We are talking of a highly-trained elite, not "policemen assigned to juveniles for discipline or punishment." We are recommending personnel, who can raise public awareness and engage in a broad dialogue with the community about youth and crime. We are talking about a unit that can assist communities in planning, signing, and implementing youth service bureaus and alternative programs with law enforcement in making field dispositions.

In carrying out the many training, technical assistance, and research activities called for in these recommendations, the Office of Juvenile Justice and Delinquency Prevention should ensure that principals and

participants offering services to the Office are of diverse ethnic, cultural and educational backgrounds.

Discussion: It is important to recognize that different people with different backgrounds, education, and experience, including racial, ethnic, or cultural, will approach these problems differently and may well ask different questions about the same issues. Only complexity can manage complexity; hence, it is critically important to ensure that those doing the research, technical assistance, and training represent a comprehensive and rich mix of the differences outlined.

10. The Office of Juvenile Justice and Delinquency Prevention should take a leadership role in identifying and evaluating jurisdictions that are exploring new and innovative approaches to juvenile justice which are explicitly choosing to 1) reduce their overall juvenile incarceration rates and 2) curtail rates of minority confinements. Furthermore, it should provide information and technical assistance to other States wishing to learn from successful experiences.

Discussion: States that safely reduce incarcerations automatically reduce the numbers of minorities differentially confined. Serious crime and behavior become the criteria for using limited institutional resources; most property offenders are screened out and placed in alternative programs. This change represents a major shift in the traditional way juvenile justice has been doing business. It is a movement that has been shaping the nature of juvenile justice for the past five to seven years, and yet the Office has played only a minor role in developing or promoting information about these programs. This movement has not escaped the attention of many people at the State and local levels, however.

11. The Office of Juvenile Justice and Delinquency Prevention should do a cooperative project with the Department of Education to research, develop, and, if successful, promulgate the use of higher education, vocational and technical colleges, and community colleges to program for youthful offenders, particularly minority youth, who have not been successful in secondary educational training.

Discussion: Both the public and private sectors are discovering that the higher educational system, including vocational and technical colleges, along with community colleges, of this country are greatly underused for problem youth and dropouts. In many places, colleges are working together to plan how they might best use their resources and skills in new and innovative ways, with the result that new forms of day training for youthful offenders are being developed.

New Jersey has a program in which its correctional youth are taken to community colleges for day-long vocational training. The training covers everything from computers to horticulture. In Baltimore and Cleveland, business is guaranteeing continuing education for youth completing high school. In Lansing, Michigan, day programs that include combinations of education, training, and work as alternatives to juvenile court processing are offered. In still other jurisdictions

ional Occupatic .nters are being funded to help reclaim the school
outs.

y not begin to put these ideas together to resolve at least a part of the problem
oung persons who are neither educated nor trained for the real world? This
gram would be an ideal one for the Federal Coordinating Council—creating
i-learning centers where youth can attend for a year or two, a place that eases
ative peer pressure and domination and that envelops them in an environment
ch encourages them to “do well” in the legitimate world. Exploration of a
aborative effort among corrections, regional colleges, and the private sector
ht lead to some exciting new programs, if this effort were given the support
encouragement of the Office of Juvenile Justice and Delinquency Prevention.

LEADERSHIP MEANS PARTNERSHIP

*Before I built a wall I'd ask to know
What I was walling in or walling out.*

*Robert Frost
The Mending Wall*

mission given the National Coalition by the Congress requires that our
mmendations cover both strategic and operational matters. The preceding
ion on “The Delicate Balance” addressed many of our strategic planning
mmendations that go far beyond day-to-day operations. While our
mmendations are sometimes eclectic because of the dual mission assigned by
gress, we believe they all constitute a series of variations on the same theme:
ership at the national level must be based upon a partnership with the States
local jurisdictions in dealing with the problems of juvenile justice and the
ention of juvenile delinquency.

Work of the Office

last report acknowledged that the Office of Juvenile Justice and Delinquency
vention has been responsive to many of the suggestions put forth by the
onal Coalition of State Juvenile Justice Advisory Groups. Although the
ionship has been increasingly cooperative, there are still flash points that
: concern, both to the Office and the National Coalition.

ntinuing source of concern for the States is the lack of timely feedback of
rmation on changing policies and procedures. Specifically, the Office has not
veloped an effective system for reporting successful programs and projects to
ield, particularly to the State Advisory Groups. In many ways the Office
s on a few published reports as the primary strategy for disseminating
rmation on successful projects—reports that are not always readily available
e States. Knowledge transfer, if that is to be the product or consequence of
arch and demonstration, requires more than a published report. It requires a
ct and participative role for State Advisory Groups, through their annual
erence or, more appropriately, through regional workshops and seminars
sored by the Office.

A second concern of the State Advisory Groups is the failure of fffice to
comply with Section 225b of the Act and involve them in the pre-review of special
grants made directly within a State by the Office. Other Federal agencies provide
State representatives with the opportunity to review incoming grants that bypass
the existing State structure. In many cases, the State Advisory Groups could
provide the Office with helpful information about the potential grantee or
recipient of an award—information that the Office might not otherwise have.
Compliance with the Act might avoid awards to grantees who have a record of not
fulfilling their responsibilities in regard to contracts and grants.

The Office of Juvenile Justice and Delinquency Prevention has the legal
responsibility to coordinate resources at the national level. To the extent that the
Office has identified techniques, procedures, or strategies that might accomplish
this coordination at the State level, such information is necessary to the States
and should be shared systematically. For example, the Administrator has often
voiced his concern that the States are not as effective as they might be in
leveraging juvenile justice funds. Such information would be helpful, and the
States would appreciate whatever assistance the Office can offer to ameliorate
this problem.

Another example relates to procedures for a good grant review process. Some
States believe they need a better grant-review system. The Office of Juvenile
Justice and Delinquency Prevention has had extensive experience in this area and
should be able to offer good technical assistance and training. If they do not have
such a system, one should be developed and shared.

Compared with our earlier Reports, this year's discussion of operational problems
is modest. Progress has been made in establishing a working relationship between
the National Coalition and the Office. In our Third Report to the President, the
Congress, and the Administrator of the Office of Juvenile Justice and Delinquency
Prevention, we called for a partnership between the Coalition and the Office. One
important area in which cooperation, communication, and the partnership can
be enhanced is planning. It is in sensitive areas, such as program and long-
range planning, that the strategies and programs the States and the Office propose
can be measured against the intended goals and objectives. Experience has shown
that failure in planning often results from a failure to adequately evaluate. As a
result, the Office often has expanded poor or unsuccessful programs rather than
adopting new and better solutions. It is in this area that we believe we could be of
considerable help to the Office, while also fulfilling our obligations under existing
legislation.

Recommendations to the Congress

- 12. We recommend that Section 225b and other appropriate sections of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, further be amended to require that State Juvenile Justice Advisory Groups must be asked by the Office for review and comment on all discretionary grants made within their States prior to the awarding of such grants.**

Discussion: Unlike Federal agencies, the Office of Juvenile Justice and Delinquency Prevention does not routinely advise the appropriate State Advisory Group when making a discretionary grant within the State. As a result, the State Advisory Group is uninformed, the Office forgoes important local information about a grant recipient, and the concepts of partnership and cooperation are rendered meaningless. State Juvenile Justice Advisory Groups must be involved in the grant review process, if they are to fulfill their legal obligations.

Recommendations to the Administrator of the Office of Juvenile Justice and Delinquency Prevention

We recommend that the Administrator and his/her staff find more effective ways to share the results of successful programs, including, but not limited to, the following:

- 1) regional conferences for State Advisory Groups, 2) regional training seminars,**
- 3) an annual conference of the National Coalition of State Juvenile Justice Advisory Groups, 4) video tape presentations and library, and 5) publications.**

Discussion: As indicated in our first three reports, the lag between the completion of a successful project and information being disseminated to the juvenile justice field is, and continues to be, excessive. In most instances, the information the States need does not reach the appropriate people in the juvenile justice field in a timely manner. Reports and publications on library shelves transfer knowledge on a very limited basis. We suggest that there be a greater use of conferences and regional training, a more active use of video presentations, and perhaps even a phone hotline for the newest and best in program findings.

The Office of Juvenile Justice and Delinquency Prevention should offer special regional training in the coordination and integrated use of Federal fund sources to State Juvenile Justice Advisory Groups.

Discussion: The Administrator of the Office of Juvenile Justice and Delinquency Prevention has been critical of State Advisory Groups for not leveraging other Federal funds with their juvenile justice monies. It seems most appropriate, therefore, to ask that the Office provide regional training for the States on ways to improve their use of various Federal funds in the interest of improving juvenile justice at the State and local level.

The Office of Juvenile Justice and Delinquency Prevention should offer the States an effective grant review process, along with training and appropriate technical assistance.

Discussion: States must make the most effective use of the resources available to improve juvenile justice services. Effective screening of various applications is one method by which the States could do a better job at allocating the available dollars. With the extensive experience of the Office in making grants, we assume

they have developed or learned of an effective grant review process. That process should be shared with the States. If it does not exist, it should be developed and shared.

- 16. The long and short-range planning process of the Office of Juvenile Justice and Delinquency Prevention should be expanded to include the Chair of the National Coalition of State Juvenile Justice Advisory Groups, or his/her designee(s), in the development of the annual program plan and long-range planning efforts by the Office.**

Discussion: Legislatively, the National Coalition of State Juvenile Justice Advisory Groups has an ongoing responsibility to inquire into the operations of the Office. What better way to gain input from the States and keep them advised than to involve them directly in the development of the annual program plan and the long-range planning process? This single improvement in working relations would help overcome a number of recurring problems.

CHANGING TIMES/CHANGING NEEDS

*The sense of danger must not disappear:
The way is certainly both short and steep,
However gradual it looks from here:
Look if you like, but you will have to leap.*

*W.H. Auden
Leap Before You Look*

The National Coalition of State Juvenile Justice Advisory Groups' Conference, "Changing Times/Changing Needs," held in Jackson, Mississippi, in May, 1988, had a profound affect on its participants. Sensitive, sometimes heated, and always informative discussions increased the awareness of those present as to how insidious discrimination is. We all live with a "just world hypothesis," one that is not supported by reality. We came to understand that the world and we, as professionals in it, are truly not blind to color or ethnic differences, even though we would like to believe we are. Nor should we be blind to differences that shape our attitudes and actions. To the extent we are aware of our attitudes, then, to that extent, we can manage our behavior in ways that do not discriminate against others. Individualized treatment means being conscious of ethnic and racial differences and balancing justice and equity within the juvenile justice system.

Our proceedings produced numerous recommendations at two different levels: 1) specific programmatic suggestions and 2) more global strategic recommendations. Our Report has ranged over a much broader area than in previous years. Yet, in considering the issues associated with differential incarceration and juvenile justice processing, we would be remiss in not asking the obvious and worrisome questions that go beyond procedure. It is clear, from

inquiry into the matter, that the Federal Government must assume a leadership role in creating a positive economic environment for the next generation of minority youth, if we are to avoid fostering a continued state of dependency and idleness for them.

The Federal, State, and local governments must join together in a concentrated effort to keep more minority students in school until graduation and to increase their basic academic skills while in school. These efforts will fall short, if they do not have the active involvement and support of business and labor or if they fail to offer realistic rewards to youth who are known to be at risk of remaining outside the mainstream of society. Old patterns of doing business are no longer satisfactory — new configurations are required.

The list of needed actions, if we are to address the problems associated with differential incarceration, is extensive. It ranges from early childhood education and home-based programs, to family life skills, alternative educational programming, child care, permanent substitute parenting, smaller correctional institutions, and major efforts to increase our awareness of our actions in relation to those who are culturally, ethnically, or racially different.

We can continue to pay our taxes for the public sector to develop and build bigger juvenile justice facilities holding more minority youth. Or, we can choose to pay less for public and private sector development of quality education, career development, community development, the revitalization of the inner city, quality health care, and those other support services that represent positive alternatives to incarceration. We do not have the option of not choosing; the question is which alternative will we choose?

The decision is ours.

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