

**Trying Children
As Adults**





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DEFUSING THE MYTH: Prosecuting Children as Adults doesn't work to Decrease Juvenile Crime

As the House prepares to discuss juvenile justice legislation, one issue that may be considered is the question of changing juvenile justice laws to streamline prosecuting children as adults. For example, S. 254, the juvenile justice bill that recently passed the Senate, permits prosecutors to charge children as young as 14 as adults without judicial review. H. R. 3, a juvenile justice bill introduced in the last Congress, would have given prosecutors the authority to charge children as young as 13 as adults.

THE RESEARCH PROVES THIS DOES NOT WORK

The most recent research demonstrates that efforts to transfer children from juvenile court to adult criminal court does not decrease recidivism and may, in fact, be counterproductive.

One study, comparing New York and New Jersey juvenile offenders, shows that the rearrest rate for children sentenced in juvenile court was twenty-nine percent lower than the rearrest rate for juveniles sentenced in the adult criminal court. (1)

A recent Florida study compared the recidivism rate of juveniles who were transferred to criminal court versus those who were retained in the juvenile system and concluded that juveniles who were transferred recidivated at a higher rate than the nontransfer group. Furthermore, the rate of reoffending in the transfer group was significantly higher than the nontransfer group as was the likelihood that the transfer group would commit subsequent felony offenses. (2)

THE STATISTICS PROVE THIS DOES NOT WORK

A U.S. Department of Justice study found that juvenile arrests for violent crimes grew from 83,400 in 1983 to 129,600 in 1992, despite a 10% decrease in the number of sixteen and seventeen year olds in the U.S. population and despite a 115% increase in the number of juveniles, between 1989 and 1994, prosecuted in adult court for person-on-person offenses.

DISPROPORTIONATE APPLICATION TO MINORITY YOUTH PROVES THIS DOES NOT WORK

Several studies demonstrate that minority youth are more likely to be transferred to adult court through the use of prosecutorial discretion and judicial waiver. (4)

THE CASUALTIES PROVE THIS DOES NOT WORK

Incarcerating juveniles in adult jails places the juveniles in real danger. Research demonstrates that children in adult institutions are five times more likely to be sexually assaulted, twice as likely to be beaten by staff, and fifty percent more likely to be attacked with a weapon than juveniles confined in a juvenile facility. (5)

On April 25, 1996, six adult prisoners murdered a seventeen year old boy while he was incarcerated in the juvenile cellblock of an adult jail in Ohio. (6)

In Idaho, a seventeen year old boy held in an adult jail was tortured and finally murdered by other prisoners in the cell. (7)

In Ohio, a juvenile court judge put a fifteen year old girl in adult county jail to "teach her a lesson." On the fourth night of her confinement, she was sexually assaulted by a deputy jailer. (8)

THE RESEARCH PROVES ALTERNATIVES DO WORK

A 1996 Connecticut Judicial Branch study found that offenders under the age of twenty-one sentenced to Alternatives to Incarceration Programs (AIP) have a lower rate of rearrest than offenders convicted of similar crimes but sentenced to Department of Corrections Incarceration (DOC). (9)

Young drug offenders rearrested for drug crimes -- three new arrests for those sentenced to AIP versus ten new arrests for DOC. Young drug offenders rearrested for felonies -- less than one new arrest for every two new arrests of those previously in DOC. Young drug offenders rearrested overall -- about one new arrest for AIP compared to two new arrests for those previously in DOC.

**THE FACT IS: PROSECUTING CHILDREN AS ADULTS DOES NOT WORK.
SO DON'T DO IT.**

NOTES:

1. Jeffrey Fagan, The Comparative Advantage of Juvenile Versus Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders 1, 21, 27 (1996) (unpublished manuscript, on file with the American Civil Liberties Union).

2. Donna M. Bishop et al., *The Transfer of Juveniles to Criminal Court: Does it Make a Difference?*, 42 *Crime and Delinq.* 171, 183 (1996).
 3. See Vincent Schiraldi, *Treating Kids Like Adults Doesn't Shrink Crime Rate*, L.A. Daily News, May 12, 1996 at 1.
 4. See, e.g., Jeffrey Fagan et al., *Racial Determinants of the Judicial Transfer Decision: Prosecuting Violent Youths in the Criminal Court*, 33 *Crime and Delinq.* 259 (1987).
 5. See Jeffrey Fagan et al., *Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy*, 40 *Juv & Fam. Ct. J.* 1 (1989); Eisikovits & Baizerman, *Doin' Time; Violent Youth in a Juvenile Facility and in an Adult Prison*, 6 *J. Offender Counseling, Services & Rehabilitation* 5 (1983).
 6. Kristen Delguzzi, *Prison Security Went Awry: Youth Killed When Adults Entered Cellblock*, Cin. Enquirer, April 30, 1996, at B1.
 7. See *Yellen v. Ada County*, Civ. Action no. 83-1026 (D. Idaho Feb. 13, 1985) (order of permanent injunction).
 8. See *Doe v. Burwell*, civ. action no. c-1-81-415(s.d. Ohio June 9, 1982) (consent judgment).
 9. See *Longitudinal study: alternatives to incarceration sentencing evaluation year 2*, full report, state of Conn. Judicial Branch, at 84, 89-90 (Apr. 1996).
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NATIONAL ASSOCIATION OF CHILD ADVOCATES

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Trying Juveniles As Adults -- Sound Public Policy, or Sound-Bite?

Many states have changed their laws recently, to try more children as adults.¹ Congress is now considering legislation to push states towards trying even more children as adults, and to try more children as adults in the federal courts. Does this approach reduce crime? Is it sound public policy? What the Research Says:

- Children tried as adults have a higher recidivism rate than comparable children tried as juveniles (children tried as adults reoffend sooner, commit more serious new offenses and reoffend more often)²;
- states with high rates of transferring children to adult court do not have lower rates of juvenile homicide³;
- the majority of children transferred to adult court were charged with property or drug-related offenses, as opposed to serious, violent offenses or other offenses against persons⁴;
- the court process prior to sentencing in adult court takes longer than in juvenile court⁵, despite the developmental psychology findings that the swiftness of a sanction is crucial to meaningful behavior modification in children, including adolescents⁶;
- the conviction rate in adult courts is lower than that in juvenile courts⁷ (and some research indicates longer sentences in juvenile court than in adult court⁸);
- many juveniles tried and sentenced as adults were released before their 21st birthday⁹; and
- deterrence, including through tough-sounding laws, is particularly ineffective with regard to adolescents¹⁰.

Thus, whatever the public policy goal -- reducing recidivism, or addressing serious violent crime, or swift justice, or "getting tough", or keeping children incarcerated beyond age 21, or deterrence -- trying more children as adults does not achieve any of these public policy goals. And there is increasing evidence that transfer decisions are made in a racially disparate manner, even when offenses and prior records are similar.¹¹ Further, adolescents and adults differ in several psychosocial aspects which affect decision-making¹² -- in other words, children and adults are different, and should be treated differently.

Finally, the placement of children tried as adults in adult jails and prisons is occurring despite the true "horror stories" of what happens to such children. In Ohio, a 15-year-old girl put in the county jail was sexually assaulted by a deputy jailer. In Idaho, a 17-year-old boy held in an adult jail was tortured and finally murdered by other prisoners in the cell. In Kentucky, a 15-year-old boy confined in the adult jail hanged himself.¹³ As recently as April 25, 1996, a 17-year-old was murdered by six adult prisoners while incarcerated in Ohio.¹⁴ Overall, children in adult institutions are five times more likely to be sexually assaulted, twice as likely to be beaten by staff, and 50% more likely to be attacked with a weapon than children in a juvenile facility.¹⁵



AMERICAN BAR ASSOCIATION URGES HOUSE TO PROMOTE FAIRNESS
AND PROTECT PUBLIC SAFETY IN JUVENILE JUSTICE BILL

The American Bar Association urges the House of Representatives to include the following principles in juvenile justice legislation:

1. **Trying Children as Adults:** The practice of trying children as adults should be used sparingly; there should be a presumption for retention by the juvenile court of jurisdiction over most persons under eighteen.
 - The juvenile court judge, upon motion of the prosecutor, should decide based upon a hearing whether waiver of juvenile court jurisdiction is appropriate in a particular case. No children aged fifteen or under should be eligible for waiver to adult court.
 - 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 reasons for waiver. Both the defendant and prosecuting attorney should have the right to an immediate appeal of the decision.
2. **Confidentiality in the Juvenile Courts:** The ABA believes privacy is an important goal within the juvenile courts, in order to promote rehabilitation.
 - Juvenile proceedings should not be open to the public, unless a juvenile has invoked the right to a 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. Members of the public who are permitted to attend should be prohibited from revealing the identity of the juvenile.
 - Juvenile records should not be public records. The maintenance and dissemination of juvenile records should be carefully controlled to minimize the risk that juvenile records are incomplete, inaccurate, misused or misinterpreted.
3. **Core Requirements of the Juvenile Justice and Delinquency Prevention Act:** The core requirements must not be weakened in any way that compromises the safety of children or the integrity of the juvenile justice system.
 - Sight and Sound Separation: Legislation should not permit children in adult jails and lockups to 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.
 - Disproportionate Minority Confinement: The extremely disproportionate representation of children of color in the juvenile justice system requires that race remains a specific focus of federal legislation. It is a common misconception that current law requires states to release children from detention or corrections facilities based on race – this simply is not true.
4. **Role of Counsel:** Legislation should strongly emphasize and support a child's right to competent and effective legal counsel. Competent legal counsel ensures 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.
 - All children, at minimum, should 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. 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.
 - Funds in grant programs should have specific allocations for the hiring, adequate compensation and training of attorneys who represent children in juvenile court. Many attorneys who represent children 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.

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The Transfer of Juveniles to Criminal Court: Does It Make a Difference?

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Recidivism of 2,738 juvenile offenders who were transferred to criminal court in Florida in 1987 was compared with that of a matched sample of delinquents who were retained in the juvenile system. Recidivism was examined in terms of rates of reoffending, seriousness of reoffending, and time to failure, with appropriate adjustments made for time at risk. By every measure of recidivism employed, reoffending was greater among transfers than among the matched controls.

INTRODUCTION

Since the late 1970s a large majority of states has amended their juvenile codes to facilitate the transfer of juveniles to criminal courts (Feld 1987, 1988). Florida has been a leader in these efforts, in particular, by pioneering prosecutorial "direct file" policies (Bishop, Frazier, and Henretta 1989; Bishop and Frazier 1991; Thomas and Bilchik 1985). Changes in transfer policies were made with the goal of reducing juvenile crime. However, these changes were not informed by systematic research. The purpose of this study was to use Florida's experience to examine the impact of transfer on recidivism. We compared the recidivism of juveniles who were transferred to criminal court with that of a matched sample of youths who were retained in the juvenile system. Careful comparisons of transferred and nontransferred

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offenders may inform us of the wisdom or folly of this "get tough" approach to juvenile crime.

THE EVOLUTION OF TRANSFER

Policymakers have looked on the transfer of juvenile offenders to adult court with increasing favor in recent years. Transfer is neither new nor unusual. Nearly all states established mechanisms to waive juvenile court jurisdiction for selected offenders early in the development of their juvenile justice acts (Flicker 1981, 1983; Hamparian 1981; Stamm 1973; Thomas and Bilchik 1985; Whitebread and Batey 1981; Wizner 1984). Contemporary efforts break with tradition because they provide for easier transfer mechanisms and encourage greater utilization of adult justice processes for juveniles.

Historically, transfer procedures were rarely invoked. The juvenile justice system remained firmly grounded in an orientation to rehabilitate youths through nonpunitive treatments. The seeds of change were planted in a series of Supreme Court decisions in the 1960s and 1970s which, in an effort to ensure fairness, made juvenile proceedings increasingly legalized and adversarial.¹ Almost simultaneous with these procedural changes came changes in philosophy that ushered in the current willingness to transfer juveniles in greater numbers.²

Crime rates soared in the 1960s and 1970s and influential voices proclaimed the vacuousness of rehabilitative methodologies (Lipton, Martinson, and Wilks 1975). Rising juvenile crime encouraged widespread sentiment that the juvenile justice system had failed its mission. Vocal critics of the juvenile justice system maintained that sanction alternatives for juvenile offenders—especially serious and violent offenders—were too lenient as well as ineffectual in either deterring crime or ensuring public safety (Wolfgang 1982; Regnery 1985, 1986). Politicians have responded to public concern and fears by advocating "get tough" policies and supporting legislation incorporating harsher penalties for youthful offenders (Albanese 1993). Bolstered by media accounts of violent youth crime, social conceptions of delinquents have shifted from pastel portraits of wayward, misguided youths to stark and ominous renderings highlighting the maturity and sophistication of young offenders (e.g., see Bernard 1992; Binder and Binder 1982). Unacceptably high rates of juvenile crime, public fear of crime, and changed perceptions of youthful offenders have converged to promote demands for greater accountability.

The response has taken a number of forms.³ Juvenile codes in more than a dozen states have been amended to deemphasize rehabilitation and to include language explicitly acknowledging punishment and protection of public safety as proper juvenile justice goals. Several states have replaced or supplemented indeterminate placements with determinate and mandatory minimum sentencing and parole release guidelines. Most important for the purposes of this article, more than 40 states have recently altered their juvenile codes to facilitate movement of young offenders to the criminal courts (Feld 1987, 1988).

The jurisdiction of the juvenile court has been restricted in a number of ways by lowering the age of criminal court jurisdiction, by expanding legislated criteria for transfer, and by supplementing traditional, cumbersome transfer methods—judicial waiver and grand jury indictment—with expedited methods such as legislative exclusion and direct file/prosecutorial waiver (Fagan and Deschenes 1990; Feld 1987, 1988; Hamparian, Estep, Muntean, Prestino, Swisher, Wallace, and White 1982). The consequence has been a dramatic increase in the number of youths handled in adult courts (Bishop et al. 1989; Champion 1989; Nimick, Szymanski, and Snyder 1986; Schwartz 1989). Ironically, approval of transfer as a method of reducing youth crime survives and grows without support from empirical research. At present, transfer holds intuitive appeal as a commonsense solution, but its efficacy has not been established. *

The Rationale for "Getting Tough"

In public discourse, it is almost taken for granted that getting tougher and harsher will be more effective than traditional modes of response to juvenile crime. Anecdotal accounts are common of juveniles laughing at the juvenile system, accumulating "free" crimes until they reach the age of majority. Some advocates of transfer claim that an experience in criminal court—no matter what the sentencing outcome—gives young offenders a good shaking up (Bishop et al. 1989). From this perspective, transfer sends an important message to youths—a message that they are now in the "big leagues" instead of being coddled by the juvenile justice system. In other words, transfer per se is thought to have symbolic value, quite apart from whatever consequences may follow at sentencing. Closely tied to this idea is the argument that if the criminal court gives young offenders "real" consequences—sanctions that are harsher and more punitive than the sanctions typically provided by the juvenile courts—their motivations to commit future crimes will be further reduced.

Proponents of transfer also point out that if offenders transferred to adult court are sentenced to terms of incarceration that are longer than the sentences they would have received had they been processed in juvenile court, their opportunities to commit subsequent offenses will be reduced accordingly. In addition to its deterrent value, then, transfer may achieve important incapacitative gains. Ardent advocates of punishment often couch their positions in rationales of social defense (Van den Haag 1975, p. 174):

The victim of a fifteen-year-old mugger is as much mugged as the victim of a twenty-year-old mugger, the victim of a fourteen-year-old murderer or rapist is as dead or as raped as the victim of an older one. The need for social defense or protection is the same.

In sum, supporters of transfer view it as a promising means of reducing juvenile crime and increasing public safety. The criminal court alternative is believed to provide more effective deterrence and greater community protection.

PREVIOUS RESEARCH

Because transfer is an option generally intended to be reserved for serious or intractable offenders, or both, much of the scholarly research has focused on whether transfer practices effectively target appropriate offender populations (e.g., see Bishop et al. 1989; Bishop and Frazier 1991; Bortner 1986; Champion 1989; Champion and Mays 1991; Fagan, Piper, and Forst 1986; Fagan and Deschenes 1990; Feld 1987, 1990; Houghtalin and Mays 1991; Lemon, Sontheimer, and Saylor 1991; Nimick et al. 1986; Osburn and Rode 1984; Poulos and Orchowsky 1994).⁴ For the most part, these studies have suggested that many youths selected for transfer do not match target populations. Typical are the results reported by Lemon et al. (1991), who found that most youths transferred to adult court in Pennsylvania were property offenders. Further, many of even these youths could hardly be considered "intractable": The concept of intractability implies that the juvenile justice system has exhausted its resources in trying to effect change. In fact, substantial proportions of transferred Pennsylvania property offenders had no prior juvenile placements.

Whether transferred youths are punished more harshly than they would have been had they been retained in the juvenile system is a second issue that has been frequently addressed (Barnes and Franz 1989; Bishop and Frazier 1991; Bortner 1986; Champion 1989; Fagan 1990; Feld 1987; Fisher and Teichman 1986; Greenwood, Abrahamse, and Zimring 1984; Houghtalin and

Mays 1991; Mays and Houghtalin 1992; Lemon et al. 1991; Rudman, Hartstone, Fagan, and Moore 1986; Sagatun, McCollum, and Edwards 1985; Thomas and Bilchik 1985). These studies have produced mixed results. Some have found that juvenile offenders receive lenient sentences in the criminal courts. For example, Champion (1989), in a study utilizing data from four states, reported that most youths waived to criminal court received sentences of probation. Perhaps because of their youth and inexperience, adolescent offenders may be viewed by judges and juries as less serious than their adult counterparts (Champion 1989; Emerson 1981; Feld 1987).

Contrary findings have also been reported. Fagan, Forst, and Vivona (1987; see also Fagan 1990), in a study of practices in four states, found that violent offenders transferred to adult court received sentences considerably longer than those likely or even possible in the juvenile justice system. Barnes and Franz (1989) analyzed cases from a single jurisdiction in California over a 6-year period and reported that juveniles convicted of violent offenses were sentenced more harshly in adult court than would have been the case in juvenile court. However, the reverse was true for property offenders. Lemon et al. (1991) found that 89% of juveniles convicted in criminal court in Pennsylvania received sentences of incarceration, but approximately two thirds received jail sentences for periods close to the average stay in the state's secure juvenile facilities.

In sum, the extant literature has provided insights into who is transferred and how they are sanctioned, but it has not addressed the impact of transfer on recidivism. We need to investigate how treatment as an adult affects future behavior. More precisely, we need to know whether juveniles who are transferred to criminal court curtail their offending more than do those who are retained in the juvenile system.

THE PRESENT RESEARCH

Our study compared recidivism of youths transferred to criminal court with that of those retained in the juvenile justice system. This sort of research has been hindered in the past by the lack of comparability of transfer and nontransfer populations. To ensure equivalence across the two groups, we sampled the nontransfer population and employed a matching procedure to control for seriousness of the transfer offense, number of charges, number of prior offenses, severity of prior offenses, and sociodemographic characteristics (age, gender, and race).

Data Sources and Matching Procedures

Identification of cases for inclusion in the study was made using the Client Information System (CIS) maintained by Florida's Department of Health and Rehabilitative Services. CIS tracks all referrals to the juvenile justice system from the point of initial intake through final disposition. CIS data were obtained for all cases that entered Florida's juvenile justice system during the period beginning January 1, 1985, and ending December 30, 1987.

From the CIS data, we identified all youths who were transferred to criminal court in 1987 ($n = 3,151$).⁵ We then reconstructed their offense histories from the data for the previous years. Next, we employed a precision matching procedure to draw a match for each transferred youth from the population disposed of in the juvenile justice system during 1987. Matches could not be generated for individuals who were indicted for capital and life felonies, offenses which must be prosecuted in Florida's criminal courts. Eight percent of the 1987 transfer population was lost for this reason. Matches were successfully generated for the remainder, yielding a study sample of 2,887.

Nontransfer matches were generated in terms of each of the following variables:

1. Most serious offense for which the transfer was made (coded in terms of each of 45 offense categories contained in the CIS database). Most of the CIS offense categories are very specific (e.g., armed robbery, carrying a concealed firearm) and leave little room for misclassifying transfers and their nontransfer matches. Other offense categories are quite broad. For example, the CIS includes a catchall category of "other felony" when an offense does not fall into one of the more precise designations. Thus for some offense categories there was less precision in the matches. Part of our analyses broke recidivism out by offense severity to see whether broad offense categories produced different results from severity categories comprised of more precisely measured offenses.
2. Number of counts included in the bill of information (coded 1, 2-3, 4 or more).
3. Number of prior referrals to the juvenile justice system (coded 0, 1-2, 3 or more).
4. Most serious prior offense. Offense histories were reviewed to identify the most serious offense for which each youth previously had been referred to the juvenile justice system. Precision matching was not possible on each of the offense codes contained in the CIS. Therefore, a scale was constructed which ranked prior offenses into eight severity classes ordered to correspond closely to the severity of penalties associated with each class.⁶
5. Age (coded in years).
6. Gender.
7. Race (coded White, non-White).

Matches were generated using a hierarchical procedure, with race being the last variable to enter. Precise matches were achieved for all variables except race. Two thirds of White transfers were matched with a same-race subject from the nontransferred group. Fifty-one percent of non-White transfers were matched with a same-race subject from the nontransfer group. The remaining matches were cross-race. A profile of subjects included in the study is provided in Appendix A.

Measuring Recidivism

We used several outcome measures to tap different dimensions of recidivism. These included individual rearrest and group rates of rearrest, severity of charges at rearrest, and time to failure among those rearrested.

All recidivism measures were derived from data on arrests through December 31, 1988, which were obtained for each of the matched pairs. These data were supplied by officials of the Florida Department of Law Enforcement, who ran national (NCIC) checks on each individual in the data set. The follow-up period ran from the date of case closure in 1987 to the end of 1988. Although this period was relatively short, individuals in the sample were at peak ages for offending. Given the "get tough" rationales, we would expect a short follow-up period to favor transfers over nontransfers in our comparisons. If getting tough merely delays reoffending, we will have missed some recidivism. Such a delay would benefit transfers in a head-to-head comparison with those retained in juvenile justice jurisdiction.

Analyses of time to failure and rearrest rates required adjustments for time at risk.⁷ To make these adjustments, data were obtained from the Florida Department of Corrections, identifying the entry date and release date for each youth who spent time in a state correctional facility during the study period. Approximately 30% of the transferred youths were sentenced to prison, most for periods of 1-5 years. Five percent ($n = 149$) were incarcerated during the entire follow-up period. These offenders were deleted from the analysis, as recidivism was not possible for them during the study period. The analyses were restricted to those 2,738 transferred youths and their 2,738 nontransfer matches who were at risk for reoffending during some portion of the follow-up.⁸

Unfortunately, information was unavailable on county jail time served by transferred youths. For the analyses that follow, we assumed that youths not sentenced to a state correctional facility were on the street with opportunities to reoffend immediately following the date of disposition of the criminal case. The effects of this assumption are twofold. First, it yields inflated estimates

of time to failure for youths in the transfer population.⁹ Second, it reduces the transferred youths' overall rate of recidivism, adjusted for time at risk. In other words, the assumption that all nonimprisoned transfers were at risk immediately after disposition operates to the advantage of the transfer group in comparisons of recidivism with the nontransfer matches.

It was important to adjust for time at risk for the nontransfer group as well. The CIS contained information on whether each youth was sentenced to a residential/institutional program, but dates of entry and release were not provided. Because we had no information on the specific facilities or programs to which each youth was confined, we assigned the average time served across all facilities. Based on information supplied by Florida's new Department of Juvenile Justice, the estimated average time incarcerated was set at 3 months.

Recidivism was examined using different levels of analysis. First, we focused on each matched pair to see whether or not both the transfer and the nontransfer cases recidivated. More specifically, we began by looking at whether or not there was a significant difference in the likelihood of rearrest within each pair. Next, we refined that comparison by looking at the severity of the 1987 offense that resulted in subjects' inclusion in the study. We examined whether transfer/nontransfer differences in rearrest were as likely to occur in cases where the 1987 offense was a felony versus a misdemeanor, and we explored whether differences in rearrest varied across seven categories of severity of the 1987 charge.

Then we turned to the overall rate of recidivism for the transfer population as a group and compared it to that for the aggregated sample of matched nontransfer cases. Analyses were performed to compare proportions rearrested in each group as well as rates of rearrest across groups adjusted for time at risk. Further analyses were conducted to assess differences across groups in the average time to failure (time between release and rearrest), to explore differences across groups in severity of rearrest offenses, and to explore offense transitions from the pretransfer to the posttransfer period.

FINDINGS

Matched Pair Comparisons

We began by taking advantage of the matching procedure to ask whether, within each pair, there were differences in recidivism between transferred and nontransferred subjects. Because these analyses involved dependent samples

of matched pairs, we made use of McNemar's Test (Agresti 1990). Defining P1 as the probability that a transferred youth was rearrested, and P2 as the probability that the nontransferred match was rearrested, we tested the hypothesis of no difference in rearrest probabilities (H0: P1 - P2 = 0). The results can be classified in the following 2 x 2 table:

		Nontransfer	
		No Rearrest	Rearrest
Transfer	No Rearrest	N11	N12
	Rearrest	N21	N22

Because each cell in the table represents numbers of matched pairs, we were interested in the off-diagonal elements, N21 and N12. N21 refers to the number of pairs where the transferred youth was rearrested and the nontransfer match was not. N12 refers to the numbers of pairs where the nontransfer match was rearrested and the transferred youth was not. For large samples, the hypothesis can be tested by computing

$$Z = \frac{N21 - N12}{\sqrt{(N21 + N12)}}$$

which under the null hypothesis is approximately standard normal (Agresti 1990).

This test was conducted for the total sample of matched pairs, as well as for various subsets of the sample. The results are presented in Table 1. For all pairs, the probability of rearrest was not equivalent. N21 was greater than N12, indicating that the transferred member of the pair was more likely to be rearrested (see Table 1, Section (a)). When the analyses were repeated for pairs of subjects for whom the offense that resulted in inclusion in the study was a felony, and for pairs of subjects where the offense that resulted in inclusion in the study was a misdemeanor, we again found a significant difference between pairs (see Table 1, Section (b)).

Finally, to see whether these findings were specific to certain offense categories but not to others, we repeated the analyses for each of seven classes of offense, ranging from the most serious felony person offenses (Class 1) to minor misdemeanor offenses against public order (Class 7)¹⁰ (see Table 1, Section (c)). For six of the seven comparisons, the difference between pairs was significant. The only class in which the difference between pairs was not significant is Class 7 (the lowest level of severity). It should be noted that

TABLE 1: Results of McNemar's Test for Matched Pair Comparisons

	Z	P	N12	N21	N of Cases Out of Congruence
(a) All pairs	8.97	.001	347	627	974
(b) Felony cases	7.93	.001	290	515	805
Misdemeanor cases	3.99	.001	56	107	163
(c) Severity classes (In descending order)					
Class 1	5.77	.001	70	157	227
Class 2	2.30	.021	146	188	334
Class 3	4.80	.001	23	69	92
Class 4	3.93	.001	51	101	152
Class 5	2.02	.044	17	31	48
Class 6	3.15	.001	21	47	68
Class 7	1.60	.108	18	29	47

*Six cases were deleted from these analyses because the nature of the rearrest offense was not specified.

even within this level, we still observed that $N21 > N12$, indicating the same direction of effect.

Odds ratios (measures of association) were estimated, as well as 95% confidence intervals, for all pairs, for felony versus misdemeanor cases, and for each of seven classes of severity of the 1987 offense. For transfers, the odds of being rearrested were computed by dividing the probability of rearrest by the probability of no rearrest. Similarly, these odds were computed for the nontransfer matches. The odds ratios were computed by dividing the odds of rearrest for transfers by the odds of rearrest for nontransfers.

An odds ratio of 1 implies that the likelihood of rearrest was the same for the two groups. A value greater than 1 means that the likelihood of rearrest was higher among transfers, whereas a value less than 1 means that the likelihood of rearrest was higher among the nontransfer matches. Results are reported in Figure 1, where we have plotted each of the odds ratios and their respective confidence intervals. The plots show graphically that over all pairs, and for all levels of severity of the offense for which each pair was included in the sample, the estimated odds ratios were greater than 1, and most of the confidence intervals were entirely above 1. These findings indicate that the probability of rearrest among transfer cases was greater than among matched controls consistently across all levels of offense severity. For all offense categories, the pattern of higher rearrest among the transferred member of the pair was maintained.

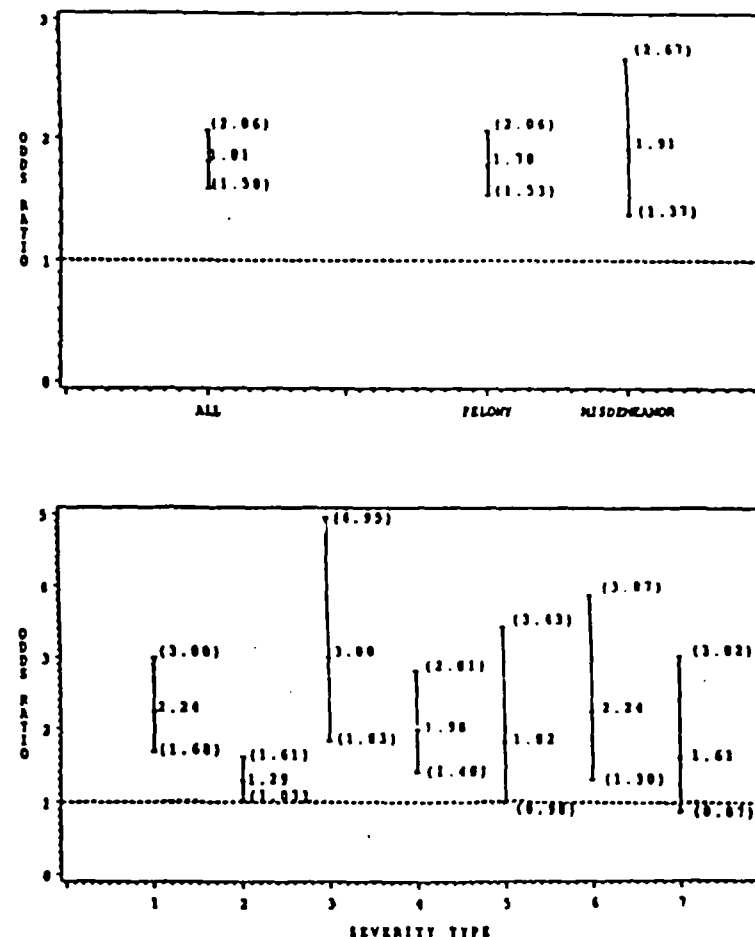


Figure 1: Plot of Odds Ratios and Confidence Intervals for Probabilities of Rearrest

Group Comparisons

We also compared recidivism by contrasting the proportions of persons rearrested and rates of recidivism for transfers in the aggregate compared to the sample of nontransfers. Recidivism was operationalized in three ways: arrest versus no arrest, length of time until rearrest, and relative severity of rearrest charges.

Rearrests. Of the transferred youths, 30% were rearrested during the follow-up period, compared to 19% of the nontransfer matches ($Z = 9.54$, $p < .001$). These findings at the aggregate level confirm what was observed in the matched-pairs analyses; that is, youths in the transfer group were significantly more likely to reoffend during the follow-up period than were their nontransfer matches.

These unadjusted proportions do not take account of differences in time at risk across the two groups. For the transfer group as a whole, the mean number of days of incapacitation was 38, compared to 33 days for the nontransfer group. For those who were incarcerated in the transfer group, the mean number of days of incarceration was 245, compared to 90 days for the nontransfer group.¹¹

Adjusted arrest rates were calculated by computing numbers of rearrests within each group divided by days at risk, then multiplying by 365.25 to produce yearly rates of offending. For the total transfer group ($n = 2,738$), the rearrest rate was .54 offenses per person year of exposure, compared to a rate of .32 for the total nontransfer group ($Z = 13.60$, $p < .001$).¹² Looking only at those who reoffended during the follow-up period (808 transfers, 528 nontransfers), the adjusted rate of rearrest in the transfer group was 1.90 offenses per person year of exposure, compared to a rate of 1.70 for the nontransfer group ($Z = 3.09$, $p = .002$).¹³

Time to failure. The next question we addressed was whether mean time to failure differed across groups. For those 808 subjects who reoffended in the transfer group, mean time to failure adjusted for time at risk was 135 days; that is, the average elapsed time on the street prior to committing a new offense for those who reoffended in the transfer group was 135 days. For the nontransfer group, the average time to failure was 227 days. The difference across groups was significant ($Z = 10.57$, $p < .001$). Thus not only were transfers more likely to reoffend but they were likely to reoffend more quickly than their nontransfer matches. Had we been able to calculate jail time served for transfers, their time to failure would undoubtedly have been shorter, and the differences between groups even greater.

Severity of rearrest. Still another way of exploring similarities and differences in recidivism across the two groups was to examine the severity of rearrest offenses. For this portion of our analyses, we restricted our attention to the first rearrest for each individual who reoffended in the two groups and calculated the proportions who committed felonies versus misdemeanors.¹⁴ Of the transfers who were rearrested, 93% were arrested for felony offenses.

Persons rearrested in the nontransfer group, 85% were arrested for felon-

offenses. Although the difference across groups in proportions arrested for felonies was small, it was statistically significant ($Z = 4.075$, $p < .001$).

A second way of comparing severity of reoffending across the two groups involved pre-post comparisons—that is, examining offense transitions for each individual who reoffended to see how the severity of the first rearrest compared to the arrest that put the youth into the study. Among the transfers, 5% of those who reoffended showed some improvement in that, although they were transferred for a felony offense, they were subsequently arrested for a misdemeanor. Among the nontransfer matches, 11% showed improvement, transitioning from a felony arrest in 1987 to a subsequent misdemeanor offense. Again, the difference across groups was statistically significant ($Z = -3.73$, $p = .01$).

DISCUSSION AND CONCLUSIONS

Did the transfer of juveniles to criminal court make a difference? Advocates of transfer clearly think it should, and our research showed that it did. However, the effect was not in the direction its advocates expect. In these data, transfer actually aggravated short-term recidivism.

The transfer group recidivated at a higher rate than the nontransfer group. This was true within all seven classes of offense that resulted in subjects' inclusion in the study. Despite being incarcerated for longer periods of time, transferred youths nonetheless committed more offenses. When time at risk was controlled, the rate of reoffending in the transfer group was significantly higher than in the nontransfer group both in terms of time to failure and in terms of arrest rates. Further group comparisons revealed that transferred offenders were more likely than matched nontransferred youths to commit a subsequent felony offense. Comparing pre- to post-levels of offending among those who reoffended, more of the nontransfer matches improved their behavior over time. Among those rearrested, the offense transitions showed a significantly greater tendency toward rearrest for a lesser offense for the nontransfer group than for the transfer group.

Overall, the results suggest that transfer in Florida has had little deterrent value. Nor has it produced any incapacitative benefits that enhance public safety. Although transferred youths were more likely to be incarcerated and to be incarcerated for longer periods than those retained in the juvenile justice system, they quickly reoffended at a higher rate than the nontransferred controls, thereby negating any incapacitative benefits that might have been achieved in the short run.

Although our matches were designed to reduce the possibility of nonequivalence between transfer and nontransfer cases, some slippage in the offense categories used to generate the matches allowed for the possibility of selection bias. However, when we compared the matched pairs within different classes of offense, some of which have considerably more precision, the general pattern held.¹³ Consequently, we do not think the results can be explained away by nonequivalence across groups.

Another possibility is that transfer to the adult system heightens law enforcement vigilance and increases the risk of rearrest more than of reoffending. Perhaps offenders transferred to criminal court are more closely supervised on probation and parole than are youths retained in the juvenile system, making detection of repeat offenses more likely. Or perhaps officials have a lower threshold of tolerance for violations committed by offenders transferred to adult court. To test these hypotheses would require self-reports of offending to supplement official arrest data.

Although we would be the first to recommend replication of our research with better matches and controls and in other jurisdictions, we also would be remiss if we did not state the obvious. There may be no way to "explain away" the results. Transfer to criminal court may indeed increase the likelihood of recidivism. In other words, perhaps the context in which sanctions are administered matters. Certainly the original "Child Savers" would not be surprised by our results.¹⁴ Proponents of the labeling and social reaction perspectives have warned about the negative consequences of criminal sanctions for children. Consequently, we wonder about the messages that the juvenile versus criminal systems communicate to offenders, and how they are received. Certainly, the findings of this study are consistent with the idea that the criminal system sends a more negative message. Braithwaite's (1989) theory of reintegrative shaming cautions about the adverse impact of sanctions that reject and exclude, and the implications these have for future offending. Perhaps transfer from juvenile to criminal court signals to young offenders that they are outcasts. Although stigma is undoubtedly attached to juvenile justice processing, the stigma associated with criminal court conviction and adult sentencing is greater and more enduring than its juvenile counterpart. Social responses in the family, the community, and the workplace to a criminal conviction are condemnatory. In American culture, the sins of youth are more readily forgiven and forgotten than the sins of adults.

From this perspective, transfer denotes more than process and procedure. It is symbolic of status transformation from "redeemable youth" to "unsalvageable adult." Faced with that prospect, youths may surrender self-restraint, accept the negative attributions of the culture that has excluded them, and

seek out the companionship of others who tolerate or support continued deviation from societal norms.

Lanza-Kaduce and Radosevich (1987), Tyler (1990), and Sherman (1993), in their discussions of procedural injustice and rule violations, suggest another possible interpretation for our findings. Lanza-Kaduce and Radosevich (1987) reported that a sense of injustice about formal processing was associated with increased drug use among incarcerated juveniles. Tyler (1990, p. 63) found that adults who had contact with police or the courts and who believed they had been treated unfairly were less compliant with legal norms than those who believed they had been treated fairly. Similarly, Sherman (1993) has argued that punishments increase the likelihood of recidivism when offenders perceive that sanctioning agents are acting unjustly. He suggested that this is especially likely to occur when the offender is alienated from the sanctioning agent or the community the sanctioning agent represents. Under these conditions, the sanction provokes angry pride, which predisposes the offender to repeat the sanctioned conduct. From this perspective, an important question is whether transferred youths attribute procedural and substantive unfairness to criminal justice processing. If so, their higher rates of reoffending may be best understood in terms of anger and defiance.

Certainly, other theoretical perspectives may be employed to interpret differential effects of juvenile and adult processing. Researchers should continue to explore the connections between alternative processing strategies and their behavioral consequences. Especially helpful would be longitudinal studies focused on the experiences and reactions of young offenders in juvenile versus criminal courts, and in juvenile versus criminal correctional systems.

Appendix A: Characteristics of Transfer and Nontransfer Samples

I. Most Serious Transfer Offense by Prior Record				
	Prior Record			
1987 Offense	None	1-2	3 or More	Total
Felonies				
Manslaughter	14	0	8	22
Attempted murder	5	0	10	15
Sex battery	28	21	29	78
Aggravated battery	46	68	147	261
Armed robbery	39	39	83	161
Other sex offense	1	1	3	5
Other robbery	10	19	51	82
Arson	1	0	3	4
Burglary	112	133	369	614
Grand larceny	16	23	40	79
Auto theft	31	26	137	194
Drug, not marijuana	9	14	11	34
Escape	0	0	33	33
Forgery/uttering	37	43	100	180
Concealed firearm	5	8	14	27
Receive stolen property	2	2	7	11
Other felony	65	67	167	299
SUBTOTAL	422	464	1232	2118
Misdemeanors				
Assault	22	15	57	94
Sex offense	1	1	2	4
Trespass	16	11	27	54
Petit larceny	15	17	27	59
Retail theft	22	27	44	93
Vandalism	15	10	17	42
Loitering/prowling	8	18	40	64
Receive stolen property	0	1	0	1
Concealed weapon	5	2	4	11
Disorderly conduct	6	4	17	27
Drug, not marijuana	2	4	4	10
Marijuana	6	5	13	24
Prostitution	0	0	4	4
Alcohol possession	9	4	12	25
Traffic	3	5	5	13
Other misdemeanor	25	14	29	68
Other (ordinance violations)	2	11	14	27
SUBTOTAL	155	149	316	620
TOTAL	577	613	1,548	2,738

II. Class of Most Severe Prior Offense for Those Offenders With Prior Records of Referral

	N	Percentage
Class 1	514	23.8
Class 2	870	40.3
Class 3	32	1.5
Class 4	310	14.3
Class 5	141	6.5
Class 6	162	7.5
Class 7	52	2.4
Class 8	73	3.4
TOTAL	2161	100.0

III. Number of Counts Included in the Bill of Information

One = 86%; Two-Three = 13%; Four or more = 1%

IV. Socio-demographic Characteristics

Gender:	Male, 92%	Female, 8%		
Age at Transfer:	17, 60%	16, 25%	15, 25%	<15, 3%
Race:	Transfer Group	Non-Transfer Group		
	White, 53%	White, 58%		
	Nonwhite, 47%	Nonwhite, 42%		

NOTES

1. See, especially, *In re Gault*, 387 U.S. 1 (1967); *In re Winship*, 397 U.S. 358 (1970); and *Breed v. Jones*, 421 U.S. 519 (1975).

2. For further discussion of the interaction between increased procedural formality and the shift toward more punitive orientations, see Gardner (1987), Forst and Blomquist (1991), and Feld (1984, 1988).

3. See Feld (1993) for a detailed discussion of these changes in juvenile justice philosophy and practice.

4. The manner in which transfer decisions are made has also been the subject of research. Concerns have been raised about arbitrariness in the selection of youth for transfer, and about the role of extralegal factors in transfer decision making (Barnes and Franz 1989; Bishop et al. 1989; Bishop and Prazier 1991; Fagan et al. 1987; Fagan and Deschenes 1990; Singer 1993).

5. More than 80% of the cases were transferred through prosecutorial waiver (direct file). The balance involved judicial waivers and a small number of grand jury indictments.

6. The most severe class (Class 1) consisted of felony offenses against persons that would generally be considered felonies of the first degree. Class 2 consisted of major property felonies.

Class 3 included felony drug offenses. Class 4 included an "other felony" category, as well as concealed firearms and receiving stolen property. Class 5 included misdemeanor offenses against persons and trespass/breaking and entering. Class 6 contained multiple midrange misdemeanors (petit larceny, retail theft, loitering and prowling). Class 7 included minor drug and alcohol offenses, and offenses against public order. Class 8 included status offenses.

7. For example, if a transferred youth was sentenced to prison for some period of time and was subsequently released while his or her nontransfer match was sentenced to probation, we wanted to adjust for differences in the time each was on the street with opportunities to commit further crimes.

8. The fact that such a large proportion of transferred youths was back on the street by the end of 1988 may be surprising to some. Recall, however, that some prior research suggests that adult sanctions received by transferred youth are lenient. Of the 2,887 youths transferred for other than life or capital felonies, approximately 30% received sentences of incarceration, most for periods of 1 to 5 years. During the time period covered by the study, "good time" and "administrative gain time" provisions in Florida were exceedingly generous, largely due to pressures related to prison overcrowding. Consequently, offenders were serving on average only 30% of their sentences.

9. That is, some of the transfers took longer to reoffend because they were in jail.

10. An offense severity scale was constructed using the same categories discussed in Note 6 to classify prior offenses. Class 8 was omitted because no youths were transferred for status offenses.

11. Recall that the incarceration estimates for the transfer group are underestimates because we were unable to obtain information on jail time served for this group.

12. Although these are reported as rates of rearrest, tests were conducted by treating the number of days of exposure as the number of trials, and the number of rearrest dates as the number of occurrences (or "successes"). We then used a Z test to determine whether the two proportions (number of rearrest dates divided by number of days of exposure) were equal.

13. See Note 11.

14. There was some loss of data for this portion of our analyses. Of the 808 transfers who were rearrested, the nature of the first offense following the transfer was not recorded in 146 cases (12%). Among the nontransfers, data were missing on the nature of the first rearrest offense in 51 of 528 cases (10%).

15. Of course it could also be that our transfers differed from our nontransfer matches along other dimensions that we did not measure that would have predicted recidivism. Perhaps judges and prosecutors select youths for transfer based on considerations independent of offense seriousness or chronicity, such as whether youths come from homes and neighborhoods that are especially dysfunctional or unstable. But if practitioners use economic, social, and family variables to treat some juveniles more harshly than others, questions of unequal justice would be raised.

16. This does not mean that we would advocate returning to the "good ol' days" of informal juvenile justice processing to "treat" the child. One does not have to accept a treatment philosophy or some form of diversion to find a theoretical rationale for our results.

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Federalizing Crime

A TASK FORCE of the American Bar Association section on criminal justice has issued a report on the federalization of traditionally state crimes that deserves serious consideration before Congress contemplates any new crime measures. The basic contention of the report, which was produced by a bipartisan group headed by former attorney general Edwin Meese III, is that Congress's tendency in recent decades to make federal crimes out of offenses that have historically been state matters has dangerous implications both for the fair administration of justice and for the principle that states are something more than mere administrative districts of a nation governed mainly from Washington. The report argues rightly that the trend gives federal prosecutors too much power over citizens in areas outside the traditional law enforcement interests and expertise of the federal government.

Particularly striking is the task force's data on both the scope of federalization and its ineffectiveness as a law enforcement strategy. More than 40 percent of all federal criminal statutes enacted since the Civil War date from after 1970. Moreover, many federal criminal laws that Congress passed in response to the public clamor surrounding high profile crimes are hardly ever used. The much-vaunted anti-car-jacking statute has been the basis for only 164 prosecutions. The laws against drive-by shootings and interstate domestic violence

have not been the basis for a single federal case.

These statutes do less to fight crime than to "present a possible opportunity for both selective prosecution with its inherent disparity and for shifting prosecutorial priorities that, without open political debate, can alter the traditionally limited federal presence in local matters."

Few would argue with this critique. The problem is that federalism is almost nobody's paramount policy concern—including ours. While everyone can agree that the tendency to federalize crime is dangerous, few are willing to give up cherished public policy goals in order to protect the rather diffuse and already eroded principle of federalism.

But this does not mean the concern is without merit. When Congress considers crime legislation, it certainly should pay careful attention to the real law enforcement purpose—not merely the short-term political gains to be had by appearing tough on crime. It should also consider seriously in all federalizations whether the proposed statutes merely duplicate existing state authorities or actually add something new and useful to the anti-crime arsenal. Finally, it is worth considering, if the task force is right that many federal criminal statutes are worthless and irrational, whether to begin repealing them.

NEWS RELEASE

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CREATING TOO MANY FEDERAL CRIMES IS DANGEROUS AND COUNTERPRODUCTIVE, ABA TASK FORCE WARNS

WASHINGTON, D.C., Feb.16, 1999 -- Tracing dramatic growth in the number and variety of federal crimes, an American Bar Association task force today warned of the dangers in subjecting local crimes to potential federal control, rather than leaving such crimes to state law.

In a report released today, the panel expressed concern about the increasing tendency of Congress to create federal crimes out of local conduct already covered by state criminal laws, such as drive-by shootings and street crime.

"It is a recognized constitutional principle, deeply rooted in the American criminal justice system, that the general police power resides in the states, not the federal government," said the Task Force's chairman, former Attorney General Edwin Meese. "This current phenomenon is capable of altering the careful decentralization of criminal law authority that has worked well in America."

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FEDERALIZATION, Add One

The panel of highly respected professionals assembled by the ABA's Criminal Justice Section examined the consequences of this federalization trend and called upon Congress to exercise greater caution in enacting federal laws that overlap state criminal law, and to focus federal resources on dealing with the important problems of distinctly federal crime.

"One of the most striking things about the panel's work was the consistency between the data and the observations of the criminal justice professionals. Many of the organizations we talked with indicated that federal crimes are created without a demand for them by law enforcement, and for no other reason than that the conduct is serious," said panel member William Taylor, a defense attorney and former chair of the section. "The panel found no persuasive evidence that federalizing crime makes the streets safer."

In fact, the panel concluded that "increased federalization is rarely, if ever, likely to have any appreciable effect on the categories of violent crime that most concern Americans, because in practice federal law enforcement can only reach a small percent of such activity." Only five percent or less of all crime is prosecuted by the federal government. The states prosecute the other 95 percent.

The study found that more than 40 percent of the federal provisions enacted since the Civil War have been enacted since 1970. The panel cautioned that "the expanding coverage of federal criminal law, much of it enacted in the absence of a demonstrated and distinctive federal justification, is moving the nation rapidly toward two broadly overlapping, parallel, and essentially redundant sets of criminal prohibitions, each filled with differing consequences for the same conduct."

FEDERALIZATION. Add Two

According to Temple University law professor James Strazzella, a panel member who served as reporter for the group, "The report frankly recognizes the pressures on Congress to create new crimes, but it urges Congress to consider carefully the important and practical consequences that follow from inappropriate federalization."

The panel's report identifies a sizeable list of adverse consequences that potentially flow from inappropriate federalization, in addition to generally undermining the state-federal fabric and disrupting the important constitutional balance between the federal and state systems.

Among those adverse consequences are:

- an unwise allocation of scarce resources needed to meet the genuine issues of crime
- an unhealthy concentration of policing power at the federal level
- an adverse impact on the federal judicial system
- inappropriately disparate results for similarly situated defendants, depending on whether their essentially similar conduct is selected for federal or state prosecution
- a diversion of congressional attention from a needed focus on certain criminal activity which only federal prosecutions can address

The ABA task force, which is made up of a broad cross-section of prosecutors, defense attorneys, judges and law professors, has been examining the federalization issue over the last two years. The panel also sought input from the National District Attorneys Association, the State Attorneys General Association, the National Governors Association, the Association of State Legislators and the Conference of Chief Justices.

FEDERALIZATION, Add Three

The report has not been considered by the ABA's House of Delegates and so does not represent policy of the association.

To request a copy of the report contact the ABA Service Center at 800/285-2221 or 312/988-5522 (cite "The Federalization of Criminal Law," Product Code PC-3500001). The cost is \$10, plus shipping and handling. Or you may access the report online at www.abanet.org/crimjust/fedreport.html.

The American Bar Association is the largest voluntary professional association in the world. With more than 400,000 members, the ABA provides law school accreditation, continuing legal education, information about the law, programs to assist lawyers and judges in their work, and initiatives to improve the legal system for the public.

The Task Force on Federalization of Criminal Law

Chairman: Edwin Meese III, (former Attorney General), Heritage Foundation Fellow

MEMBERS:

John S. Baker, Jr., Louisiana State University law professor (former Assistant District Attorney, New Orleans);
Sara Beale, Duke law professor (former Assistant Solicitor General, Attorney Adv., DOJ Office of Legal Counsel);
Susan Ehrlich, Judge, Arizona Court of Appeals (former Assistant U.S. Attorney, Arizona; formerly Department of Justice Civil Rights Division.);
Reuben Greenberg, Chief Charleston Police Department, Charleston, S.C.;
Howell Heflin, former U.S. Senator, Alabama;
Philip Heymann, Harvard law Professor (former Deputy Attorney General for Attorney General Janet Reno; former Assistant Attorney General, Criminal Division);
Vincent Johnson III, District Attorney General, Nashville, Tenn.;
Robert W. Kastenmeier, former Congressman, Wisconsin;
Robert Litt, Principal Associate Deputy Attorney General, Department of Justice, Washington, D.C.;
James Neal, attorney in private practice, Nashville, Tenn. (former Department of Justice prosecutor and U.S. Attorney, Tennessee);
Jon O. Newman, federal appeals court, Connecticut;
Otto G. Obermaier, attorney in private practice, New York City (former U.S. Attorney, S.D.N.Y.);
Donald Santarelli, attorney in private practice, Washington, D.C. (former head of LEAA);
James Strazzella, Temple University law professor, Reporter (former Assistant U.S. Attorney, Washington, D.C.);
William W. Taylor, III, attorney in private practice, Washington, D.C. (former chair, ABA Section of Criminal Justice);
John K. Van de Kamp (former Attorney General of the State of California.)

Dr. Barbara Melerhoefer, Washington, DC, served as statistical consultant.

Prevention



July 29, 1999

U.S. House of Representatives

Washington, D.C. 20515

Dear Representative:

Protecting the well being of our nation's citizens is of concern to all of us. Yet in the effort to increase public safety and limit easy accessibility to guns, we should not lose sight of what both local law enforcement agencies and community groups know to be true: No legislation that is serious about solving the problem of juvenile crime and delinquency can do so without including a meaningful investment in prevention programs.

As you and your Congressional colleagues seek to reconcile differences between House and Senate versions of comprehensive juvenile justice legislation, we strongly urge you to support the following key provisions:

- Add further prevention activities as allowable uses under the Juvenile Accountability Block Grant (JABG) and set aside at least 25 percent of the JABG 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 help ensure that prevention programs actually receive some level of appropriations. Such programs could include after-school and youth mentoring programs.
- 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.

There is clear evidence that programs to prevent crime work. For example:

- Young people who worked with a Big Brothers/Big Sisters mentor were half as likely to begin illegal drug use or to hit someone compared to a control group.
- Students randomly assigned to participate in a prevention program were only one-fourth as likely as their classmates to be convicted of a crime during their high school years. (The Quantum Opportunities program blends in-school and after-school counseling, academic and life skills support, community service and financial incentives.)

- In Buchanan County, Missouri, Project Payoff - a collaborative effort between the schools, a conservation corps, a youth center, community-based organizations, community volunteers, outdoor sporting clubs, and a transit company to transform an in-school suspension program into a year-round comprehensive program for at-risk youth - has succeeded in reducing school discipline notices by 31 percent and juvenile crime and vandalism by 33 percent. Similar success was realized in a Montana program, where, during the first year of a school-based violence and substance abuse prevention program, violent school incidents dropped from 64 to 37; absenteeism decreased from 14 percent to 11 percent; and volunteerism by school students increased from 476 volunteer hours to 828 volunteer hours.

Without a guarantee of funding specifically for prevention, it is highly unlikely that successful programs like these would be supported. History has proven that when given a choice between investing limited crime-related funds in prevention programs or in punitive sanctions, states and local jurisdictions too often shortchange prevention in an effort to appear tough on crime. For example, under the Byrne Grants and the Local Law Enforcement Block Grant, both of which include prevention as one of a host of allowable uses of the funds, prevention received less than 9% of the funds.

Opponents of a substantial targeted federal investment in youth crime prevention programs often cite a GAO report that claims the federal government already invests \$4 billion in these programs. However, 37 of the 131 "youth crime prevention" programs identified in the report could not specify any amount spent on youth during the year in question; and 43 of the programs were small research, demonstration or pilot programs, not programs that serve any significant number of youth around the country. More than half of the funding referenced in the GAO report goes to the Job Training Partnership Act (\$2.1 billion), which does not offer flexible funding for youth development programs. Additionally, other programs such as Safe and Drug Free Schools (\$556 million) and Child Welfare Services (\$328 million) offer solid efforts to address at-risk populations but are not directed towards addressing youth crime prevention needs during the peak hours for juvenile crime, the after-school hours.

The evidence is clear that prevention programs are effective in reducing crime. The evidence is also 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 kids from becoming criminals. As John Dilulio of Princeton University said in a speech to the National District Attorneys Association, "the key to preventing youth crime and substance abuse among our country's expanding juvenile population is to improve the real, live, day-to-day connections between responsible adults and young people - period."

We know what works! It's now time to invest in the multitude of model delinquency prevention efforts and spread their success throughout the country. Professor Dilulio says it best: "It is all well and good to acknowledge both the multivariate character of social problems, and the myriad legal, political, administrative, financial and other difficulties of replicating what works. But it is also all too easy to let such intellectually de rigueur acknowledgments of social complexity become convenient covers for academic excuse-mongering, inaction and, of course, calls for more grants for more basic research, more research symposia, more conferences - more of everything save more human and

financial support of people and existing programs that actually put responsible adults into the daily lives of the at-risk kids of the inner city.”

We hope that you will take a leadership role in support of prevention on this important issue. If any of our organizations can assist you or your staff as you consider juvenile justice legislation, please contact us.

Thank you for your consideration.

Sincerely,

Academy for Educational Development / Center for Youth Development
and Policy Research (District of Columbia)

Albertina Kerr Centers (Oregon)

American Academy of Child and Adolescent Psychiatry (District of Columbia)

American Academy of Pediatrics (Illinois)

American Association for Marriage and Family Therapy (District of Columbia)

American Counseling Association (Virginia)

American Humane Association (District of Columbia)

American Protestant Health Alliance (District of Columbia)

American Psychiatric Association (District of Columbia)

American Psychological Association (District of Columbia)

Arizona's Children Association (Arizona)

Arkansas Commission on Child Abuse, Rape, and Domestic Violence (Arkansas)

The Baby Fold (Illinois)

Bethany Christian Services (Michigan)

Black Administrators in Child Welfare (District of Columbia)

Bonnie Brae School (New Jersey)

Campaign for Equity-Restorative Justice (Vermont)

Camp Fire Boys and Girls (Missouri)

Capital District YMCA (New York)

Catawba County Social Services (North Carolina)

Center for Family and Child Enrichment, Inc. (Florida)

Center for Women Policy Studies (District of Columbia)

Centers For New Horizons, Inc. (Illinois)

Central Baptist Children's Home (Illinois)

Central Juvenile Hall (California)

Child and Family Services (New York)

Child and Family Services Agency (District of Columbia)

Child Care Association of Illinois (Illinois)

Child Care Council of Nassau (New York)

Child Care Law Center (California)

Child Development Programs of Cape Ann, Inc. (Massachusetts)

Child Welfare League of America (District of Columbia)

Children At Risk (Texas)

Children, Youth & Family Services, Inc. (Virginia)

Children's Charter of the Courts of Michigan, Inc. (Michigan)

Children's Defense Fund (District of Columbia)
Children's Home and Aid Society (Illinois)
Children's Home Society of Florida, Southeastern Division (Florida)
Children's Service, Inc. (Pennsylvania)
Children's Action Alliance (Arizona)
Coalition on Human Needs (District of Columbia)
Coalition for Juvenile Justice (District of Columbia)
Coalition to Stop Gun Violence (District of Columbia)
Cocoon House (Washington)
Colorado Association of Family and Children's Agencies (Colorado)
Committee for Hispanic Children and Families (New York)
Connecticut Association of Nonprofits (Connecticut)
Connecticut Youth Services Association (Connecticut)
Covenant House (New York)
Covenant House New York (New York)
The Creativity Center (South Carolina)
Crossroad (Indiana)
Daniel Memorial Institute (Florida)
Devereux Texas Treatment Network (Texas)
Episcopal Center for Children (District of Columbia)
Episcopal Community Services (Pennsylvania)
Evergreen Children Services (Michigan)
Family and Children's Association (New York)
Family Builders by Adoption (California)
Family Central, Inc. (Florida)
Family Support Services, Inc. (Pennsylvania)
Family Teamwork (Virginia)
Family Watch (Virginia)
Fellowship of Lights Youth and Community Services (Maryland)
The Florence Crittenton Agency, Inc. (Tennessee)
Fontana Native American Indian Center, Inc. (California)
Foster Care Review, Inc. (Florida)
Friends Association for Children (Virginia)
Friends of the Family, Inc. (Maryland)
Friends of Youth (Washington)
General Board of Church and Society of the United Methodist Church
(District of Columbia)
Generations United (District of Columbia)
Georgia Association of Homes and Services for Children (Georgia)
Girl Scouts of the USA (District of Columbia)
Girls, Inc. (District of Columbia)
Good Shepherd Services (New York)
Guardian Angel Home of Joliet (Illinois)
The Harbor, Inc. (Illinois)
Hillsborough CARES (Florida)
Huckleberry House, Inc. (Ohio)

Hudelson Baptist Children's Home (Illinois)
Imani Temple (Louisiana)
Innovative Youth Services of Racine (Wisconsin)
Jane Adams Hull House Association (Illinois)
Jewish Board of Family & Children's Services (New York)
Jewish Council for Public Affairs (District of Columbia)
Jewish Labor Committee (New York)
Justice Policy Institute (District of Columbia)
Kansas Children's Service League (Kansas)
La Crosse County Human Services Department (Wisconsin)
Lake County Boys Ranch (Florida)
Los Angeles Youth Network (California)
Lutheran Child & Family Service of Michigan (Michigan)
Lutheran Family and Children's Services of Missouri (Missouri)
Lutheran Office of Governmental Affairs, ELCA (District of Columbia)
Lutheran Social Services of Minnesota (Minnesota)
Massachusetts Society for the Prevention of Cruelty to Children (Massachusetts)
Memorial Child Guidance Clinic (Virginia)
Michigan Federation of Private Child & Family Agencies (Michigan)
Michigan Network for Youth and Families (Michigan)
Minorities in Law Enforcement (California)
Missouri Child Care Association (Missouri)
Montgomery County Office of Children and Youth (Pennsylvania)
National Adoption Center (Pennsylvania)
National Association for the Advancement of Colored People (Maryland)
National Association of Counsel for Children (District of Columbia)
National Association of School Psychologists (Virginia)
National Association of Service and Conservation Corps (District of Columbia)
National Association of WIC Directors (District of Columbia)
National Council for Community Behavioral Healthcare (District of Columbia)
National Council on Alcoholism and Drug Dependence, Inc. (District of Columbia)
National Education Association (District of Columbia)
National Family Preservation Network (Maryland)
National Network for Youth (District of Columbia)
National Partnership for Women & Families (District of Columbia)
National PTA (District of Columbia)
National Recreation and Park Association (Virginia)
New Beginnings Inc. (Maine)
New York Foundling Hospital (New York)
Niles Home for Children (Missouri)
Northern Rhode Island Community Mental Health Center (Rhode Island)
Office for Church in Society/United Church of Christ (District of Columbia)
Ohio Association of Child Caring Agencies (Ohio)
Ohio Youth Advocate Program, Inc. (Ohio)
Parents Anonymous, Inc. (California)
Philadelphia Society for Services to Children (Pennsylvania)

Porter-Leath Children's Center (Tennessee)
Presbyterian Child Welfare Agency (Tennessee)
Prevent Child Abuse America (Illinois)
Provident Counseling, Inc. (Missouri)
Redwood Community Action Agency (California)
San Francisco Bay View (California)
Southern Indian Health Council (California)
Spectrum Human Services (Michigan)
Spring Lake Park Community Education (Minnesota)
St. Joseph's Villa (New York)
Stillmeadow-Benchmark Associates, Inc. (Virginia)
Suffolk Coalition to Prevent Alcohol and Drug Dependencies, Inc. (New York)
Summit County Children Services (Ohio)
Texas Network of Youth Services (Texas)
Uhlich Children's Home (Illinois)
Union of American Hebrew Congregations (District of Columbia)
Unitarian Universalist Association of Congregations,
Washington Office for Faith in Action (District of Columbia)
United Church of Christ/Office for Church in Society (District of Columbia)
Valley of the Sun YMCA (Arizona)
Volunteers of America (Virginia)
Walden Family Services (California)
Washington Ethical Action Office of the American Ethical Union (Maryland)
Wayzata Home Base (Minnesota)
Women of Reform Judaism, The Federation of Temple Sisterhoods (New York)
Women's Association for Women's Alternatives (Pennsylvania)
Work, Incorporated (North Carolina)
YMCA of Central Maryland (Maryland)
YMCA of Central Ohio (Ohio)
YMCA of Greater Indianapolis (Indiana)
YMCA of Greater Louisville (Kentucky)
YMCA of Greater Seattle (Washington)
YMCA of Greater Winston-Salem (North Carolina)
YMCA of Metropolitan Chicago (Illinois)
YMCA of Pittsburgh (Pennsylvania)
YMCA of San Francisco (California)
YMCA of Tampa (Florida)
YMCA of the USA (District of Columbia)
YMCA Youth and Family Services (California)
Youth Alternatives, Inc. (Maine)
Youth and Shelter Services, Inc. (Iowa)
Youth Law Center (District of Columbia)
Youth Service Bureau (California)
Youth Services Consortium (Oregon)
Youth Services for Oklahoma County, Inc. (Oklahoma)

April 19, 1999

The Honorable
United States Senate
329 Dirksen Senate Office Building
Washington, DC 20510-2203

Dear Senator

Protecting the well being of our nation's citizens is a concern to all of us. Yet in the effort to increase public safety, we should not lose sight of what both local law enforcement agencies and community groups know to be true: no legislation that is serious about solving the problem of juvenile crime and delinquency can deny the merits of crime prevention programs.

With that in mind, and as you and your Senate colleagues consider juvenile justice legislation, including the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999 (S. 254), we strongly urge you to support a guarantee that at least 50% of any juvenile justice authorization and appropriation be invested in delinquency prevention programs for at-risk youth.

There is clear evidence that programs to prevent crime and get troubled youth back on track work. For example:

- Young people who received a Big Brothers/Big Sisters mentor were half as likely to begin illegal drug use or to hit someone compared to a control group.
- Students randomly assigned to participate in a prevention program were only one-fourth as likely as their classmates to be convicted of a crime during their high school years. (The Quantum Opportunities program blends in-school and after-school counseling, academic and life skills support, community service and financial incentives).
- The New Bedford, Massachusetts Police Department, Recreation and Parks Department, Education Department, and the Housing Authority launched a Community Policing Coalition to develop programming and public safety strategies to combat crime, drug trafficking and gang activity. On a city-wide basis, violent crime decreased 28% from 1995 to 1996; crime in public housing areas decreased 36% between 1994 to 1996; and drug arrests in public housing declined 36% in both 1995 and 1996.

Without a guarantee of funding specifically for prevention, it is highly unlikely that successful programs like these would receive much-needed help. History has proven that when given 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. For example, under the Byrne Grants and the Local Law Enforcement Block Grant, both of which include prevention as one of a host of allowable uses of the funds, prevention benefits from less than 9% of the funds.

While authorizing a stand-alone prevention block grant as part of a larger juvenile crime control, accountability, and delinquency prevention initiative appears encouraging on the surface, it is not the approach we would prefer. Instead, we seek for at least 50% of any juvenile accountability block grant be dedicated to prevention programs. In so doing, the federal government would demonstrate to states the importance of supporting a comprehensive, balanced approach to preventing and reducing juvenile delinquency and crime.

Opponents of a substantial targeted federal investment in youth crime prevention programs often cite a GAO report that claims the federal government already invests \$4 billion in these programs. However, 37 of the 131 "youth crime prevention" programs identified in the report could not specify any amount spent on youth during the year in question; and 43 of the programs were small research, demonstration or pilot programs, not programs that serve any significant number of youth around the country. More than half of the funding referenced in the GAO report goes to the Job Training Partnership Act (\$2.1 billion), which is not crime prevention. Additionally, other programs such as Safe and Drug Free Schools (\$556 million) and Child Welfare Services (\$328 million) offer solid efforts to address at-risk populations but are not sufficient to address youth crime prevention needs during the peak hours for juvenile crime, the afterschool hours.

The evidence is clear that prevention programs are effective in reducing crime. The evidence is also 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 kids from becoming criminals and put troubled kids back on track. As David Broder said in a recent column that appeared in *The Washington Post* describing efforts that achieved dramatic reductions in violence by mobilizing resources to prevent crime, this is "the kind of good news that rarely rates headlines- and an important signal to Congress as it resumes work on juvenile justice bills."

We hope that you will take a leadership role in support of prevention on this important issue. If any of our organizations can assist you or your staff as you consider juvenile justice legislation, please contact us.

Thank you for your consideration.

Sincerely,

Alliance for Children and Families
American Academy of Child and Adolescent Psychiatry

American Academy of Pediatrics
American Counseling Association
American Dance Therapy Association
American Ethical Union
American Federation of Teachers
American Friends Service Committee
American Humane Association, Children's Division
American Music Therapy Association
American Occupational Therapy Association
American Probation and Parole Association
American Professional Society on the Abuse of Children
American Psychiatric Association
American Psychological Association
American Speech-Language-Hearing Association
Attorney General Christine Gregoire (Washington)
Bedford Youth and Family Services
California Child, Youth & Family Coalition
Center on Juvenile and Criminal Justice
Child Welfare League of America
Children at Risk
Children's Defense Fund
Coalition on Human Needs
Cocoon House
Common Ground Sanctuary
Common Sense for Drug Policy
Community Works
Covenant House California
Evangelical Lutheran Church in America
Exchange Club Center for the Prevention of Child Abuse
Exchange Club Family Center
Family & Children's Council of Black Hawk County, Inc.
Family Watch
Federation of Families for Children's Mental Health
Fellowship of Lights, Inc.
Friends Committee on National Legislation
Garden State Coalition for Youth and Family Concerns, Inc.
General Federation of Women's Clubs
Girl Scouts of the USA
Girls Incorporated
Illinois Collaboration on Youth
International Association of Pupil Personnel Workers, Inc.
League of United Latin American Citizens
Learning Disabilities Association
Mennonite Central Committee U.S., Washington Office
Metropolitan Sarasota Family YMCA

Middle Earth

National Association of Counsel for Children
National Association of Criminal Defense Lawyers
National Association of Pupil Service Administrators
National Association of School Psychologists
National Association of Social Workers
National Council of Jewish Women
National Education Association
National Family Preservation Network
National Mental Health Association
National Network for Youth
National PTA
National Recreation and Park Association
New England Network for Child, Youth & Family Services
Ozone House
Parents Anonymous of the Big Country, Inc.
People Against Child Abuse, Inc.
Presbyterian Church (USA)
Prevent Child Abuse America
Prevent Child Abuse Kentucky
Prevent Child Abuse Ohio
Prevent Child Abuse, Inc.
Redwood Community Action Agency
School Social Work Association of America
Somerset Home for Temporarily Displaced Children
Support, Care and Networking for Families [SCAN]
Texas Network of Youth Services
Union of American Hebrew Congregations
Unitarian Universalist Association of Congregations
Unitarian Universalist Association Washington Office for Faith in Action
United Church of Christ/Office for Church in Society
Volunteers of America
Western States Youth Services Network
Women of Reform Judaism
YMCA of the USA
Youth Alternatives, Inc.
Youth Law Center

Prevention Works

Children's Defense Fund • Issue Basics • May 1999

In an effort to be "tough on crime" we should not lose sight of what both local law enforcement agencies and community groups know to be true. Prevention works. No legislation that is serious about reducing crime and delinquency can deny the merits of crime prevention programs.

Police chiefs recognize the value of prevention programs. A 1996 survey conducted by the Northeastern University's Center for Criminal Justice Policy Research, of 780 police chiefs, including all chiefs from cities with populations over 100,000, found:

- That when Police chiefs were asked to rank the long-term effectiveness of a number of possible crime fighting approaches, "increasing investments in programs that help children and youth get a good start" was picked *as most effective* nearly four times as often as either "trying more juveniles as adults" or even "hiring additional police officers."
- More than nine out of ten police chiefs (92%) agreed with the statement, "America could sharply reduce crime if government invested more in programs to help children and youth get a good start" by "fully funding Head Start for infants and toddlers, preventing child abuse, providing parenting training for high-risk families, improving schools and providing after school programs and mentoring."
- Nine out of ten also agreed that "if America does not pay for greater investments in programs to help children and youth now, we will all pay far more later in crime, welfare, and other costs."

There is clear evidence that programs to prevent delinquency before it starts, as well as programs to get troubled youth back on track work. In every state there are programs that are making a difference in keeping children and communities safe.

- In Salt Lake County, Utah, assigning delinquent youths and their families to eight hours of family systems counseling cut in half both the delinquent's chances and their siblings' chances of future delinquency compared to control groups.
- A study compared juvenile arrests in a public housing project starting an after-school skills development program with those in another housing project providing only minimal recreational services. The number of juvenile arrests declined by 75% after the start of the after-school program, while they were increasing by 67% in the comparison project. In the first year after the Baltimore Police Department opened an after-school program in a high-crime area, crime in that neighborhood dropped 42%.
- A Public/Private Ventures study of Big Brothers/Big Sisters' carefully-designed mentoring program showed that young people randomly assigned to received a

trained mentor were only about half as likely to begin illegal drug use or to hit someone as those randomly assigned to the control group.

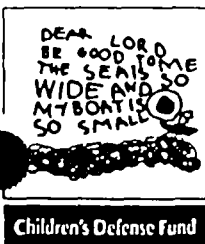
Not only are prevention programs common sense, they make fiscal sense as well.

- In the summertime, when Phoenix basketball courts and other recreational facilities are kept open until 2:00 am, police calls reporting juvenile crime drops by as much as 55%. This program is a bargain, with 170,000 participants in Phoenix, the cost is only sixty cents per youth.
- It costs over \$100,000 to build a new prison cell, but only about \$1,700 to provide a summer job for a youth and \$3,000 to provide urgently needed after-school care for a child.
- A RAND study found that crime prevention efforts were three times more cost-effective than increased punishment.
- Economist Steven Barnett found that the High/Scope Foundation's Perry Preschool study saved \$150,000 per participant in crime costs alone. Even after subtracting the interest that could have been earned by investing the program's funding in financial markets, the project produced a net savings of \$7.16 – including more than six dollars in crime savings – for every dollar invested.
- A Vanderbilt University study estimates that each high-risk youth prevented from adopting a life of crime could save the country from \$1.7 million to \$2.3 million.

Prevention Programs can only work if they are funded.

The evidence is clear that prevention programs are effective in reducing crime. The evidence is also 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 from becoming criminals and put troubled children back on track. History has proven that when given 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. For example, under the Byrne Grants and the Local Law Enforcement Block Grant, both of which include prevention as one of a host of allowable uses of the funds, prevention benefits from less than 9% of the funds.

**For further information, please contact:
Grace Reef at (202) 662-3558; Liz Ryan at (202) 662-3586**



Fact Sheet: Youth Crime Prevention Programs

The National Network for Youth urges Congress to invest significant amounts of funding (50% of any juvenile crime-related expenditures) in prevention programs which deter youth from committing crimes, and which increase the likelihood that these youth will be productive members of society.

Prevention programs have been proven to be successful and cost-effective in reducing crime.¹ Collaboration among community organizations and simultaneous investments in communities, families, and schools are the keys to developing and implementing successful prevention initiatives.² Moreover, because youth crime typically peaks between 3:00 and 7:00 p.m., after-school programs during these hours keep children safe from crime and out of trouble.³

Following are some examples of effective prevention initiatives:

◆ A recent RAND study indicates that graduation incentive programs would result in a reduction of 250 crimes for every million dollars invested. In addition to being the most cost-effective approach investigated by RAND (the other approaches investigated were home visits and day care, parent training, delinquent supervision, and three-strikes laws), the graduation incentives program was extremely successful in reducing crime: arrests for participating students were 70% lower than that of control students.⁴

◆ In the summertime, when Phoenix basketball courts and other recreation facilities are kept open until 2:00 a.m., police calls reporting juvenile crime drops by as much as 55%.⁵ While such programs are needed year-round, funding is not yet available. Yet, these programs are a bargain: with 170,000 participants in Phoenix, the cost is only sixty cents per youth.

◆ Increases in youth violence in Yakima, Washington led to the creation of the Yakima Gang Prevention/Intervention Coalition to provide positive opportunities for youth through community centers. In the neighborhood sites where the Coalition is active, youth violence has decreased by 80% in a three-year period.⁶

¹Mendel, R. Prevention or Pork? A Hard-headed Look at Youth-Oriented Anti-Crime Programs. Washington, D.C.: American Youth Policy Forum (1995), pp 26-28; and Hurley, J. Delinquency Prevention Works, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (November, 1995), pp 4-5.

²Preventing Crime: What Works, What Doesn't, What's Promising. p. vi. University of Maryland, and Office of Justice Programs. National Institute of Justice, Washington, DC, 1997.

³Juvenile Offenders and Victims: 1997 Update on Violence. p. 26. A report of the Office of Juvenile Justice and Delinquency Prevention. National Center for Juvenile Justice, Pittsburgh, 1997.

⁴Greenwood, Peter, et al. Diverting Children from a Life of Crime, Measuring Costs and Benefits, Santa Monica: RAND Corporation, 1996.

⁵Healing American's Cities, Why We Must Invest in Urban Parks. The Trust for Public Land (1994), pp 4-5.

⁶Hurley, J. Delinquency Prevention Works, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (November, 1995), pp A-13, A-29.

Flawed GAO Report "Youth Crime Prevention"

Fiction vs. Fact

FICTION: A 1997 GAO study found \$4 billion in youth crime prevention programs.

Earlier this year, House Judiciary Subcommittee on Crime Chairman Bill McCollum stated at a congressional hearing that the U.S. government spends billions of dollars on juvenile crime prevention programs (referring implicitly to the GAO study).

FACT: While it's true that the 1997 GAO study reported \$4 billion allocated for youth crime prevention, the GAO study was seriously flawed. There are NOT 127 federal youth crime prevention programs totaling \$4 billion. When the programs cited by GAO are examined more closely:

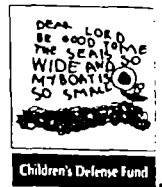
- 47 of the 127 programs identified in the GAO report could not specify any amount spent on youth.
- The vast majority of funding in the GAO report consists of funding for solid efforts to address at-risk populations, but not targeted crime prevention.
 - Safe and Drug Free Schools \$556 million (not operating during peak crime hours)
 - Job Training Partnership Act \$2.1 billion (not crime prevention)
 - Child Welfare Services \$328 million (not crime prevention)

Sampling of Programs NOT primarily aimed at Crime Prevention (from GAO report)

Foster Grandparent Program	Family Preservation and Support Services
Retired & Senior Volunteer Program	Health Care for the Homeless Program
Food Stamp Employment and Training Program	Health Services for Residents of Public Housing
Education for Homeless Children & Youth	Independent Living
Talent Search	Indian Child and Adolescent Mental Health
Title I	Indian Child Protection and Child Abuse
Upward Bound	Indian Health Service
Vocational Education	Injury Prevention and Control Research
Adolescent Family Life Demonstration	Job Opportunities and Basics Skills - repealed
Child Abuse and Neglect State Grants	Maternal and Child Health Block Grant
Child Abuse Discretionary Program	Migrant Health Centers
Child and Adolescent Service System Program	Social Services Block Grant (Title XX)
Child Welfare Services	Indian Child Welfare Act
Community Health Centers	Indian Child Welfare Foster Care
Community Services Block Grant	Urban Indian Health Program
National Institute of Alcohol Abuse and Alcoholism National Institute of Mental Health - Research Programs	National Institute of Drug Abuse - Research Programs
Missing and Exploited Children's Programs	

The remaining 40 programs and \$550 million cover all the expenses of the Office of Juvenile Justice and Delinquency Prevention and 39 small research, demonstration, or pilot programs - hardly a nationwide crime prevention effort.

Intervention Works



Intervention can reduce gun violence. Common-sense initiatives in many communities where child gun deaths once surged have been instrumental in saving the lives of children who might have become victims of gun violence.

Cities such as Boston and Los Angeles have shown that intensive efforts to reduce gun violence can save children's lives. In Boston, collaborative efforts among the clergy, law enforcement, and school officials reduced the number of juveniles killed by guns from 10 a year to *zero* over an 18-month period. The city of Los Angeles' comprehensive efforts to reduce gun violence resulted in the number of homicides dropping by 29.3 percent in the first six months of 1998 compared to the first half of 1997. By contrast, homicide rates in the surrounding area of Los Angeles County – where no comparable anti-violence initiative existed – decreased only 1.6 percent in the same period.

The city of Los Angeles has pioneered a wide range of gun control initiatives designed to protect children and communities from gun violence. In January 1999, with strong backing from police, the city council voted to make Los Angeles the first city in California to prohibit the sale of more than one handgun per month to anyone, a measure aimed at stopping "straw" purchases by individuals who buy large numbers of guns and then resell them to criminals, minors, and others who are not legally qualified to own a gun. This action followed earlier steps by the Los Angeles City Council to ban the sale of assault weapons, "Saturday night specials" (inexpensive handguns), and large-capacity ammunition magazines, to require thumbprints from people who buy ammunition, and to mandate child safety locks be sold with every gun. In debating its most recent gun control initiative, the city council noted that one-sixth of those killed by gunfire in Los Angeles were children.

In the East Bay communities of Northern California, gun violence once had a particularly devastating impact as the leading cause of death for children and youth between the ages of five and 23, according to Mariatheresa Viramontes, executive director of the East Bay Public Safety Corridor Partnership. The Partnership, an alliance of 23 law enforcement agencies and 18 school districts in 26 communities, launched a multifaceted anti-violence campaign in 1994 that included:

- A model project of gun abatement in Richmond, California, with a hotline which allows people to report if they see someone selling guns on the street or carrying guns in an unusual setting;
- Passage of local gun ordinances in 26 communities (16 cities and 10 unincorporated areas) and 2 counties, ranging from bans on "Saturday Night Specials" and selling guns from private homes to stricter requirements for commercial sellers;
- Safe routes home for school children;
- Extended day activities at schools;
- Youth leadership opportunities;
- Youth academies to develop positive relationships between young people and the police;
- A comprehensive truancy-prevention program; and
- Conflict resolution- and mediation-training programs.

The Partnership's efforts have had remarkable results. In Richmond, the number of homicides dropped 75 percent between 1992 and 1998. Oakland neighborhoods that participated in the gun abatement program reduced the number of homicides by 50 percent over a five-year period between 1993 and 1998.

Campaign *for an* Effective Crime Policy



Beth Carter, National Coordinator
Jenni Gainsborough, Communications Director

Critical Choices: New Options in Juvenile Crime Policy **Executive Summary**

Several bills before this Congress are based on erroneous “findings” about the current state of juvenile crime. In fact, juvenile crime rates are continuing to fall, giving policymakers a valuable opportunity to reconsider legislative strategies and funding priorities to support young people and their families and to increase public safety. Recent research has identified many programs that have proven successful and cost-effective in decreasing juvenile offending and reducing victimization. Analysis of the latest information and studies shows that:

- Dire predictions that the nation is about to be overwhelmed by a new breed of predatory and violent juveniles have no basis in fact.
- Juveniles are far more likely to be the victims of violence than its perpetrators.
- Prevention and rehabilitation are the proven, cost-effective ways to reduce juvenile crime.

Juvenile Crime in Perspective

- Juvenile violent crime arrests have declined every year since 1994. Only a small proportion of the juvenile population engages in crime and those that do are far more likely to commit property crime than violent crime.
- Trends in juvenile crime provide no evidence that young people have become more crime prone or dangerous than in past years. The juvenile proportion of all arrests for serious violent crime in 1996 was about average for the preceding twenty-five years, while the percentage of property-crime arrests involving juveniles has actually declined throughout most of this period.
- An increase in the juvenile population does not inevitably mean an increase in violent crime. The rate of youth violence increased in the late 1980s even as the youth population declined, and youth violence is currently decreasing although the population is growing. Demographics are not necessarily destiny.
- While the homicide rate remains unacceptably high, the percentage of juveniles involved is small. At the peak in 1993, there were about 3,800 juvenile arrests for murder. By 1997, this was down to 2,500 out of a population of more than 30 **million** juveniles between the ages of 10 and 17.

Successful Programs for Reducing Juvenile Crime

- Many programs that improve the quality of life for children **and** increase public safety have been implemented and systematically evaluated for their effectiveness.
- The extensive recent research shows that the most successful programs are those which focus on children and young people within their social environment – family, school, community, peers. They are designed to strengthen families, encourage good parenting and strengthen community support systems, as well as, and as a means to, helping young people deal with their individual problem behaviors.
- Most violent behavior is learned behavior and all too often it is learned in the family. Children who are abused or neglected are far more likely than other children to engage in crime. Successful interventions need to begin early and involve families.
- Children who are already in trouble can be deterred from further delinquent behavior through programs that focus on supervision, rehabilitation and treatment in the community rather than incarceration – a more effective and cost-effective approach to crime control.
- Restorative justice programs seek to heal the harm done to victims and communities and hold the juvenile accountable for his or her behavior while offering the opportunity to make reparation for it.
- In the words of John DiIulio, a long-time proponent of tough federal policies to deal with juvenile crime, “ ... it is a profound mistake to think that violent crimes by and against juveniles can be prevented or controlled simply or mainly by increasing the punitiveness of the juvenile justice system....”

Copies of the full report *Critical Choices: New Options in Juvenile Crime Policy* can be obtained from the Campaign for an Effective Crime Policy – (202) 628 1903

PREVENTION : The first line of defense against juvenile crime.

Protecting the well-being of our nation's citizens is a concern to all of us. Yet in the effort to increase public safety, we should not lose sight of what both community groups and local law enforcement agencies know to be true: No legislation that is serious about solving the problem of juvenile crime and delinquency can deny the merits of crime prevention programs. Indeed, strategies to reduce juvenile crime and delinquency should not be one-sided in favor of punitive initiatives.

- “Despite the seriousness of the (crime) problem, most of the money and effort devoted to solving it are restricted to a narrow range of solutions, chief among them, incarceration of persons who have already committed crimes. Much less attention has been paid to diverting youths who have not yet committed crimes from doing so.” (RAND, 1996) **The most effective method for reducing juvenile crime must involve comprehensive efforts. Punishment alone is not an effective means of prevention.**
- A recent GAO report on Existing Federal “Youth Crime Prevention” Programs actually reveals minimal federal funding for prevention of juvenile crime. The majority of such funds are spent on interventions such as child abuse prevention, drug abuse prevention and treatment, and job training. These are *good programs* and are *very important, but they are not youth crime prevention*. The programs that actually ARE related to youth crime are either relatively small, or oriented toward dealing with offenders AFTER they have committed an offense. **Effective youth crime prevention programs must work within the schools AND the community, reach youth in non-school hours and meet the diverse needs of at-risk youth.**
- According to a study conducted by Vanderbilt University, high-risk youths who are kept out of trouble through **intervention programs** could save society as much as **\$2 million per youth over a lifetime** (*Wall Street Journal*, March 21, 1996). The interventions that take place within the juvenile justice system are vital to reducing crime and future criminal involvement. However, if we really want to **REDUCE AND PREVENT** crime, there must be a substantial and proportionate investment made to diverting youth from crime **BEFORE** they commit it.
- **Graduated sanctions as a means of prevention.** Again, this intervention takes place after the fact - after a juvenile has become involved in delinquent activity. While graduated sanctions should be part of any comprehensive strategy to reduce future delinquent activity, primary prevention efforts are paramount to providing the guidance and support a juvenile needs to avoid such activity.
- **After-school programs as a means of prevention.** Just as graduated sanctions are not in and of themselves effective prevention, neither are after-school programs alone. After-school programs can only be effective in reducing juvenile crime if they provide direct supervision when it would otherwise be lacking. The whole premise of after-school programs is to provide structured, supervised activities for youth during the non-school hours when they are most likely to commit crime. Caring, committed and trained adults who can provide direct supervision and positive role models are key elements of a successful prevention program.
- **A guarantee that at least 50 percent of any Juvenile Justice authorization and appropriation is invested in delinquency prevention programs.**



MEMORANDUM

TO: House Juvenile Crime Legislative Assistants

FROM: Liz Ryan, Children's Defense Fund

DATE: June 18, 1999

RE: Child gun deaths

Last night on the House floor, several comments were made regarding the figure, ***an average of nearly 13 children die every day due to gunfire***. This figure is based on the National Center for Health Statistics reports which found that gunfire killed 4,613 children (0-19) in 1996:

Under age 1: 11 Children died

This is one child death every 33 days, approximately one child death per month, and 2 infant day care groups per year.

Age 1-4: 77 Children died

This is one child death every 5 days, approximately 6 per month, and 10 preschool day care groups per year.

Under 5: 88 Children died

This is one child death every 4 days, approximately 7 per month, and 12 day care groups per year.

Age 5-9: 95 Children died

This is one child death every 4 days, approximately 8 every month, and 4 school classes per year.

Age 10-14: 510 Children died

This is 4 child deaths every 3 days, approximately 10 per week, 43 per month, more than 20 middle school classes per year, and one entire middle school per year.

Age 15-19: 3,921 Children died

This is almost 11 child deaths per day, 75 per week, 327 per month, more than 5 average secondary schools per year, and more than twice the total enrollment at Columbine High School per year.

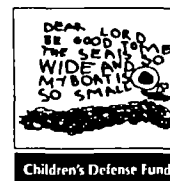
For your information, I've also provided the attached briefing materials on Children and guns fact sheet, Child deaths by state, and CDF's statement on children and guns. If you have questions or need additional information, please feel free to contact me at 662-3586 or by email at: Lryan@childrensdefense.org.

FOR IMMEDIATE RELEASE

Contact: Charles Fulwood 202-662-3613

Grace Reef 202-662-3558

JUNE 18, 1999



CHILDREN'S DEFENSE FUND URGES OPPOSITION TO HOUSE GUN BILL

WASHINGTON, D.C. – The Children's Defense Fund (CDF) today urged opposition to H.R. 2122, the Mandatory Gun Show Background Check Act of 1999. "It is unfortunate that the content of this legislation undermines the title of this legislation," said Children's Defense Fund President Marian Wright Edelman.

"Nearly 13 children die every day in America as a result of gun violence. That is a classroom full of children every two days. Polls show that parents throughout America are concerned about gun violence in America and urge mandatory background checks for purchases at gun shows. Yet, the House of Representatives this week chose to protect guns, not children."

"The leadership bill, H.R. 2122, is not only weaker than the Senate passed gun safety bill, but it is weaker than current law. The Dingell amendment adopted last night would even further weaken current law. Most Americans are talking about closing loopholes, and the House is creating more of them," said Edelman.

Under current law, interstate sales of handguns to private individuals are prohibited. Under H.R. 2122, gun show sellers could ship firearms purchased at a gun show to private individuals in any state. To the extent current law covers gun shows, the Brady check includes a waiting period of up to three business days. The Senate bill retains that waiting period. Under H.R. 2122, the waiting period is shortened to 72 hours (far shorter than three business days). Under the Dingell amendment, the waiting period would be further shortened to 24 hours. Under the Senate bill, a vendor is described as a person who offers guns for sale at a gun show. Under H.R. 2122, a vendor is described as a person who sells guns at a fixed location at a gun show. The difference is that H.R. 2122 would allow a vendor to show a gun to a potential purchaser and sell it in the parking lot to the same person with no background check required.

"It is incredible that the House would adopt the Dingell amendment to undermine the Brady background check. Since 95% of all gun buyers have their background check completed within 2 hours, reducing the time for law enforcement to conduct a background check will only serve to make it easier for the 5% of individuals whose check doesn't immediately clear. And, it's those individuals who would be more likely to pose a problem."

"This is the gun show loophole bill. The House of Representatives has voted to protect guns and felons, not children," said Edelman. "We are deeply disappointed. We had hoped that at a minimum the Senate gun safety provisions would be retained. We hope that the American people will let their Representatives know that this bill needs to be vastly improved in conference. Anything less would be a sham."

Children and Guns

Children's Defense Fund • Issue Basics • June 1999

Nearly 13 children die each day from gunfire in America, approximately one every 100 minutes. That is the equivalent of a classroom of children every two days.

- Gunfire killed 4,643 infants, children, and teens in 1996, dropping below 5,000 for the first time since 1990. Although the number of young victims was the lowest in seven years, the death of each one is a tragedy.
- Of all the children killed by gunfire, nearly two-thirds were victims of homicide and about one-third died from suicide. Guns remain the most common method of suicide for children. Accidental shootings accounted for most of the balance of the gun deaths of children.
- Gunfire not only kills children – children kill children with guns. Seventy-nine percent of the victims of juvenile homicide offenders were killed with a firearm. Ten percent of the victims were family members, 54 percent were acquaintances, and 36 percent were strangers.

Our nation has focused on the killing in Kosovo; it is also time to focus on the killing within our own borders. Gunfire in our homes, our communities, and in our schools continues to steal young lives and destroy families.

- Between 1979 and 1996, more than 75,000 American children and teens were killed by firearms. That is almost 20,000 more than died in combat in Vietnam.
- Between 1979 and 1996, another 375,000 children and teens were wounded by firearms. By comparison, about 150,000 American soldiers were wounded in combat in Vietnam.
- Between 1979 and 1996, 505 American soldiers were killed in action. During that same period, 1,875 children younger than 5 were killed by firearms, more than three times as many.
- In 1996, 55 law enforcement officers were killed in the line of duty. In that same year, more than 4,600 children and teens were killed by firearms, 1 American soldier was killed in action, and 20 soldiers were killed by terrorists.

TABLE B19

**Firearm Deaths Among Children and Teens,
Ages 0-19, by Manner, 1996**

	Total*	Homicide*	Suicide	Accident	Unknown Intent
Alabama	104	59	25	14	6
Alaska	22	6	12	4	0
Arizona	120	64	47	4	5
Arkansas	63	27	26	9	1
California	672	508	108	52	4
Colorado	43	15	23	4	1
Connecticut	36	29	6	1	0
Delaware	5	4	1	0	0
District of Columbia	62	59	1	0	2
Florida	190	116	57	12	5
Georgia	160	79	51	24	6
Hawaii	3	2	1	0	0
Idaho	27	11	11	4	1
Illinois	308	263	33	7	5
Indiana	98	55	30	8	5
Iowa	22	8	13	0	1
Kansas	53	24	22	7	0
Kentucky	52	23	20	9	0
Louisiana	192	133	43	15	1
Maine	5	1	4	0	0
Maryland	106	88	13	3	2
Massachusetts	32	26	5	0	1
Michigan	157	96	42	13	6
Minnesota	56	25	21	6	4
Mississippi	77	38	19	18	2
Missouri	101	63	33	5	0
Montana	20	4	12	3	1
Nebraska	28	8	17	3	0
Nevada	36	25	8	3	0
New Hampshire	7	1	6	0	0
New Jersey	66	55	6	4	1
New Mexico	43	22	17	2	2
New York	199	150	43	6	0
North Carolina	135	70	49	15	1
North Dakota	9	0	8	1	0
Ohio	126	75	31	17	3
Oklahoma	61	30	25	5	1
Oregon	39	9	24	6	0
Pennsylvania	181	113	59	4	5
Rhode Island	6	5	1	0	0
South Carolina	78	39	27	9	3
South Dakota	10	1	9	0	0
Tennessee	123	66	32	23	2
Texas	359	202	121	27	9
Utah	37	11	24	0	2
Vermont	5	1	2	1	1
Virginia	109	54	43	12	0
Washington	67	31	31	4	1
West Virginia	16	6	8	2	0
Wisconsin	76	35	32	8	1
Wyoming	11	1	7	2	1
United States	4,613	2,836	1,309	376	92

*Total firearm death and homicide figures do not include firearm deaths by legal (police) intervention or child deaths by air rifles.

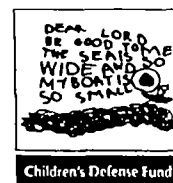
Source: U.S. Department of Health and Human Services, National Center for Health Statistics, Division of Vital Statistics, unpublished mortality tabulations. Calculations by Children's Defense Fund.

FOR IMMEDIATE RELEASE

Contact: Charles Fulwood 202-662-3613

Grace Reef 202-662-3558

JUNE 18, 1999



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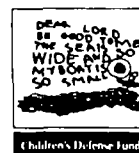
"Nearly 13 children die every day in America as a result of gun violence. That is a classroom full of children every two days. Polls show that parents throughout America are concerned about gun violence in America and urge mandatory background checks for purchases at gun shows. Yet, the House of Representatives this week chose to protect guns, not children."

"The leadership bill, H.R. 2122, is not only weaker than the Senate passed gun safety bill, but it is weaker than current law. The Dingell amendment adopted last night would even further weaken current law. Most Americans are talking about closing loopholes, and the House is creating more of them," said Edelman.

Under current law, interstate sales of handguns to private individuals are prohibited. Under H.R. 2122, gun show sellers could ship firearms purchased at a gun show to private individuals in any state. To the extent current law covers gun shows, the Brady check includes a waiting period of up to three business days. The Senate bill retains that waiting period. Under H.R. 2122, the waiting period is shortened to 72 hours (far shorter than three business days). Under the Dingell amendment, the waiting period would be further shortened to 24 hours. Under the Senate bill, a vendor is described as a person who offers guns for sale at a gun show. Under H.R. 2122, a vendor is described as a person who sells guns at a fixed location at a gun show. The difference is that H.R. 2122 would allow a vendor to show a gun to a potential purchaser and sell it in the parking lot to the same person with no background check required.

"It is incredible that the House would adopt the Dingell amendment to undermine the Brady background check. Since 95% of all gun buyers have their background check completed within 2 hours, reducing the time for law enforcement to conduct a background check will only serve to make it easier for the 5% of individuals whose check doesn't immediately clear. And, it's those individuals who would be more likely to pose a problem."

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House Gun Amendments

Today, the House is scheduled to consider amendments to H.R. 2122, the Mandatory Gun Show Background Check Act of 1999. Nearly 13 children die each day from gunfire in this country. The Children's Defense Fund supports amendments that would reduce the gun violence that destroys the lives of so many young Americans, closes current loopholes in our gun safety laws, and opposes amendments that would weaken current law gun protections.

CDF SUPPORTS:

McCarthy/Roukema/Blagojevich Amendment (#104):

This amendment would close the gun show loophole. The definition of a gun show would require 50 (or more) guns to be sold by 2 or more vendors (in lieu of H.R. 2122's definition, which includes only those events at which there are 50 or more firearms offered for sale and 10 or more vendors). Background checks would be required for all gun show transactions. Closing the gun show loophole is important in order to keep guns out of the hands of prohibited purchasers.

Hyde/Lofgren/Meehan/DeGette Amendment (#143):

This amendment would ban the importation of large capacity ammunition clips, magazines, and other devices that hold more than 10 rounds of ammunition. The definition of such devices is expanded to any large feeding device, not just devices manufactured after 1994. These high capacity clips have no sporting or hunting value.

Hyde Amendment (#144):

This amendment would prohibit anyone under 21 from purchasing a handgun. Under current law, it is illegal for anyone under 18 to purchase or possess a handgun. Individuals under 21 are prohibited from purchasing a handgun from licensed dealers. This amendment would close the current loophole, which enables individuals under 21 to purchase handguns legally from unlicensed individuals. (It would not, however, prohibit individuals between 18 and 21 from possessing a gun).

Hyde/McCollum Amendment (#163):

This amendment would prohibit the sale, transfer, or possession of semi-automatic assault weapons by juveniles under the age of 18. Children have no need for AK-47's or Uzi's.

Davis Amendment (#164):

This amendment to require secure gun storage or safety devices to be sold with handguns was approved by the Senate in its juvenile crime bill approved on May 10. With current industry safety devices needing improvement, it's a step in the right direction, but alone is not a guarantee that children won't be harmed by firearms or use firearms without supervision.

Conyers Amendment (#180):

This amendment includes the Senate passed gun show definition (50 guns sold and not less than 20% of the exhibitors are firearm exhibitors), requires gun show promoters to register and obtain identification from gun show vendors, requires criminal background checks for gun show transactions, prohibits the sale of semi-automatic guns to juveniles, prohibits the importation of large capacity feeding devices, requires secure gun storage and safety devices for handguns, grants immunity from civil liability under limited circumstances, and imposes Juvenile Brady provisions.

For additional information, please contact Liz Ryan of the Children's Defense Fund at 202-662-3576 or email lryan@childrensdefense.org

House Gun Amendments Continued

CDF OPPOSES:

Dingell/Oberstar/Stenholm/Tanner/Cramer/John Amendment (#168):

This amendment further weakens current law. The underlying bill, H.R. 2122, would completely undermine the 30 year old ban on interstate sales of handguns (like mail order sales between states, the way that Lee Harvey Oswald purchased his gun) by allowing dealers to send firearms purchased at a gun show to buyers in any state. This amendment would further weaken current law by allowing two dealers to conduct business in a state where neither one is licensed. Equally as troubling, the amendment would reduce the waiting period to 24 hours (from 3 days under current law and 72 hours under H.R. 2122). The FBI estimates that more than 15,000 people who have been stopped over the last six months by the current Brady law system would have received their guns under this amendment's 24 hour rule.

Sessions/Frost Amendment (#52):

This amendment re-instates the "pawnshop loophole." Under current law, no one can redeem their own gun from a pawnshop without undergoing a background check. This amendment would restore an individual's ability to pawn his gun and get it back without a background check within one year of pawning it.

Goode Amendment (#166):

This amendment repeals D.C. Law 1-85, which prohibits D.C. residents from possessing a firearm. In addition, the amendment repeals numerous sections of the D.C. Code, including: the ban on sawed-off shotguns, machine guns, and short-barreled rifles; the qualifications for licensed gun dealers; the requirement for gun dealers to maintain records; the requirement for gun dealers to keep their firearms locked up; and, most shocking -- it repeals criminal penalties for selling a firearm to a person under 18 and for possession of an unregistered firearm.

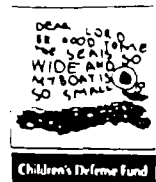
Hunter Amendment (#147):

This amendment allows D.C. residents to possess a loaded handgun in their home. Congress should not override local efforts to reduce gun violence in their community.

GUN AMENDMENTS TO H.R. 2122

Amendment No. and Title	Sponsors	Description of Amendment	CDF's Position on Amendment
Amend. #168	Rep. Dingell, (D-MI) et. al.	Requires background checks at gunshows to be performed in 24 hours; Adds penalties for use of a large ammunition clip in a crime of violence, but excludes large ammunition clips manufactured before 1994 from penalties.	Oppose
Amend. # 143	Rep. Hyde (R-IL)	Prohibits the importation of a large capacity ammunition feeding devices; amends the definition of large capacity ammunition feeding device to mean any device not just devices manufactured after 1994.	Support
Amend #104	Rep. McCarthy (D-NY)	Amends definition of gun show to require 50 guns to be sold <u>and</u> 2 or more vendors; requires gun show promoters to register and obtain identification from gun show vendors; requires criminal background checks for gunshow transactions;	Support
Amend. #144	Rep. Hyde (R-IL)	Prohibits any person under 21 to purchase a handgun or handgun ammunition.	Support
Amend # 164 Safe Hand gun Storage and Child Handgun Safety Act of 1999	Rep. Davis (R-VA)	Requires secure gun storage or safety device to be sold, delivered or transferred with any handgun (with exceptions for law enforcement, relics); amends the definition of secure gun storage or safety device to include devices that if removed, will prevent discharge of the firearm; grants immunity from civil liability under certain circumstances.	Support
Amend. # 163	Rep. Hyde (R-IL); et al.	Prohibits the sale, transfer or possession of semi-automatic assault weapons and large capacity ammunition feeding devices to persons under 18.	Support
Amend. # 47	Rep. Cunningham (R-CA); et al.	Exempts qualified law enforcement and retired law enforcement officers from state laws that prohibits the carrying of concealed firearms.	No position
Amend # 52	Rep. Sessions (R-TX et al.	Exempts pawn shops from conducting background checks for firearms they receive as collateral for a loan over the past year.	Oppose
Amend # 166	Rep. Goode (D-VA)	Repeals provisions of District of Columbia law that prohibit the sale and possession of handguns.	Oppose
Amend # 147	Rep. Hunter (R-CA)	Permits adult D.C. residents, who have not been imprisoned nor been convicted of battery, assault, or other violent crimes, to possess a handgun in their home.	Oppose
Amend #111	Rep. Rogan (R-CA)	Prohibits the sale or disposal of any firearm or ammunition to any person who, as a juvenile has a adjudicated delinquent of a violent act; Prohibits any person who has been adjudicated delinquent of a violent act as a juvenile to ship or transport, or receive any firearm or ammunition. <i>Juvenile Brady</i>	No position
Amendment # 180	Rep. Conyers (D-MI)	Amends definition of gunshow to require 50 guns (at least 1 gun has been shipped or transported interstate) be sold <u>and</u> not less than 20% of the exhibitors are firearm exhibitors; there are not less than 10 firearms exhibitors	Support

		or 50 or more firearms are offered for sale; requires gun show promoters to register and obtain identification from gun show vendors; requires criminal background checks for gunshow transactions; Juvenile Brady provisions; prohibits the sale, transfer or possession of semi-automatic assault weapons and large capacity ammunition feeding devices to persons under 18; prohibits the importation of a large capacity ammunition feeding device to mean any device not just devices manufactured after 1994; requires secure gun storage or safety device to be sold, delivered or transferred with any handgun (with exceptions for law enforcement, relics); grants immunity from civil liability under certain circumstances.	
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Children and Guns

On average nearly 13 children die each day from gunfire in America, approximately one every 100 minutes. That is the equivalent of a classroom of children every two days.

- Gunfire killed 4,643 infants, children, and teens in 1996, dropping below 5,000 for the first time since 1990. Although the number of young victims was the lowest in seven years, the death of each one is a tragedy.
- Of all the children killed by gunfire, nearly two-thirds were victims of homicide and about one-third died from suicide. Guns remain the most common method of suicide for children. Accidental shootings accounted for most of the balance of the gun deaths of children.
- Gunfire not only kills children – children kill children with guns. Seventy-nine percent of the victims of juvenile homicide offenders were killed with a firearm. Ten percent of the victims were family members, 54 percent were acquaintances, and 36 percent were strangers.

Our nation has focused on the killing in Kosovo; it is also time to focus on the killing within our own borders. Gunfire in our homes, our communities, and in our schools continues to steal young lives and destroy families.

- Between 1979 and 1996, more than 75,000 American children and teens were killed by firearms. That is almost 20,000 more than died in combat in Vietnam.
- Between 1979 and 1996, another 375,000 children and teens were wounded by firearms. By comparison, about 150,000 American soldiers were wounded in combat in Vietnam.
- Between 1979 and 1996, 505 American soldiers were killed in action. During that same period, 1,875 children younger than 5 were killed by firearms, more than three times as many.
- In 1996, 55 law enforcement officers were killed in the line of duty. In that same year, more than 4,600 children and teens were killed by firearms, 1 American soldier was killed in action, and 20 soldiers were killed by terrorists.

Mental Health

Comparison of Mental Health Provisions Included in Juvenile Justice Crime Bills

Mental Health Provisions: Principles of the Mental Health Juvenile Justice (MHJJ) Act, H.R. 337, S. 464, S. 465	House-passed Bill: Consequences for Juvenile Offenders Act of 1999, H.R. 1501	Senate-passed Bill: The Violent and Repeat Juvenile Offender Accountability Act of 1999, S. 254	National Mental Health Association's (NMHA's) Recommendations for the Juvenile Justice Conference Committee Bill
1. Juvenile Delinquency Prevention Grants a.) Initial intake screening	Allows funds to be used for projects that provide for initial intake screening of all youth entering the system, <i>which applies to mental health and other services</i> . Projects should determine the likelihood that such juvenile will commit a similar offense, and provide appropriate interventions.	Allows funds to be used for projects that provide for initial intake screening of all youth entering the system, <i>which may include drug testing</i> . Projects should determine the likelihood that such juvenile will commit a similar offense, and provide appropriate interventions.	Support House Language: Allows funds to be used for projects that provide for initial intake screening of all youth entering the system, <i>which applies to mental health, substance abuse and other services</i> .
b.) Provide services to juveniles in need of mental health services	Allows funds to be used for juveniles with serious mental and emotional disturbances (SED), including (1.) assessments of incarcerated juveniles; (2.) development of individualized treatment plans; (3.) discharge plans for incarcerated juveniles; (4.) requirements that all juveniles receiving psychotropic medication be under the care of a licensed mental health professional.	Allows funds to be used for juveniles with serious mental and emotional disturbances (SED), including (1.) assessments of incarcerated juveniles; (2.) development of individualized treatment plans; (3.) discharge plans for incarcerated juveniles; (4.) requirements that all juveniles receiving psychotropic medication be under the care of a licensed mental health professional. <u>Note:</u> S. 254 stipulates that not less than 80% of Juvenile Delinquency Prevention Block Grant funds shall be used for prevention purposes, which includes projects that provide mental health treatment; not less than 20% of the funds shall be devoted to intervention purposes.	Support House Language: Allows funds to be used for juveniles with serious mental and emotional disturbances (SED), including (1.) assessments of incarcerated juveniles; (2.) development of individualized treatment plans; (3.) discharge plans for incarcerated juveniles; (4.) requirements that all juveniles receiving psychotropic medication be under the care of a licensed mental health professional. <u>Note:</u> Any earmarks for prevention purposes shall include projects that provide mental health treatment.
c.) Coordinated mental health service delivery	Allows funds to be used for comprehensive juvenile justice and delinquency prevention projects that collaborate with many local service systems, juveniles encounter, including schools, courts, law enforcement agencies, child protection, mental health and child welfare services.	Allows funds to be used for projects to coordinate juvenile service grants administered by DOJ and SAMHSA, to establish mental health treatment programs for at-risk children.	Support Senate Language: Allows funds to be used for projects to coordinate juvenile service grants administered by DOJ and SAMHSA, to establish mental health treatment programs for at-risk children.

	H.R. 1501	S. 254	NMHA's Recommendation for Conference Committee Bill
1) Victims of child abuse	Allows funds to be used for projects to provide treatment, including mental health problems, to juvenile offenders who are victims of child abuse or neglect, or have experienced violence in their homes, school or in the community.	Allows funds to be used for projects that provide support and treatment to juveniles who are at-risk of delinquency because they are victims of child abuse and neglect; and juvenile offenders who are victims of child abuse or neglect and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law.	Support House Language: Allows funds to be used for projects to provide treatment, including mental health problems, to juvenile offenders who are victims of child abuse or neglect, or have experienced violence in their homes, school or in the community.
2) Juvenile Accountability Block Grants a) Mental health & substance abuse treatment	Allows funds to be used for programs that establish and maintain appropriate mental health and substance abuse treatment programs.	No comparable provision.	Support House Language: Allows funds to be used for programs that establish and maintain appropriate mental health and substance abuse treatment programs.
b) Cross-training justice system personnel	No comparable provision.	Allows funds to be used to cross-train justice system personnel, jointly with public mental health system personnel on appropriate use of community-based programs, as alternatives to juvenile justice placements.	Support Senate Language: Allows funds to be used to cross-train justice system personnel, jointly with public mental health system personnel on appropriate use of community-based programs, as alternatives to juvenile justice placements.
c) Training probation officers	No comparable provision.	Allows funds to be used to train State juvenile probation officers and community mental health and substance abuse program representatives on appropriate linkages between probation programs that can make effective treatment interventions.	Support Senate Language: Allows funds to be used to train State juvenile probation officers and community mental health and substance abuse program representatives on appropriate linkages between probation programs that can make effective treatment interventions.
3) State Plans a) Mental health services plans	As a requirement of Formula Grant funds, states shall also provide a plan for providing needed mental health services to juveniles in the justice system, <u>AND</u> include information on how services will be targeted to those juveniles in greatest need.	As a requirement of Formula Grant funds, states must contain a plan for providing needed mental health services to juveniles in the justice system.	Support House Language: As a requirement of Formula Grant funds, states shall also provide a plan for providing needed mental health services to juveniles in the justice system, <u>AND</u> include information on how services will be targeted to those juveniles in greatest need.
b) Detaining juveniles for psychiatric evaluation (not a principle of the MHEJ 16)	No comparable provision.	As a requirement of receiving Formula Grant funds, states shall have a policy in place that requires state or local law enforcement to detain a juvenile who possesses a firearm in school for not less than 24 hours, to conduct an "appropriate evaluation" by a judicial officer to determine if the juvenile may be a danger to himself or others.	Support New Language: All psychiatric evaluations should be administered by licensed mental health professionals or physicians. If screenings indicate presence of a mental or emotional disorder, an individualized treatment plan should be implemented within 5 days.

	H.R. 1501	S. 254	NMHA's Recommendation for Conference Committee Bill
4. Research & Evaluation a) Evaluating mental health services administered by states	OJJDP must conduct research in juvenile justice matters, for the purpose of providing research and evaluation, that will include the appropriate mental health services for juveniles at-risk of participating in delinquent activities.	No comparable mental health provision.	Support House Language: OJJDP must conduct research in juvenile justice matters, for the purpose of providing research and evaluation, that will include the appropriate mental health services for juveniles at-risk of participating in delinquent activities.
5. Training and Technical Assistance a) Promoting model programs	OJJDP shall provide training and technical assistance to mental health professionals and law enforcement personnel (including public defenders, police officers, probation officers, judges, parole officials and correctional officers) that address the needs of adjudicated delinquents in secure detention or confinement, or in non-secure residential placements.	No comparable mental health provision.	Support House Language: OJJDP shall provide training and technical assistance to mental health professional and law enforcement personnel (including public defenders, police officers, probation officers, judges, parole officials and correctional officers) that address the needs of adjudicated delinquents in secure detention
6. Study of mental health service needs of juveniles	OJJDP in collaboration with NIMH shall conduct a comprehensive mental health study not later than 18 months after enactment of this Act, of juveniles in secure or non-secure placements (including those on probation). The study shall contain : (1) a comprehensive survey of the types of mental health services that are currently being provided to juveniles; (2) identification of governmental entities that have developed or implemented model or promising screening, assessment or treatment programs or innovative mental health delivery or coordination systems, that address and meet the mental health needs of such juveniles; and (3) review of the literature that analyzes the mental health problems and needs of juveniles in the juvenile system. OJJDP shall submit the study to Congress, and broadly disseminate to individuals and entities engaged in fields that provide services and make policies relating to such juveniles.	No comparable mental health provision.	Support House Language, include CMHS: OJJDP in collaboration with NIMH and the Center for Mental Health Services (CMHS) shall conduct a comprehensive mental health study not later than 18 months after enactment of this Act, of juveniles in secure or non-secure placements (including those on probation). The study shall contain : (1) a comprehensive survey of the types of mental health services that are currently being provided to juveniles; (2) identification of governmental entities that have developed or implemented model or promising screening, assessment or treatment programs or innovative mental health delivery or coordination systems, that address and meet the mental health needs of such juveniles; and (3) review of the literature that analyzes the mental health problems and needs of juveniles in the juvenile system. OJJDP shall submit the study to Congress, and broadly disseminate to individuals and entities engaged in fields that provide services and make policies relating to such juveniles.

	H.R. 1501	S. 254	NMHA's Recommendation for Conference Committee Bill
School Safety & Violence Prevention Provisions: 7a) Amends IDEA	Amends the Individuals with Disabilities Education Act (IDEA) to allow school personnel to discipline (including expel or suspend) a child with a disability who carries or possesses <i>a weapon</i> to or at school, in the same manner in which such personnel may discipline a child without a disability. Allows local educational agency (LEA) to choose to continue to provide educational services to such child, <u>AND</u> removes a parent's right to "impartial due process" for cases involving weapons.	Amends IDEA to allow school personnel to discipline (including expel or suspend) a child with a disability who carries or possesses <i>a gun or firearm</i> to at school, in the same manner in which such personnel may discipline a child without a disability. Allows local educational agency (LEA) to choose to continue to provide educational services to such child. Clarifies language in IDEA '97, to state that schools can and should remove a student for any act of violence, and <u>ALSO</u> provide the student with immediate, appropriate intervention and services, including mental health services in order to maximize the likelihood that such behavior does not reoccur.	Support Senate Clarifying Language: Clarifies language in IDEA '97, to state that schools can and should remove a student for any act of violence, and <u>ALSO</u> provide the student with immediate, appropriate intervention and services, including mental health services in order to maximize the likelihood that such behavior does not reoccur.
b) Violence Prevention Training Program	No comparable provision.	Authorizes a demonstration program to enable undergraduate institutions to include violence prevention training for individuals pursuing careers in early childhood education, to identify and prevent violent, aggressive and defiant behavior.	Support Senate Language: Authorizes a demonstration program to enable undergraduate institutions to include violence prevention training for individuals pursuing careers in early childhood education, to identify and prevent violent, aggressive and defiant behavior.
c) Increasing School Counselors	No comparable provision.	Authorizes an elementary and secondary education School Counseling Demonstration grant Program to address personal, social, emotional and educational needs of all students. Grants can be used to expand the services of qualified school counselors, school psychologists and school social workers.	Support Senate Language: Authorizes an elementary and secondary education School Counseling Demonstration grant Program to address personal, social, emotional and educational needs of all students. Grants can be used to expand the services of qualified school counselors, school psychologists and school social workers.
d) National Youth Violence Commission	No comparable provision.	Authorizes the appointment of a 16-member commission to determine the root causes of youth violence; a representative from the field of child and adolescent psychiatry should be appointed.	Support Senate Language: Authorizes the appointment of a 16-member commission to determine the root causes of youth violence; a representative from the field of child and adolescent psychiatry should be appointed.
e) Safe Students Act	No comparable provision.	Authorizes the Department of Justice (DOJ) to fund school violence prevention programs. [Activities are under the jurisdiction of the Safe Schools/Healthy Student program].	Support Senate Language, Add CMHS & DOE: Authorize the DOJ, <i>CMHS</i> and <i>DOE</i> to fund school violence prevention program activities under their jurisdiction of the Safe Schools/Healthy Student program.

	H.R. 1501	S. 254	NMHA's Recommendation for Conference Committee Bill
(f) Youth Violence Research	Authorizes a \$5 million study (over five years) for the Office of Behavioral and Social Research within NIH, to conduct a multi-year study of behavioral and social science research with respect to youth violence.	Authorizes a \$5 million study (over five years) for the Office of Behavioral and Social Research within NIH, to conduct a multi-year study of behavioral and social science research with respect to youth violence.	Not Conferenceable: Authorizes a \$5 million study (over five years) for the Office of Behavioral and Social Research within NIH, to conduct a multi-year study of behavioral and social science research with respect to youth violence.

Prepared by Andrea R. Price, National Mental Health Association, July 12, 1999.

CHILDREN WITH EMOTIONAL DISORDERS IN THE JUVENILE JUSTICE SYSTEM

Each year over one million children come into contact in some way with the juvenile justice system. Over 100,000 of these youth are detained in a correctional facility.

Studies have consistently found the rate of mental disorders to be higher among the juvenile justice population than among youths in the general population. In fact, federal studies suggest that as many as 60 percent of incarcerated youth have a mental health disorder and 20 percent have a severe disorder. As many as half have substance abuse problems.¹

What disorders are most common?

Along with substance abuse, the most common disorders among youth in the justice system are conduct disorder, depression, attention deficit/hyperactivity disorder, learning disabilities, post traumatic stress disorder, and developmental disabilities.² Many youth in the justice system have co-existing disorders, which compounds the challenges in diagnosing and treating these youth.

Why are children with emotional disorders in the justice system?

While some of these children have committed serious crimes, many of them got in trouble because local communities failed to provide services to address their emotional and behavioral problems. These children are disproportionately poor and children of color. Along with their underlying mental disorder, many have histories of other problems that have not been addressed, including: physical and/or sexual abuse; parental drug or alcohol use; poor school performance or truancy; family discord, and learning disabilities.

What can be done to help children with emotional disorders in the justice system?

Mental health services can both prevent children from committing delinquent offenses and from re-offending. These services include prevention, early identification and intervention, assessment, outpatient treatment, home-based services, wrap-around services, family support groups, day treatment, residential treatment, crisis services and inpatient hospitalization. These services are most effective when integrated at the local level with other services provided by schools, child welfare agencies, and community organizations. In addition, intensive work with families at the early stages of their child's problems can strengthen the families' ability to care for their children at home.

Children whose offenses are minor or non-violent should, whenever possible, be diverted away from incarceration and towards treatment, services and supervision in their local community. Because it is not possible to divert all children with emotional disorders, the juvenile justice system and the mental health system should work together to develop programs and services within juvenile systems for these children. These services should be treatment-oriented, appropriate for the child's age, gender and culture, individualized, and family-focused.

For more information about children with disorders in the juvenile justice system visit our webpage at www.nmha.org or contact NMHA's senior community mental health consultant Chris Siegfried in Texas (817) 572-2033 or through the NMHA office in Alexandria at (703) 838-7537 or e-mail Chris at csiegfried@nmha.org.

¹ Cocozza, J.J. (ed.) *Responding to Youth With Mental Disorders in the Juvenile Justice System*. Seattle, WA, The National Coalition for the Mentally Ill in the Criminal Justice System, 1992.

² Garfinkel, Lili F., *Unique Challenges, Hopeful Responses: A Handbook for Professionals Working with Youth With Disabilities in the Juvenile Justice System*, ACER Center, 1997.

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National Mental Health Association

Juvenile Justice Initiative

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Justice For Juveniles: How Communities Respond To Mental Health And Substance Abuse Needs Of Youth In The Juvenile Justice System (Executive Summary)

Sponsored by the National GAINS Center and the National Mental Health Association

There is growing recognition of the high numbers of youth involved with the juvenile justice system with co-occurring mental health and substance abuse problems. More than two million youth under the age of 18 are arrested each year, and more than 100,000 of these youth will be placed in juvenile detention and correction facilities on any day. Available research indicates that approximately twenty percent of all youths who enter the juvenile justice system experience serious mental disorders, with a much higher percentage experiencing some level of mental health problems. Studies have consistently found the rate of mental disorders to be higher among juvenile justice population than among youths in the general population. There is also a growing recognition that many of these youths nearly 50 to 75 percent, have serious substance abuse problems. The growing awareness of the unmet needs of these youth had led to a joint effort by the National Mental Health Association and the GAINS Center, known as the Justice for Juveniles Initiative.

The GAINS Center, which is federally supported by the Center for Mental Health Services, the Center for Substance Abuse Treatment, and the National Institute of Corrections, provides information and practical assistance to communities, to promote systemic change and improve service delivery for individuals with both substance abuse and mental disorders in contact with the justice system. The National Mental Health Association, with its 340 affiliates nationwide, is dedicated to improving care and treatment for children and adults with mental health problems. NMHA's mission includes advocacy, public education, research and community aid for people with mental illnesses and their families.

The goal of the JFJ initiative is to highlight, at both the local and national levels, the issues and service needs of youth with co-occurring mental health and substance abuse disorders in contact with the juvenile justice system. The JFJ represents an important first step to identify these youth, their needs, the services available in communities around the country, and ways to improve how systems respond to treatment needs of youth.

Information for the JFJ assessment was collected in communities through a series of interviews with key stakeholders at both the state and local level, including: directors of mental health, substance abuse, and juvenile justice agencies; family members; police; key service providers; judges; and advocacy groups. These interviews were conducted by self-selected Mental Health Association and Federation of Families affiliates who volunteered to collect data in their community. The community assessment asked respondents about the policies and programs in place to address the treatment needs of youth in the juvenile justice system in their respective communities, and their perspective on how well services are provided to youth. The final sample of communities included 15 counties and 9 states. A list of communities that participated in the JFJ initiative is attached.

The report represents a summary of the cross-site findings from the community assessments. Due to issues surrounding the collection of data, and the nature of the information collected, there are a number of limitations to the information in this report. The limitations include:

- while we had hoped to have both state and local data for all communities participating in the initiative, information for both levels was not collected in all sites;
- while we had hoped to have consistency in the types of individuals interviewed across the sites, the respondents in communities are not consistent;
- there are differences in the depth and quality of responses between sites;
- the information gathered is based on respondents' perceptions.

The discrepancies between sites and limitations of the data make it difficult to make comparisons between sites regarding the systems and types of services. Therefore, the report does not make any conclusions or generalizations about individual sites; comparisons or generalizations by state or county; or comparisons by the type of respondent. The report is a general cross-site summary of all 111 interviews completed by the 24 sites participating in the initiative. While this report cannot give a complete picture of the how communities respond to the mental health and substance abuse needs of youth involved in the juvenile justice system, it does provide a critical first step in an area where little or no information exists.

Some of the main findings concerning the mental health and substance abuse services provided to youth involved in the juvenile justice system include:

- **There is a general absence of information on the prevalence of youth with mental health and/or substance abuse problems involved in the juvenile justice system.**

Few communities are aware of the number of youth with mental health and/or substance abuse problems involved in their juvenile justice system. Less than half of the sites collect some data on youth, only a third of the sites can estimate the number of youth, and in only four sites is there a formal analysis of juvenile justice data. The little to no information provided by sites indicates that few communities actually identify youth with mental health and/or substance abuse problems.

- **Across sites there is a failure to provide routine standardized screening and assessments.**

For the majority of communities participating in the initiative, there are no routine screening or assessments for youth involved in the justice system. Respondents indicated that identification is provided in a hit or miss fashion and youth are not generally identified until the problems result in a crisis and can no longer be ignored.

- **There are inadequate and fragmented services for youth with mental health and substance abuse problems involved with the juvenile justice system.**

There are few specific services or programs in place for youth with mental health and/or substance abuse problems involved with the juvenile justice system. Further, in communities where services for youth are available, these are often provided in a piecemeal fashion. In some communities there are programs that target youth in the juvenile justice system, however these programs generally address only a piece of the system. Additionally, there are few programs specifically targeting the needs of juvenile justice youth, and even fewer communities have programming for co-occurring mental health and substance abuse disorders.

- **There is a general lack of communication and coordination across the involved systems.**

Across the sites, it is clear that there is a lack of communication and coordination between the involved systems. In a few sites there are joint endeavors in the form of collaboratively funded programs and interagency committees, however, for most

communities this is clearly lacking. The absence of good communication means restricted access to services and programs, duplication of services, missed identification of youth, and philosophical barriers.

The community assessments illustrate that there are many steps that need to be taken by communities to better meet the treatment needs of youth involved in the juvenile justice system. The strategies to improve services that were most frequently identified in the community assessments, include:

- **Communities need to formalize screening and assessment for mental health and substance abuse disorders for youth at all points of contact of the juvenile justice system.**

A critical piece in any community that seeks to respond to the mental health and substance abuse needs of youth in the juvenile justice system is a routine, formalized screen and assessment. Sites identified this as a critical gap in serving youth and recognized the necessity of this piece in any system that hopes to respond to the treatment needs of youth.

- **Communities need to provide the full range of services to youth.**

In order to meet the treatment needs of youth involved in the juvenile justice system, targeted mental health and substance services must be available at all phases of involvement with the juvenile justice system. Respondents indicated that communities cannot continue to provide services to youth in the piece meal, stop gap approach that currently exists. Sites felt that communities need to develop and implement new services that target this population of youth, from early intervention and prevention programs, diversion programs, services in detention, to aftercare treatment.

- **Communities need to establish a coordinating body or task force that focuses on this population of youth.**

It is clear from the community assessments that agencies need to collaborate and integrate services in order to better meet the needs of these multi-system youth. Respondents identified the development of a task force or coordinating body as a strategy to involve all relevant systems and agencies, and jointly address the needs of youth with mental health and substance abuse problems involved in the juvenile justice system.

Justice for Juveniles Initiative Participating Communities:

Jefferson County, Colorado; Colorado State; Metro Atlanta, Georgia; Georgia State; Marion County, Indiana; Jefferson County, Kentucky; Kentucky State; Jefferson Parish, Louisiana; New Orleans Parish, Louisiana; Louisiana State; Maryland State; Orange County, New York; Albany County, New York; Niagara County, New York; New York State; Charleston, South Carolina; Lexington, South Carolina; Oconee, South Carolina; South Carolina State; Houston/Harris County, Texas; Tarrant County, Texas; Texas State; Central Virginia; Washington State.



National Mental Health Association

Juvenile Justice

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Studies have consistently found the rate of mental disorders to be higher among the juvenile justice population than among youths in the general population. In fact, federal studies suggest that as many as 60 percent of incarcerated youth have a mental health disorder and 20 percent have a severe disorder. As many as half have substance abuse problems.¹

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Along with substance abuse, the most common disorders among youth in the justice system are conduct disorder, depression, attention deficit/hyperactivity disorder, learning disabilities, post traumatic stress disorder, and developmental disabilities.² Many youth in the justice system have co-existing disorders, which compounds the challenges in diagnosing and treating these youth.

Why are children with emotional disorders in the justice system?

While some of these children have committed serious crimes, many of them got in trouble because local communities failed to provide services to address their emotional and behavioral problems. These children are disproportionately poor and children of color. Along with their underlying mental disorder, many have histories of other problems that have not been addressed, including: physical and/or sexual abuse; parental drug or alcohol use; poor school performance or truancy; family discord, and learning disabilities.

What can be done to help children with emotional disorders in the justice system?

Mental health services can both prevent children from committing delinquent offenses and from re-offending. These services include prevention, early identification and intervention, assessment, outpatient treatment, home-based services, wrap-around services, family support groups, day treatment, residential treatment, crisis services and inpatient hospitalization. These services are most effective when integrated at the local level with other services provided by schools, child welfare agencies, and community organizations. In addition, intensive work with families at the early stages of their child's problems can strengthen the families' ability to care for their children at home.

Children whose offenses are minor or non-violent should, whenever possible, be diverted away from incarceration and towards treatment, services and supervision in their local community. Because it is not possible to divert all children with emotional disorders, the juvenile justice system and the mental health system should work together to develop programs and services within juvenile systems for these children. These services should be treatment-oriented, appropriate for the child's age, gender and culture, individualized, and family-focused.

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² Garfinkel, Lili F., *Unique Challenges, Hopeful Responses: A Handbook for Professionals Working with*

Garfinkel, Lili F., *Unique Challenges, Hopeful Responses: A Handbook for Professionals Working with Youth With Disabilities in the Juvenile Justice System*, PACER Center, 1997.



JUVENILE JUSTICE

May 1999

ISSUE: Should Congress enact punitive legislation to further restrict the federal juvenile justice system? Or, will Congress provide for identification and treatment of children with mental illness who are in the juvenile justice system?

BACKGROUND: Children and adolescents who have mental illness that are undiagnosed or untreated are at a higher risk for illegal behaviors. The Department of Education indicates that 20 percent of students with severe emotional disturbances are arrested at least once before they leave school and 58 percent are arrested within five years of leaving school. The vast majority of the offenses committed by youth with mental disorders are non-violent.

With growing attention to issues of youth crime, the 105th Congress moved dangerously close to enacting legislation (S. 10) that would have removed four core protections for children in the justice system. These protections include keeping children from being in sight or sound contact with adult criminals, reducing the disproportionate rates of minority confinement, and keeping children who commit status offenses such as truancy from being detained for long periods of time. The legislation would also have allowed federal prosecutors to try and imprison 14 year olds as adults. Such action often leads juveniles to more serious anti-social behavior upon release from incarceration and increases rates of recidivism.

In the 106th Congress, Senators Hatch (R-UT) and Sessions (R-AL) have reintroduced similar legislation to S. 10 which will strengthen punishment of juveniles but does not address issues of crime prevention, juvenile gun violence or community crime control.

However, with the support of the APA, legislation has been introduced by Senator Wellstone (D-MN) which addresses the mental health needs of the two-thirds of juvenile offenders who have a mental disorder. Senator Wellstone's bill seeks to divert non-violent offenders with mental health problems into community-based treatment and keep them out of jail cells. This legislation will:

- provide for training of juvenile justice personnel to help identify children in need of mental health services,
- provide funding to states that implement effective screening and assessment and diversion programs for youth who come in contact with the juvenile justice system,
- provide technical assistance to states about appropriate services for children with mental disorders,
- and, allow for the use of prison construction funds for the establishment of mental health treatment of adult and juvenile prisoners.

APA POSITION: APA is deeply concerned about the astounding number of children with mental illness that remain undiagnosed and untreated. APA continues to seek resolution to this issue through the fight for insurance parity for mental health. Specifically, the APA is concerned about the growing number of children and adolescents with mental illness entering the juvenile justice system because of gaps in community resources to identify and treat these children in need.

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The answer to youth crime in the U.S. is not to lock up children with mental illness and throw away the key. Such approaches by Congress only seek to punish youth in need and deepen the stigma applied to mental illness. To effectively address this issue, investments must be made in reaching children with mental disorders before they are arrested and providing treatment for those incarcerated youth in need. Such steps will help break the pattern of youth incarcerations and relieve the prolonged suffering of mentally ill children.



February 24, 1999

**Statement of the Steering Committee of the Campaign for an Effective Crime Policy
on the federal role in improving mental health care for
juveniles in the criminal justice system**

Findings:

There is an urgent and compelling need for nationwide improvements in the care and treatment of youth with mental illnesses in the juvenile justice system. Many incarcerated juveniles have severe developmental and emotional problems and substance abuse disorders, and it is estimated that as many as 20% have a serious mental illness. Most of these juveniles are incarcerated for non-violent offenses and could be more effectively, cheaply and humanely cared for in community-based programs.

Adequate funding is needed for mental health services in the community to treat mentally ill and substance abusing juveniles. Funding is also required to train police, state judges and others to recognize the needs of mentally ill juveniles and where appropriate divert them from courts and confinement into community-based alternatives. Identifying and treating the underlying problems which bring so many children into the criminal justice system would reduce both the economic and social costs of incarceration and lead to a reduction in future criminal and anti-social activity.

Mentally ill children who are confined in juvenile or adult facilities often receive inadequate treatment and may be victimized by other inmates or staff who find their behavior threatening or disruptive. Allowing the states to use federal prison construction funds to implement mental health screening and treatment programs would improve the likelihood of both adults and juveniles receiving appropriate and effective treatment, benefitting both the mentally ill and corrections staff. Providing treatment in prison and ensuring that adequate community care will be available on release would reduce reoffending rates and increase public safety.

Conclusion:

The Steering Committee of the Campaign for an Effective Crime Policy supports federal funding for the training of justice system personnel, appropriate diversion of youth from incarceration, the provision of community-based alternatives, and improvements in services in all corrections facilities. Addressing children's and juveniles' mental health and developmental problems, providing them with adequate and coordinated treatment services in community settings, is the humane and cost-effective way to improve both our children's health and the security and safety of our neighborhoods.

(see over page for list of Steering Committee Members)

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Former State Senator, New York State Senate

Former Commissioner, New York City Department of Corrections

Former Commissioner, New York State Crime Victims Board

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Patrick V. Murphy, Former Police Commissioner

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Former Executive Director, Colorado State Department of Corrections

Hon. Andrew L. Sonner, Judge, Maryland Court of Special Appeals

Former State's Attorney, Montgomery County, Maryland

Former Chair, American Bar Association Criminal Justice Section



National Mental Health Association

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Children With Emotional Disorders In The Juvenile Justice System

The National Mental Health Association accords a high priority to the care of all children, especially those with emotional and behavioral problems.

Increasing numbers of children with emotional disorders are entering the juvenile justice system. This growing trend is the result of multiple systemic problems including inadequate local mental health services for children and more punitive state laws about juvenile crime. Because these children are disproportionately poor and children of color, they and their families are in special need of advocacy.

While very little data is presently available about children with emotional disorders in the justice system, it has been estimated that **up to 60% of youth who are involved in the system suffer with such disorders**. Many children with emotional disorders in the justice system have committed minor, non-violent offenses or status offenses. NMHA believes that these children do not need to be incarcerated. Whenever possible, these children should be diverted away from the juvenile justice system and towards community-based services including treatment as needed. Education, advocacy, and support should also be offered to the families of these children.

Mental health services can both prevent children from committing delinquent offenses and from re-offending. Intensive work with families at the early stages of their child's behavioral problems can strengthen their ability to care for their children at home.

NMHA believes the needs of children and families are best met through a system of collaborative community-based mental health services. These services include prevention, early identification and intervention, assessment, outpatient treatment, home-based services, wrap-around services, family support groups, day treatment, residential treatment, crisis services and inpatient hospitalization. NMHA further believes that these services are most effective when planned and integrated at the local level with other services provided by schools, child welfare agencies, and community organizations.

Because some children with emotional disorders commit serious and violent offenses, it is not always possible to divert them from incarceration. Nevertheless, these children need treatment for their disorders. The juvenile justice system and the mental health system should work together to develop programs and services within juvenile systems for these children. These services should be treatment-oriented, appropriate for the child's age, gender, and culture, individualized, and family-focused.

Incarceration Of Children

Placing children with mental and emotional disorders in institutions, especially correctional facilities, poses special risks and obligations. Institutions have the duty to provide adequate medical services, including mental health services, protection from harm, and adequate education. These services are a right of the incarcerated child.

Children with mental and emotional disorders are especially vulnerable to the difficult and sometimes deplorable conditions that prevail in detention centers and youth prisons. Severe overcrowding often contributes to the inadequacy of mental health services and can exacerbate the emotional problems of children.

Adequate delivery of mental health services to children and their families in secure facilities is the responsibility of all professionals at a facility, including psychiatrists, psychologists, social workers, nurses, correctional counselors, correctional officers, and facility administrators. NMHA believes that secure facilities must be sufficiently staffed with mental health professionals, and that such professionals have special obligations to:

- advocate to correct conditions which interfere with or are inconsistent with basic human rights;
- advocate to improve mental health services;
- train all personnel about the signs of mental and emotional problems in children and basic mental health principles; and
- oppose discriminatory treatment based on race, religion, gender, ethnic background, mental health condition, or sexual orientation.

NMHA commits itself to protecting the civil rights of children with mental and emotional disorders who are incarcerated in the juvenile justice system. This includes their rights under the US Constitution to adequate medical and mental health care, to protection from harm including staff abuse, and to adequate education and rehabilitative services and treatment. NMHA will work to inform members of law enforcement and correctional groups, judges and attorneys, residential care personnel, mental health professionals and advocates, parents, the community and the media about the rights of incarcerated children with serious mental and emotional disorders.

NMHA also commits itself to identifying and addressing the forces that contribute to the disproportionately high involvement of youth from ethnic and racial minority communities in the juvenile justice system.

Treatment During Confinement

When children with mental and emotional disorders must be confined in correctional settings, certain principles should be observed:

1. All youths should be screened upon admission by trained personnel for mental health and substance abuse problems. When the screening detects possible mental health problems, children should be referred for further evaluation, assessment and treatment by mental health professionals. Children and their families who are already receiving treatment before they enter should be assisted in continuing treatment. All juveniles who are not released within one week should have behavioral, mental health and/or substance abuse evaluations done by qualified mental health staff with expertise in children and adolescents.
2. Juveniles who suffer from acute mental disorders or who are actively suicidal should be placed in or transferred to an appropriate medical or mental health facility and returned to confinement only with medical clearance. Correctional facilities should have written arrangements with local medical or mental health facilities for providing emergency medical and mental health care.
3. Mental health services should be available to incarcerated children 24 hours per day, seven days per week. Treatment should be provided in an atmosphere of empathy and respect for the dignity of the child. Different types of mental health interventions should be available, including the full range of medications. The type of intervention should be tailored to meet the child and family's needs and developmental status, and should be delivered by qualified mental health staff with expertise in children and adolescents. When medications are used, they should be consistent with the treatment plan and well monitored by a qualified mental health professional with expertise in children and adolescents.

4. Special treatment should be available to children who are sexually abused, who have substance abuse problems, health problems, educational problems, histories of family abuse or violence, and who are sex offenders. Programming in facilities should be appropriate to the child's age, gender and culture. Linguistically and culturally appropriate therapy with the child's family should be encouraged. Under no circumstances should a child be penalized for seeking or receiving mental health treatment.
5. Facilities should train staff to use behavior management techniques that minimize the use of intrusive, restrictive, and punitive control measures. Facilities should have written guidelines for the use of seclusion, room confinement, and restraints. These guidelines should be made clear to children in custody. Distinctions should be made between the use of seclusion and restraints for custodial-administrative purposes and those made for therapeutic purposes. When restraint must be used to prevent injury to self or others, there should be stringent procedural safeguards, limitations on time, periodic reviews and documentation. Generally these techniques should be used only in response to extreme threats to life or safety and after other less restrictive control techniques have been tried and failed.
6. Under no circumstances, should incarcerated children be the subjects for medical research without proper ethical review and informed consent.
7. Incarcerated children should have a discharge plan prepared when they enter the correctional facility in order to integrate them back into the family and the community. This plan should be updated in consultation with the child's family or guardian before the child leaves. It should include the continuation of treatment, therapy and services begun in the facility. Confinement facilities should take an active role in promoting continuity of treatment for those released.
8. Facilities should take extra precautions to assure against suicide by emotionally disturbed children who are confined. Facilities should have a suicide prevention plan that includes appropriate admission screening, staff training and certification, assessment by qualified mental health professionals, adequate monitoring, referral to appropriate mental health providers or facilities, and procedures for notification of the child's parents or guardian. Suicidal youth should never be isolated.

Specific Rights

NMHA affirms the specific rights identified below because they have the most potential to be abridged in correctional settings:

- The right to informed consent to treatment. The child and the child's family or guardian should participate, to the extent possible, in decisions about evaluation and treatment. Staff should discuss with the children and family the nature, purpose, risks, and benefits of types of mental health related services including treatment.
- The right to refuse treatment, including psychotropic medications, according to protocol allowed by the jurisdiction in which the facility is located.
- The right to the least restrictive environment and/or the least intrusive response to an apparent need for mental health services.
- The right to be confined in a place that can provide the treatment needed.
- The right to confidentiality in the delivery of mental health services and in mental health records.

- The right to a safe, sanitary and humane environment.
- The right to have regular and timely access to medical and mental health staff who are culturally competent and qualified to provide adequate treatment and supervision.
- The right to be transferred to an appropriate medical or mental health facility when conditions warrant.
- The right to receive educational services that are tailored to the child's educational level, needs, and abilities, including special education services and supports.
- The right to be free from corporal punishment, chemical restraints, and sexual abuse or coercion.
- The right to assert grievances, to have grievances considered in a fair, timely and impartial manner, and the right to exercise rights without reprisal.
- The right to an individualized written treatment plan, to the treatment specified in the plan, to periodic review and revision of the plan based on the child's needs. The child and the child's family or guardian should participate in the development, review, reassessment and revision of both the treatment plan and the discharge plan.

Approved by the NMHA Board of Directors June 6, 1998