

Re: JJ bill



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

May 7, 1999

NOTE TO: Ann O'Leary, ODS
Greg March, OSERS
Carol Cichowski, OUS/BS
Heidi Bonner, OLCA
Bill Modzeleski, OESE
Susan Craig
Suzanne Sheridan
Phil Rosenfelt
Mari Colvin

RE: Senator Ashcroft's new bill on weapons and children with disabilities

Attached, for your information, is Senator Ashcroft's statement on introducing S. 969, the School Safety Act of 1999, on Wednesday. The statement includes the text of the bill, which would amend Part B of the IDEA and section 14601 of the ESEA.

A handwritten signature in black ink, appearing to read "Paul Riddle", written over a horizontal line.

Paul Riddle

Attachment

cc: Jack Kristy
Leslie Somerville

and lead to a reduction in productivity and profitability for businesses around the country whose workers, suppliers, and customers are adversely affected by gun violence;

(3) the public carrying of firearms increases the level of gun violence by enabling the rapid escalation of otherwise minor conflicts into deadly shootings;

(4) the public carrying of firearms increases the likelihood that incompetent or careless firearm users will accidentally injure or kill innocent bystanders;

(5) the public carrying of firearms poses a danger to citizens of the United States who travel across State lines for business or other purposes; and

(6) all Americans have a right to be protected from the dangers posed by the carrying of concealed firearms, regardless of their State of residence.

SEC. 3. UNLAWFUL ACT.

Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

“(z) FIREARMS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for a person to carry a firearm, any part of which has been transported in interstate or foreign commerce, on his or her person in public.

“(2) EXCEPTIONS.—Paragraph (1) does not apply to—

“(A) a person authorized to carry a firearm under State law who is—

“(i) a law enforcement official;

“(ii) a retired law enforcement official;

“(iii) a duly authorized private security officer;

“(iv) a person whose employment involves the transport of substantial amounts of cash or other valuable items; or

“(v) any other person that the Attorney General determines should be allowed to carry a firearm because of compelling circumstances, under regulations that the Attorney General may promulgate;

“(B) a person authorized to carry a firearm under a State law that permits a person to carry a firearm based on an individualized determination, based on a review of credible evidence, that the person should be allowed to carry a firearm because of compelling circumstances (not including a claim of concern about generalized or unspecified risks); or

“(C) a person authorized to carry a firearm on his or her person under Federal law.

“(3) EFFECT ON OTHER LAWS.—

“(A) FEDERAL LAWS.—Nothing in this subsection supersedes or limits any other Federal law (including a regulation) that prohibits or restricts the possession or transportation of a firearm.

“(B) STATE AND LOCAL LAWS.—Nothing in this subsection supersedes or limits any law (including a regulation) of a State or political subdivision of a State that—

“(i) grants a right to carry a concealed firearm that is more restrictive than a right granted under this subsection;

“(ii) permits a private person or entity to prohibit or restrict the possession of a concealed firearm on property belonging to the person;

“(iii) prohibits or restricts the possession of a firearm on any property, installation, building, facility, or park belonging to a State or political subdivision of a State; or

“(iv) permits a person to—

“(I) transport a lawfully-owned and lawfully-secured firearm in a vehicle for hunting or sporting purposes; or

“(II) use a lawfully-owned firearm for hunting or sporting purposes.”.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. CLELAND, Mrs. LINCOLN, and Mr. ROBB):

S. 968. A bill to authorize the Administrator of the Environmental Protection Agency to make grants to State agencies with responsibility for water source development, for the purposes of maximizing the available water supply and protecting the environment through the development of alternative water sources, and for other purposes; to the Committee on Environment and Public Works.

ALTERNATIVE WATER SOURCES ACT OF 1999

• Mr. GRAHAM. Mr. President, I rise today with my colleagues, Senators MACK, CLELAND, LINCOLN, and ROBB, to discuss an issue of great importance to the people of Florida and the nation: the availability of adequate water supplies. During the last decade, many states have experienced unprecedented population growth. For example, Florida's population increased by 15 percent, or almost 2 million people, over the last 8 years. We have directed resources towards improvements in our highway infrastructure to accommodate increased use. However, an area that has not received adequate attention but has the potential to negatively impact human health and the environment as well as limit economic growth is the conservation and development of adequate water supplies.

A number of eastern states, including Florida, are now experiencing water supply problems similar to those in the arid West. We must act now to prevent salt water intrusion into our aquifers, additional loss of wetlands, and curbs on economic development due to inadequate water supplies. As we prepare for the 21st century, demand for water for domestic, industrial, and agricultural uses will continue to increase.

In just one of Florida's regional water management districts, the Governing Board has committed \$10 million per year since 1994 to providing financial assistance for local alternative water source projects such as conservation, wastewater reclamation, stormwater reuse, and desalination. When fully implemented, the 23 currently active or completed projects will provide more than 150 million gallons of water per day to supply existing and future needs. These projects will also reduce groundwater withdrawals, rehydrate stressed lakes and wetlands, increase ground water recharge, enhanced wildlife habitat, and improve flood control.

We are today introducing legislation to address this critical public health, environmental, and economic issue. The “Alternative Water Sources Act of 1999” establishes a federal grant program for eastern states that is similar to a program already operated by the Bureau of Reclamation for western states. The program will provide federal matching funds for the design and construction of water reclamation, reuse, and conservation projects. The bill authorizes the Environmental Protection Agency (EPA) to make grants to agencies with responsibility for water resource development, for the

purpose of maximizing available water supplies while protecting the environment. Under this program, water supply agencies will submit grant proposals to EPA. The proposed projects must be part of a long range water resource management plan. If approved, the federal government would provide half the cost of the project. This legislation authorizes \$75 million per year over the next five years to fund alternative water source projects. •

By Mr. ASHCROFT:

S. 969. A bill to amend the Individuals with Disabilities Education Act and the Gun-Free Schools Act of 1994 to authorize schools to apply appropriate discipline measures in cases where students have weapons or threaten to harm others, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SCHOOL SAFETY ACT OF 1999

Mr. ASHCROFT. Mr. President, in the past two weeks since the tragedy occurred at Columbine High School in Littleton, Colorado, we have all had time to reflect on a number of issues. Our thoughts and prayers go to the families, friends, and other loved ones affected by this incident. We have asked ourselves why this happened. How it happened.

The Littleton tragedy requires reflection, thought and corrective action within our spheres of influence and responsibility. Children must learn respect and responsibility. Parents must be responsible for their children, including what they watch and what they do. Schools must have firm, fair and consistent discipline policies. Schools must be free to expel violence-prone students. State legislators must review state laws. Congress must review federal laws.

As a member of the United States Senate, I have been prompted to stop and examine our current federal education laws involving school safety, and see if our policies are promoting and encouraging school safety—or are in some way hindering our teachers, parents, principals, superintendents, and school boards from maintaining a safe place for our children to learn and our teachers to teach.

For much of the past year and before the Littleton tragedy, I traveled through Missouri talking to teachers, principals, school superintendents and school officials about the issue of school safety and school discipline. What I heard and learned was disturbing. After listening to school officials, I have concluded that there is, in fact, at least one federal law that actually jeopardizes our schools' efforts to provide a safe learning environment. Today I am introducing legislation, the School Safety Act, to amend this law and give schools the ability to remove from the classroom students who possess weapons or threaten to use weapons in the classroom, so that we can keep our children and teachers safe.

Once enacted, this legislation will help foster a safer environment in

schools. If this legislation had been enacted years ago, would it have prevented the Littleton tragedy? It would be wrong to claim for certain that it would. The truth of the Littleton tragedy is that those involved in the massacre violated at least 13 federal laws. The existence of those 13 laws did not stop the Littleton massacre. Still, we must examine our current federal education laws involving school safety and make necessary changes.

Across America, parents, teachers, and communities have made it clear that we want our schools to offer our students a world-class education that boosts student achievement and elevates them to excellence. If children are to attain high levels of academic performance, our schools must be able to provide safe and secure learning environments free of undue disruption or violence.

When we think of school safety, we obviously turn to one element that poses a threat to a secure environment: weapons in schools.

Our general federal policy is commendable: to have zero tolerance for weapons at schools. The federal Gun-Free Schools Act requires states receiving federal education funds to have a law requiring a one year expulsion of a student who has a weapon at school. I know that my state of Missouri has such a law on the books.

We would think that the Gun-Free Schools Act settles the issue of weapons in schools. But it doesn't. This law contains an exception for nearly one in seven students in my state, and one in eight nationally. This exception is for students covered by the federal Individuals with Disabilities Education Act.

Hidden among the provisions of the Gun-Free Schools Act is section (c), entitled "Special Rule," which says: "The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act." When you turn to the IDEA law, you see a complex and elaborate set of roadblocks and barriers that hamstring schools in applying discipline to any IDEA student for situations involving weapons possessions.

When we talk about students who are subject to the IDEA law, we are not talking about any small number of children: In Missouri, over 129,000—or nearly 14% of our 893,000 students—are classified as "disabled." That's one in seven students. Nationally, there are about 12-13% of all students who are under the IDEA law. We have to keep this in mind as we talk about this issue of school discipline and safety.

We must also consider which individuals qualify as "disabled" under IDEA. We are not just talking about blindness, deafness, orthopedic impairments, or MS. The federal IDEA definition of disability also includes individuals with serious emotional disturbances or specific learning disabilities.

Unlike the Gun-Free Schools Act, the Individuals with Disabilities Education

Act does not have a zero tolerance for students with weapons. In fact, the IDEA law makes it very difficult for schools to act effectively when a student subject to this law has a weapon at school.

While the Gun-Free Schools Act would require that any other student be expelled for a year, the "special rule" for an IDEA student who brings a gun or knife to school provides that he could be back in the regular classroom within 45 days.

Here is a federal law that creates dangerous situations by not allowing school officials to keep those students who have possessed weapons in school out of the classroom.

IDEA also hinders schools from taking effective action to protect their students and teachers from students who make threats to use weapons. School districts have developed policies to address student weapons threats. For example, a superintendent in my state told my office that under his school district's policy, he could suspend a student for up to 180 days for threatening to bring a weapon to school and shoot another student.

However, if that superintendent is dealing with a student under IDEA, the law makes it very difficult for him to remove the student even if he considers the student a serious threat to the safety of others. In fact, the school may be unable to remove this child from the classroom if he has already been suspended for a certain number of days during the school year.

Here is a federal law that creates dangerous situations by not allowing school officials to act on early warning signs to remove potentially violent students from school.

The costs involved with trying to keep a dangerous child out of the classroom are astronomical under IDEA. Schools have told me that the "due process" proceedings a parent can invoke in response to any disciplinary action taken toward a child is so expensive and time-consuming that schools do all they can to avoid these proceedings. The easiest, simplest due process hearing costs a school about \$7500 in Missouri!

Not only must schools pay their own legal fees for a due process hearing under IDEA, but they also face the prospect of being responsible for the parents' attorneys fees in some cases.

Here is a federal law that discourages safe classrooms because schools cannot afford to take steps they deem essential to maintaining safety without risking serious financial jeopardy.

The problems created by IDEA are not simply theoretical. Just three weeks ago—before the Littleton incident—I traveled around Missouri to talk to parents, teachers, principals, and administrators about ways to offer each child a world class education. Again and again, I was told that schools are handcuffed by federal law in dealing with violent and dangerous behavior—often connected with weapons. Let me give you a few examples:

In one rural Missouri school, a 15-year-old IDEA student had been making numerous threats against both students and staff. He said such things as, "I'm going to shoot you. I'm going to get a gun and blow you away." School officials were aware of the threats, but the federal law hindered them from taking steps they thought most appropriate to deal with the student. Unfortunately this student ended up shooting another student off school grounds. Fortunately, because he remained in the custody of law enforcement authorities, the student was not returned to the classroom. School officials in this district told me that had this student not been subject to the IDEA laws, they could have—and would have—removed him from the classroom when he made the threats of killing other students and personnel.

In an eastern Missouri school district, an IDEA student who was under school suspension was asked to leave a Friday night school dance that he tried to attend in violation of school policy. The student tried continually to regain entry into the school and said to the principal, a teacher, and a parent who was helping supervise the dance: "I'm going to go home, get my shotgun, come back, and blow your [expletives deleted] heads off." The superintendent says that the federal IDEA law constrained him to return this potentially dangerous student to the classroom early the next week. If the student had not had been under IDEA, the superintendent could have imposed a far longer suspension for threatening school personnel.

I learned of a Missouri grade schooler, subject to IDEA law, who announced at school, "I'm going to bring a knife and cut the bus driver's throat." Was this an idle threat? This child had transferred from another school where he had been found with a knife and was suspended for 10 days. The federal IDEA law prevents this new school from imposing any more suspensions upon this child for the rest of the school year unless he actually shows up with a weapon again!

Let me emphasize that the vast majority of disabled students under the IDEA law—just like the vast majority of nondisabled students—are good kids who don't pose discipline problems in school. However, when it comes to something as serious as a student bringing a weapon to school or threatening to kill or harm someone with a weapon, school officials must have the ability to respond in the way they believe most appropriate to maintain a safe and stable school for all children.

When I hear these incidents from Missouri schools, I cannot help but think that there is something drastically wrong with our federal education laws. We have a mass tragedy waiting to happen if federal law keeps teachers from getting teenagers with weapons out of schools. We cannot afford to keep laws on the books that preclude schools from dealing with

early warning signs of danger and handcuff them from taking swift action to prevent violence. We must give schools the power to keep our children safe by allowing them to remove all students who have weapons or threaten to use them.

Schools all over my state have told me that they need the authority to discipline all students in a fair and consistent manner—for the safety of their schools and for the benefit of disabled children. Here are some examples of what schools have told me:

Maynard Wallace, Superintendent of the Ava R-I School District, has written: "The discipline code must be the same for all if public education is to survive." He says that treating children with handicaps differently than other children in the area of discipline "not only undermines the entire discipline of the school but is a definite disservice to the handicapped child as well."

Betty Chong, Assistant Superintendent for Special Services in the Cape Girardeau school district, writes: "The educators are themselves advocates for children with disabilities. . . . Special educators directors and many principals were first teachers who were dedicated (and still are) to the education of students with disabilities." She goes on to say: "Students with disabilities are held to the same standards as students without disabilities when they are adults. When do they learn how to be law abiding citizens?"

Lyle Laughman, the superintendent of the Lincoln County R-IV school district has written: "It is in the total best interest of the child and society for that [discipline] determination to be made on the local, individual case level rather than the Federal law which greatly restricts what a school can do in an individual set of circumstances."

Dale Walkup, Board of Education President of the Blue Springs School District gave me a copy of a letter he sent to President Clinton which says, "The reauthorization of IDEA has not supported impartial and appropriate consequences for those students who choose drugs and are violent or dangerous to others. We hope the IDEA regulations become more reasonable, appropriate, and considerate of the needs of our total student population."

In response to both the incidents and recommendations that I have heard from schools, I am introducing the School Safety Act, which will allow schools to remove from the classroom any student who has a weapon or threatens to use a weapon at school. This legislation, which has been endorsed by the Missouri School Boards Association, will repeal the federal law that handcuffs schools from taking measures they believe appropriate to maintain a safe and secure learning environment for students and teachers.

A safe and secure setting is vital to success in the classroom. Any student who has a weapon at school, or who

threatens to kill or harm someone with a weapon, should be removed from the classroom immediately. Whether a student is "disabled" under federal law should not prevent school administrators from dealing appropriately with weapons in school. We can no longer afford to keep a federal law that threatens the safety of the classroom. We can no longer afford to tolerate federal policy that invites a mass tragedy. Under the School Safety Act, schools will be empowered with the flexibility and authority they need to remove any dangerous and violent student from the classroom when weapons are involved.

This is not the first time I have introduced school safety legislation since I have been in the Senate. I have already worked to make improvements in the federal law to create a safer learning environment for students and teachers.

I began working on this issue in 1995, after a young woman was found dead in the restroom of a North St. Louis County high school. The male special education student convicted of murdering the woman had a history of dangerous behavior, but his discipline record hadn't been disclosed to his new school. In response to this situation, I sought for ways to give schools the crucial information they need to maintain a secure school environment. I authored legislation signed into law in June 1997 providing for the transfer of discipline records when students with dangerous behavior change schools.

In the recent "ed-flex" bill signed into law on April 29, 1999, I secured a provision that closes a loophole in federal law concerning weapons possession in school. Missouri school board officials had alerted me to a federal provision that allows a school to discipline a student only for carrying a weapon onto school grounds, but not for possessing a weapon at school. In response to this concern, I had the law amended to ensure that school officials can remove a student from the classroom whether he possesses—or carries—a weapon at school.

The legislation I am offering today builds upon this previous safe schools legislation by giving schools authority to remove any student from the classroom if he or she brings a weapon to school or threatens to kill or harm someone with a weapon.

Mr. President, a little over a year ago, the Senator from Washington, Senator GORTON, read from an editorial in the Seattle Post Intelligencer that recounted the story of a disabled student who attacked other students with a knife on a school bus. The editorial pointed out the disparities caused by the federal IDEA laws. It said: "If the school district really is required by law to allow students back into class who carry weapons or otherwise have demonstrated intent to harm others, that law is in error and must be changed."

I could not agree more with this editorial. It is time to change this erroneous law, which jeopardizes students

and teachers by forcing school officials to ignore early warning signs of disaster. Maintaining a safe learning environment requires that local school officials have the authority and flexibility to discipline all students in an equitable and effective manner, especially when it comes to weapons. Let's unshackle our teachers, principals, superintendents, and school boards from a law that prevents them from keeping our children safe and secure. Let's give them the power to stop a tragedy before it happens.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "School Safety Act of 1999".

SEC. 2. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—Section 615(k) of the Individual with Disabilities Education Act (20 U.S.C. 1415(k)) is amended—

(1) in paragraph (1)(A)(ii), by striking "45 days if—" and all that follows through "(II) the child" and inserting "45 days if the child";

(2) in paragraph (2), by striking "A hearing" and inserting "Except as provided in paragraph (10), a hearing";

(3) by redesignating paragraph (10) as paragraph (11);

(4) by inserting after paragraph (9) the following new section:

"(10) EXPULSION OR SUSPENSION WITH RESPECT TO WEAPONS.—

"(A) AUTHORITY OF SCHOOL PERSONNEL WITH RESPECT TO WEAPONS.—Notwithstanding any other provision of this Act, school personnel may suspend or expel a child with a disability who—

"(i) carries or possesses a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency; or

"(ii) threatens to carry, possess, or use a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency;

in the same manner in which such personnel would suspend or expel a child without a disability.

"(B) DEFINITIONS.—For the purposes of this paragraph:

"(i) WEAPON.—The term 'weapon' has the meaning given the term under applicable State law.

"(ii) THREATENS TO CARRY, POSSESS, OR USE A WEAPON.—The term 'threatens to carry, possess, or use a weapon' includes behavior in which a child verbally threatens to kill another person.

"(C) FREE APPROPRIATE PUBLIC EDUCATION.—

"(i) CEASING TO PROVIDE EDUCATION.—A child expelled or suspended under subparagraph (A) shall not be entitled to continued educational services, including, but not limited to a free appropriate public education, under this Act, during the term of such expulsion or suspension, if the State in which the local educational agency responsible for providing educational services to such child

does not require a child without a disability to receive educational services after being suspended or expelled.

"(11) PROVIDING EDUCATION.—Notwithstanding clause (1), the local educational agency responsible for providing educational services to a child with a disability who is expelled or suspended under subparagraph (A) may choose to continue to provide educational services to such child. If the local educational agency so chooses, then—

(1) nothing in this Act shall require the local educational agency to provide such child with a free appropriate public education, or any particular level of service; and

(2) the site where the local educational agency provides the services shall be left to the discretion of the local educational agency.

(5) in paragraph (11) (as redesignated in paragraph (3)), by striking subparagraph (D).

(b) CONFORMING AMENDMENTS.—

(1) Section 612(a)(1)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(1)(A)) is amended by inserting before the period "(except as provided in section 615(k)(10))".

(2) Section 615(f)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(f)(1)) is amended by inserting at the beginning of the first sentence "Except as provided in section 615(k)(10)".

SEC. 3. AMENDMENT TO THE GUN-FREE SCHOOLS ACT OF 1994.

Subsection (c) of section 14601 of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921) is amended to read as follows:

"(c) SPECIAL RULE.—Notwithstanding any other provision of this section, this section shall be subject to section 615(k)(10) of the Individual with Disabilities Education Act (20 U.S.C. 1415(k)(10))."

ADDITIONAL COSPONSORS

S. 42

At the request of Mr. HELMS, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 42, a bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services.

S. 196

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 196, a bill to amend the Internal Revenue Code of 1986 to waive in the case of multiemployer plans the section 415 limit on benefits to the participant's average compensation for his high 3 years.

S. 206

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 206, a bill to amend title XXI of the Social Security Act to provide for improved data collection and evaluations of State Children's Health Insurance Programs, and for other purposes.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to en-

gage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 343

At the request of Mr. BOND, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 343, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 345

At the request of Mr. ALLARD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 398

At the request of Mr. CAMPBELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 398, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

S. 487

At the request of Mr. GRAMS, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 487, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 512

At the request of Mr. GORTON, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Mississippi (Mr. T4Cochran), the Senator from Delaware (Mr. BIDEN), the Senator from Maine (Ms. SNOWE), and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.

S. 514

At the request of Mr. COCHRAN, the names of the Senator from Utah (Mr. BENNETT), the Senator from Nevada (Mr. BRYAN), and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 514, a bill to improve the National Writing Project.

S. 542

At the request of Mr. ABRAHAM, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to expand the deduction for computer donations to schools and allow a tax credit for donated computers.

S. 566

At the request of Mr. LUGAR, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 566, a bill to amend the

Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

S. 600

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 600, a bill to combat the crime of international trafficking and to protect the rights of victims.

S. 631

At the request of Mr. DEWINE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 631, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 659

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 659, a bill to amend the Internal Revenue Code of 1986 to require pension plans to provide adequate notice to individuals whose future benefit accruals are being significantly reduced, and for other purposes.

S. 660

At the request of Mr. BINGAMAN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 660, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 697

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 697, a bill to ensure that a woman can designate an obstetrician or gynecologist as her primary care provider.

S. 752

At the request of Mr. MOYNIHAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 752, a bill to facilitate the recruitment of temporary employees to assist in the conduct of the 2000 decennial census of population, and for other purposes.

S. 757

At the request of Mr. LUGAR, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 757, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions in order to ensure coordination of United States policy with respect to trade, security, and human rights.

S. 805

At the request of Mr. DURBIN, the name of the Senator from California

TALKING IT OVER

HILLARY RODHAM CLINTON

October 7, 1998

One of the very first projects I worked on as a young attorney at the Children's Defense Fund 25 years ago was a study of what happens to juveniles incarcerated with adults.

Not surprisingly, I found that children placed in adult prisons experience unspeakable horrors. They are eight times more likely to commit suicide and five times more likely to be sexually assaulted than those who serve their time in juvenile facilities.

As a result of these facts, Congress acted in 1974 to separate juveniles from adults in prison.

Now, in the pre-election flurry of activity on Capitol Hill, these protections are in danger of being eroded. There is a move in Congress to rush through a juvenile crime bill -- without a moment's debate on the Senate floor -- that could result in young runaways and truants being placed in adult prisons.

Juvenile crime is too important an issue to deal with in this manner. It requires full and proper debate.

During the 1980s, lots of tough talk failed to stem the increase in violent crime. When my husband was elected, he abandoned tough talk and replaced it with a real strategy, focused on the local level, that combined tough prosecution measures with smart prevention efforts. The Brady Bill and his 1994 crime bill cracked down on the sale of handguns to fugitives, stalkers and felons, banned 19 types of assault weapons and funded 100,000 new police officers on our streets. Communities got the tools they needed to address their own crime problems.

The President's strategy has worked. We have seen violent crime decrease each of the last six years and overall crime rates go down to their lowest level in nearly 25 years.

This same approach can work for juvenile crime. Communities all across the country are abandoning rhetoric for prosecution and prevention strategies that show real results.

San Diego County is attacking this problem with a comprehensive plan in which law enforcement, schools, public agencies and communities work together. There is zero tolerance for guns and drugs in school. Young people who break the law are held accountable. Families in trouble are directed to a wide array of support services. And at-risk youth are steered into a variety of after-school activities.

Since San Diego implemented its plan, there has been a significant decrease in

juvenile crime coupled with reductions in teen birth rates, dropout rates, possession of drugs and weapons on campus, and truancy rates.

The widely reported success of Boston's juvenile crime initiatives has made it a model for communities around the country as well as for the President's Anti-Gang and Youth Violence Strategy.

In Boston, a comprehensive community-based program reaches at-risk youth before they take their first step into crime and deals with those already in trouble, specifically targeting gang activity and illicit gun trafficking. Prevention efforts, including after-school programs and part-time jobs, are also key elements.

This three-pronged strategy of prevention, intervention and enforcement is paying off. Between 1990 and 1995, Boston's youth homicides dropped 80 percent, and in 1996, not a single juvenile died in a firearm homicide in the city.

The President's own juvenile crime strategy also targets gangs and violent youth, cracks down on guns and gun traffickers, and works to keep children in school, off drugs and out of trouble.

Any juvenile crime initiative must balance real accountability for those who commit acts of violence with prevention measures that keep our children on the right track. It should prohibit serious and violent juvenile offenders from ever possessing guns. And it should target children's easy access to handguns by raising penalties for adults who unlawfully supply them.

Prevention programs must offer young people constructive activities during the hours when most juvenile crime occurs -- after school.

One successful Baltimore after-school program we will highlight next week at the White House Conference on School Safety and the Causes and Prevention of Youth Violence stresses academics and is staffed by police officers who know that often the best way to fight crime is to prevent it in the first place. Since this program opened, crimes against children in the neighborhood have decreased 44 percent and the juvenile arrest rate has dropped 16 percent.

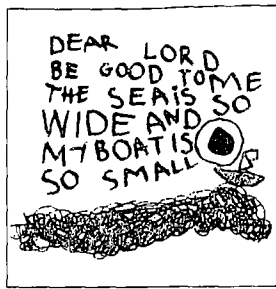
A different model in San Antonio, Texas, introduces at-risk youngsters to arts after school. Urban smARTS combines a variety of arts activities with conflict resolution, training and a range of child and family services -- all with an eye to keeping kids out of the criminal justice system.

The debate over juvenile justice must not be framed in terms of prevention OR prosecution. We must demand both: tough measures that punish criminal behavior and protect children in custody, along with strategies and programs to keep kids out of the criminal justice system in the first place. That's the formula for federal legislation that could really decrease juvenile crime across the country. Let's hope this Congress agrees.

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Talking it Over

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MEMORANDUM

TO: Senate & House Juvenile Crime Legislative Assistants

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

DATE: September 17, 1999

RE: Juvenile Justice legislation

As the Senate and House conferees consider final juvenile justice legislation, we've provided you with the attached news clippings on this legislation.

If you need additional information, please feel free to contact either of us. We can be reached by phone at: 202/637-0377 (Marc) or 202/662-3586 (Liz) or by email at: mschindler.ylc@erols.com or Lryan@childrensdefense.org.

The Washington Post

FRIDAY, MAY 14, 1999

William Raspberry

Race, Crime And Punishment

African American youths constitute 15 percent of 10- to 17-year-olds but account for 26 percent of juvenile arrests.

That would be a disturbing statistic even if it meant that black kids are that much likelier to commit the sorts of crimes that lead to juvenile arrests. But listen to the rest of it:

This same 15 percent accounts for 41 percent of those detained as delinquents, 52 percent of the juveniles in corrections institutions and 52 percent of the juveniles transferred to adult criminal court after judicial hearings.

What those numbers—supplied by the Washington Bureau of the NAACP—strongly imply is not merely disproportionate lawlessness but dissimilar treatment throughout the juvenile justice system. At the very least, they are the sort of numbers that ought to prompt criminal justice authorities across America to take a look at what they're doing.

That, in fact, is what has been happening under a piece of federal legislation that now may be headed for the Senate.

Under a provision of a law enacted in the late 1980s, states are required to "address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, jails and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population."

The states also get some funding to pay for the effort.

This, I hasten to add, is not a "quota" bill. As Vincent Schiraldi of the Washington-based Justice Policy Institute notes, the law "does not require and has never resulted in the release of juveniles, or require numerical quotas for arrest or release of any youth from custody based on race." But it has prompted some attention to disproportionate minority confinement, attention that might never have been paid without the legislation.

A California study, for example, revealed that minority youths routinely get stiffer punishments and are more likely to get jail time than white kids who commit the same offenses. Another study in Portland, Ore., found minority youngsters being locked up at rates several times higher than their arrest rates. (One result of the Portland study is that arrest and confinement rates for black juveniles are close to equal.)

According to Schiraldi, some 40 states are developing plans to address disproportionate minority confinement.

But an effort has been underway in the Senate this week to kill the provision that launched those plans. Republican Sens. Orrin Hatch of Utah and Jeff Sessions of Alabama are trying—again—to substitute language that

would call for prevention efforts "to the extent that segments of the juvenile population are confined at rates greater than their proportion in the general population."

Isn't that the same thing? No. "Segments of the juvenile population" could mean boys—half that population but obviously well over half of the

The numbers
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minorities and
whites throughout
the juvenile justice
system.

juveniles behind bars. It could mean urban kids, more likely than their suburban or rural counterparts to be confined. It might mean anything at all. But the point of the original legislation is the disproportionate incarceration of minority youth—mostly black and brown.

Why the reluctance to recognize the problem for what it is?

I don't mean to suggest that disproportionate minority confinement results solely from the willful unfairness of bigoted authorities. It results from all sorts of things—including the greater likelihood that minority parents will be poor, uneducated or politically unconnected, which means they will be less likely to have their children released to their custody by police officers and judges.

It may result as well from the greater tendency of white officials to see white juvenile offenders as "troubled youth" and black offenders as troublemakers, gangbangers or predators—as Littleton made clear.

The point, though, is that whatever the source of the disproportion, state and local officials ought to want to know about it, if only to satisfy themselves that they are carrying out their duties as fairly as they know how.

It just won't do (again, citing NAACP statistics from 1992) to tell African American boys are six times more likely than their white counterparts to be incarcerated for crimes against people, four times more likely to be locked up for property crimes or 30 times more likely to be confined in a state facility for drug offenses.

The Missing Voice in Debate On Youth Crime

By Courtland Milloy

Sunday, May 23, 1999; Page C01

The debate in the U.S. Senate on guns and juvenile crime last week was missing something vital. If only I could amend the Congressional Record . . .

The presiding officer: The senator from the District of Columbia is recognized.

(The first U.S. senator elected from the District rises to address the nation's most elite political body. He is tall and robust, in his late sixties, has a bad back and a shock of gray hair but doesn't need Viagra or want Rogaine.)

My senator: Mr. President, let me say at the outset that I am honored to be a part of this distinguished group. I know that my presence here today frightens some of you who thought all along that the District would send another liberal to Congress and, indeed, I am one. But when it comes to this epidemic of death by murder of our children, just call me concerned.

As you know, one out of every two children murdered in America is a black child, even though black children make up only 15 percent of the juvenile population. But it wasn't until the shooting deaths of white children in suburban Littleton, Colo., that this body started to get serious about guns. What am I supposed to say now, "Thank God for Columbine"? Distinguished ladies and gentlemen, we can't go on doing business this way.

Among the issues before us today is an amendment to the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999 -- called the Disproportionate Minority Confinement mandate, which seeks to reduce the number of black children being imprisoned.

But, as was the case with the homicide statistics for black children, the incredibly high incarceration rate of black children is not seen by the majority of the Senate as a matter for concern.

According to Barry R. McCaffrey -- the national drug policy director

-- African Americans make up only 13 percent of those who actually commit drug crimes in the United States, but we are 67 percent of those in prison for drug crimes. What gives?

My distinguished colleague, Sen. Orrin G. Hatch (R-Utah), replies: "The fact that 13 percent of the offenders are African American and 67 percent of those incarcerated are -- I don't see any information here saying that higher percentage was unjustifiably put in jail. These percentages don't tell us what the crimes were in the individual cases. If these individuals committed a crime, then they go to jail. Does that mean there are a lot of white people getting off? I don't see any evidence of that, either."

And yet, Mr. Hatch, if we are honest with ourselves, I think we can deduce from those numbers and other reports that black people are getting the short end of the justice stick and that white America is in denial about its own drug problems.

My Democratic colleagues in Congress have been hammering away at racial disparities in America's justice system, and to no avail, I might add, ever since conservative Republicans took over Congress.

I admire those liberals. I'm a big fan of Sen. Paul D. Wellstone (D-Minn.). And I applaud him and Sens. Edward M. Kennedy (D-Mass.), Russell Feingold (D-Wis.), Dianne Feinstein (D-Calif.) and Richard J. Durbin (D-Ill.) for pushing so valiantly for a national review of why so many black children are being imprisoned these days.

But I sometimes wonder how much my white colleagues really know about fighting racism in modern America. They keep trying to use rational arguments when racism is not a rational concept.

Consider what the juvenile justice expert Jerome Miller wrote about his days dealing with youthful offenders in the great state of Massachusetts:

"If a middle-class white youth was sent to us as dangerous, he was much more likely to be dangerous than the African American teenager with the same label. For [the white youth] to be labeled dangerous, he usually had done something that was very serious indeed. By contrast, the African American teenager was dealt with as a stereotype from the moment the handcuffs were first put on, to be easily and quickly moved along to the more dangerous end of the violent/nonviolent spectrum, albeit accompanied by an official record meant to validate the biased series of decisions."

That is the kind of subtle but devastating racism that will never show up on Sen. Hatch's radar. He doesn't even grasp the most blatant stuff.

Here's the raw deal in a nutshell: Blacks are six times as likely to be

admitted to state juvenile facilities for committing the same crimes against persons as their white counterparts, four times as likely to be imprisoned for the same property crimes as whites and more than 30 times as likely to go jail for the same drug offenses as whites.

Sen. Hatch says: "I just hear that there are more young African American kids who go to jail than white kids; therefore, there must be something wrong with the system. I don't agree with that. If there are more young African American kids committing crimes, and especially vicious crimes and violent crimes, you don't help the problem by saying they should not be punished and they should not be incarcerated somehow or other . . . unless there is a justification for that."

Orrin, Orrin . . . look at me. Must we always wait for a problem to hit white America before we act as Americans to solve it? How easily some hearts bleed at the sight of wounded white children but become like turnips when those in pain are black.

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May 28, 1999, Friday ,FINAL

SECTION: EDITORIAL ,25A

LENGTH: 864 words

HEADLINE: Jim Crow returns in juvenile justice bill

BYLINE: Charles Levendosky

BODY:

ONCE AGAIN the Senate has passed a deeply flawed juvenile crime bill.

Last year, the Senate wanted to allow juveniles to be jailed in the same facility with adults, despite the horrors that arose from such a practice.

Sen. Orrin Hatch, a Utah Republican, and Sen. Jeff Sessions, an Alabama Republican, pleaded for that one and pushed the current racist juvenile crime bill through the Senate. It was passed a week ago, 73-25, with two senators abstaining.

The troubling part of this juvenile crime bill is that it eliminates the requirement forcing states to address the disproportionate confinement of black and Hispanic juveniles. In 1988, Congress amended the Juvenile Justice and Delinquency Prevention Act of 1974 to include a mandate for states to study and attempt to correct this problem. Forty-six states have completed their studies and identified the problem in their law enforcement systems. Forty states are developing plans to address it.

The federal mandate does not require arrest quotas or that any minority juvenile be released from jail. But it does require states to look at the problem. The Hatch-Sessions bill totally discards that federal mandate.

In California, for instance, minority youths consistently received more severe punishments and were more likely to receive jail time than white youths -- for the same offense.

Baltimore figures

National figures show that approximately the same percentage of white juveniles use drugs as black juveniles. Yet a study done by the National Center on Institutions and Alternatives showed the marked racial disparity in waging the drug war in Baltimore. In 1980, 18 white juveniles were arrested in Baltimore and charged with drug sales compared with 86 black juveniles arrested for the same crime. By 1990, the disparity leaped enormously. Only 13 white juveniles were arrested for selling drugs, but 1,304 black youths were arrested for the same crime.

That's what is meant by disproportionate minority confinement. It's a national problem. It's real and it's based upon racial fears. Racism has been a growing specter in the juvenile justice system since the turn of the century. The federal mandate is a step to dealing with the problem.

One should note that Senate doesn't have any black members.

The only member of a minority is American Indian, Sen. Ben Nighthorse Campbell, a Colorado Republican, who voted against the Senate bill.

But Mr. Hatch doesn't believe the disproportionate arrest rates for minority juveniles is due to racism. He stated on the Senate floor that those are the kids who are selling drugs to "our" children and they should be convicted. "Our" obviously means "white" in Mr. Hatch's prejudiced parlance.

Sen. Paul Wellstone, a Minnesota Democrat, hit the heart of the problem in his response to Mr. Hatch: "This is all about race. I cannot believe that I have heard on the floor of the Senate an argument that race is not the critical consideration.

"When the police decide which kids are searched, you don't think that has anything to do with race? When we get to the question of which kids are arrested, you don't think that has anything to do with race? . . . You are sleepwalking through history. "

School shootings

The irony of this sad debate is that this juvenile crime bill is loaded with anti-gun provisions and congressional hysteria because of the recent school shootings perpetrated, by the way, by white juveniles.

The congressional hysteria shows in the senators' cry of a rising juvenile crime wave. Not so. Mr. Hatch and Mr. Sessions used 1994 as the reference year for the presumption that juvenile crime is on the rise, but neglected the latest data from 1995 through 1997, showing that juvenile crime has dropped dramatically.

A letter dated May 10 to the Senate signed by 36 prominent criminologists and crime policy experts pointed out the senators' error: "The Justice Department's "Crime in the United States" reported last November that the juvenile homicide arrest rate had dropped again for the fourth straight year -- by more than 45 percent since 1993

"Today, the percentage of violent crime arrests attributed to juveniles is lower than it was in 1975."

When the Senate version of the juvenile crime bill reaches conference committee, the Congressional Black Caucus will play a pivotal role in demanding that the mandate remain in the final bill. The caucus sent a letter to Senate Majority Leader Trent Lott, a Mississippi Republican, pointing out that an overwhelming majority of House members endorsed the retention of the mandate in the House juvenile justice bill.

Mr. Hatch and Mr. Sessions ignore the clear evidence of the widespread disparity in the treatment of minority juveniles in this nation's law enforcement system. If the Hatch-Session's bill becomes law without the mandate, it will by that omission create a Jim Crow justice system for minority children. Not a step forward, but a long step backward.

Chicago Tribune

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16 Section 1

Monday, May 31, 1999

Editorials

Blind to color or blind to justice?

The American justice system is not always just. That failing is particularly evident in the cases of minorities, especially African-Americans. It's as true in the juvenile justice system as in the adult one, and it is impossible to remedy inequities in the latter without properly addressing them in the former.

Black youngsters age 10 to 17 make up 16 percent of the U.S. adolescent population, yet they account for 46 percent of the kids in juvenile correctional institutions. Problem is, they don't commit 46 percent of the crimes.

The phenomenon is called "disproportionate minority confinement," and it doesn't just mean the ratio of blacks to whites in juvenile detention and prison is far larger than the ratio in the general population. It means the justice system treats African-Americans more harshly than it does white Americans.

For most of this decade, federal law has required that individual states identify the extent to which disproportionate minority confinement exists in their detention and correctional facilities, assess the reasons for it and take steps to remedy it. So far, 40 states have undertaken the task.

But the Violent and Repeat Juvenile Offenders Act passed earlier this month by the United States Senate dilutes that mandate substantially by deleting references to race and minority issues and directing states more generally to look at disproportionate confinement of "segments of the juvenile population."

In doing so, the Senate measure sidesteps a serious and pervasive problem that has far-reaching effects for children, families and whole communities. One of the bill's authors, Sen. Orrin Hatch (R-Utah), defended the wording on the floor of the Senate on grounds that

the justice system is "color blind" and that there is evidence of discrimination based on race.

Yet statistics show that minority children in the juvenile justice system are confined in numbers far out of proportion to their rates of arrest.

In California, which has the highest number of juveniles in custody in state facilities, research has shown that African-American youths are consistently more likely to be incarcerated than their white counterparts for the same offenses. In 1998, 59 percent of juveniles arrested in California were minorities, but 70 percent of those incarcerated were minorities.

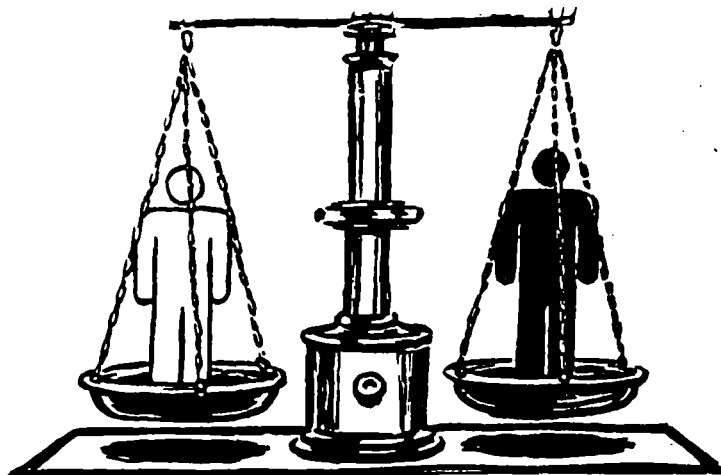
Such disparate treatment in the juvenile system accounts in part for the disproportionate number of African-American men in adult prisons, since a convicted adult is more likely to be given a prison sentence than probation if he has a prior criminal record and already has been detained in the juvenile system.

What's more, even before they reach adulthood, black youths are far more likely than whites to be transferred to adult criminal courts.

An issue so central to the Constitution's guarantee of equal justice for all ought not be obscured in the vague and tepid language of the Senate's juvenile justice bill. Unfortunately, it's the same bill that contains critically important gun-control measures, which must not be jeopardized.

But Congress can retain the state mandates on disproportionate minority confinement and preserve gun-control by combining the gun control legislation with the House's juvenile justice bill, which is similar to the Senate's but doesn't meddle with existing law on the minority confinement issue.

That would be the prudent—and the just—course.



BY DEAN BOWEN

Paul Wellstone and David Cole

Balance Check

We need to track the jailing of young minorities.

Federal law requires states to identify and improve disproportionate incarceration of members of minority groups. That law has been in place since 1992 and has prompted 40 states to develop programs to reduce minority involvement in the juvenile justice system.

Unfortunately, the requirement is under attack, and the Senate Judiciary Committee opposes an amendment to the juvenile crime bill that would preserve it. The resulting Republican juvenile justice bill would repeal the existing mandate, effectively closing our collective eyes to racial disparity in juvenile justice.

There is ample evidence of discrimination. Consider:

- Minority youth are 33 percent of all youth aged 10 to 17, but 66 percent of those incarcerated.

- Between 1982 and 1991, the height of the war on drugs, arrests of minority juveniles for drug offenses increased by 78 percent, while arrests of white juveniles decreased by 34 percent.

The Republican response to these figures is simple: Blacks and some other minorities commit more crime, and therefore they should be incarcerated more often. But that doesn't explain the disparities. If that were all that were going on, one would expect to see relatively consistent figures at each successive stage of the juvenile justice system. In fact, the disparities get progressively worse.

African American youth, for example, are 26 percent of arrests but 32 percent of those referred to juvenile court, 41 percent of those detained as delinquents and 52 percent of those tried as adults.

These disparities match similar figures in the criminal justice system's treatment of adults. The U.S. Public Health Service estimates that blacks are 14 percent of the nation's illegal drug users. Yet they are 35 percent of those arrested for drug possession, 55 percent of those convicted for drug possession and 74 percent of those sentenced to prison for drug possession.

If that evidence does not at least raise a question about discrimination, it is difficult to know what would. Yet the Republican bill discourages even the collection assessment of evidence on racial disparities. It goes against all available

evidence, that there is no problem, the Republicans' bill would keep us ignorant of the problem.

In fact, racial disparities in criminal justice generally are worse today than they were in 1950, when segregation was legal. Then, African Americans were 30 percent of the incarcerated population; today they represent more than half. The Justice Department reports that at current trends, one of every four black male babies born today will spend a year or more of his life in prison. And for every one black man who graduates college each year, 100 are arrested.

If those figures or anything like them applied to the white population, the politics of criminal and juvenile justice would be different. Instead of calls for mandatory minimums for "super-predators," trying juveniles as adults and "three-strikes-and-you're-out" laws, we'd be hearing about the need to keep kids in school, provide more community programs and improve job opportunities.

Current law directs states to identify the extent to which disproportionate minority confinement exists, assess the reasons why it exists and develop intervention strategies to address the causes. As a result, most states are making progress on this issue.

The Republican strategy of "see no evil, hear no evil," by contrast, is self-defeating. By discouraging the collection of information on the demographics of law enforcement, we exacerbate the already deep racial divide on this issue.

The House version of the Juvenile Crime bill, passed in the last Congress by 414-16, preserves the federal requirement to address disproportionate minority confinement. Having just missed in the Senate, we must now call on members of the House to insist that this protection of minority youth be kept when House and Senate conferees meet this month to work out differences between the two bills.

Paul Wellstone is a Democratic senator from Minnesota. David Cole is a law professor at Georgetown University.

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Juvenile Justice System: A Success Story Under Fire

■ **Law:** Faced with trend toward trying youths as adults, backers of special courts point to their legacy of innovation.

By GREG KRICKORIAN
TIMES STAFF WRITER

With children and violent crime now inextricably linked in the national consciousness, one of America's most widely imitated judicial innovations of this century, the Juvenile Court system, is under fire.

Indeed, even as serious crime by youth has been in decline in recent years, shocking spasms of violence—in country classrooms or on big city streets—threaten a juvenile justice system that transformed the perception of children here and around the world.

"I'm very concerned. I think all of the trends in juvenile justice are toward the demise of the Juvenile Court," said Northwestern University law professor Steven Dinzer. "And the saddest part is that the principle that children are different, that they are less culpable, that they are more amenable to intervention, is as true today as it was 100 years ago."

Yet as Dinzer and others lament attacks on the Juvenile Court system, one that paved the way for remarkable reforms in public education, child labor laws and even the development of urban recreation programs, many who have studied the system note optimistically that it already has weathered more criticism than almost any institution around.

"It is in amazingly good health for being the most attacked system on Earth," said Frank Zimring, professor of law at UC Berkeley's Boalt Hall. Indeed, Zimring said, for all its critics, the nation's juvenile justice system is "the most widely admired and uniformly popular legal innovation in American history."

All 50 states have juvenile courts that guard children's identities, offer a variety of sentences for offenses and emphasize rehabilitation, not incarceration. The same is true in many nations. And notwithstanding claims that the juvenile courts often coddle natural-born criminals, many experts say the evidence—both statistically and anecdotally—proves otherwise. Indeed, they note, juvenile crime has been in decline for much of the decade even when the system has been under almost constant attack.

"If you think the idea of the justice system is just punishment and that you are almost assured people are going to be back in trouble with the law, then you have to like the adult prison system as your model," said Peter Greenwood, who directs Rand's Criminal Justice Program.

"If on the other hand you want to prevent recidivism and think you should look at other things that led someone to commit a crime, like whether a kid was sexually abused as a little child or beaten up by a drunken parent . . . then you have to like the Juvenile Court system because it can turn kids around."

One widely cited study of Orange County's juvenile justice system found that only 8% of youthful offenders were responsible for more

Please see COURTS, A9



Associated Press

Washington D.C. Judge Reggie Walton, right, describes experiences as a young man in the juvenile justice system during recent celebration of 100th anniversary of Illinois juvenile courts. Listening is Sally Henderson, Illinois TV reporter who is considered another success story of the juvenile courts.

*'To injure no man,
but to bless all mankind'*

BOSTON • MONDAY
AUGUST 2, 1999

THE CHRISTIAN SCIENCE MONITOR

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75¢

Celebrating the American juvenile court system

By Vincent Schiraldi

WHEN 1968 Olympic Gold-medalist and record-breaking long-jumper Bob Beamon was only 9, he first began getting in trouble with the law. When Justice Department official and former marine Ron Laney was 17, he had so many arrests, he was almost tried as an adult. San Francisco District Attorney Terence Hallinan got into so much trouble as a kid he was banished from his home county at age 17.

Aside from their youthful problems and adult successes, Beamon, Laney, and Hallinan have something else in common — they all benefited from the treatment and protection of the juvenile court.

America's juvenile court system turns 100 this summer. In the late 1800s, a group of Chicago women, led by Jane Addams and Lucy Flower, were appalled by conditions in adult jails, where they found children as young as 8 alongside adults. They successfully advocated for the creation of the first juvenile court in the world.

The court was part of a series of century-shaping reforms inspired by the work of the Chicago reformers, including compulsory universal education, child labor laws, and the development of parks and recreation spaces for children. The court's founders believed child-

hood to be a sacred time during which young people needed to learn from, but not be crushed by, their mistakes. The court was built on the foundation of rehabilitation; it separated juveniles from adult offenders; and its proceedings were confidential so that youthful indiscretions would not ruin young lives.

The concept was wildly successful and is arguably America's most widely replicated justice system reform. By 1925, 46 states and the District of Columbia, along with 16 countries, had established separate courts for children where none existed before.

Ironically, as the court celebrates its centennial and the vision of its founders, Rep. Bill McCollum, (R) of Florida, would end it. His controversial bill, which recently passed the House, allows 13-year-olds to be jailed with adults, gives prosecutors non-reviewable discretion to try juveniles as adults, and erodes the confi-

dentiality rights of young people. Last year, more than 17,000 juveniles were imprisoned in adult prisons — 3,500 of them general population with adults.

Would Bob Beamon have brought home the gold if he was sent to an adult prison instead of an alternative school? Would Ron Laney who, as a marine fought and was wounded in Vietnam, have been able to serve his country if he'd been tried and convicted as an adult? Would Terence Hallinan have gone to law school and on

to help reduce San Francisco's juvenile crime rate by 27 percent through a combination of new programs and prosecution if McCollum's bill were law when he was a teen?

Common sense and hard data tell us that, as imperfect as the juvenile court system is, it's a whole lot better than the adult system. When we sentence youths as adults, as McCollum would have us do, they get re-arrested more frequently, more quickly and for more serious offenses than similar youth retained in the juvenile justice system. When kids are locked up with adults, they are sexually assaulted five times more frequently and commit suicide eight times more frequently than youth detained in juvenile facilities.

Addams and Flower were right and McCollum is wrong. Their 100-year-old experiment has as much relevance to young people today as it did then.

As Congress contemplates reverting to a 19th-century system of juvenile justice, it should expect no better results than Addams and Flower found 100 years ago. Instead, today's Beamons, Laney, and Hallinans deserve the same chance to turn their lives around as the young people of previous generations, through a strengthened juvenile court, with the kind of resources it needs to work with today's young people. That's a 20th-century reform that would be worth supporting.

■ Vincent Schiraldi is director of the Washington, D.C.-based Justice Policy Institute, which published his book, *'Second Chances.'*

The Miami Herald

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THURSDAY, AUGUST 5, 1999

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Give kids a chance to make a better choice



BOB
BEAMON

Olympic gold-medalist Bob Beamon is director of athletic development at Florida Atlantic University and co-author of The Man Who Could Fly: The Bob Beamon Story.

Some people think that Mexico City was the longest jump I ever made. But just getting there was tougher.

Starting when I was 9 years old, I got into trouble with the law. I stole things. I got into fights. I skipped school. By the time I was 14, I was in a gang and had been expelled from a school for assault and battery. Social workers recommended that I be sent to a prisonlike facility far from home, and my fate hung in the balance when I appeared before a juvenile-court judge.

I remember being really scared and looking down at the ground as the judge deliberated my future. My grandmother pleaded my case, and the judge, who was thoughtful and compassionate, gave me another chance and sent me to an alternative school.

The teachers were challenging, and true to my grandmother's pledge, she closely supervised my every move. The school was tough, but thanks to the judge, I had the time and

space to learn that there was more to life than getting into trouble.

The rest is history.

I got off the corner and into the community center, and got interested in sports. I leapt into high school track and, just a few years later, jumped 29 feet and 6 inches in the 1968 Mexico City Olympics, flying 2 feet and 6 inches farther than anyone else ever had.

Since breaking the long-jump record, I've worked as a counselor, an entrepreneur, an author, a motivational speaker and a corporate spokesman. When I speak to kids today, especially those at risk of taking the wrong path, I tell them: "You have a chance to make a better choice."

To commemorate the 100th anniversary of the juvenile court, I am part of a project in which 25 adults come together to tell the story of how caring judges and juvenile-court officials changed our lives. We are prosecutors, politicians, poets, probation officers, broadcasters, academics, attorneys, authors, stockbrokers and firefighters. We've worked at the highest levels of governments and served our country honorably.

But when we were kids, every one of us was

in trouble with the law. We all benefited from the juvenile court's intervention and its focus on rehabilitation and confidentiality, rather than the crippling punishment of the adult system.

But today — in the very year that the children's court is celebrating its centennial — Congress is about to change the way kids are treated before the law. It may very well take away the kind of chance that I and many others had to turn our lives around.

The one-size-fits-all justice inherent in the bill is dangerous to the future of juvenile justice. The bill, which is sponsored by U.S. Rep. Bill McCollum, R-Orlando, will strip judges of the power to make good choices about kids' futures and give prosecutors the power to send kids directly to adult court.

We need look no further than our own state to see what a dismal failure this policy has been. Florida led the nation in allowing its prosecutors to send kids to prison and jail. Despite trying more kids as adults than any other state, we have the nation's second-highest violent-crime rate among juveniles.

Researchers at the University of Central Florida and Florida State University have

shown that kids sent to prison are more likely to reoffend and commit more-serious crimes when released than kids sent to the juvenile-justice system. Young people sent to jail don't get the educational and rehabilitative services that their peers get in juvenile court. All of us suffer from this collective mistake that leads to higher crime rates.

McCollum's juvenile-crime bill also opens up children's court records to colleges and universities. This is nothing more than punishment for punishment's sake. How can we expect our children to choose a better route when, by opening up their records, we sabotage their futures? If these laws were in effect 35 years ago, I and many others like me simply would not be leading our current productive lives.

Young people need to be punished when they commit crimes, and there always will be a few who need to be incarcerated to keep the public safe. But most kids need the helping hand of a caring judge and probation officer — not the heavy hand that slams a prison door shut.

Congress should reject laws focused on punishment and allow kids the chances to make a better choice.



Thursday, August 5, 1999

Chicago Tribune, Thursday, August 5, 1999 Section 1 21

Commentary

In the next cell to me was Charles Manson, awaiting trial for the murders that would forever be linked to his name.

Adult prisons are not the place for juveniles

By Luis J. Rodriguez

The accused murderer placed the razor blade against the skin of my neck.

He put his face up to mine, scrutinizing me for signs of fear. Another accused murderer stood next to him, grinning broadly, as a 13-year-old stood behind me. I had given myself the task of protecting this youth against the adult prisoners in the Los Angeles County Hall of Justice jail—known then as the "Glasshouse." I was 16—too young to be in an adult facility. But I had been arrested for rioting during the 1970 Chicano Moratorium against the Vietnam War, also known by some observers as the East L.A. riot.

From a sheriff's substation jail, to an overcrowded juvenile hall, we ended up at the infamous Glasshouse—two 16-year-olds, a 15-year-old and the 13-year-old. In the next cell to me was Charles Manson, awaiting trial for the murders that would forever be linked to his name. Along the tier, which a sheriff's deputy called "murderer's row," were other accused killers, including the two in my cell. One claimed to have killed a teacher and another allegedly shot a youth at a housing project.

It was 10 days in hell. Fortunately, all charges were dropped. And I was able to hold my own against the man with the blade, looking him straight in the eye and telling him that he had better make sure I was good and dead, because if not I was going to come after him. Silence followed.

But soon he removed the blade from my neck and started to laugh. Later, all four of us played cards until lights out.

However, another kind of scar had been placed in my heart.

Although I had been arrested numerous times since the age of 13 for stealing and fighting and disturbing the peace, I made a violent turn after my stay in the Glasshouse.

Stabbings, shootings and armed robberies became the core of my involvement in the neighborhood gang. A year after the Glasshouse experience, I was arrested for attempted murder in an incident in which four people were shot.

A year after that, I faced a hard-time prison sentence for a scuffle with police officers.

Ultimately, I was convicted of a lesser charge and received county jail time. In that case, a judge decided to give me a "second chance." I had by then returned to school after dropping out, started doing art and writing, and received letters of support from the community. The path of crime I was on was blocked by the careful and consistent involvement of adults.

These mentors and elders included a teacher who saw worth in the poems and vignettes I had first written in a juvenile facility when I was 15.

They included a Chicano activist who ran the John Fabela Youth Center that served the South San Gabriel barrio. They included the high school's home-school coordinator who became like a second mother—guiding, scolding, but always showing me positive ways of meeting my needs. And Mike Duran, a former gang member who worked for the Los Angeles County Probation Department and who involved me in his "get-together" retreats that have trained leaders out of troubled youth for more than 30 years.

These are people who brought to bear an important quality in relating to young people: the quality of their presence.

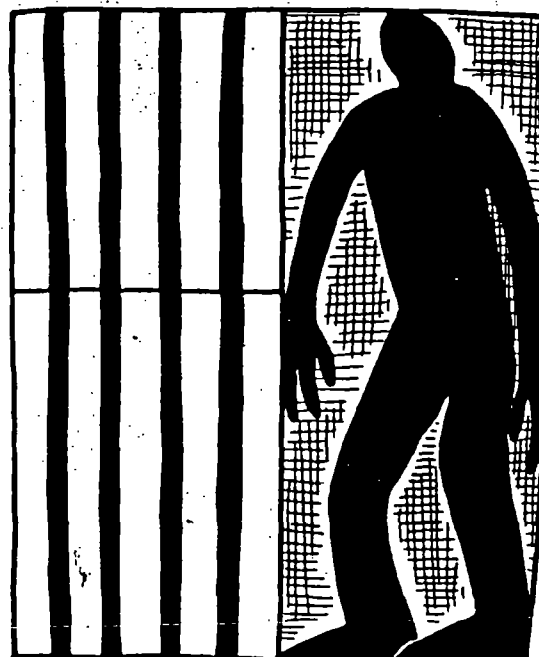


Illustration by Margaret Scott

After my last encounter with the law, I vowed never again to go to jail for criminal or violent acts. I have kept that vow for 27 years.

Without those caring and wise people in my life, I believe I would not be here today.

Presently, legislation by Rep. Bill McCollum (R-Fla.) is being considered that would give federal prosecutors wide-ranging discretion to send kids charged with federal crimes to adult court and to prison. My personal

experience, including 25 years of working with young people from diverse communities throughout the country, compels me to oppose such legislation.

While there must be consequences for one's actions, the consequences should also include finding the means to heal one's wounds. This will require redemptive measures, healthy recreation, intellectual activity, skills training, art and rituals, human connections and

community initiatory practices. All aspects of the lives of violent and troubled youth must be attended to, including a strong spiritual centering. The aim is get them to become competent and confident people—to give back to their community rather than to take.

Although some juvenile detention centers may fail to manage these things, most adult prisons won't try.

The pending federal legislation is partly a return to more than 100 years ago when America routinely tossed its youthful offenders into jails alongside hardened criminals, nurturing in them a disrespect for the law and all but guaranteeing that they'd re-offend soon after their release. It was this dreadful situation that prompted Chicago's Jane Addams to help create the world's first juvenile court system, 100 years ago.

With the most advanced resources and technology at our disposal, we can't afford to go backward. Before Addams' crusade, jailing kids with adults was a simple-minded and mean-spirited response to what were real issues of poverty, alienation and violence in the mostly immigrant communities of our cities. These issues still plague us today, affecting mostly black and brown children. We can do better.

Our policies must heed the advice of most experts in the field who tell us that youth is the time when the psyche is most susceptible to intervention and change. Youth is a time when we all make mistakes and learn to overcome them. If we enshrine the concept that people cannot change when they reach adolescence, we are condemning the whole community to instability and fear.

Our policies are too often based on expedience, not effectiveness. This usually amounts to "zero tolerance" in the courts, schools,

families, workplace and other institutions. This is a losing proposition. Crime is characterized by a web of broken relationships—economic, social, political, familial and, finally, brokenness within one's self. By pushing the "problem" youth out, we are snipping the delicate threads of community that should keep us together.

The harder but exceedingly more rewarding work includes hanging in with young people, teaching them, guiding them, tapping into the creative reservoir they all carry so they can find the meaningful life they are meant to live.

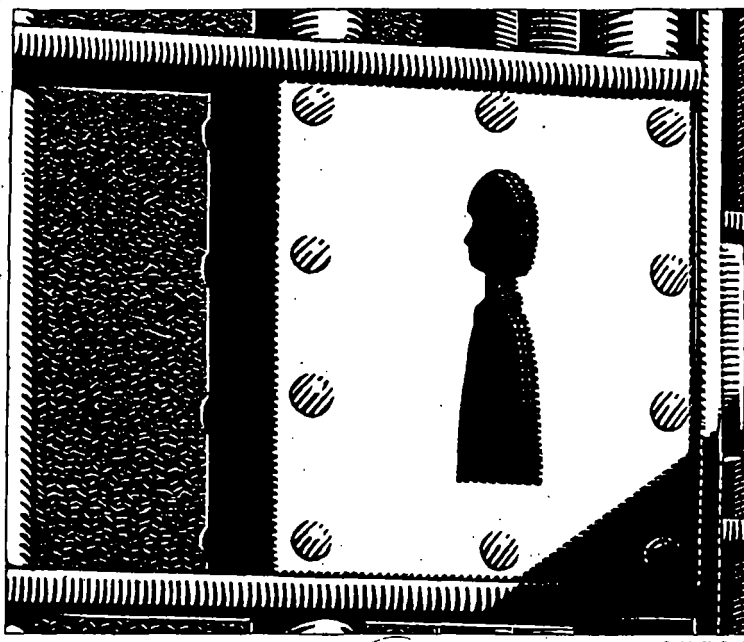
It happened with me. While I have kept out of trouble, I have come back to juvenile facilities, prisons, public schools, homeless shelters and community centers as a poet, teacher, mentor and elder. I have done this now for 20 years. What was destructive in my life turned into its opposite, which is what palpable transformative processes are all about.

We need comprehensive policies and strategies that flow from our extensive social experiences on how people become positive and active members of the community. The foundation for this is the powerful and elemental idea that we save our communities by saving our youth.

Luis J. Rodriguez is founder-director of Tia Chucha Press, a poetry press in Chicago, and a volunteer for Youth Struggling for Survival, a not-for-profit organization working with gang and non-gang youth. He is the author of "Always Running: La Vida Loca, Gang Days in L.A." and "It Doesn't Have to Be This Way: A Barrio Story," an illustrated, bilingual children's book.

Thursday, August 12, 1999

Crime, punishment and children



Give kids a chance at redemption

By Steven A. Drizin
and Vincent Schiraldi

Bob Beamon, Olympic gold medalist and record-breaking long jumper, began getting into serious trouble with the law at the age of 9. So did Claude Brown, author of "Manchild in the Promised Land," the 1968 classic coming-of-age memoir. San Francisco District Atty. Terrence Hallinan had been arrested so many times during his youth that he was literally banished from Marin County at the age of 17.

These three "success stories" and 22 others are featured in a new book, "Second Chances," released in connection with the 100th anniversary of the first juvenile court's founding in Chicago on July 3, 1899. All the men and women featured in the book benefited from the treatment and protection of the juvenile court and the vision of Jane Addams, Lucy Flower and the other court founders.

In some cases, the court's emphasis on confidentiality allowed them to transcend their youthful indiscretions; for others, specific programs or caring adults profoundly influenced their life paths; and in other cases, the court simply afforded them the time to discover who they were and what they wanted to be. In all these cases, though, the court gave them the chance to learn from their mistakes and make better choices when next confronted with the temptation to break the law.

But as the court celebrates its centennial, Rep. Bill McCollum (R.-Fla.) is poised to strike a crippling blow to the philosophy that underpins the court. McCollum's bill, which recently passed the House, applies to federal crimes and would allow 15-year-olds to be jailed with adults, gives prosecutors non-reviewable discretion to try juveniles as adults and erodes the confidentiality rights of young people.

This is not the first time McCollum has sung this tune. In the mid-1990s he drafted the Violent Youth Predator Act, declaring about today's youth: "They're the predators out there, they're the most violent criminals on the face of the Earth." That McCollum is beating the same drum today, even after six years of declining juvenile crime and even after other prognosticators of doom have backed away from their earlier forecasts, should be a warning to us all.

Nor can McCollum and other politicians rightly claim credit for the drop in juvenile crime. That began in 1993, long before McCollum's road show. Moreover, states that have been more moderate on juvenile crime have experienced the same juvenile crime reductions as states that have gotten tougher. McCollum's state, Florida, the nation's leader in trying juveniles as adults, has the second-highest rate of juvenile crime, 48 percent higher than the national average. This is hardly an outcome he should be exporting to the rest of the country.

If anything is responsible for the 44 percent drop in juvenile homicide charges over the last six years, it is improving economic conditions for teenagers (and their parents) and diminished access to handguns. Between 1995 and 1997, when the juvenile homicide rate was plummeting, the adolescent

unemployment rate dropped by 10 percent. This, coupled with increases in the minimum wage and more jobs for adults, significantly improved the financial picture for today's teens. And, in 1995, it became illegal under federal law for teenagers to possess handguns or ammunition. States and local jurisdictions, passing more restrictive measures, have also helped keep guns out of the hands of kids.

The number of juvenile homicides in Washington, D.C., for example, has dropped an astonishing 63 percent since neighboring Virginia and Maryland restricted gun sales, at the very time when the number of kids locked up in Washington dropped by half. Coupling reasonable gun control measures with comprehensive community-based efforts to persuade kids not to use guns to settle their disputes, Boston went from 24 years without a single child being killed by a gun.

Statistics aside, the human costs of passing McCollum's bill are dramatic. Would Bob Beamon have brought home the gold if he had been sent to an adult prison? Would he have gone on to mentor and inspire countless disadvantaged youths if he had been sent to adult court instead of to an alternative school? Would Terrence Hallinan have gone to law school, become D.A. and helped reduce San Francisco's juvenile crime rate by 27 percent if McCollum's bill were law when he was a teen?

The answer to these questions is probably no. When we sentence youths as adults, they get rearrested more frequently, more quickly and for more serious offenses than their counterparts in juvenile court. When we lock them in adult prisons, they are eight times more likely to commit suicide and five times more likely to be sexually assaulted than youths in juvenile facilities. Amnesty International estimates that last year, approximately 300,000 children under the age of 18 were prosecuted as adults. Last year, more than 17,000 juveniles were incarcerated in adult prisons—3,500 of them in the general population with adults. We should be ashamed of these statistics and should not continue to disgrace ourselves by adding to them.

The juvenile court system, though far from perfect, is a much better system for children than the adult system. Its Chicago founders were right to build on the promise and potential of children. Bill McCollum is wrong to build on the premise that children who commit crimes are evil, hopeless, incapable of redemption.

Beamon, Hallinan, Brown and the other men and women in "Second Chances" are living testaments to the resiliency of children and their capacity to change. They also are living proof of the relevance of the juvenile court for today's troubled youth. Today's Beamons, Hallinans and Browns deserve the same chance to turn their lives around as the young people of previous generations. Rather than destroying the juvenile court, Congress should be working to strengthen it.

Steven A. Drizin is supervising attorney of Northwestern University School of Law's Children and Family Justice Center. Vincent Schiraldi is director of the Justice Policy Institute.

Getting tough on juveniles brings results

By Pete du Pont

It's almost time to go back to school. What's the No. 1 concern of many parents, teachers and school officials? Safety and security. Despite the notoriety of last April's slaughter at Columbine High School, the good news is that youth crimes have been declining sharply since 1994. According to the Justice Department's recent Crime Victimization Survey—based on interviews of nearly 30,000 households—serious violent crimes committed by juveniles ages 12 to 17 dropped 40 percent between 1993 and 1996. Other evidence tells the same tale. The number of youths arrested for murder dropped 39 percent between 1993 and 1997, according to the FBI.

During the last school year, school-related violent deaths were half of those six years earlier. The main victims of young criminals are young and the Victimization Survey also shows that serious violent crimes against youths ages 12 to 17 is down 39 percent since 1993.

So the youth crime decline is really happening? Why? Was it the elimination of violence from our movies, television, video games and the Internet? Hardly. Maybe it's a secret revival of intact families and firm embrace of traditional morality across the land? Not likely.

Should politicians get the credit? This time, they may have a point that their handiwork has helped. Most states toughened up their laws on juvenile delinquents in the '90s and we may be getting a positive return on our tax dollars.

Each year the police arrest nearly 2 million youths under age 18 on criminal charges. In 1997 one in 15 juveniles taken into police custody were referred to criminal (adult) court—the highest percent (6.6 percent) in history. That means that real consequences were more likely than ever.

Still, very few youths serve any real detention time. Only about 100,000 young offenders are in secure residential facilities throughout the country, and their average length of stay is only 147 days. Most arrested youths experience little or no detention time. Probation and a dollop of community service are the worst that happens to most of them. The system remains soft, permissively close to a punishment-free zone.

The juvenile system was started exactly one century ago in Cook County. The idea quickly spread across the nation, promoted by the same self-styled progressives who instituted such reforms as rehabilitation instead of punishment, probation, parole and the indeterminate sentence.

The theory was that treatment by social workers and other experts would minister to the "best interest" of the child and thereby reduce criminal tendencies. Our therapeutic culture makes youth strong excuse. As a result, the juvenile system inspires little fear.

The Denver Youth Survey, a major study tracking 1,500 boys and girls since 1987, finds that arrest and processing by the juvenile justice system does little to deter delinquent behavior. After a first arrest, arrestees engage in at least as much delinquency as similar (statistically "matched") youths without an arrest. On the other hand, in a study of all 50 states from 1977-1993, economist Steven Levitt of the University of Chicago found that juvenile offenders are at least as responsive to incarceration as adults.

There is a substantial drop in criminal activity at the age of majority, especially in states that try adult criminals severely compared to juvenile criminals. Contrary to the recent "superpredator" theory over the recent rise of youth crime, Levitt believes most of the rise was a response to the softening of the juvenile system in the early 1980s compared to the toughening of adult punishment, which drove adult crime down.

Conferees on Capitol Hill currently are working on eliminating differences in the House and Senate versions of juvenile crime reform bills. Crime legislation will emerge for President Clinton's signature this year. Some provisions are praiseworthy, like those that follow the states in toughening up the treatment of juvenile offenders. Yet the bills also federalize more crime fighting, hire more bureaucrats, spend tax money and put more controls on firearms.

What the data show, though, is that with juveniles just as with adults, punishment deters. That is why youth crime is declining.

Pete du Pont, a Republican, is the former governor of Delaware.

Contributed by Virginia Rieder/Chicago Information Service

WEDNESDAY, AUGUST 25, 1999

NEWSLINE

USA TODAY

NO. 1 IN THE USA... FIRST IN DAILY READERS

Juveniles deserve a second chance

By Terence Hallinan

When I was a teen-ager, I was kicked out of school and arrested several times for fighting. A juvenile court judge eventually got so tired of my misbehavior that he literally kicked me out of my home county of Marin, Calif.

During my "banishment," I worked as a longshoreman and attended the University of California, Berkeley. There I was able to channel my pugilistic ways into a spot on the varsity boxing team, falling two bouts short of making the U.S. Olympic team. Over time — which is what the juvenile court gave me — I went on to practice law for 20 years, was elected to two terms on the San Francisco Board of Supervisors and, in 1996, was elected San Francisco's district attorney. Since I took office, violent juvenile crime is down 27% in San Francisco — the sharpest decline of any large county in the state.

A unique perspective on court system

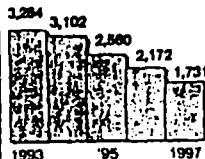
Yes, I appreciate the irony. But as a prosecutor and a graduate of the juvenile court system, I also believe I have a unique perspective on the court's operation — and a personal investment in maintaining its core tenets.

Founded 100 years ago by a group of reform-minded women led by Chicago's Jane Addams, the juvenile court was part of a series of century-shaping changes in how our country viewed childhood. Others included compulsory, universal education, child labor laws and the creation of parks and recreation spaces for children.

The court's founders viewed childhood as a sacred time during which adolescents needed the guidance of caring adults. They were shocked to find at the time that hundreds of children as young as 8 were jailed alongside adults. So they fashioned a court that separated kids from adults, focused on individual care and rehabilitation, as well

Juvenile murder

The number of homicide arrests of juveniles age 18 and under nationally has steadily declined:



Source: Justice Department, Crime in the United States, 1997-98.

USA TODAY

as fair punishment, and maintained youths' confidentiality so that youthful indiscretions didn't ruin adult promise.

Yet, as it celebrates its centennial, this American invention never has been in more jeopardy. A juvenile crime bill sponsored by Rep. Bill McCollum, R-Fla., would allow 13-year-olds to be jailed with adults, would curtail confidentiality protections, would create a mandatory sentencing scheme for kids, and would give prosecutors sole discretion, with no judicial oversight, to try juveniles as adults in federal court.

Likewise, an initiative on California's 2000 ballot sponsored by former governor Pete Wilson would also strip judges of decision-making power over whether certain juveniles should be tried as adults, and abolish confidentiality protections. These proposals follow actions by 41 states that passed laws between 1992 and 1995 making it easier for kids to be tried as adults.

There is no question that many of us profiled in the new book *Second Chances* simply would not be where we are today if such laws were in effect when we were young. The book, published by the Justice Policy Institute, a criminal justice think tank, recounts the stories of 25 juvenile court "graduates." They include politicians and probation officers; academics, attorneys and authors; students, stockbrokers and salespeople; firefighters and football players; and judges and juvenile counselors. As kids, every one of us was in trouble with the law; as adults, we're all productive, successful contributors to society.

Don't take away discretion from judges

Permanently staining the lives of young people due to youthful arrests is harmful and counterproductive. Taking discretion away from judges to make individual decisions about young people is a form of cookie-cutter justice that ignores their problems and strengths, to everyone's detriment. And jailing young people with adults is inhumane, dangerous and tantamount to giving up on kids — something we should never do.

In San Francisco, we've taken a bite out of juvenile crime through a balanced approach that combines community-based programs to help kids turn their lives around with fair but certain prosecution of youthful offenders. I have no problem fighting to lock up a kid or to have him tried as an adult if it is necessary to protect public safety. I also have no problem letting a neutral judge make the final decision after having heard all of the evidence. But a system that focuses only on punishment and ignores rehabilitation is ineffective and morally bankrupt.

On its 100th anniversary, we need to reinvigorate our juvenile court system so that it can address today's problems with solutions relevant to the 21st century, not hamstringing them. Juvenile courts should hold youths accountable for their behavior without crippling them for life. They should continue to give kids a chance to make a better choice — the same chance that I and countless other young Americans had during this century.

Terence Hallinan is the district attorney of the city of San Francisco.

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Regrettable Regression in the Way We Treat Young Criminals

The Washington Post
August 29, 1999

By L. MARA DODGE

In 1999, 100 years after the establishment of the nation's first juvenile court in Cook County, Ill., virtually all states have succeeded in passing legislation to criminalize or "adultify" their juvenile justice systems. It is now far easier to transfer juveniles to adult court, hold them in adult jails and sentence them to adult prisons. Most of the laws require judges to impose harsher and longer sentences than ever before.

I have worked with delinquent and disadvantaged youths in juvenile and adult prisons, in alternative programs for teenagers at risk and in inner-city schools, and I am deeply troubled by the shift to such draconian measures, which undermine the basic philosophy of the juvenile court as established a century ago.

In a sense, this recriminalization is a return to a philosophy—children are small adults—that Nobel Prize-winning social reformer Jane Addams and a group of visionary women fought in the 1890s, when children were routinely confined to adult prisons. They dreamed of establishing a court where troubled children would have access to specialized treatment services, and they succeeded.

The evidence of recriminalization is alarming. Last year, nearly 18,000 youths spent time in adult prisons, and 20 percent of those were mixed in with the general adult population. On any given day, 7,000 to 8,000 youths are held in adult jails nationwide. In most states juvenile records are more accessible than ever, and some states allow juvenile offenses to be counted in three-strikes legislation. Meanwhile, the United States remains the only Western nation that permits executions for crimes committed as a juvenile. As a country, we seem to have bought into the notion long advanced by tough-on-crime advocates that juvenile offenders should be treated as criminals who happen to be young, not children who happen to be criminal.

These efforts to toughen up the juvenile justice system are built on myth and misperceptions. The first myth, popularized by Princeton University professor John DiIulio, is that we are confronted by a new generation of superpredators who are beyond the rehabilitative capabilities of the juvenile court. (Interestingly, the assumption is not new. Historian Thomas J. Bernard, in "The Cycle of Juvenile Justice," has documented that for 200 years there has been a persistent belief that juveniles have been committing more serious crimes than their predecessors "in the good old days 30 or 40 years earlier.") The second myth is that we are experiencing an unprecedented wave of juvenile crime. Both myths have shown tremendous staying power, despite six straight years of declining juvenile crime rates in the United States.

Nationwide, violent offenses account for 5 percent of all juvenile arrests; homicides represent 0.1 percent. Juveniles are far more likely to be arrested for nonviolent property offenses (38 percent) and "status offenses," actions for which only minors can be arrested, such as underage drinking, running away and curfew violations (24 percent), according to the FBI's uniform crime report for 1996.

The recent horrific school shootings and well-publicized murders committed by teenagers have grossly distorted our view of young people and our perceptions of juvenile crime in general. Those cases, while shocking, are atypical. When official statis-

tics from all sources are carefully assessed, there is strong evidence that juvenile crime (like crime overall) has declined over the last three decades.

For years, I have been trying to make sense of crime statistics. They are enormously complicated, and easily affected by small changes in reporting and processing procedures. For example, police are more likely to arrest juveniles today than they were 20 years ago. In many states, schools are required to call the police for any fight among students, in some cases even for verbal threats such as name-calling. An increase in arrests, therefore, does not necessarily indicate an increase in real rates of juvenile crime.

Juvenile arrest rates are misleading in other ways. Children are more likely to be arrested on weaker evidence than adults, and many children are released without being charged. Children are also far more likely to commit crimes in groups, which means there are multiple arrests for a single offense. For these reasons, rates of "clearance"—tracking crimes for which juveniles are actually charged and prosecuted—are far more accurate than arrest rates. And what do these clearance rates reveal? Variables make precise conclusions difficult, but since 1972, the rates of most types of crime committed by youth seem to have declined.

One thing is true: Juvenile homicide is way up. But should our response to all juvenile crimes be fueled by this one area of increase? I think not. Juvenile homicide arrests nearly tripled between 1984 and 1993 and have declined by more than 40 percent since then. But here again, arrest figures are misleading, since many of these homicide arrest cases were subsequently dismissed. One example: Youths ages 13 to 15 made up 4.2 percent of the U.S. population

and accounted for 4.2 percent of all homicide arrests in 1995, but in the end they were prosecuted for homicide in only 2.4 percent of all cases. The same pattern is clear for older teens. Moreover, the 1980s increase in homicide arrests reflected a rise in gun violence. The number of youths arrested for homicides not involving guns has declined steadily since 1984.

And when we look closely at the so-called "serious youthful offenders"—the ones being sent to prison—we find large numbers of nonviolent cases. Nationwide, two-thirds of youths transferred to adult criminal court in 1996 were charged with nonviolent offenses.

Originally, the juvenile court gave judges leeway to devise alternatives to a prison sentence. Today, ever-larger numbers of offenders—who are overwhelmingly African American and Latino—are being swept into an increasingly harsh system. In 36 states, automatic-transfer laws mandate that a juvenile who commits certain offenses be prosecuted in adult court. And funding cutbacks mean rehabilitative or treatment programs are scarcer than ever. For example, prisoners are no longer eligible for federal Pell Grants, which help fund higher education and technical training. That change has meant the end of the program that enabled me to spend five years teaching in the Illinois prison system.

There is no evidence that these get-tough policies work. In fact, juvenile defendants who are tried in adult courts are more likely to commit new crimes, and more serious crimes, than similar offenders who are prosecuted in juvenile court. And while everyone seems to have heard about offenders who return to juvenile court again and again as if through a revolving door, for many youths, that's simply not the case. According to a 1995 Department of Justice report, 60 percent of children who are referred to juvenile court learn their lesson the first time: They never reappear there. These are the successes the public rarely hears about. However, in jurisdictions such as Los Angeles, where juvenile caseloads reached 500 children per officer by the mid-1990s, and virtually all treatment programs were eliminated, it is not surprising that such success stories have become far fewer.

The juvenile court was meant to give kids a second chance—to allow them to make youthful mistakes without being penalized for life. It is this possibility that current practices are snuffing out. In the past, many youths, even those heavily involved in criminal activity, moved away from crime as they matured. Their juvenile records were kept private, whereas nowadays, laws in some states make those records available to schools, future employers and the military. Today, a single juvenile conviction can brand someone for life.

While we commemorate the juvenile court's centennial, it's worth noting that the court has never had the personnel and resources necessary to fulfill its rehabilitative mission. There never was a golden age. Since its founding in 1899, the juvenile court has repeatedly been under attack—in the 1930s and 1950s, for instance—when there has been widespread fear over perceived increases in juvenile crime.

Still, Jane Addams's era was a far more visionary one than our own, and it is a vision we should restore. It seems to me that current get-tough policies reflect a society that has given up on its children. We have lost faith that troubled and troublesome young people are capable of rehabilitation. Worst of all, as we have criminalized our juvenile justice system, we have demonized the youths it serves.



CASPER Star Tribune

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WEDNESDAY, SEPTEMBER 1, 1999

Congress urged to block juvenile justice bill

By LANCE GAY
Scripps Howard News Service

WASHINGTON — Olympic gold-medalist Bob Beamon says it was just luck, a caring grandmother and a compassionate judge that turned his life around when he got into trouble as a juvenile delinquent.

... Former Sen. Alan Simpson, R-Wyo., said it was his probation officer who gave him a second chance after he was convicted on a federal charge for shooting mailboxes. And Kansas City Chiefs linebacker Derrick Thomas said his entanglement with the juvenile justice system turned out to be "one of the most important breaks I ever got."

Now some of the former youth offenders who have gone to become broadcasters, academics, stockbrokers and prosecutors are joining forces to urge lawmakers to block a get-tough juvenile crime bill that is before a House-Senate conference committee.

The legislation, passed by the House and Senate in response to the spate of schoolyard shootings, would revamp

a century-old juvenile justice system by granting prosecutors broader authority to prosecute youths as adults — with adult sentences.

Provisions would establish a national standard in giving prosecutors new powers to try even 14-year-olds as adults for violent crimes. The youths wouldn't be able to appeal the decision to have them tried as adults.

In a letter sent to Senate Judiciary Committee Chairman Orrin Hatch, R-Utah, this week, 14 former juvenile delinquents joined with the Justice Policy Institute, a Washington-based criminal justice think tank, to ask Congress to look at the successes of the current juvenile justice system, not the problems.

They warned that lawmakers will make things worse if they create an inflexible juvenile justice system that doesn't differentiate between troubled youths and criminals.

"While our stories represent a diversity of experience within the juvenile court, we all benefited from its system of interventions and its focus on

Please see BILL, A12

BILL: Former long-jumper says getting tough not the answer

Continued from A1

rehabilitation and confidentiality, rather than the crippling punishment of the court system," the letter says.

Beamon, who won gold in the long jump at the 1968 Mexico City Olympics, is now director of athletic programs at Florida State University in Miami. He said in a telephone interview that he signed the letter to warn Congress not to rush through changes of the juvenile justice system. "I would be very careful, and make some observations before acting," he said.

Beamon, 52, said he worries that Congress is blaming failures of the juvenile justice system for the shootings at Columbine High School near Denver last April, when most who are implicated in such schoolyard shootings didn't have a history of juvenile delinquency that would bring them in contact with the justice system.

"We're fast-forwarding it too much," he said.

Beamon said he only got where he is today because a juvenile court judge took a chance with him when he was 14, and re-

leased him into the custody of his grandmother and put in an alternative school in Manhattan, even though he had a four-year record of truancy, fighting, stealing and being a gang leader.

"The judge saw something," Beamon said, adding he's convinced he would not have found the drive for athletics if the judge had sentenced him to "real time."

Dennis Sweeny was convicted of burglaries and theft as a teenager, but went on to become San Francisco's chief juvenile probation officer before retiring three years ago.

"Getting tough is not the answer. You could have the death penalty at 12, and that would not stop another Columbine," Sweeny said.

Sweeny said that Congress should spend money on researching the causes of juvenile crime rather than pumping funds into new juvenile courts and tougher penalties.

"All we are doing now is creating a bigger industry — the correction industry that now has a lot of political clout," he said.

San Francisco District Attor-

ney Terence Hallinan is so angry at the juvenile justice measure that he has bought newspaper ads attacking it as a step backwards to Victorian times, when there were no separate juvenile courts, and children as young as 8 were jailed with adults.

Hallinan, a former juvenile offender who was banished from his home county at 17 by a juvenile court judge, also expressed dismay over the offer of federal funds to jurisdictions that change juvenile laws.

He said that will result in local governments changing their laws to get the money.

"I strongly resent the federal government using fiscal powers to force their policies on local jurisdictions," Hallinan told reporters recently.

Derek Thomas, the 32-year-old linebacker for the Chiefs, chose to make public his juvenile arrests for auto theft to explain his work in juvenile prevention programs.

"Every kid is not a bad kid. They may do bad things, but all they need is an opportunity. The juvenile justice system gave me that second chance," he said.

COURTS: System Is on Trial

Continued from A1
than half of all juvenile crime. And in the vast majority of cases, the study found, youths who came through the Juvenile Court system once never returned on another offense.

"I think Los Angeles mirrors those statistics and I think the statistics alone show we are doing something right," said Michael Nash, presiding judge of Los Angeles County's Juvenile Court system and a former deputy attorney general whose prosecutions included the Hillside Strangler case.

Still, some high-publicity crimes involving teenagers, and even preteens, have proved so shocking that most states have made it easier in the 1990s to prosecute children as adults. Every state but Hawaii now allows youths as young as 14 to be tried as adults. Five states allow them at age 13, two at age 12 and three at age 10. The rest have no minimum at all.

The result: Each year, an estimated 200,000 children are tried in adult courts and, if convicted, often face the same punishments as adults, according to a 1998 report by Amnesty International.

Although he was in trouble with the law as a teenager, former U.S. Sen. Alan Simpson (R-Wyo.) believes today's system must be toughened to discourage crimes that are unconscionable.

"Obviously I don't think they should get rid of the Juvenile Court system," said Simpson, who at 17 pleaded guilty to destroying federal property. "I just feel there are certain heinous crimes that deserve adult treatment."

Said Simpson: "What I did was shooting mailboxes . . . we never ever intended to hurt anybody, we were never into physical abuse. But nowadays, the things you read about [juvenile crime] just make your stomach turn."

In California, voters next March will decide on an initiative—sponsored by former Gov. Pete Wilson—to significantly toughen the prosecution of youths by, among other things, authorizing prosecutors to directly file adult charges on some crimes against teens as young as 14.

Nationally, U.S. Sen. Orrin G. Hatch (R-Utah) has been among those arguing that the juvenile justice system must be overhauled.

"There are few issues that will come before the Senate this Congress that touch the lives of more of our fellow Americans than our national response to juvenile crime," the Senate judiciary chairman said before the full Senate recently passed the legislation.

Hatch's sweeping bill would allow prosecutors and the attorney general to decide whether youths should be tried as adults for federal crimes.

But others, including some who had run-ins with the law as teenagers, worry that the Juvenile Court system is becoming a scapegoat for aberrant incidents. "I think a lot of the disdain for the system is based on misinformation—that juvenile offenders are coddled . . . that juvenile offenders are all released when they reach [adulthood]," said James Alan Fox, professor of criminal justice at Northeastern University.

"Trying juveniles as adults may satisfy our thirst for vengeance and our desire for justice. But it does very little to rehabilitate juvenile offenders and turn their lives around. In fact, it may do more harm than good."

was barely old enough to drive when, as one of a crowd of Chicanos protesting the Vietnam War, he was Maced, arrested and held at the Mens Central Jail because there was no room left at Juvenile Hall.

Housed in an adult wing dubbed "murderers' row," the 16-year-old Rodriguez and a frightened 13-year-old were kept in a cell next to Charles Manson's. One cellmate, Rodriguez said, sneaked a razor into jail and quickly threatened to kill the teenager. "I thought if I stood up to him it was the best thing. So I told him, 'You better make sure I'm good and dead, otherwise I am gonna kill you,'" Rodriguez remembered. "The guy looked at me real hard, pulled the blade away and started laughing."

Because the gambit worked, Rodriguez and the other youth



Associated Press
Bob Beamon, 1968 Olympics long jump gold medalist, went through the juvenile justice system as a youthful offender.

were spared. But the memory still sears Rodriguez, who is now a successful author and poet living in Chicago.

"What it taught me," he said, "was that young people being put in adult facilities is wrong."

One hundred years ago, that same conclusion prompted Chicago reformers led by Jane Addams to push Illinois to open the nation's first Juvenile Court in July 1899. Their campaign followed disclosures that hundreds of children as young as 8 were being terrorized in adult jails. The resulting Illinois Juvenile Court Act of 1899 spawned other groundbreaking reforms, based on a simple premise:

Children are children, not mini-adults.

"If you think how far the idea has spread, it is remarkable," said Northwestern's Dinzer. "At the turn of the century, children were considered property. They were put in the work force at an early age. They were not entitled to public education. And they were housed in orphanages, poorhouses and adult jails if they had trouble with the law or came from broken families."

"The movement . . . reshaped and redefined what childhood meant throughout the world," Dinzer added. "There were a whole series of reforms that said basically children are not adults. They require supervision and an investment [in] human and financial capital to get them to adulthood."

That sea change in how America viewed its children led other nations to follow suit. "When you think that this was a

nated over air travel, when there were few highways, let alone superhighways, and when more people had bicycles than cars, to have places like Madagascar have a Juvenile Court was pretty staggering," said Dinzer.

But the Juvenile Court's evolution has not been without growing pains. Long before this decade's attacks, the court had been blasted from all sides for either glossing over the due process rights of children or for being too soft on teens who have proven, by repeat appearances, that they cannot be rehabilitated.

"I think the history of the juvenile justice system has been really quite mixed," said David Tanenhaus, an assistant professor of constitutional history at the University of Nevada, Las Vegas. "Although it was created with the best of intentions, by the 1920s it started to fade from the public eye, and by the mid-1950s, many of the judges in charge did not have legal training; some of them did not even have a college education."

"So we found that by the 1960s, juveniles had the worst of both worlds—they had neither due process protections that adults had, nor did they receive the social services or therapy that the juvenile justice system had promised."

"The real challenge for the 21st century," he said, "is to create a system that can deal with all the new learning we have about child development and how humans evolve over time."

In the meantime, Tanenhaus said, the constant assaults on the system make it more likely than ever that some state will move to abolish its juvenile justice program—a move that he and others describe as dangerous.

Were it not for America's Juvenile Court, he and others note, countless adults might never have been given the help needed to turn their lives around.

Many of them are well-known, like Olympic long jumper Bob Beamon, San Francisco Dist. Atty. Terry Hallinan and Washington, D.C., Superior Court Judge Reggie Walton, who served as deputy drug czar in the Bush administration.

Others, while not as familiar, hold significant positions in government. After being spared adult incarceration, Ron Laney became a decorated veteran of the Vietnam War before joining the U.S. Justice Department, where he now directs the Missing and Exploited Children's Program from Washington.

And others, still young adults, credit the juvenile courts with not giving up on them.

"I got a last chance and I was able to take that opportunity and run with it," said Jeremy Estrada, a violence-prone teenager from Boyle Heights who, at 23, is now a husband, a father and a premed senior at Pepperdine University.

After returning last week from a retreat counseling troubled teenagers, Estrada said it was precisely such programs that helped him turn his life around.

Added Los Angeles Judge Nash: "I am not going to sit back and say I am totally satisfied with the performance of the Juvenile Court or that we are totally meeting the needs of society. But having spent many years in criminal court, I can say there is very little satisfaction in that system, unless your primary satisfaction is derived from putting people in jail...."

"We can't save them all, but we can save a lot of them," he said. "And I think that justifies the

The Palm Beach Post, September 2, 1999

Bill McCollum, R-Altamonte Springs. 'I don't have any qualms about it.'

Since Rep. McCollum sought to keep the son of a political crony from deportation for stealing to buy drugs, he is guilty of a double standard as well as grandstanding in his bid to succeed Sen. Connie Mack. Rep. McCollum doesn't want to hear what he doesn't know. The more experienced and thoughtful Mr. Siegel, who is brave enough to admit what he didn't know five years ago, understands that Florida's juvenile justice reforms need more reform, not emulation.

TYPE: EDITORIAL

COMPANY: UNIVERSITY OF FLORIDA (55%);

LOAD-DATE: September 5, 1999



Illustration by Tom Herzberg

Second chances

Locking up kids
robs them of their future—
and robs the future of them

By Bob Beamon

Some people think that Mexico City was the longest jump I ever made. But just getting there was tougher.

Starting when I was 9 years old, I got into trouble with the law. I stole things. I got into fights. I skipped school. By the time I was 14, I was in a gang and had been expelled from a school for assault and battery. Social workers recommended that I be sent to a prisonlike facility far from home, and my fate hung in the balance when I appeared before a juvenile court judge.

I remember being really scared and looking down at the ground as the judge deliberated my future. My grandmother pleaded my case, and the judge, who was thoughtful and compassionate, gave me another chance and sent me to an alternative school.

The teachers were challenging, and true to my grandmother's pledge, she closely supervised my every move. The school was tough, but thanks to the judge, I had the time and space to learn that there was more to life than getting into trouble.

The rest is history.

I got off the corner and into the community center and got interested in sports. I leapt into high school track and, just a few years later, jumped 29 feet 6 inches in the 1968 Mexico City Olympics, flying 2 feet 6 inches farther than anyone else ever had.

Since breaking the long-jump record, I've worked as a counselor, an entrepreneur, an author, a motivational speaker and a corporate spokesman. When I speak to kids today, especially those at risk of taking the wrong path, I tell them: "You have a chance to make a better choice."

To commemorate the 100th anniversary of juvenile court, I am part of a project in which 25 adults come together to tell the story of how caring judges and juvenile court officials changed our lives. We are prosecutors, politicians, poets, probation officers, broadcasters, academics, attorneys, authors, stockbrokers and firefighters. We've worked at the highest levels of governments and served our country honorably.

But when we were kids, every one of us was in trouble with the law. We all benefited from the juvenile court's intervention and its focus on rehabilitation and confidentiality, rather than the crippling punishment of the adult system.

But today—in the very year that the children's court is celebrating its centennial—Congress is about to change the way kids are treated before the

law. It may very well take away the kind of chance that I and many others had to turn our lives around.

The one-size-fits-all justice inherent in a pending bill is dangerous to the future of juvenile justice. The bill, which is sponsored by U.S. Rep. Bill McCollum (R-Fla.), will strip federal judges of the power to make good choices about kids' futures and give prosecutors the power to send kids directly to adult court.

We need look no further than Florida to see what a dismal failure this policy has been on the state level. Florida led the nation in allowing its prosecutors to send kids to prison and jail. Despite trying more kids as adults than any other state, it has the nation's second-highest violent-crime rate among juveniles.

Researchers at the University of Central Florida and Florida State University have shown that kids sent to prison are more likely to break the law again and commit more serious crimes after their release than kids sent to the juvenile justice system. Young people sent to jail don't get the educational and rehabilitative services that their peers get in juvenile court. All of us suffer from this collective mistake that leads to higher crime rates.

McCollum's juvenile crime bill also opens up children's federal court records to colleges and universities. This is nothing more than punishment for punishment's sake. How can we expect our children to choose a better route when, by opening up their records, we sabotage their futures? If these laws had been in effect 35 years ago, I and many others like me simply would not be leading our current productive lives.

Young people need to be punished when they commit crimes, and there always will be a few who need to be incarcerated to keep the public safe. But most kids need the helping hand of a caring judge and probation officer—not the heavy hand that slams a prison door shut.

Congress should reject laws focused on punishment and allow kids the chance to make a better choice.

Olympic gold medalist Bob Beamon is director of athletic development at Florida Atlantic University and co-author of "The Man Who Could Fly: The Bob Beamon Story."

Knight Ridder/Tribune Information Services

Essay

How I Used My Second Chance

By JEREMY ESTRADA

I was only 12 when Rudy died in my arms, the victim of a stabbing by six rival gang members. Rudy was my neighbor, my best friend, my companion. After he died, I turned to his gang for solace. I lost all interest in school and had an almost uncontrollable urge to fight. During one fight, I beat a boy so badly that he was hospitalized with internal bleeding to his brain. This vicious assault led to my first criminal charges. But with no treatment for my anger, I continued to act out in increasingly violent ways.

Eventually, I landed in the juvenile detention center and from there was sent to a group home for a year and a half. After release, I "re-offended" and was sent to a youth camp for another six months. Although I learned job skills, I still had not been given any treatment for my anger.

This time when I was released, my gang was in the midst of a war. Several of my friends had been killed and I got a gun, plan-

ning to avenge their deaths. Before I had the chance, my stepmother found the gun and called the police.

I thought I was headed for prison. But the juvenile court gave me a last chance, sending me to Rite of Passage, a wilderness challenge program, tucked away in the Nevada desert. Something clicked out in the desert. A teacher taught me how to do fractions, working with me until I mastered the math. This dedicated teacher renewed my dormant interest in education. Soon, I expanded my horizons, writing essays, studying politics and government.

My counselor encouraged me to go to college and assisted me with the paperwork and financial aid applications. Two days after being released from Rite of Passage, I was a college student.

I never looked back. Studying hard, I earned straight As in two years at Lassen Junior College and was elected president of the Hispanic Student Assn. I transferred to Pepperdine University, will soon graduate, and plan to attend medical school. I continue to mentor youth in Rite of Passage and recently spoke at an international conference on juvenile justice held in Poland.

No matter what I do, I can never forget where I came from. I feel obligated to tell my story to other young people in similar circumstances.

But today, kids like me may not get the second chance they need. Federal legislation is being considered that would give prosecutors nonreviewable discretion

over whom to try as adults, would relax the prohibitions against housing teenagers with adults in jails and prisons, and would eliminate the confidentiality of juvenile court records, making them available to law enforcement and school officials, including college admissions officers.

If I had been tried as an adult rather than given a chance (indeed, many chances) to work through my anger, I doubt I'd be here today. If I had been housed in an adult prison, instead of being sent to a place with caring and committed counselors, my passion for education would never have been discovered. I'm sure I would have only gotten deeper into the gang life.

If universities are allowed access to juvenile court records, I fear that kids will never get the chance to outgrow their pasts. Pepperdine knew of my troubled past because I made the choice to disclose it, not because my records were automatically sent to the university.

I was speaking publicly about my experiences and a scout from the school heard me and invited me to apply. He had the wisdom to look beyond my transgressions and see me for who I had become. I'm not sure other college admissions officers would be so enlightened. If they had seen my records first, my opportunity to go to Pepperdine might have been stolen, and my life, which now includes a beautiful wife and daughter, would not look so promising.

Jeremy Estrada is a student at Pepperdine University.

THE Press DEMOCRAT

142nd Year. No. 319

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Help kids make leap to better decisions

By BOB BEAMON

Some people think that Mexico City was the longest jump I ever made. But just getting there was tougher. Starting when I was 9 years old, I got into trouble with the law. I stole things. I got into fights. I skipped school. By the time I was 14, I was in a gang and had been expelled from a school for assault and battery. Social workers recommended that I be sent to a prisonlike facility far from home, and my fate hung in the balance when I appeared before a juvenile-court judge.

I remember being really scared and looking down at the ground as the judge deliberated my future. My grandmother pleaded my case, and the judge, who was thoughtful and compassionate, gave me another chance and sent me to an alternative school.

The teachers were challenging, and true to my grandmother's pledge, she closely supervised my every move. The school was tough, but thanks to the judge, I had the time and space to learn that there was more to life than getting into trouble.

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Since breaking the long-jump record, I've worked as a counselor, an entrepreneur, an author, a motivational speaker and a corporate spokesman. When I speak to kids today, especially those at risk of taking the wrong path, I tell them: "You have a chance to make a better choice."

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See Leap, back page

Olympic gold-medalist Bob Beamon is director of athletic development at Florida Atlantic University and co-author of "The Man Who Could Fly: The Bob Beamon Story." From Knight Ridder Newspapers.

G6

SEPTEMBER 5, 1999

Leap

Continued from Page G1

In which 25 adults come together to tell the story of how caring judges and juvenile-court officials changed our lives.

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But today — in the very year that the children's court is celebrating its centennial — Congress is about to change the way kids are treated before the law. It may very well take away the kind of chance that I

and many others had to turn our lives around.

The one-size-fits-all justice inherent in the bill is dangerous to the future of juvenile justice. The bill, which is sponsored by U.S. Rep. Bill McCollum, R-Fla., will strip judges of the power to make good choices about kids' futures and give prosecutors the power to send kids directly to adult court.

We need look no further than Florida to see what a dismal failure this policy has been. Florida led the nation in allowing its prosecutors to send kids to prison and jail. Despite trying more kids as adults than any other state, we have the nation's second-highest violent-crime rate among juveniles.

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Young people need to be punished when they commit crimes, and there always will be a few who need to be incarcerated to keep the public safe. But most kids need the helping hand of a caring judge and probation officer — not the heavy hand that slams a prison door shut.

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A Pulitzer Prize-winning newspaper

THE Press DEMOCRAT



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EDITORIALS

Juvenile crime

*Give as many kids as possible
a chance to turn around their lives*

After nearly 15 years as a judge in Sonoma County Juvenile Court, one might expect Jeanne Buckley to fall into "kids-are-going-to-hell-in-a-handbasket" camp. Her experience has taught her just the opposite.

In a conversation about her decision to leave her post, Buckley made this crucial point:

There are about 35,000 kids in grades seven through 12 in Sonoma County.

About 500 of them are on some kind of probation.

About 70 are serious repeat offenders "who drive you nuts."

"But most kids are OK!" Buckley declared.

Her decision to step down comes as juvenile crime is high on the political radar screen. Horrific school shootings, gang activity, the off-putting appearance now in vogue among young people who hang out in Courthouse Square and other gathering spots — all these have many civilians wringing their hands and politicians rushing forward to ease popular concerns with legislation.

The problem is, some of the remedies will make the problem worse and destroy young lives that quite likely would straighten out if given the chance.

On Page G1, Bob Beamon, the man who set a world long jump record in the 1968 Mexico City Olympics, writes that he drifted into crime at the tender age of 9, and by 14 he was before a juvenile judge who could have incarcerated him in a place where he would have been hardened and learned still more violent ways from his fellow inmates.

Instead, the judge gave Beamon another chance. He took advantage of it and has gone on to live an exemplary life that includes counseling young kids to stay out of trouble.

As Beamon writes, one of the scarier provisions in the federal juvenile crime legislation is a proposal that would require states, if they want block grant funding, to take away from judges and give to district attorneys the decision of whether to certify a juvenile to stand trial as an adult.

That means prosecutors — not juvenile judges like Jeanne Buckley or the judge who gave Bob Beamon a chance to reach Olympic glory — would have arbitrary say over whether a 14-year-old would do better

under the supervision of a judicial system designed to rehabilitate him or under an adult system that has no programs for and no experience with young kids.

Some youthful offenders do not belong in the juvenile system. The youngest person Buckley ever ordered to stand trial as an adult was 15, one of the young men who savagely beat Dylan Katz into a

coma in Windsor in 1996.

But those cases are the exceptions. A study in Orange County showed that of the kids who show up in juvenile court, the overwhelming majority never return after their first scary visit, a sizeable percentage show up twice, and about 8 percent are kids who are repeat, chronic offenders.

As Congress returns to the juvenile crime bill, which has been larded up with such extraneous issues as gun control and wine sales on the Internet, responsible lawmakers will write legislation that strengthens the ability to deal with serious juvenile offenders but does not destroy thousands of other lives before they have a chance to begin.

They must do so for the sake of the kids, but also for everybody else — which means all Americans — who have a stake in troubled kids getting better not worse.

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September 7, 1999 Tuesday, CHICAGO SPORTS FINAL EDITION

SECTION: COMMENTARY; Pg. 14; ZONE: N; Voice of the people (letter).

LENGTH: 319 words

HEADLINE: JUVENILE CRIMINALS

BYLINE: Lynnette Stamps, Dwayne Sanders, Youth organizers, Illinois Caucus for Adolescent Health.

DATELINE: CHICAGO

BODY:

We applaud the coverage by Louise Kiernan in "Doors shut on 1 theory as the youth prisons open" (Page 1, Aug. 30). The Illinois Caucus for Adolescent Health advocates for holistic and preventative approaches to juvenile justice, which the article outlined. The recent trend to criminalize youth as "superpredators" has promoted such unnecessarily punitive legislation as Chicago's anti-gang loitering ordinance, which promotes profiling in low-income communities and communities of color.

The increased rates of incarceration of adolescent women are an alarming trend. Despite the decrease in juvenile-related crimes since 1994, Congress is considering legislation to give states block grants in the amount of \$1.5 billion to fight juvenile crime. The trend for programs funded by this money will treat adolescents with tougher, adultlike policies. The continuing treatment of youth as adults does not provide young people with the rehabilitation envisioned by the creators of Illinois' juvenile justice system; rather it is a step in shaping hardened criminals in years to come.

One example of effective prevention services that offer promise can be found in DuPage County, where a jail work camp provides an alternative rehabilitation method for non-violent juvenile felons. The camp will help inmates obtain their GED certificates, learn how to prepare resumes, learn basic computer skills and apply for jobs. The goal of the administrators is for everyone to leave the program with a job.

Incidents such as the recent school shootings must not be used to justify the passage of punitive juvenile justice legislation. Quick-fix solutions often do more harm than good. Illinois' evolution into a more progressive program on this issue will hopefully influence other states to rethink their public policy from the political demonization of juveniles to a more realistic perception of juvenile crimes.

GRAPHIC: GRAPHICGRAPHIC: (Illustration by) Anya Johnson.

LANGUAGE: ENGLISH

September 2, 1999, Thursday, FINAL EDITION

SECTION: OPINION, Pg. 16A

LENGTH: 553 words

HEADLINE: CREATE BETTER CITIZENS, NOT NEW CRIMINAL CLASS

BODY:

Five years after the Legislature gave prosecutors in Florida the power to send children to adult court, one author of the law regrets it. Former state Sen. Gary Siegel, who chaired the Senate Criminal Justice Committee that wrote the 1994 juvenile justice reforms, believes the law does too little to keep children from committing crimes.

"When you take a 13- or 14-year-old and send him to the state pen," said Mr. Siegel, a Republican who represented a suburban Orlando district, "you've created a career criminal." His criticism mirrors the results of a University of Florida study, which shows that children treated as adults are more likely to commit a crime again than those who go through juvenile court. Yet Florida's reforms have become the model for Congress' dangerous juvenile justice bill, which lawmakers plan to discuss next week.

No state has tried more children in adult court than Florida. As The Post reported Monday, Florida houses 10 percent of the 16,000 juveniles in adult prisons nationwide. One, 16-year-old Charisma McGee, spent two years in prison for burglary and auto theft. She qualified for punishment as an adult, at age 14, because she had been through the juvenile courts for shoplifting and purse-snatching. Because the juvenile system had no room in its programs for Charisma, her name went on a waiting list. She spent 21 days in a juvenile detention center and was sent home without getting the treatment, supervision and punishment a judge had ordered. Then she committed a more serious crime.

Charisma's case is typical. When she got out of prison, she moved back with her grandmother, one of the few in her family not incarcerated. Her little sister is in the juvenile detention center. Both her parents are in prison. Her 24-year-old boyfriend is in jail. What role models does she have?

Legislators wanted Florida's new juvenile justice laws to give prosecutors a way to protect society from violent children and to give those who had committed lesser crimes a sobering jolt that the juvenile courts could not provide. Among other problems, juvenile judges could not hold unruly defendants in contempt of court. The reforms have accomplished that goal, in some cases.

But there was a second goal: keep problem children from becoming career criminals. Florida was supposed to reduce the waiting lists for juvenile justice programs and keep track of children when they went home. That part of the law - which requires more money if it is to be successful - has not been a priority.

The sponsors of the federal bill have written it the same way: lots of money for prisons; no money for prevention. When anyone commits a serious crime, "that person, whatever his age, has to be removed from society," said Rep.

September 8, 1999, Wednesday KY/KENTUCKY

SECTION: NEWS Pg.05b

LENGTH: 532 words

HEADLINE: State studying racial mix of juvenile inmates

SOURCE: STAFF

DATELINE: LEXINGTON, Ky.

BODY:

Kentucky is will spend up to \$ 100,000 to study the racial gap in its juvenile detention centers, to determine whether they have a disproportionate number of black children and - if so - why.

Only 11 percent of Kentucky's children are black. But in 1998, 31 percent of the 12,690 admissions at the state's juvenile jails were black.

The disproportion is even greater in Louisville and Lexington, urban areas where most of the state's African Americans live. In 1998, the cities' non-adult minority populations averaged about 15 percent, but nearly half of the youths placed in detention centers were minorities.

"We're concerned that we don't have a lot of good numbers and facts to work with on this issue. There isn't much use in our speculating on what the causes might be," said Fayette District Judge Megan Lake Thornton, vice chairwoman of Gov. Paul Patton's juvenile-justice committee, which approved the proposed study.

In 1988, Congress responded to the disparity by amending the Juvenile Justice and Delinquency Prevention Act of 1974 to require all states to study the racial situation in their juvenile-justice systems.

Kentucky is conducting its study - albeit 11 years later - under the auspices of its 2-year-old Department of Juvenile Justice.

Most states' studies have concluded that black children were more likely than whites to commit the types of crimes - theft, burglary, assault and drug dealing - that attract the attention of police.

The reasons for this are complicated, said Kathryn Wood, a Somerset criminal-defense lawyer who is on the juvenile-justice committee.

Speaking generally, Wood said, black youths are more likely to be afflicted by the types of social problems - poverty, broken homes, parents with criminal records and poor educations - that can lead to a life of crime.

The juvenile-justice committee promised to give serious thought to possible solutions once the study is completed this fall.

The Courier-Journal (Louisville, KY.), September 8, 1999

' 'Our mood is, we want to get to the bottom of this problem,' Wood said.
' 'If the numbers are as they appear right now, it's very unfair, and it needs to stop. We also realize it won't be easy.'

' 'It's a scary subject to address, and before you can address it, you need to get it on the table and have everyone drop their defensiveness,' said Pam Lester of the Kentucky Department of Juvenile Justice.

Some people want juvenile jails - and later, adult prisons - to hold 'other people's children' who can make the white middle class uncomfortable on the streets, Lester said.

' 'But we all live in the same community,' she said. 'We all have a stake in the success of all the children, not just the children who look like us. I don't believe in pointing fingers and saying: 'These are my kids; I care about them. And those are somebody else's kids; I don't care what happens to them.' '

Disproportionate numbers also appear in Kentucky's adult prisons - 38 percent of the inmates are black.

But the disparity is especially disheartening when teen-agers are involved, Lester said, because the original intent of juvenile courts a century ago was to rehabilitate young people instead of imprisoning them.

LANGUAGE: English

LOAD-DATE: September 10, 1999

Two Juvenile Justice Bills Under Consideration Would Make System Worse

BY CHRISTINE GERHARD

Two juvenile justice bills, now before a House-Senate conference committee in Congress, contain punitive measures, that if included as part of the final bill that the full Congress is expected to vote on this Fall, would make worse a juvenile justice system already characterized by Amnesty International as being harmful to children.

Regressive measures in the two bills fail to take into account the downward trend in juvenile crime, and instead, hit hard on the punitive side.

The House bill is especially disturbing because it re-institutes the dangerous practice of allowing young offenders in the federal system to be placed in cells with adults. Incredibly, one proposal would allow offenders as young as 13 to be housed with adult inmates in federal prisons, subjecting them to greater likelihood of sexual abuse and suicide.

Research has shown that juveniles commit suicide in adult jails eight times as often as those held in juvenile detention facilities. They are five times more likely to be sexually assaulted, twice as likely to be assaulted by staff, and 50 percent more likely to be attacked with a weapon.

The final bill should maintain current provisions calling for separation of children and adults, although even under present law, more than 3,700 juvenile offenders have been sentenced to prisons where they are not separated from adults, according to Amnesty International.

Other potentially injurious measures include removing confidentiality protections, thereby reducing the likelihood that youthful offenders could reenter mainstream society without stigma; expanding prosecution of juveniles in federal courts; allowing prosecutors alone, without review by judges, to determine if youthful offenders should be tried as juveniles or adults; and

requiring judges to impose long sentences on offenders, regardless of age, or the merits of each case.

The Senate bill repeals the already weak provision in federal law, requiring states to address the disproportionate confinement of minority youth, who like minority adults, are over-represented in the nation's jails and prisons.

Both the House and Senate bills inappropriately give parents the right to waive federal protections for their errant children, possibly subjecting the children to unacceptably long periods when they would be incarcerated with adults. These provisions should be dropped from the final bill.

Any new federal legislation must balance accountability for criminal activity with prevention measures that help kids stay on the straight and narrow, and must retain basic protections for children and youth who are already involved with the juvenile

justice system.

The juvenile justice proposals are being considered by five Senators and 20 Representatives, including Sen. Orrin Hatch, as Congress convened after Labor Day and the Conference Committee began its work.

The Committee should reject the unnecessarily harsh proposals, and instead, place emphasis on increasing resources for proven juvenile crime prevention programs.

In particular, the Conference Committee should adopt two provisions in the Senate bill that would increase funding for prevention. One involves setting aside for prevention programs 25 percent of an existing accountability block grant for juvenile programs.

The other provision calls for establishment of a "parenting as prevention" program. It is essential for the conferees to adopt the 25 percent set aside guarantee because investments in proven crime prevention programs are

the key to curbing juvenile crime.

Without a set-aside guarantee, there would be temptation to spend money on more detention and correctional programs, which the other 75 percent is intended for, instead of prevention efforts.

Finally, what started out as juvenile justice legislation has come to be overshadowed by the bills' gun control amendments. Since firearms kill nearly 13 children and young people every day, the modest gun law provisions that are in the Senate bill must be adopted: three business day background checks for all gun show purchases, safety devices sold with every gun, a ban on importing high-capacity ammunition clips, and a ban on juvenile possession of assault weapons.

These are minimum level provisions that will help protect children from gun violence. They should be included in the final bill along with the maintenance of current protections for

youthful offenders and sufficient funding for prevention programs.

These are the best hopes for further reductions in juvenile crime.

The Child Welfare League of America (CWLA) is an association of more than 1,000 public and not-for-profit agencies that directly help 3 million at-risk children and their families annually.

CWLA concentrates on protecting abused and neglected children, strengthening vulnerable families, and breaking the link between child abuse and juvenile crime. CWLA's Western Region is comprised of 15 state agencies and organizations committed to guarding children's rights and protecting children's needs.

Christine Gerhard is deputy director of the CWLA Western Office — Mountain States. To learn more about CWLA or how you can help "Protect America's Children," visit the website at www.cwla.org.

September 12, 1999, Sunday

SECTION: Editorial ; Pg. 9b

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HEADLINE: Bills would endanger young people

BYLINE: By Mike Jones

BODY:

Juvenile justice bills now before some House-Senate conference committees in Congress contain punitive measures that, if included in the final bill that Congress is expected to vote on this fall, would make worse a juvenile justice system already characterized by Amnesty International as harmful to children.

Regressive measures in the two bills fail to take into account the downward trend in juvenile crime and, instead, emphasize the punitive side. Incredibly, one proposal would allow offenders as young as 13 to be housed with adult inmates in federal prisons, subjecting them to a greater likelihood of sexual abuse and suicide.

Any new federal legislation must balance accountability for criminal activity with prevention measures that help kids stay on the straight and narrow - and it must retain basic protections for children and youths who are already in contact with the juvenile justice system.

Besides the proposal to house young offenders with adult prisoners, other potentially injurious measures include expanding prosecution of juveniles in federal courts; allowing prosecutors alone, without review by judges, to determine if youthful offenders should be tried as juveniles or adults; and preventing judges from considering each case on its merits. Recent studies have shown that youths, when tried in adult courts, serve less time, are more likely to reoffend and are more likely to commit an even more serious offense.

The conference committee should adopt two provisions in the Senate bill that would increase funding for prevention. One involves setting aside 25 percent of an existing block grant for juvenile prevention programs. The other calls for establishment of a "parenting as prevention" program. Investments in proven crime prevention programs are the key to curbing juvenile crime.

The House bill is especially disturbing because it re-institutes the dangerous practice of allowing young offenders in the federal system to be placed in cells with adults. Research has shown that juveniles commit suicide in adult jails eight times as often as those held in juvenile detention facilities. They are five times more likely to be sexually assaulted, twice as likely to be assaulted by staff and 50 percent more likely to be attacked with a weapon.

The final bill should maintain current provisions calling for separation of children and adults.

The Idaho Statesman, September 12, 1999, Sunday

• Mike Jones of Boise is president of the Idaho Youth Ranch.

LOAD-DATE: September 14, 1999

Letters to the Editor

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More punishment no cure for kids' crime

The juvenile justice bills now before a House-Senate conference committee in Congress contain punitive measures that would make worse a system already characterized by Amnesty International as harmful to children.

Regressive measures in the two bills the committee will merge fail to take into account the downward trend in juvenile crime and instead hit hard on the punitive side. Incredibly, one proposal would allow offenders as young as 13 to be housed with adult inmates in federal prisons, subjecting them to greater likelihood of sexual abuse and suicide.

Any new federal legislation must balance accountability for criminal activity with measures that help kids stay on the straight and narrow—and it must retain basic protections for children who are already in contact with the juvenile justice system.

In particular, the conference committee should adopt provisions in the Senate bill that would increase funding for prevention. Investments in proven crime prevention programs are the key to curbing juvenile crime.

The House bill is especially disturbing because it reinstitutes the dangerous practice of allowing young offenders in the federal system to be placed in cells with adults. Research has shown that juveniles commit suicide in adult jails eight times as often as those held in juvenile detention facilities. They are five times more

likely to be sexually assaulted, and 50 percent more likely to be attacked with a weapon.

The Senate bill repeals the weak provision requiring states to address the disproportionate confinement of minority youths, who, like minority adults, are overrepresented in the nation's jails and prisons. The Senate provision should be dropped. And both bills inappropriately give parents the right to waive federal protections for their errant children, possibly subjecting the children to unacceptably long periods when they would be incarcerated with adults. This provision also should be dropped.

Finally, what started out as juvenile justice legislation has come to be overshadowed by gun control amendments. Since firearms kill nearly 13 children and young people every day, the modest gun law provisions in the Senate bill must be adopted: three-business-day background checks for all gun show purchases, safety devices sold with every gun, a ban on importing high-capacity ammunition clips and a ban on juvenile possession of assault weapons. These minimum-level provisions should be included in the final bill along with the maintenance of current protections for juvenile offenders and sufficient funding for prevention programs. These are the best hopes for further reductions in juvenile crime.

Constance H. Ackert,
executive director,
Illinois Action for Children

Juvenile Crime Bill Unconscionable

BY JANICE PETERMAN

As the mother of a young son who died needlessly in an adult jail, you can imagine my outrage and shock to hear that some members of Congress are ignoring countless tragedies of children being harmed in jails, prisons and juvenile facilities, like the one that took my son Chris's life, and seeking to pass laws that will result in more children being hurt and abused.

During the last 17 years, I have bitterly regretted the day my former husband allowed our 17-year-old son Chris to be placed in the Ada County Jail for \$73 in unpaid traffic fines.

His father thought the experience would toughen Chris up, and if nothing else he thought he would at least be safe in the jail.

In a three-day ordeal, our slightly built young son, who had a reputation as a good kid and who had never been in any serious trouble before, was beaten, tortured, burned and bludgeoned to death by five older inmates who shared his cell.

Four of the five had extensive records. Yet the jail didn't know how to deal with youngsters or provide basic safeguards which would have protected our son from his killers.

I swore his death would not be in vain. I turned my grieving for Chris into work to protect other families from suffering a similar tragedy.

As part of the class action lawsuit that was filed on our behalf, I was horrified to learn that more than 650 children had been held in the same jail over a 3-year period, 42 percent for traffic offenses and 17 percent for such minor things as truancy and underage drinking.

We also discovered that another 17-year-old youngster, who had been serving a 30-day sentence for failing to pay a fine for possession of tobacco, had been beaten about a week before Chris was killed by some of the same inmates who were responsible for Chris's death.

Amazingly, after this youth had been beaten for 2

hours he was taken to the local hospital only to be returned to the same cell afterwards.

Thankfully, the local officials in Boise agreed to enter into a consent decree to end incarceration of youth in the jail, an agreement which is still in place today. However, now Congress is threatening to change this.

As part of the juvenile crime bill which was passed by the House, and which is due to be taken up by a House-Senate Conference Committee in September, Representative Tom DeLay (R-TX-22) has inserted a provision which would automatically terminate all consent decrees of this type which were in effect before April of 1996.

I've learned that these types of consent decrees exist in scores of counties around the country where children have been abused and mistreated in adult jails and poorly run juvenile facilities.

That means that if the DeLay amendment is made into law, children could once again be held in the Boise jail where Chris died, and thousands of children could again be locked up under dangerous, often horrific conditions in other jails and juvenile facilities all over America.

Congress is also considering other changes that would place many children at risk and do nothing to make our communities safer. These changes include allowing federal prosecutors non-reviewable discretion to try youths charged with federal offenses as adults, thereby allowing children as young as 13 years old to be jailed with adults, and eroding the confidentiality protections for young people by making their records available to schools to which they are applying.

I'm praying that Congress comes to its senses. We all agree that kids need to be held accountable for their behavior, but accountability shouldn't mean putting our children in dangerous and inhumane situations. Mr. DeLay and his colleagues in Congress shouldn't give up on our kids — we never would.

Janice Peterman is the mother of a teen who was killed while in an adult correctional facility.

Chicago Tribune

Sunday, September 12, 1999

Setting the tone for juvenile justice

The federal government does not involve itself greatly in matters of juvenile crime and punishment, and that is as it should be. After all, juveniles rarely commit federal crimes.

But in recent years, as the notion of protecting the citizenry from a predicted generation of pint-sized predators gained political currency, Congress vigorously turned its attention to juvenile crime issues. Properly directed, such attention might be welcome; sadly, it is not in this case.

A conference committee is working now to reconcile juvenile justice bills passed earlier this year by the House and the Senate, and the conferees no doubt are preoccupied with high-profile gun-control amendments. But gun control, critical as it is, ought not be allowed to overshadow the bills' juvenile justice provisions.

That's because although only a relative handful of juvenile offenders come under the jurisdiction of the federal courts each year, the laws governing their treatment constitute a model for the states.

The bills under consideration raise concerns because they whittle away at critical areas of protection that have long formed the bedrock of juvenile justice in this country. And if there is one overarching role the federal government *must* play, it is to set a tone and send the message that juveniles who come in contact with the law are entitled to protections not accorded adults: that rehabilitation, not long-term incarceration, is the goal, and that prevention now is

far preferable to punishment later.

Yet between them, the House and Senate have included a number of provisions that would seriously erode those principles. They would:

- Broaden the circumstances in which children as young as 13 may be prosecuted and sentenced as adults for certain crimes. Is a kid of 13 old enough to fully understand his constitutional rights? Is he old enough for society to give up on his chances for a productive life? It is appalling that Congress could answer yes to those questions.

- Give prosecutors unilateral discretion to transfer to adult court a juvenile charged with certain crimes. In those rare cases where it may be warranted to strip a child of the protections usually accorded children, the decision to do so should be left to a judge, not to the prosecutor, who has a built-in conflict of interest.

- Allow juveniles to have incidental contact with adult prisoners and, in some cases, to be housed with them. This even though kids in adult prisons are eight times more likely to commit suicide than those in juvenile facilities, and have a far greater chance of being injured. Surely justice is not served by increasing the numbers of children put at such risk.

If Congress wants to show its concern for curbing juvenile crime, it should be offering full funding and support for prevention measures, including early intervention and parenting programs. That would preserve the integrity of the juvenile justice system—and send the right message to the states.

Chicago Tribune

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JUVENILE JUSTICE BRIEFING BOOK

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**Senate and House
Major Provisions**





U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 12, 1999

The Honorable Henry J. Hyde
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to provide you and the other conferees with the Administration's views regarding various provisions of S. 254 and H.R. 1501. As our children begin returning to school later this month, the conference should seize the opportunity to make our schools and communities safer by taking common-sense steps to keep guns out of the wrong hands, prevent youth violence, and steer young people away from crime. We look forward to working with you to reconcile the two bills and produce a balanced and bipartisan juvenile crime bill - with the Senate-passed gun provisions - that effectively addresses juvenile crime including the devastating impact of gun violence on our young people.

As the Administration's past juvenile crime proposals have demonstrated, we believe that juvenile justice requires a balanced approach - one that couples tough sanctions that hold juveniles accountable for their conduct with effective delinquency prevention and early intervention measures. We must not lose sight of the fact that the overwhelming majority of our Nation's young people do not engage in crime or delinquency. Most of them are wonderful, hopeful children who not only want to succeed, but also to live in and support safe and livable communities. Indeed, it is critical to remember that in the approximately 20 years since this Nation began collecting the relevant data, the percentage of America's youth ages 10-17 arrested for a violent crime has never exceeded one-half of one percent. Therefore, we need to punish appropriately that small portion of violent offenders. At the same time, we must help communities and families provide effective, comprehensive support for the many millions of young Americans who may be at risk for delinquency, but who can be helped to become productive and law-abiding citizens.

Just last week, the Centers for Disease Control and Prevention (CDC) reported that violent activity by America's teens dropped significantly between 1991 and 1997. The percentage of teens who reported carrying guns and other weapons fell from 26 percent to 21 percent, while the percentage of teens who reported fighting fell from 43 percent to 37 percent. Even more dramatic is the significant drop in juvenile arrest rates for violent crimes. The arrest rate in 1997 was a full 23 percent lower than in the peak year of 1994.

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Among the reasons for these dramatic declines in youth violence is the infusion of community police officers into cities and towns across the nation - law enforcement personnel who have worked in close partnership with prosecutors, parents, school officials, and youth workers, as well as with concerned government officials, practitioners, and citizen volunteers - to help America's communities get their young people back on track. The 106th Congress can promote continued declines in youth crime by embracing a comprehensive approach to community safety that includes support for law enforcement and for America's youth.

We stand at a pivotal moment in our ongoing effort to reduce gun-related crime and violence, especially as they affect our children. Although the number of violent crimes committed with firearms has fallen by 27 percent since 1992, 13 young people in America die every day due to gun violence. In fact, the firearm homicide rate for children under 15 years of age is 12 times higher in the United States than in 25 other industrialized countries combined. The Columbine High School murders, the workplace shooting in Atlanta, and this week's shooting spree at the North Valley Jewish Community Center in Los Angeles underscore this shocking statistic and provide a grim reminder of how much more we must do to reduce firearms violence. We can - indeed we must - build upon the successes of existing state and federal laws to provide greater protections for our children and all of our citizens, and make it more difficult for young people and criminals to get their hands on guns in the first place.

Our specific views, detailed in the accompanying document, reflect our overall approach to protecting public safety by strengthening law enforcement efforts, enhancing support for children through effective prevention measures, and keeping guns out of the hands of criminals and children. It will take common-sense measures like the Senate gun provisions to make our strategy a reality.

First, the federal government must support the comprehensive efforts of state and local governments that handle the vast majority of issues concerning children, families, and communities, including the crime and delinquency that can result when any of those begin to falter. Consequently, the Administration believes it is a critical federal responsibility to provide adequate funds to states and communities, supporting the spectrum of necessary activities in a way that ensures both necessary flexibility and the fundamental protection of juveniles.

Second, although we provide direct federal investigative and prosecutorial resources in a relatively small number of juvenile cases, we need to have strong laws in place for those occasions. Notably, since the majority of these cases arise in Indian country, we must pay particular attention to the needs of the tribes in the creation and execution of laws concerning juveniles in the federal system.

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Third, in order to protect the safety and well-being of juveniles throughout the Nation, we simply must have sensible, effective measures to keep guns and explosives away from them, and from criminals who would harm them and the rest of us. In 1997, 74 percent of the homicides committed by 18- to 20-year-old offenders involved firearms. And from the mid-1980s to the early 1990s, youth homicide victimization rates doubled, increasing at a higher rate than any other violent crimes for which statistics are available. We urge the conferees to ensure that measures to restrict youth access to guns are included in the final bill.

Our detailed analysis and comments concerning H.R. 1501 and S. 254 are provided in the attached document. First, however, we would like to highlight several specific provisions that the Administration believes must be included in the final juvenile crime bill that is forwarded to the President for his signature.

Close the gun show loophole. The Brady Law's background check requirement has worked to prevent more than 400,000 illegal, over-the-counter gun sales to felons, fugitives, and other prohibited persons. The Brady Law's requirement, however, does not apply to the many guns sold by unlicensed gun sellers at gun shows. In a bipartisan vote, the Senate passed a provision that would close this loophole in the Brady Law, and would also allow law enforcement to trace firearms sold at gun shows if those firearms were later used in crime. The Senate provision does this without weakening current law, creating any new bureaucracies, or intruding on the interests of law-abiding gun buyers and sellers. The Administration strongly supports the Senate's gun show provision and the instruction - approved overwhelmingly by the House - that the conferees produce a final bill that includes meaningful legislation to close the gun show loophole once and for all.

Require safe storage devices to be sold with every handgun. Safety locks and gun lockboxes can prevent some crime and many accidental shootings. Every gun sold in the United States by a licensed firearms dealer should have such a device with it. The Administration supports the Senate's provision requiring such devices to be sold with every handgun.

Keep guns out of the hands of persons who have committed serious juvenile offenses. Our federal gun laws recognize that persons who commit serious violent criminal offenses should not be allowed to possess firearms. However, persons who commit serious drug or violent criminal offenses as juveniles are not prevented from owning firearms once they reach the age of majority. This is simply wrong. Although the Senate passed a measure designed to address this problem, the provision contains language that could delay its implementation indefinitely. The Administration looks forward to working with the conferees on this important provision.

Ban the importation of large-capacity ammunition clips. The 1994 Assault Weapons Ban was passed to limit the general public's access to assault weapons and magazines with a capacity of more than 10 rounds. The 1994 law, however, contained a provision to allow possession and

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importation of existing large capacity ammunition clips. This has led to an influx of imported large capacity clips. The Senate passed a provision - which the Administration fully supports - to close this loophole.

Prohibit youth from possessing assault weapons. As noted earlier, youth gun access remains an especially serious problem. S. 254 includes a provision prohibiting anyone less than 18 years of age from possessing a semiautomatic assault weapon. The Administration supports this sensible prohibition, but believes that it does not go far enough. Congress should adopt the Administration's proposal to prohibit anyone less than 21 years of age from possessing assault weapons and handguns.

Provide effective firearms enforcement. Over the past several years, the Justice and Treasury Departments have supported several innovative and effective firearms enforcement programs around the country, including Project Exile in Richmond, Virginia and Operation Ceasefire in Boston, Massachusetts, among others. Every one of these programs has been developed collaboratively by state and local - as well as federal -- officials and tailored to address the gun violence problem specific to the locale by enforcing the toughest laws available. These partnerships have resulted in a significant increase in the overall number of firearms prosecutions in this country. Since 1992, the combined number of federal and state firearms convictions is up sharply, and about 22 percent more criminals were incarcerated for state and federal weapons offenses in 1996 than in 1992. The number of federal gun cases in which the offender gets five or more years in prison is also up by more than 25 percent. We support giving our United States Attorneys and the Bureau of Alcohol, Tobacco and Firearms the resources they need to work with state and local authorities in developing and expanding individualized firearms violence reduction programs in their jurisdictions. However, the Senate and House Bills include provisions that would diminish the effectiveness of these programs by mandating the wholesale federalization of crimes even when state or local laws provide more stringent penalties, and would prevent states from implementing their own intensive firearms prosecution programs. These provisions should be dropped.

Strengthen firearms and explosives laws. We strongly support provisions in the Senate and House Bills to strengthen our federal firearms and explosive laws. For example, we support strengthening the crime gun tracing system and increasing the penalties on "straw purchasers" and others who facilitate illegal gun trafficking; prohibiting juvenile possession of explosives; and extending background checks and permit requirements to the purchase and possession of explosives by adults.

Prevent juvenile crime before it starts. We appreciate the inclusion this year of significant funding provisions that reflect the Congress' commitment to fund juvenile crime prevention. We urge the conferees to adopt the Senate Bill's 25 percent carve-out for prevention from the

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Juvenile Accountability Block Grant, and to ensure adequate, targeted funds for primary prevention.

Reform the federal juvenile justice system. As stated above, the federal government plays a small but vital role in investigating and prosecuting juvenile cases. Federal prosecutors need certain additional tools to bring their cases in a just and efficient way, and in a manner that does not unduly burden victims, witnesses, or the resources of the courts. However, these additional tools need not compromise unfairly the rights or interests of juveniles. We urge the conferees to adopt an appropriate balance, as described in the accompanying views letter.

Preserve the "core requirements." States need flexibility to develop and implement their own juvenile justice policies. However, there are certain fundamental areas in which we know - from documented, tragic experience - that federal baselines save lives. The four "core requirements" that serve as funding conditions in the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, have protected thousands of juveniles in state juvenile justice systems from serious physical and emotional harm, and have addressed the critical issue of racial disparity in the juvenile justice system. The Administration commends the House and Senate for the substantial steps they have taken to protect these requirements. We are disappointed, however, with the Senate's virtual elimination of the requirement relating to Disproportionate Minority Confinement, and we urge the conferees to retain that requirement as the House has done. Additional recommendations concerning these requirements are detailed in the accompanying views letter.

Break the link between mental health problems and crime. We must take seriously the relationship between mental illness and delinquency. Too often, children with mental health problems end up in the juvenile justice system having never been treated for their problems, and then, once in the system, still do not get the care they need. We commend both houses for adding provisions to their bills this year that begin to address mental health needs in the juvenile justice system.

Ensure juvenile justice resources for Indian tribes. While juvenile crime has fallen on average nationwide, it is rising in Indian country. The Administration urges the conferees to make Indian tribal governments directly eligible for all of its juvenile justice funding streams. Eliminating the state "pass-through" gives appropriate deference to tribal sovereignty and streamlines the process for getting funds to tribal communities. In addition, we strongly advise the conferees to include section 1626 of the Senate Bill, which provides much-needed amendments to the federal criminal code to address crime in Indian country, in the final bill.

We note that this letter and the accompanying document incorporate the analysis of the Department of the Treasury on the firearms provisions, and that the Department of Education

The Honorable Henry J. Hyde

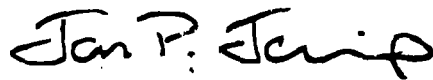
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will separately communicate the Administration's views concerning certain provisions under its jurisdiction.

We hope that the conferees will ensure that the final bill includes the major provisions we have described above, as well as the comments included in our accompanying views letter. We are sending similar letters to Chairman Hatch and Chairman Goodling. Of course, we are ready to work with the conferees and their staff, as needed, to accomplish these goals.

Sincerely,



Jon P. Jennings

Acting Assistant Attorney General

cc: The Honorable John Conyers, Jr.
Ranking Minority Member

Detailed Comments

H.R. 1501 AND S. 254

106th Congress, 1st Session

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INTRODUCTION

This document contains the detailed views of the United States Department of Justice, including the views of the Department of the Treasury with respect to the firearms and explosives provisions, on H.R. 1501, "Juvenile Justice Reform Act of 1999" and its companion bill, S. 254, "Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999," which was the basis for the Senate amendment to H.R. 1501.

Part I of this document addresses S. 254 and provisions of the House-passed version of H.R. 1501 that correspond to it, where those correspondences exist. Remaining provisions of the House-passed version of H.R. 1501 are addressed in Part II.

Page numbers in parentheses throughout this document refer to the Senate and House versions of S. 254 and H.R. 1501, respectively. For S. 254, they refer to the GPO version of the bill as it was engrossed in the Senate. For H.R. 1501, they refer to the GPO version of the bill that was placed on the Senate calendar (number 165) on June 23, 1999. Unless otherwise indicated, references to "the Department" are to the Department of Justice.

PART I – S. 254 AND EQUIVALENT PROVISIONS OF H.R. 1501

TITLE I – JUVENILE JUSTICE REFORM

~~Title I of S. 254 and Title II of H.R. 1501 concern chapter 403 of title 18, United States Code. One of the most prominent features of both titles is substantial reform of the means by which federal prosecutors may proceed against juveniles as adults.~~

~~At present, the decision whether to charge a juvenile as an adult is, in all cases, made by the federal court. Except where transfer is mandatory (in the case of certain recidivists), the government has the burden of persuading the court that prosecution as an adult is in the interest of justice. Under H.R. 1501, the court would be removed altogether from the process of determining whether to charge a juvenile as an adult; that decision would be made by the prosecutor, with no judicial review. Indeed, in some circumstances under H.R. 1501, the federal prosecutor would be required to proceed against a juvenile as an adult, unless he or she certified that it was in the interest of justice to proceed otherwise. Under S. 254, the court would continue to have a role in the decision whether to prosecute a juvenile as an adult, except with respect to juveniles 16 years of age or older charged with the most serious violent or drug offenses. In all other instances, the court, upon the defendant's motion, would review the prosecutor's decision to seek adult prosecution, but the burden of persuasion would be on the juvenile to convince the court that juvenile, rather than adult, proceedings were in the interest of justice.~~

~~In place of either of the above measures, the Department would prefer a scheme that essentially leaves the current system intact, whereby the prosecutor must apply to the court for an order transferring the juvenile for adult prosecution. The only exception would be for juveniles 16 or older charged with one of the most serious crimes – namely murder, voluntary manslaughter, assault with intent to commit murder, aggravated sexual abuse, robbery, carjacking, and certain serious drug trafficking offenses, or an attempt or conspiracy to commit any of these offenses. In those cases, the determination to prosecute a juvenile as an adult would lie solely in the hands of the federal prosecutor. In addition, in all other cases, where the prosecutor applied to the court, there would be two measures designed to speed proceedings in light of the interests of victims and witnesses: expedited judicial review of the prosecutor's application, and elimination of the juvenile's right of interlocutory appeal. The Department believes that this scheme both protects the fundamental interests of juveniles and permits prosecutors to proceed with appropriate dispatch. We urge the conferees to adopt this approach and are prepared to work with staff on appropriate language to accomplish this purpose.~~

~~Closely related to the question of by what means federal prosecutors may try juveniles as adults is the question of for which crimes federal prosecutors may try juveniles as adults. S. 254.~~

permits adult prosecution for any felony. H.R. 1501 would permit adult prosecution for an enumerated list of felonies and misdemeanors. In our view, the predicate offenses permitting a transfer for adult prosecution need not and ought not be expanded to the extent proposed in either the Senate or House bills, but should retain the scope of current law, except for the addition of conspiracies to commit drug trafficking violations, so as to enable adult prosecution of the leaders of drug gangs. (The conferees may also want to consider the additional "misdemeanor" of possession of a gun in the schoolyard; see discussion below, page 9.)

~~In addition, the House and Senate bills take several important steps in the area of federal juvenile justice reform. Each would alter present law so that federal juvenile delinquency proceedings are presumptively open, rather than closed, to the public. This measure, which follows the lead of many states in this area, is important in order to preserve the continuing confidence of the public in the juvenile justice system. Second, both bills extend the possibility of confinement upon adjudication as a delinquent until age 26, and permit the imposition of other sanctions such as fines and supervised release. Under both bills, records of federal juvenile delinquency adjudications would be kept and maintained in a more appropriate fashion and will be better available for law enforcement and other purposes. And finally, each bill would continue the authority of Indian tribes to determine whether to allow the prosecution as adults of younger Indian juveniles for acts committed in Indian country (though H.R. 1501 applies this "opt-in" provision only to 13 year olds rather than, as we recommend, 13 and 14 year olds).~~

Although we prefer the approach described above over either of the two bills, as between S. 254 and H.R. 1501, the Department of Justice favors the approach in S. 254, because it maintains a greater role for the court in the determination whether to bring adult charges against a juvenile, and is closer to the Department's position. In addition, the Senate bill takes important steps to prohibit the commingling of juveniles and adults in federal custody, whereas H.R. 1501 does not.

Unlike H.R. 1501, however, which is generally well drafted to accomplish its purposes, S. 254 contains several flaws which, unless corrected, would render it unacceptable or even (in one instance) unenforceable. The following identifies the main problems in S. 254.

CHOICE OF FEDERAL OR STATE PROSECUTION.

In response to valid concerns about the over-federalization of juvenile crime in earlier drafts of the bill, S. 254 corrects that imbalance. Indeed, it now goes so far in the other direction that the Department is concerned that S. 254 as written could jeopardize all federal prosecutions of juveniles.

S. 254 § 102, amending 18 U.S.C. § 5032(a)(2)(B) (pages 15-16), would require federal prosecutors to "exercise a presumption" in favor of referral to a state or Indian tribe that has penal provisions criminalizing the conduct at issue and that has jurisdiction over the juvenile, unless the prosecutor certifies that the state or tribe declines or will decline to assume jurisdiction

Safety Act, as well as the Gun-Free School Zones Act, as discussed below), federal cognizance over the juvenile can be obtained upon certification of a substantial federal interest alone. One way to accomplish this is to amend S. 254 § 102, amending 18 U.S.C. 5032(a)(2)(B) (pages 15-16), by striking “and” between clauses (i) and (ii) and inserting “or”, and by inserting at the beginning of clause (ii) the following: “in the case of a felony offense or an offense under section 924(a)(4) or (6) of this title”.

ADULT PROSECUTION MAY RETREAT FROM CURRENT LAW

S. 254 § 102, amending 18 U.S.C. § 5032(a)(1)(B) (page 14), would require prosecution as an adult (i.e. criminal prosecution) of any person over age 14 charged in federal court with certain felonies. Under current law, violations of 18 U.S.C. § 922(x) (juvenile in possession of a handgun), a misdemeanor, can also result in adult prosecution. In order to carry forward this ability under S. 254, the Department urges the conferees to add a reference to 18 U.S.C. § 922(x) (or to its penalty provision, 18 U.S.C. § 924(a)(6)) if that offense is not elevated under the bill to felony status. The equivalent House provision is found in H.R. 1501 § 201, amending 18 U.S.C. § 5032(b)(4) (page 65). Under S. 254 § 601, amending 18 U.S.C. § 924(a) (page 362), the basic possession offense is left as a misdemeanor (see page 362), but under S. 254 § 851, amending 18 U.S.C. § 924(a) (page 390), it is made a five-year felony. If S. 254 § 601 prevails, 18 U.S.C. § 922(x) should be added to 18 U.S.C. § 5032 as a predicate for adult prosecution notwithstanding its misdemeanor status. (The Department also notes a technical flaw in § 851 of S. 254 in that, on page 390, line 14, the reference to 922(x)(2) should be to subsection (x)(3), as this is the possession offense (see page 393), whereas subsection (x)(2) is the transfer offense. Also, on page 394, line 7, “temporary” should be inserted before “possession,” just as that word appears on line 4, to clarify that the possession for the specified exempted activities is temporary.)

Another potentially troublesome omission in S. 254 (also one mirrored in current law) with respect to adult prosecution is the Gun-Free School Zones Act, 18 U.S.C. § 922(q) (see P.L. 101-647 §1702(a)). This offense, notwithstanding its five-year maximum prison term, contains the unusual language, set forth in the penalty provision, 18 U.S.C. § 924(a)(4), that it must be considered as a misdemeanor “for the purpose of any other law.” Unless this language is changed, no adult prosecution under the proposed revisions to 18 U.S.C. § 5032 will lie for a § 922(q) violation, nor could a fingerprint-supported record for this offense be kept under proposed 18 U.S.C. § 5038 relating to an adjudication of delinquency. S.254 § 108, amending 18 U.S.C. § 5038 (page 40). Although state and local authorities will handle the vast majority of these cases – as is appropriate, removing the misdemeanor language from the penalty provision of the Gun-Free School Zones Act would allow for federal prosecution as an adult under the amended § 5032 for certain serious violations of 18 U.S.C. § 922(q). Absent amending the penalty for 922(q), listing the statute as a predicate for adult prosecution remedies the bar to an adult prosecution but not the record keeping problem. For these reasons, the Department supports the language in H.R. 1501 that lists 18 U.S.C. § 924(a)(4) as a predicate for adult prosecution (H.R. 1501 § 201, amending 18 U.S.C. § 5032 (page 65)).

~~former reference is limited and does not include other restitution provisions such as those in § 3663A. 18 U.S.C. § 3556 incorporates all restitution statutes.~~

RECORDS OF GUN-RELATED MISDEMEANORS

The Department recommends that S. 254 § 108, amending 18 U.S.C. § 5038(b)(2) (page 39), be amended to include both the Youth Handgun Safety Act and the Gun-Free School Zones Act (18 U.S.C. § 924(a)(4) and (a)(6)), unless these offenses, presently misdemeanors, are elevated to felony status. Otherwise, the Department is concerned that no adequate record relating to juvenile adjudications will be maintained. H.R. 1501 § 207, amending 18 U.S.C. § 5038(c) (page 75), includes § 924(a)(6) but not (a)(4). Also, the Department recommends that on page 40 of S. 254, lines 7-8, "aggravated sexual abuse" (18 U.S.C. § 2241) and "sexual abuse" (18 U.S.C. § 2242) replace "rape" in the list of offenses for which records are to be maintained. "Aggravated sexual abuse" and "sexual abuse" are the terms now used under federal law. Also, the Department recommends adding "assault with a dangerous weapon" to the short list of offenses on page 40 that the FBI is required to disseminate in the same manner as adult criminal history records.

JUVENILE RECORDS AND EXPUNGEMENT

The Department supports much of S. 254 § 108, amending 18 U.S.C. § 5038 (beginning page 37), making juvenile records available to victims for the specified purposes. A similar provision appears in H.R. 1501 § 207, amending 18 U.S.C. § 5038 (page 42), and allows release of juvenile records to victims, which we similarly endorse.

However, the Department is concerned about this provision's amendment to 18 U.S.C. § 5038(c) (page 42), providing for a petition to have a juvenile record expunged "after a period of 5 years." The Department takes the position that records of juvenile adjudications are historical facts and should not be removed from the FBI database merely because a court concludes that a juvenile is no longer dangerous. In any event, such records would still exist in the court and would be required to be considered in sentencing. Moreover, the provision fails to define the time from which the five-year period is to be measured. At a minimum, the provision should state that the period commences only after all aspects of the sentence have been satisfied (including fines and restitution); however, the Department would prefer to strike § 5038(c) in its entirety. H.R. 1501 contains no expungement of juvenile records provision.

PLACEMENT OF ADJUDICATED DELINQUENTS OVER AGE 18 IN ADULT FACILITIES

The Department has serious constitutional concerns with the provisions in Title II of H.R. 1501 that would permit, or even require, juveniles adjudicated delinquent to be incarcerated with, and on the same terms as, adults. Provisions in Title I of S. 254 would appear to mandate that, in certain cases, juveniles adjudicated delinquent be incarcerated with, and on the same terms as, adults after they reach their eighteenth birthday. These provisions would raise serious

preferable to the Senate version in that it creates a separate subsection in ITAR for this purpose, rather than folding it into the definition of “unlawful activity.”

The amendment also contains a technical drafting error. The amendment inadvertently omits a provision in current law that provides that investigations of violations of this section involving alcohol shall be conducted under the supervision of the Secretary of the Treasury. This provision should be reinstated. We would be happy to provide you assistance with the language for this technical correction.

JUVENILE DRUG CRIMES AS PREDICATE OFFENSE FOR ARMED CAREER CRIMINAL ACT

S. 254 § 210(a), amending 18 U.S.C. § 924(e)(2) (page 68), and H.R. 1501 § 613, amending 18 U.S.C. § 924(e)(2) (page 100), add juvenile adjudications for serious drug crimes (as defined in 18 U.S.C. § 924(e)) to the list of predicate offenses under the Armed Career Criminal Act (18 U.S.C. § 924(e)). We support the objective behind these measures, but we prefer the language of the House bill as a better drafting option.

We generally support making certain drug offenses predicate offenses for the Armed Career Criminal Act and look forward to working with the conferees to reconcile the Senate and House versions.

INCREASED PENALTIES FOR TRANSFER OF A FIREARM TO A JUVENILE

S. 254 § 210(b) amends 18 U.S.C. § 924(h) (page 68) to require a mandatory minimum sentence of three years for an individual who transfers a firearm to a person under the age of 18 knowing that the firearm will be used to commit a crime of violence or drug trafficking crime. Section 924(h) currently imposes a penalty of up to 10 years for transfers with knowledge that the firearms will be used to commit a crime of violence or drug trafficking crime, and does not specifically address transfers to juveniles. By adding a penalty for transfers to juveniles, this provision overlaps substantially – and is inconsistent with – two other provisions in the Senate bill: S. 254 § 601, amending 18 U.S.C. §§ 922(x) & 924(a) (page 361), and S. 254 § 851, amending 18 U.S.C. §§ 922(x) & 924(a) (page 389), involving transfer of certain firearms to a person under 18. Section 210(b) is also inconsistent with a similar provision in the House bill, H.R. 1501 § 402 (page 85).

Sections 601 and 851 of S. 254 amend both the penalty provisions of the Youth Handgun Safety Act, which are found at 18 U.S.C. § 924, and the Youth Handgun Safety Act (18 U.S.C. § 922 (x)) itself. The Youth Handgun Safety Act governs both transfers of firearms to juveniles, 18 U.S.C. § 922 (x)(1), and possession of firearms by juveniles, 18 U.S.C. § 922(x)(2). We will address our comments in this section only to the penalty aspects for adult transferors. Our comments on the penalties for juveniles who violate 922(x), and the amendments to 922(x) itself, will be included in our discussion of Title VI of S. 254, *infra*.

~~Section 601(a) of S. 254 retains the current base offense maximum of one year for transfers by adults in violation of 18 U.S.C. § 922(x)(1), but raises the maximum sentence for adult offenders from 10 to 20 years if the transfer to the juvenile is with knowledge or reasonable cause to know that the firearm will be used in a violent felony, as that term is defined in 18 U.S.C. § 924(e)(2)(B).~~

~~Section 851(a) of S. 254 raises the base offense maximum sentence to 5 years. It also provides new mandatory minimums: 1 year for the base offense of transferring to a juvenile, and 10 years (with a 20 year maximum sentence) for transferring to a juvenile knowing or having reasonable cause to believe that the juvenile intended to carry, possess, discharge or use the firearm in the commission of a violent felony, as that term is defined in 18 U.S.C. § 924(e)(2)(B).~~

Section 402 of H.R. 1501 amends 18 U.S.C. § 924 by raising the base offense maximum sentence from one to five years. It also provides new mandatory minimums: 3 years (with a maximum of 20 years) for transferring firearms to a juvenile knowing that the juvenile will possess the firearm in a school zone, and 10 years (with a maximum of 20 years) for transfers made with knowledge that the juvenile will use the firearm to commit a serious violent felony, as that term is defined in 18 U.S.C. § 3559(c)(2)(F).

The Administration supports increasing the penalties for unlawful transfers of firearms to juveniles. As between the four provisions, we believe that an amendment raising the penalty for transferring a firearm to a person under age 18 is best keyed to a violation of 18 U.S.C. § 922(x) and therefore prefer the approach taken in sections 601 and 851 of the Senate bill, and section 402 of H.R. 1501, to the one taken in section 210(b) of S. 254. First, 18 U.S.C. § 922(x) specifically deals with the problem of guns falling into the hands of our youth. Second, at least one court has held that federal jurisdiction in a 18 U.S.C. § 924(h) offense must be predicated on a federal crime of violence. See United States v. McLemore, 28 F.3d 1160 (11th Cir. 1994). Even though 18 U.S.C. § 924(h) is broader than 18 U.S.C. § 922(x) in that it covers firearms other than handguns and assault weapons (which will now be covered by other amendments to the Youth Handgun Safety Act in S. 254 and H.R. 1501), an amendment to 18 U.S.C. § 924(h) could have inherent limitations not present in a similar amendment to 18 U.S.C. § 922(x), given that 18 U.S.C. § 922(x) has an independent basis for federal jurisdiction, i.e., the effect on interstate commerce caused by handguns. Moreover, notwithstanding the narrower class of firearms covered in 18 U.S.C. § 922(x), the majority of cases – those involving handguns (and, if the amendments to the 18 U.S.C. § 922(x) pass, assault weapons) – would be covered by the provision.

As to the severity of the penalties, the Administration believes that the base offense level should be increased to 5 years, and that the maximum penalties should be 10 years for transferors who know or have reasonable cause to know that the juvenile will possess or use the firearm on school property and 20 years for transferors who know or have reasonable cause to know that the juvenile will possess or use the firearm in the commission of a violent felony.

TITLE III – JUVENILE CRIME CONTROL, ACCOUNTABILITY, AND DELINQUENCY PREVENTION

In general, this Title and its counterpart in the House bill reflect attention to many of the concerns the Department has expressed over the last several years. Specifically, they reflect a greater commitment to prevention spending than earlier versions of these bills, some greater protection of the core requirements, and welcome new provisions concerning mental health. The Department appreciates these improvements, and makes the following recommendations to further improve the bills.

SUBTITLE A: REFORM OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

JUVENILE CRIME CONTROL AND PREVENTION

This subtitle renames the juvenile justice office and delineates several of its core functions. In addition, it defines the roles of the National Institute of Justice (NIJ) and the Bureau of Justice Statistics (BJS) in administering juvenile justice programs. In a different way, H.R. 1501 also addresses the relationship between the juvenile justice office and NIJ and BJS. We are concerned, however, that neither bill adequately addresses the appropriate relationship among these bureaus.

The OJP Bureaus

In the Fiscal Year 1999 Omnibus Appropriations Act, the Congress directed the Department to address all of the relationships in the Office of Justice Programs (OJP), the parent agency for all of these bureaus, where there has been overlap, duplication, and a lack of coordination, and to submit to the Congress a proposed restructuring plan. The report sent to Congress several months ago recommends a plan for restructuring OJP, developed through consultation with practitioners in the field as well as others. As expressed in that proposal, it is the Department's position that all research – whether related to juvenile justice or not – should be conducted by NIJ. We understand the concerns raised by some in the juvenile justice field about this proposal, but we believe that their interest in ensuring a continuing focus on juvenile justice research will be assured by the creation of an Institute for Juvenile Justice Research within NIJ, which the restructuring plan proposes. (We note that S. 254 likewise advances the creation of a dedicated Institute for Juvenile Justice within NIJ.) Similarly, it is our position that all statistics – whether related to juvenile justice or not – should be conducted by BJS. This reorganization will help streamline the work of OJP and ensure that communities looking for research-based or statistical information on crime can easily get it, no matter what age group is being considered.

given a discrete funding allocation. To ensure adequate set-asides for each of these critical purposes, we recommend that every grant program authorized in the final bill provide at least 3 percent for research and evaluation and statistics consistent with the program; at least 2 percent for training and technical assistance consistent with the program; and at least 1 percent of the amount authorized, for administration of the program.

Mental Health

We are very pleased that both the House and Senate bills address the mental health needs of juveniles – both within and outside the juvenile justice system. Both bills require that state Formula grant plans include provisions for needed mental health services (S. 254 § 302, amending Pub. L. No. 93-415 (42 U.S.C. § 5611) §§ 205(a)(1)(H) (page 116), 222(a)(7)(B)(iii) (page 170), and H.R. 1501 § 1310, amending Pub. L. No. 93-415 (42 U.S.C. § 223 (2)(H) (page 170)). They also allow Juvenile Delinquency Prevention Block Grant funds to be used for initial mental health intake screenings for all youth entering the system, for administering mental health services for juveniles with serious mental and emotional disturbances, for ensuring that juveniles receiving psychotropic medication be under the care of a licensed mental health professional, and for projects that provide mental health treatment programs for at-risk children. The Senate bill further allows states to use Juvenile Accountability Block Grant (JABG) funds to cross-train mental health and juvenile justice system personnel on appropriate mental health alternatives to juvenile justice placements, while the House bill allows JABG funds to be used for mental health and substance abuse treatment programs. Further, the House bill instructs the Juvenile Justice Office and the National Institute for Mental Health to collaborate on a comprehensive study of the mental health needs of youth in the juvenile justice system, as well as to survey services currently available. We applaud these efforts to ensure that young people with specific mental health problems receive the appropriate screening, intervention, and treatment they need.

~~Centralized Authority~~

Next, we have some specific concerns about the centralized authority proposed in the Senate bill. S. 254 § 302(a), amending Pub. L. No. 93-415 (42 U.S.C. § 5611 et seq.) § 204(b) (1974) (pages 108-11), would vest enhanced authority in the Administrator of the new Office of Juvenile Crime Control and Prevention to set overall Federal juvenile justice program objectives, priorities, plans, and policies. There is no question that program coordination is a laudable goal; indeed, agencies have made substantial progress in this area, using such forums as the Coordinating Council on Juvenile Justice and Delinquency Prevention. However, we have a concern about the intent of the subsection. Paragraph (3) in subsection 204(b) directs the Administrator to “serve as a single point of contact for states, local units of government, and private entities” seeking to participate in Federal juvenile justice grant programs. We believe that a single point of contact for

information on available Federal juvenile justice grant programs is appropriate, and the OJP restructure plan provides for a single point of contact, as well as for maintenance of established contacts to work through established channels. However, a single point of contact for "participation" in all such programs would be unworkable. Thus, we suggest that in lieu of the phrase "to apply for and coordinate the use of and access to" in paragraph (3), the words "for purposes of providing information relating to federal juvenile delinquency programs...". In addition, following the phrase "accountability programs," we recommend that the words "or for referral to other agencies or departments that operate such programs;" be inserted. These changes would provide the coordination and information roles of the Administrator, while clarifying that responsibility for the implementation and administration of Federal juvenile justice programs remains with the funding agency.

Coordinating Council

Neither bill reauthorizes the Coordinating Council on Juvenile Justice and Delinquency Prevention (Coordinating Council). We are surprised by this, given the Congress's expressed desire to have agencies work better together to provide assistance to communities. We urge the conferees to revisit this issue and reauthorize the Council.

The Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP A) established the Coordinating Council as an independent body within the Executive Branch of the Federal Government. Its primary functions are to coordinate all Federal juvenile delinquency prevention programs, all programs and activities that detain or care for unaccompanied juveniles, and all programs relating to missing and exploited children. Under the 1992 amendments to the JJDP A, the Coordinating Council has been chaired by the Attorney General and includes four other cabinet secretaries, the Director of the Office of National Drug Control Policy (ONDCP), and three sub-Cabinet officials. Nine non-Federal juvenile justice practitioners appointed by the President, the President of the Senate, and the Speaker of the House also sit on the Council. Since being restructured in 1992, the Council has developed and widely disseminated the *National Juvenile Justice Action Plan*, a comprehensive plan that supports state and local efforts to address juvenile justice system needs. The Action Plan is regularly used by Federal agencies and states in shaping their programmatic responses to juvenile delinquency and violence.

In addition, in an ambitious effort to coordinate one of the Federal government's most valuable contributions to community safety – research about what works – the Council facilitated joint funding by several agencies for "Early Alliance," a research study designed to promote positive development and reduce risk for adverse outcomes in children attending schools located in at-risk neighborhoods. Other interdepartmental collaborations spurred by the Coordinating Council are addressing such critical efforts as nurse home visitation programs; career enrichment for inner city youth; mental health needs of at-risk youth; treatment for children with learning disabilities; drug awareness,

education, and prevention; a national replication of the Child Development - Community Policing program; the multiple needs of families with substance abuse problems; and international child abduction.

→ In February 1999, following the approach advocated by the Council, the Administration announced a major new collaboration by the Departments of Education (through its Safe and Drug-Free Schools Program), Health and Human Services (through its Center for Mental Health Services), and Justice (through OJJDP and the COPS Office) to commit at least \$100 million dollars to the *Safe Schools/Healthy Students Initiative*. Accessed through a consolidated application process, this grant program will provide students with enhanced comprehensive, mental health, law enforcement, and, as appropriate, juvenile justice system services designed to reduce drug use and violent behavior and to ensure the creation of safe, disciplined, and drug-free schools. Awards for up to three years are being made to successful applicants in 50 sites with grants ranging from up to \$3 million annually for urban school districts, \$2 million for suburban districts, and \$1 million for rural districts and tribal schools designated as local education agencies. Importantly, the agencies are collaborating on both funding and oversight, in order to ensure continued cooperative management of this unprecedented multi-agency initiative.

We urge Congress to retain the Council as a statutorily established entity. The Coordinating Council has served us well for the last 25 years and we are confident that, if reauthorized, it will continue to play an essential role in the effective coordination of a broad-based and comprehensive Federal juvenile justice strategy.

In lieu of its repeal, we urge the following language:

“Section 2702. Continuation of Coordinating Council on Juvenile Justice and Delinquency Prevention.

(a) Council -- The Juvenile Justice and Delinquency Prevention Act of 1974, as amended, established the Coordinating Council on Juvenile Justice and Delinquency Prevention. The Council shall continue in existence and operate under the terms of that Act except as herein specified. Members of the Council as of the date of the enactment of this Act shall continue to serve on the Council in accord with the terms of their appointment.

(b) Functions. Notwithstanding the functions set forth in 42 U.S.C. 5616, the functions of the Council shall be to coordinate all Federal juvenile delinquency programs (in cooperation with state and local juvenile justice programs), all Federal programs and activities that detain or care for unaccompanied juveniles, and all Federal programs relating to missing and exploited children. The Council shall examine how the separate programs can be coordinated among Federal, state, and local governments to better serve at-risk children and juveniles, shall

make recommendations to the President and to the Congress, at least annually, with respect to the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities and all Federal programs and activities that detain or care for unaccompanied juveniles. The Council shall review the programs and practices of Federal agencies and report on the degree to which Federal agency funds are used for purposes which are consistent or inconsistent with the requirements of section 2804(b) of this title.

The Council shall review, and make recommendations with respect to, any joint funding proposal undertaken by the Office of Juvenile Justice and Delinquency Prevention and any agency represented on the Council. The Council shall review the reasons why Federal agencies take juveniles into custody and shall make recommendations regarding how to improve Federal practices and facilities for holding juveniles in custody.”

Prevention Block Grant

S. 254 § 301, amending Pub. L. No. 93-415 (42 U.S.C. § 5611) § 201 (1974) (page 100), as well as H.R. 1501 §§ 114, 1311, amending Pub. L. No 93-415 (42 U.S.C. § 5611 et seq.) § 299 (N) (1974) (page 168), authorizes a Prevention Block Grants program under which funds would be distributed to states to support activities to prevent juvenile delinquency. We applaud Congress for creating a dedicated prevention program, and for dedicating a large portion of this program to “primary” prevention, meaning for activities for juveniles not in the juvenile justice system. We are concerned, however, that as written, the provisions do not quite accomplish their aims, and we urge the conferees to amend them accordingly.

Primary Prevention Allocation

S. 254 § 302(a), amending Pub. L. No. 93-415 (42 U.S.C. § 5611) § 205 (1974) (page 115), contains a provision that not less than 80 percent of funds shall be used for the purposes designated in paragraphs (1) through (18), and that not less than 20 percent shall be used for the purposes designated in paragraphs (19) through (22). We commend the bill’s effort to commit 80 percent of these funds to “primary” prevention. (The House bill provides for no such commitment.) However, it appears that only 10 of the first 18 activities described in section 302(a) are exclusively for primary prevention (namely 3, 8, 10-12, 14-18). Five of the 18 activities are for both primary prevention and early intervention for system-involved juveniles (1, 2, 5, 7, 9); and three of the 18 activities are exclusively for juveniles in the justice system, e.g. incarcerated offenders (4, 6, 13). Therefore, despite the apparent intent of the House and Senate to reserve a pool for primary prevention, a state could still use funds from the 80 percent primary prevention allocation for programs targeting juveniles already in the justice system – the same population on whom juvenile “accountability” funds, and formula funds, are already being spent. This would disrupt the balance the Congress has sought to advance in its

~~or contract with eligible service providers to carry out authorized prevention and early intervention activities. A provision for direct state awards to local service providers is cumbersome and costly. It is unlikely that the 5 percent administrative set aside in both bills for state administration, evaluation, and technical assistance would be sufficient to oversee the award and administration of large numbers of grants to individual service providers. Moreover, units of local government are in a better position to know local needs and coordinate and monitor local service providers.~~

Grants to Youth Organizations

→ S. 254 § 302, amending Pub. L. No. 93-415 (42 U.S.C. § 5611) § 206 (1974) (page 133), establishes a Grants to Youth Organizations program for the purposes of providing constructive activities to youth during after school hours, weekends, and school vacations; providing supervised activities in safe environments to youth in those areas; and providing anti-alcohol and other drug education to prevent alcohol and other drug abuse among youth. Indian tribes and national, statewide, or community-based nonprofit organizations in crime prone areas are eligible to apply to the Administrator, who then makes awards to applicants, with 20 percent of funds going to national or statewide organizations, and 80 percent to community-based nonprofit organizations. We support the concept of funding community-based nonprofit organizations to carry out the types of activities in this section, and note that these are organizations that would not otherwise have the opportunity to apply for direct federal funding. However, we would prefer for this to be accomplished as a set-aside to either the Prevention or Formula Grants programs, rather than as a separate discretionary grant program. Integrating the Grants to Youth Organizations program with the Prevention or Formula Grants program will ensure better coordination of these funds with the other funding streams.

~~**Grants to Indian Tribes Program**~~

We commend and endorse S. 254 § 302, amending Pub. L. No. 93-415 (42 U.S.C. § 5611) § 207 (1974) (page 136), providing direct grants to Indian tribes, but have the following three concerns. First, we recommend that the bill permit a waiver of the match requirement in appropriate circumstances. We propose incorporating the following language from § 299D(c) of the Juvenile Justice and Delinquency Prevention Act of 1974: "If the Administrator determines that the tribe does not have sufficient funds available to meet the local share of any program or activity to be funded under the grant, the Administrator may increase the federal share of the cost thereof to the extent the Administrator deems necessary." Second, we recommend that technical assistance funding in S. 254 § 302, amending Pub. L. No. 93-415 (42 U.S.C. § 5611) § 207(g) (1974) (page 140), be increased to "up to 5 percent" of the amount reserved under S. 254 § 302, amending Pub. L. No. 93-415 (42 U.S.C. § 5611) § 208(b) (1974) (page 141), (versus the 1 percent provided, page 136). Third, as previously indicated, with respect to tribal programs, we strongly urge you to consider direct funding in all relevant grant

As a technical matter, S. 254 has two overlapping and seemingly duplicating sections related to the provision of technical and financial assistance to an organization composed of member representatives of the State Advisory Groups. S. 254 § 302, amending Pub. L. No. 93-415 (42 U.S.C. § 5611) § 204(b)(9) (1974) (page 110), directs the Administrator to provide technical and financial assistance to an organization composed of member representatives of the State Advisory groups so that it may conduct an annual conference of such member groups; disseminate information, data, standards, advanced techniques, and program models; and advise the Administrator with respect to particular functions or aspects of the work of the office. S. 254 § 302, amending Pub. L. No. 93-415 (42 U.S.C. § 5611) § 204(b)(10) (1974) (page 111), directs the Administrator to do the same. We recommend clarifying the intended differences between the two provisions or, if no differences were intended, eliminating the second section to avoid duplication.

Gang-free Schools and Communities

S. 254 § 302, amending Pub. L. No. 93-415 (42 U.S.C. § 5611 ~~et seq.~~) §§ 251-54 (1974) (pages 189-203), proposes to continue the Gang-free Schools and Communities/Community-based Gang Intervention Program; H.R. 1501 does not. We recommend that the Senate gang-free program be retained in the conference bill with the following modifications. First, the program should place a greater emphasis on multidisciplinary programs that focus on prevention, intervention, and suppression; on services to families of gang-involved youth; and on educating parents of youth at high risk of gang involvement. Second, there should be an increase in the upper age limit under these provisions to age 25, because gang recruitment and membership of youth does not stop at age 22. Data indicate that most gang violence generally occurs with youth ages 15-24. We find that youth ages 19-24 are particularly influential in the gang and need to be dealt with through intervention and/or suppression before we can effectively intervene with the younger youth.

~~Developing, Testing, and Demonstrating New Programs/Grants for Training and Technical Assistance~~

We commend the inclusion of programs to provide for the development, testing, and demonstration of new programs; and for the provision of technical assistance. S. 254 § 302, amending Pub. L. No. 93-415 (42 U.S.C. § 5611) §§ 261-64 (1974) (pages 203-05); H.R. 1501 § 1313, amending Pub. L. No. 93-415 (42 U.S.C. § 5611) §§ 261-64 (1974) (pages 186-88). The provisions are identical in both bills, except that the House authorizes “such sums as may be necessary” for the program, and the Senate bill authorizes \$20 million, to be shared with the bill’s two gang programs (Gang-free Schools and Communities, and Community-based Gang Intervention). We urge the conferees to ensure that an adequate level of funds is authorized to support these important functions. (Currently, the OJJDP Gang Program is appropriated at \$12 million, which under this scheme would leave only \$8 million to fund demonstration, training,

~~and technical assistance programs. This amount is insufficient to support the office's national program demonstration and support activities, and we suspect it would result in deep cuts to ongoing programs, including ones to prevent child abuse and neglect.~~

Mentoring Program

S. 254 § 302, amending Pub. L. No. 93-415 (42 U.S.C. § 5611) §§ 271-80 (1974) (pages 205-15), establishes four grant programs to support the use of mentors for at-risk youth: (1) Local Educational Grants for local education agencies and nonprofit organizations (S. 254 § 302, amending Pub. L. No. 93-415 (18 U.S.C. § 5611) § 273(a) (1974) (page 206); (2) Family-to-Family Mentoring Grants that match volunteer families with at-risk families, allowing parents to directly work with parents and children to work directly with children S. 254 § 302, amending Pub. L. No. 93-415 (18 U.S.C. § 5611) § 273(b) (1974) (page 207)); (3) Family Mentoring Program grants that match college age or young adult mentors directly with at-risk youth and use retirement-age couples to work with the parents and siblings of at-risk youth (S. 254 § 302, amending Pub. L. No. 93-415 (18 U.S.C. § 5611) § 279 (1974) (page 212-114)); and (4) Capacity Building funding to a national organization for the purpose of expanding and replicating capacity building programs to reduce the incidence of juvenile crime and delinquency among at-risk youth (S. 254 § 302, amending Pub. L. No. 93-415 (18 U.S.C. § 5611) § 280 (1974) (pages 214-15)). A total of \$20 million dollars is authorized each year to carry out these programs (S. 254 § 302, amending Pub. L. No. 93-415 (18 U.S.C. § 5611) § 291 (1974) (pages 215-17)). The House bill does not establish any dedicated mentoring programs. Rather, mentoring activities are incorporated into the authorized purpose areas of the Formula Grants and Prevention Block Grant Programs. We laud the Senate's inclusion of a dedicated mentoring program and recommend that it be included in the conference bill.

Religiously Affiliated Organizations

Both the House and Senate bills include provisions specifying that religiously affiliated organizations should be allowed to participate, generally on the same basis as other private organizations, in programs in which nongovernmental organizations use government funds to provide certain services or benefits to individual beneficiaries of the law. Section 302 of the Senate bill would significantly amend Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 ("JJDPA"), 42 U.S.C. § 5611, et seq., to create several different programs in which federal grants are provided, through states and localities, to private organizations to perform various social services. A new § 292(a) of the JJDPA would provide that "[t]he provisions of section 104 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193 (42 U.S.C. § 604a) § 104 (1996), shall apply to a State or local government exercising its authority to distribute grants to applicants under this title." S. 254 § 302, amending Pub. L. No. 93-415 (42 U.S.C. § 5611 et seq.) § 292 (1974) (beginning page 217). Section 114 of the House bill similarly would add a new § 299J to the JJDPA, which also would

expressly incorporate subsections (b) through (k) of §104 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA"), 42 U.S.C. § 604a(b)-(k), for grant programs under Title II of the JJDPA. Incorporation of these provisions of § 104 of the PRWORA would permit religious organizations to receive funds for the purpose of assisting needy families.

Incorporation of PRWORA § 104 into Title II of the JJDPA apparently would reflect "Congress' considered judgment that religious organizations can help solve the problems" to which the proposed statute is addressed. Bowen v. Kendrick, 487 U.S. 589, 606-07 (1988). The Administration believes that religious institutions can play an important and constructive role in providing social services. But of course this provision of public funds must be consistent with the requirements of the establishment clause. As the Supreme Court observed in Kendrick institutions with religious affiliations generally may participate equally in a neutral government financial aid program that benefits both religious and nonreligious entities, as long as government funds are not provided directly to "pervasively sectarian institutions." See id. at 608-11. We believe that § 302 of S. 254 and § 114 of H.R. 1501 can and should be applied in a manner consistent with this requirement.

RUNAWAY AND HOMELESS YOUTH

The Administration strongly supports provisions in both bills to reauthorize the Runaway and homeless Youth Act. For over 25 years, the emergency shelter, street outreach, transitional living and related services provided by this Act have ensured the safety of tens of thousands of vulnerable young people and have helped to guide them on a path toward productive, self-sufficient adulthood. We urge the conferees to reauthorize these programs for 5 years, as included in S. 254.

We are concerned that sufficient resources and adequate time be provided should conferees include the new study requirements included in H.R. 1501.

SUBTITLE B: ACCOUNTABILITY FOR JUVENILE OFFENDERS AND PUBLIC PROTECTION INCENTIVE GRANTS

BLOCK GRANT PROGRAM

Both S. 254 and H.R. 1501 authorize a version of the Juvenile Accountability Incentive Block Grants (JAIBG) program, a program that has been appropriated, but not authorized, for the last two years.

Each bill amends the current program slightly differently, both renaming it the Juvenile Accountability Block Grants (JABG) program. Overall, the Department strongly supports the

SUBTITLE D: PARENTING AS PREVENTION

We support this subtitle, which authorizes the Department of Health and Human Services, in conjunction with the Departments of Justice, Education, Housing and Urban Development, and Defense, to establish a parenting support and education program. The program would have three major components: a National Parenting Support and Education Commission; a state and local parenting support and education program; and a grant program addressing the problem of violence-related stress to parents and children.

~~TITLE IV – VOLUNTARY MEDIA AGREEMENTS FOR CHILDREN’S PROTECTION~~

~~ANTITRUST EXEMPTION FOR AGREEMENTS TO DEVELOP AND ENGAGE IN PROCEDURES TO ENSURE COMPLIANCE BY RETAILERS WITH LIMITATIONS ON DISSEMINATION OF PARTICULAR MATERIALS TO CHILDREN~~

Subtitle A of Title IV of S.254, entitled the “Children’s Protection Act of 1999,” would codify two exemptions to the federal antitrust laws. We believe that the second of these exemptions — which would be created by S. 254 § 405(a) — would raise difficult constitutional questions and would be vulnerable to constitutional challenge.

Section 404 of S. 254 would recognize an exemption to the federal antitrust laws, providing that those laws shall not apply to “any joint discussion, consideration, review, action, or agreement by or among persons in the entertainment industry for the purpose of developing and disseminating voluntary guidelines” that are designed, *inter alia*, to “promote telecast material that is educational, informational, or otherwise beneficial to the development of children.” See section 404(a)(2).

Section 405(a)(1) of S. 254 would establish another antitrust exemption, which would affect the conduct not just of the persons in the entertainment industry, but also of persons outside that industry who are in the business of renting, selling and exhibiting speech products. It would exempt from the antitrust laws:

any discussion, consideration, review, action, or agreement between and among persons in the motion picture, recording, or video game industry for the purpose of and limited to the development or enforcement of voluntary guidelines, procedures, and mechanisms designed to ensure compliance by [specified] persons and entities . . . with ratings and labeling systems to identify and limit dissemination of sexual, violent, or other indecent material to children.

Section 405(a)(2), in turn, would identify the “persons and entities” whose “compliance” with the labeling and ratings systems could be the subject of the “guidelines, procedures, and mechanisms” that would be permitted under the exempted industry-wide agreements – namely,

semiautomatic assault weapons and large capacity ammunition clips, although it provides penalties for violations involving possession and use of such items.

Sections 601 and 851 of the Senate bill also provide exceptions for the transfer to and possession by juveniles of semiautomatic assault weapons and large capacity ammunition clips. These include exceptions for semiautomatic assault weapons possessed and used by a juvenile in the military; in the course of employment, farming, ranching, or hunting activities; or for target practice. Other than allowing juveniles between the ages of 18 and 21 who are in the military to possess such weapons, we do not believe that there is any reason or justification for providing exceptions to the transfer or possession of semiautomatic assault weapons and large capacity ammunition clips. And with respect to juveniles in the military, there is no need for an exemption in this provision specifically authorizing the possession of semiautomatic assault weapons by individuals in the military. Pursuant to 18 U.S.C. § 925(a), the prohibitions of the Gun Control Act generally do not apply to the possession of firearms for official use by governmental entities. Accordingly, the possession of semiautomatic assault weapons by juveniles for official use in the military or a law enforcement agency would already be exempt from the prohibitions of 18 U.S.C. § 922(x). Therefore, we oppose the inclusion in this section of any exceptions for the transfer or possession of semiautomatic assault weapons or large capacity ammunition clips and urge that they be stricken.

We also note that neither the Senate bill nor the House bill contains the important provision in the Administration Bill to raise the age of eligibility to possess a handgun or a semiautomatic assault weapon from 18 to 21, and increase the penalties for possession or transfer of such firearms by or to persons under the age of 21. This omission is significant, because youth gun access is an especially serious problem. Studies have shown that when guns replace fists or knives to settle a dispute or commit a robbery, the chance of a fatality is many times greater. In fact, youth homicide victimization rates doubled from the mid-1980s to the early 1990s, increasing at a higher rate than any other violent crimes for which statistics are available. This rise in youth homicide is due entirely to guns. Between 1990 and 1996, there were an average of over 3,200 gun homicides among young people ages 19 and under.

We feel strongly that, in light of these facts, the Youth Handgun Safety Act should be strengthened to prohibit handgun possession by youths under 21 years of age, while retaining the appropriate exceptions for the possession of a handgun by someone under the age of 21 in specific circumstances. We look forward to working with the conferees to reconcile the differences between the Senate and House versions and to strengthen this important proposal by ~~improving on the drafting of the provisions and expanding their coverage.~~

INCREASED PENALTIES FOR JUVENILE VIOLATORS

The Senate bill contains two inconsistent penalty provisions for juveniles who violate the Youth Handgun Safety Act: Sections 601 and 851 (pages 361 & 389). The House bill contains a

provision to change the penalties for juveniles who violate the Youth Handgun Safety Act in Section 401 (page 83).

Section 601(a) of S. 254 retains the current base offense maximum of one year, and retains probation as a mandatory sentence for certain juvenile offenders. It adds a maximum 20-year sentence for juvenile offenders whose 922(x) offenses are also violations of the Gun Free Schools Zones Act if the juvenile had the intent to carry, possess, discharge or use the weapon in the commission of a violent felony. ↙

Section 851(a) of S. 254 eliminates mandatory probation as the sentence for first-time juvenile offenders, and raises the base offense maximum sentence to 5 years. It raises the maximum sentence to 20 years if the 922(x)(2) offense is also a violation of the Gun Free Schools Zones Act and the juvenile had the intent to carry, possess, discharge or use the firearm in the commission of a violent felony. Section 851's unnecessary addition of a definition of juvenile at 922(x)(1) causes the transfer and possession offenses to become (x)(2) and (x)(3), respectively, and accordingly, as drafted, § 851 references the wrong substantive provisions in its amendment to the penalty provisions. In addition, one of the provisions in S. 254 § 851 omits reference to large capacity ammunition clips. ↙

H.R. 1501 § 401 (page 83), removes the mandatory probation provision for juvenile possession while retaining the one-year maximum sentence for the base offense. Section 401 of the House bill contains proposals to increase the maximum penalties for unlawful possession of firearms by juveniles with no prior record, with the intent to possess on school grounds (or knowing that another juvenile intends to possess on school grounds), or with the intent to use the firearm in the commission of a serious violent felony. ↙

We support the elimination of mandatory probation for juvenile violators of the Youth Handgun Safety Act. In addition, the Administration supports legislation that is not included either in the Senate or House bill to impose a maximum five-year sentence if the offense is a second or subsequent violation or if it is a first violation and the juvenile has a prior conviction or adjudication of delinquency for a serious violent felony, as defined in 18 U.S.C. § 3559(c).

Although the Administration generally supports legislation to increase the maximum sentence if the possession offense also involved the intent to violate the Gun Free School Zones Act, 18 U.S.C. § 922(q), or the intent to commit a serious violent felony, we do not support these provisions in the Senate or House provisions as drafted. Enforcement problems may exist with the Senate's proposal regarding Gun Free School Zones Act violations, and the House provisions are confusing and ambiguous. We look forward to working with the conferees to reconcile the two bills and produce legislation that increases the maximum sentence for firearms possession offenses that implicate the Gun Free School Zones Act, and eliminates the ambiguities and flaws in the Senate and House proposals. ↙

Third, an uncodified provision of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 provides that evidence of compliance or noncompliance with the safety lock provisions is not admissible in any proceeding. This provision would be inconsistent with the amendment's express proposal to allow the introduction of evidence concerning noncompliance in an administrative license revocation or suspension proceeding. For the sake of clarity, we recommend that the uncodified provision be repealed. We would be happy to provide the conferees with language to accomplish this technical correction.

Fourth, the Senate bill contains exceptions from the safety lock requirement for curio or relic firearms. There are millions of handguns that have been classified as "curios or relics." Indeed, every handgun over 50 years old, including all World War II era handguns, are classified as curios or relics. These handguns are every bit as lethal as handguns that are not curios or relics, and should be subject to the same safety lock requirement as other weapons. The Administration bill, unlike the Senate bill, would amend section 18 U.S.C. § 923(e) by eliminating this exception.

Finally, the Administration would urge the Congress to reconsider the penalty provisions in the Senate bill, which are substantially weaker than the penalty provisions in the Administration bill. For violations of the safety lock requirement, the Senate bill provides for suspension of the dealer's license for up to six months and a fine of not more than \$2500. In contrast, the Administration bill authorizes the Secretary to suspend a dealer's license indefinitely and impose a fine of not more than \$10,000. The Administration urges the Congress to increase the penalties for licensee violations to those enumerated in the Administration bill.

Although H.R. 1501 as passed does not include a comparable provision requiring gun storage and safety devices, the House considered an amendment – which was adopted as part of the overall gun bill, H.R. 2122, that was defeated – that would include this requirement. However, in response to concerns raised by a particular manufacturer of a safety device, the proposed amendment contained an overly broad definition of "gun safety device" which would have essentially obviated the requirement. In the amendment, a gun safety device is any part of the handgun that, if removed, renders the gun inoperable. Since all guns have parts that, if removed, render the gun inoperable, the amendment would have rendered meaningless the requirement. To the extent that the conferees consider the House version of the provision, the problem can be easily fixed, and we can work with the conferees to craft appropriate statutory language.

TITLE XI – SCHOOL SAFETY AND VIOLENCE PREVENTION

SCHOOL VIOLENCE RESEARCH

→ Section 1105 of S. 254 (page 413) establishes the National Center for Rural Law Enforcement as a clearinghouse for school violence research. While we agree that the activities specified in the bill are needed, we object to the provision because it does not provide for a competitive selection process. Furthermore, the new National Institute for Juvenile Crime Control and Delinquency Prevention (within NIJ) is – in this bill – already designated as a central point for all juvenile violence-related research. Pursuant to a competitive grant award process, the Justice Department (through OJJDP) is now funding the Northwestern Regional Educational Laboratory, which provides research-based training and technical assistance on school safety issues through its National Safe Schools Resource Center. Pursuant to Congressional direction, OJJDP is also funding the Hamilton Fish National Institute on School and Community Violence, a consortium of eight universities, which focuses on school and community violence research. Further, both the current and proposed Juvenile Justice Office and the Education Department manage information clearinghouses. The Center for Rural Law Enforcement has no particular expertise in school violence, especially urban or suburban violence; and the Center should not be rewarded for trying to receive direct funding from Congress without going through the regular process of competitively applying for a grant. See comments on S. 254 §§ 1674-76 and 1683-85 on this latter point. The House bill does not contain a similar provision, and we support eliminating it in the final bill.

NATIONAL COMMISSION ON CHARACTER DEVELOPMENT

S. 254 § 1107 (pages 417-21) would establish a National Commission on Character Development, which would study and make recommendations with respect to the impact of current cultural influences on the process of developing and instilling “the key aspects of character.” The Commission would consist of 36 members. Section 1107(b)(2)(D) would require that six of those Commission members be “members of the clergy.” This requirement is unconstitutional. Although clergy may, of course, be appointed to government commissions, the religion clauses of the First Amendment prohibit the government from conditioning employment, appointment, or benefit on satisfaction of any test of religious belief, conduct, or status, and the Religious Test Clause, Art. VI, cl. 3, provides that “no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.” See Board of Educ. of Kiryas Joel School Dist. v. Grumet, 512 U.S. 687, 715 (1994) (O’Connor, J., concurring in part and concurring in the judgment); McDaniel v. Paty, 435 U.S. 618 (1978); Torcaso v. Watkins, 367 U.S. 488 (1961).

The constitutional problem could be avoided if subsection 1107(b)(2)(D) were amended to replace “members of the clergy” with a phrase such as “persons experienced in positions of moral leadership (including, for example, members of the clergy)”.

DRUG TESTS

S. 254 §§ 1110 and 1611, amending Pub. L. No. 89-10 (20 U.S.C. § 7116(b)) § 4116(b) (1965) (pages 425, 494), are substantially similar. Each would amend 20 U.S.C. § 7116(b) to

authorize drug testing of students in certain circumstances, while § 1611 would also amend § 7116(b) to allow locker inspections. There is no provision in § 1611 that would nullify the provisions of § 1110, and therefore it is unclear which section is intended to take precedence. We look forward to working with the conferees to develop material for the establishment and operation of any such programs.

TITLE XII – TEACHER LIABILITY PROTECTION ACT

S. 254 §§ 1201-1207 (pages 426-35) and H.R. 1501 §§ 1501-1507 (pages 244-53) would create the “Teacher Liability Protection Act of 1999” (“TLPA”), which would place various limits on the liability of a teacher for harm caused by the teacher’s acts on behalf of a school. For example, section 1204(a) of S.254 (§ 1504(a) of H.R.1501) would provide that no teacher shall be liable if the teacher was acting within the scope of employment; if the teacher’s actions were consistent with local, state, or federal rules governing school discipline; if the teacher was properly licensed; if the harm was not caused by willful or criminal conduct, gross negligence, recklessness, or a conscious, flagrant indifference to the rights or safety of the person harmed; and if the harm was not caused by the teacher’s operation of a car or other motor vehicle. section 1203(a) of S.254 (section 1503(a) of H.R.1501) would expressly preempt state law that is inconsistent with this liability limitation. Section 1203(b) of S.254 (section 1503(b) of H.R.1501) would, however, provide that the preemption rule shall not apply to any civil action in state court in which all parties are citizens of the state if that state, after enactment of the TLPA, enacts a statute which, among other things, declares the election of the state that the TLPA shall not apply to such a civil action in the state, and contains no other provisions.

The TLPA does not specify its constitutional source of authority, and no such authority is obvious. In particular, the TLPA would not appear to be a proper exercise of Congress’s power to regulate interstate commerce. The Act does not appear to regulate an economic activity (or to regulate “commerce,” as such); it includes no jurisdictional limitation (or “element”) limiting its effect to particular cases having a connection to interstate commerce; it contains no findings regarding the effect that teacher liability has on interstate commerce; and it expressly indicates (S.254 § 1202(b); H.R.1501 § 1502(b)) that the TLPA’s regulation of teacher liability is for the purpose of improving the learning environment. In United States v. Lopez, 514 U.S. 549 (1995), the Supreme Court held that the Gun-Free School Zone Act of 1990, a federal statute prohibiting the possession of a firearm near a school, exceeded Congress’s authority under the Commerce Clause. In so doing, the Court rejected the government’s argument (and Justice Breyer’s argument in dissent) that a meaningful interference in the educational process necessarily provides the requisite effect on interstate commerce to justify the exercise of congressional power. Id. at 564-68.

We thus have serious reservations about whether Congress has the power to enact the TLPA. Congress could accomplish the objectives of the TLPA, however, by reformulating the Act as an exercise of its Spending Clause authority. Congress could, for instance, make state enactment of the provisions in the TLPA a condition of a state’s receipt of certain education-

related federal funds. See New York v. United States, 505 U.S. 144, 167, 171-73 (1992); South Dakota v. Dole, 483 U.S. 203 (1987).

TITLE XIII – VIOLENCE PREVENTION TRAINING FOR EARLY CHILDHOOD EDUCATORS

Title XIII of S. 254 (sections 1301-1308, p. 435-442), the "Violence Prevention Training for Early Childhood Educators Act," establishes a grant program to help institutions that train educators of young children to recognize and appropriately respond to violence in children's lives. Knowing the significant links between children's exposure to violence and the increased likelihood of future delinquency, we support the goals of this program, but we recommend instead that Congress enact the "Character Education Research, Dissemination, and Evaluation" provisions of the President's proposal to reauthorize the Elementary and Secondary Education Act.

TITLE XIV – PREVENTING JUVENILE DELINQUENCY THROUGH CHARACTER EDUCATION

This title creates a \$25 million grant program, to be administered by the Department of Education, to support community-based programs that develop character education, defined as "an organized educational program that works to reinforce core elements of character, including caring, civic virtue and citizenship, justice and fairness, respect, responsibility, and trustworthiness." The Department fully concurs in the value of character education, but believes the Congress should enact the character education program proposed by the President as part of the pending reauthorization of the Elementary and Secondary Education Act of 1965.

TITLE XV – VIOLENT OFFENDER DNA IDENTIFICATION ACT OF 1999

Title XV of S. 254 contains provisions to strengthen and extend the DNA identification system. The major elements of the proposal include: (1) authorizing assistance to the states to clear their backlogs of unanalyzed convicted offender DNA samples; (2) providing necessary assignments of responsibility and grants of authority to collect DNA samples from federal, military, and D.C. offenders convicted of specified crimes; and (3) authorization of appropriations to federal agencies for related costs. The House bill contains no corresponding provisions.

The Administration strongly supports the objectives of this title, which largely overlaps with proposals that the Administration has previously transmitted to Congress. However, we recommend some amendments to Title XV of S. 254 as discussed below.

The development of DNA identification technology is one of the most significant advances in criminal identification methods since the advent of fingerprinting. Recognizing the

~~Section 1605 of the Senate bill, which allowed licensed dealers to sell guns at out-of-state gun shows, was rendered null and void, and superseded in its entirety, by § 1635 of Title XVI of the Senate bill. See discussion of § 1635; *infra*. We strongly support § 1635, including the repeal of § 1605, because, among other things, we strongly oppose any effort to weaken over thirty years of federal law designed to allow states to control the flow of firearms across its borders, by prohibiting licensees from going to out of state gun shows to sell guns.~~

ATTORNEYS FEES EXEMPTION FOR SUITS ESTABLISHING UNCONSTITUTIONAL RELIGIOUS
EXPRESSION AT SCHOOL MEMORIAL SERVICES

We note that the Department is reviewing S. 254 § 1606 for constitutional concerns and we will provide further comments, if necessary, at a later time.

~~CONTENT OF MATERIALS PRODUCED WITH FEDERAL FUNDS~~

~~Section 1609(a) of the Senate bill would require "[a]ll materials produced, procured, or distributed, in whole or in part, as a result of Federal funding authorized under this Act," to contain a provision telling readers where they might raise any objections concerning the religious content of the material. Specifically, it requires the creation of a special office within the Department to field any such complaints, and requires that office to issue periodic reports to Congress on the nature and quantity of any such complaints received. The Department vehemently opposes this provision.~~

First, in light of all the provisions in the bill separately labeled as "Act[s]," it is unclear whether this provision is intended to apply to the entire text of S. 254, or only to some subset of its provisions. Second, in either case, it would impose an unnecessary, expensive burden on all state agencies and their subawardees who would need to monitor compliance. For its part, the Department already clearly identifies its publications, and lists departmental addresses (or clearinghouse contacts) where the public may address questions to the Department or raise concerns on any topic. The controlled correspondence system already in place is equipped to and, indeed, does answer any written concerns raised to the Department about Department publications. We believe this additional requirement will merely add expense and undue burden, particularly on the states.

AIMEE'S LAW

S. 254 § 1610 would require the Attorney General to penalize a state the amount equal to the costs of incarceration, prosecution, and apprehension of a person released from that state's custody, and transfer those funds to the state where the individual committed a subsequent offense.

While well-intended, this provision (and the comparable provision in H.R. 1501, Title I § 103) would be difficult, if not impossible, to enforce, and could violate individuals' due process

U.S.C. § 922(b)(1) and 18 U.S.C. § 922(b)(3) proscribe sales of firearms to persons known to be juveniles or to reside out of state, respectively. Each carries a five-year maximum sentence for a willful violation under 18 U.S.C. § 924(a)(1)(D). 18 U.S.C. § 922(a)(6) and 18 U.S.C. § 922(d) proscribe, respectively, making false statements to a licensee in relation to the acquisition of a firearm and knowingly selling a firearm to a felon or other prohibited person. Each is punishable by up to ten years imprisonment.

This section also would give the Secretary the right to conduct warrantless inspections of the business premises of gun show promoters, sites where gun shows are held, and the records and inventory of licensees selling firearms at gun shows for purposes of determining compliance with the law.

Gun Owner Privacy and Prevention of Fraud and Abuse of System Information

This provision writes into the Brady Law the requirement that records of gun sales approved by the National Instant Check System be destroyed within 90 days. The Brady Law currently requires that the records of approved sales be destroyed, but it does not specify any time period for the destruction. We do not oppose placing a 90-day time restriction on the retention of records into the Brady Law, because a retention period of 90 days will give the FBI an opportunity to perform security audits of the NICS to identify and prevent abuse and misuse of the NICS. In addition, we support a further modification to this provision – included in the amendment Congresswoman McCarthy offered to H.R. 2122 – that makes explicit the prohibition on using information retained in the audit to create a federal firearms registry.

The Administration strongly supports passage of the provisions of S. 254 § 1635, which will close the dangerous loophole that allows criminals and other prohibited persons to buy guns at gun shows.

APPROPRIATE INTERVENTION AND SERVICES; CLARIFICATION OF FEDERAL LAW

We generally support the purposes of S. 254 § 1636(a), which would require schools to provide appropriate interventions and services to children removed from school for engaging in an act of violence. Unfortunately, we are concerned that, as drafted, this provision may be unconstitutional. It provides, *inter alia*, that "[s]chool personnel shall ensure that immediate appropriate interventions and services, including mental health interventions and services, are provided to a child removed from school for any act of violence." Presumably, many of the "school personnel" to whom this command would be addressed would be state and local public employees. Congress generally may not "commandeer" state and local officials and employees to enforce or implement federal programs. See *Printz v. United States*, 521 U.S. 898 (1997). The directive in § 1636(a), therefore, would appear to be unconstitutional. It also is not apparent what Congress's source of authority would be for enactment of this provision. The constitutional problems could be eliminated by amending the provision to make the directive a condition on states' receipt of certain education-related federal funds. See *New York v. United States*, 505

U.S. 144, 167, 171-73 (1992); South Dakota v. Dole, 483 U.S. 203 (1987). We would be happy to work with the conferees to try to develop a more workable alternative.

PROHIBITION ON DISTRIBUTION OF EXPLOSIVES INFORMATION

Section 1639 of S.254 and section 501 of H.R.1501 would create a new criminal prohibition, to be codified at 18 U.S.C. § 842(p), that would make it unlawful under certain circumstances to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction. The Department supports this prohibition, the terms of which are consistent with recommendations that the Department made in a Report submitted to Congress in April 1997. See United States Department of Justice, Report on the Availability of Bombmaking Information, the Extent to Which Its Dissemination is Controlled by Federal Law, and the Extent to Which Such Dissemination May Be Subject to Regulation Consistent with the First Amendment to the United States Constitution (April 1997) ("DOJ Report") (<http://www.usdoj.gov/criminal/cybercrime/bombmakinginfo.html>).

We note that this provision recently was passed in S. 606 and is awaiting action by the President. Should these provisions become law, S. 254 §1639 and H.R. 1501 § 501 would no longer be necessary.

SUBTITLE B: JAMES GUEFF BODY ARMOR ACT

PROHIBITION OF PURCHASE, USE, OR POSSESSION OF BODY ARMOR BY VIOLENT FELONS

Section 1645(b) of S. 254, amending 18 U.S.C. § 931 (pages 571-73), would, with certain exceptions, make it unlawful "for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is [a crime of violence]." Unlike similar provisions that prohibit felons from receiving or possessing any explosive or firearm that "has been shipped or transported in interstate or foreign commerce," see 18 U.S.C. § 842(i) (explosives) and 18 U.S.C. § 922(g) (firearms), S. 254 § 1645(b), amending 18 U.S.C. § 931 (pages 571-73), contains no jurisdictional "commerce" element. Section 1642(3) of S.254 contains a congressional finding that "there is a traffic in body armor moving in or otherwise affecting interstate commerce," but the findings do not address the effects that body armor ownership or possession by convicted felons has upon interstate commerce. See United States v. Lopez, 514 U.S. 549, 562 (1995) (explaining that neither the Gun Free School Zones Act nor its legislative history contained express congressional findings "regarding the effects upon interstate commerce of gun possession in a school zone") (quotation marks and citation omitted). We recommend that the provision be redrafted to incorporate a jurisdictional element like those found in 18 U.S.C. § 842(i) and 18 U.S.C. § 922(g), which should ensure that the statute is confined to a class of conduct within Congress's power to regulate interstate commerce. See Lopez, 514 U.S. at 561-62; Scarborough v. United States, 431 U.S. 563, 575 (1977); see also, e.g., United States

We have three relatively small concerns. The requirement at S. 254 § 1654(b), amending Pub. L. No. 90-35 (42 U.S.C. § 3796ff et seq.) §1906(c)(2)(A)(i) (1968) (page 596), that the jail-based program must have been operational for "not less than 2 consecutive years" eliminates the possibility that jails will develop and implement much-needed new programs. It also seems to increase the likelihood of supplanting by jurisdictions. Second, the restriction on the use of RSAT funds for grant administration (S. 254 § 1654(b), amending Pub. L. No. 90-35 (42 U.S.C. § 3796ff et seq.) §§1906(f)(1)-(2) (1968) (pages 602-03), may be problematic for some jurisdictions.

Finally, the requirement that the Attorney General collect annual evaluation reports from all grantee jails and conduct annual reviews of these programs concerns us. These requirements could be exceedingly onerous and burdensome, although we recognize that the provision allows the Attorney General to set the guidelines for the reporting requirements. We would appreciate working with the conferees further on this issue.

SUBTITLE E: SCHOOL SAFETY SECURITY

ESTABLISHMENT OF SCHOOL SAFETY SECURITY TECHNOLOGY CENTER

S. 254 § 1656 would establish a school safety security technology center at Sandia National Laboratories, authorizing the center to "be a resource to local educational agencies for school security assessments, security technology development, technology availability and implementation, and technical assistance relating to improving school security." In addition, the provision instructs the center to "conduct and publish research on school violence, coalesce data from victim groups, and monitor and report on schools that implement school security strategies." We are concerned about the latter functions, particularly the research on school violence and the data from the victims groups. These activities should be conducted by agencies more appropriately equipped and experienced in the behavioral sciences required to perform these functions. Indeed, a considerable amount of school violence research has already been conducted by the Departments of Education and Justice (both in the National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention) and by other organizations. Coalescence of data from victim groups may best be conducted by the Office of Justice Programs' Office for Victims of Crime or the Bureau of Justice Statistics. While Sandia National Laboratories clearly has appropriate and well-recognized expertise in many broad areas of security technology, and more limited but also adequate experience in school security technology, we are concerned that it may not possess the requisite expertise in behavioral sciences relevant to the school environment. In addition, the proposed function for the Center to "monitor and report on schools that implement school security technologies" is not consistent with the role of a technology development organization. It would be more appropriate to have another, independent organization perform this function, perhaps as part of its broader work with the schools.

~~SUBTITLE H: NATIONAL YOUTH CRIME PREVENTION~~

NATIONAL YOUTH CRIME PREVENTION DEMONSTRATION PROJECT

Please see the above discussion on S. 254, Title XVI, Subtitle G (§§ 1674-76). That discussion was originally crafted to respond to these sections (§§ 1683-85) when this legislation was introduced in the 105th Congress as H.R. 3607 and again in the 106th as H.R. 102. We have concerns about the directed nature of this grant program in an authorization bill. Generally, such directed funding is usually left to the appropriations process to allow for flexibility in the event of changed circumstances or other problems.

SUBTITLE I: NATIONAL YOUTH VIOLENCE COMMISSION

NATIONAL YOUTH VIOLENCE COMMISSION

Section 1692 of the Senate bill would establish the National Youth Violence Commission, to be composed of 16 members. Sections 1692(b)(2)(C)(ii) and 1692(b)(2)(D)(iv) would require that two of those members be "recognized religious leader[s]." This requirement is unconstitutional. Although clergy may, of course, be appointed to government commissions, the religion clauses of the First Amendment prohibit the government from conditioning employment, appointment, or benefit on satisfaction of any test of religious belief, conduct, or status, and the Religious Test Clause, Art. VI, cl. 3, provides that "no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States." See Board of Educ. of Kiryas Joel School Dist. v. Grumet, 512 U.S. 687, 715 (1994) (O'Connor, J., concurring in part and concurring in the judgment); McDaniel v. Paty, 435 U.S. 618 (1978); Torcaso v. Watkins, 367 U.S. 488 (1961).

The constitutional problem could be avoided if sections 1692(b)(2)(C)(ii) and 1692(b)(2)(D)(iv) were amended to replace "recognized religious leader" with something like "a person experienced in a position of moral leadership (including, for example, a recognized religious leader)".

AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

The Administration's position on S. 254 § 1699 and H.R. 1501 § 118 is presented in a letter from the Department of Education.

Since Lopez, two courts of appeals have upheld the Youth Handgun Safety Act, 18 U.S.C. § 922(x), which prohibits the transfer of a handgun by or to a juvenile and the possession of a handgun by a juvenile, as legislation regulating commerce in handguns with juveniles. See United States v. Michael R., 90 F.3d 340, 343-45 (9th Cir. 1996); United States v. Cardoza, 129 F.3d 6, 11-13 (1st Cir. 1997). Under these decisions, proposed § 922(z) should be sustained as applied to transfers of handguns, because the provision would simply make such transfers a more serious offense if the transferor knew the juvenile intended to possess the handgun in a school zone or to use it in a serious violent felony, and it is well established that the power to criminalize an activity includes the power to treat a subset of that activity as a more serious offense. See, e.g., United States v. Tucker, 90 F.3d 1135, 1140 (6th Cir. 1996). For similar reasons, section 107 also should be sustained as applied to any other type of firearm insofar as Congress has prohibited the sales of such firearms to juveniles.

In the case of firearms whose markets are not otherwise restricted, the foregoing argument would not be available. Even in this context, however, the nexus to commerce is clearer than it was in Lopez, because § 922(z) would regulate the transfer, rather than the mere possession, of such firearms. Accordingly, the government could argue (as it could not in Lopez itself) that § 922(z) would directly regulate commerce (i.e., the transfer of goods). Nonetheless, existing caselaw does not foreclose the possibility that a court would invalidate the statute, at least as applied to noncommercial transfers of firearms whose markets are not otherwise restricted. This possibility could be averted if section 107 were redrafted to include a jurisdictional element like the one now found in § 922(q)(2)(A). See Lopez, 514 U.S. at 561-62 (jurisdictional element sufficient to bring statute within Congress's Commerce power); Scarborough v. United States, 431 U.S. 563, 575 (1977); see also, e.g., United States v. Cunningham, 161 F.3d 1343, 1345-46 (11th Cir. 1998), and cases cited therein; United States v. Pierson, 139 F.3d 501, 503-04 (5th Cir.), cert. denied, 119 S. Ct. 220 (1998); United States v. Lewis, 100 F.3d 49, 50-53 (7th Cir. 1996), and cases cited therein.

LIMITATION ON PRISONER RELEASE ORDERS

We note that the Department is reviewing H.R. 1501 § 110(a) for constitutional concerns and we will provide further comments, if necessary, at a later time.

TERMINATION OF CONSENT DECREES

We note that the Department is reviewing H.R. 1501 § 110(c) for constitutional concerns ~~and we will provide further comments, if necessary, at a later time.~~

CONSTITUTIONALITY OF MEMORIAL SERVICES

We note that the Department is reviewing H.R. 1501 § 112 for constitutional concerns and we will provide further comments, if necessary, at a later time.

enforcement authorities all of the information known to the individual regarding all that individual's sources of illegal controlled substances."

We have serious concerns about this amendment. The provision is likely to flood the federal courts with thousands of civil cases each year, without the prospect of much relief to victims or of additional deterrence of drug violations. The most likely defendant in a civil action under this provision will be a person who has been convicted of a Title 21 felony violation. Such defendants will in most instances have had their property forfeited, and will have been subject to criminal fines, in addition to tough prison sentences. In addition, federal law provides for community restitution penalties against convicted federal drug offenders. 18 U.S.C. 3663(c). The effect of all these sanctions is that it is unlikely that there will be any remaining available assets possessed by drug defendants, many of whom will be low level distributors. Moreover, when the defendant has not yet been convicted, persons bringing the civil actions authorized by this provision will often need to conduct private investigations, which may well interfere with the conduct of criminal investigations.

The requirement that the person bringing the action also "personally" divulge all information to narcotics enforcement authorities about his sources of illegal drugs as a prerequisite to suit is also problematic. Leaving aside questions relating to defining "narcotics enforcement authorities," it is unclear to us who will determine, and how, whether the individual has divulged "all" his information. If it later appears that the plaintiff knew something at the time of the action that he did not disclose, it seems possible that the drug defendant could cause the civil judgment to be overturned. Also, the requirement that the person harmed "personally" reveal this information may mean that, where death resulted to the user — the most serious consequence imaginable — no civil action could be maintained on his behalf by his estate or next of kin, even if they disclose information about the victim's illegal sources of drugs that the victim imparted to them before his death.

In sum, despite the appeal of this amendment, it will not in our judgment operate as much of a deterrent against illegal drug activity nor as an effective means of recompense for individuals harmed by their use of illegal drugs, while at the same time burdening the federal courts. In addition, the provision's requirement for disclosure of information as a precondition to bringing an action appears practically unenforceable.

TITLE XI – LIMITATION ON RECOVERY OF ATTORNEYS FEES IN CERTAIN CASES

DENIAL OF ATTORNEYS' FEES FOR SUCCESSFUL ESTABLISHMENT CLAUSE SUITS INVOLVING STUDENTS' RELIGIOUS EXPRESSION

We note that the Department is reviewing H.R. 1501 § 1101 for constitutional concerns and we will provide further comments, if necessary, at a later time.

TITLE XII RIGHTS TO RELIGIOUS LIBERTY

TEN COMMANDMENTS DISPLAYS, RELIGIOUS EXPRESSION, AND DIRECTING COURTS CONSTITUTIONAL INTERPRETATION

Section 1202(a) of H.R.1501 provides:

The power to display the Ten Commandments on or within property owned or administered by the several states or political subdivisions thereof is hereby declared to be among the powers reserved to the States respectively.

Section 1202(b), in turn, provides:

The expression of religious faith by individual persons on or within property owned or administered by the several States or political subdivisions thereof is hereby—

(1) declared to be among the rights secured against laws respecting an establishment of religion or prohibiting the free exercise of religion made or enforced by the United States Government or by any department or executive or judicial officer thereof; and

(2) declared to be among the liberties of which no State shall deprive any person without due process of law made in pursuance of powers reserved to the States respectively.

These “declar[ations]” would not, in and of themselves, have any operative legal effect. Nevertheless, we note that the “declar[ations]” are not, as a categorical matter, a correct description of constitutional law under governing First Amendment precedents.

For example, in certain contexts, a display of the Ten Commandments in a government building might be constitutional, such as where it is part of a broader tableau depicting historical lawgivers, see Allegheny County v. American Civil Liberties Union, Greater Pittsburgh Chapter, 492 U.S. 573, 652-53 & n.13 (1989) (Stevens, J., concurring in part and dissenting in part); see also Edwards v. Aguillard, 482 U.S. 578, 593-94 (1987), or in a context in which it is apparent that the display reflects merely the private expression or sentiments of a government employee in her personal capacity. In many other contexts, however, such displays will violate the Establishment Clause. See, e.g., Stone v. Graham, 449 U.S. 39 (1980) (per curiam).² Similarly,

² The provision in question would state that the power to display the Ten Commandments on or within state property is “among the powers reserved to the States respectively,” a finding that would, in turn, be based on the “find[ing]” that “[t]he Tenth Amendment reserves to the States respectively the powers not delegated to the United States Government nor prohibited to the States.” Section 1201(5) (emphasis added). As explained in the text,

as explained in detail in the Administration's guidelines entitled "Religious Expression in Public Schools" (revised May 1998) and "Guidelines on Religious Exercise and Religious Expression in the Federal Workplace" (Aug. 1997), there are many contexts in which the expression of religious faith by individual persons on or within government property is permissible, or even protected by statutory or constitutional law. See also, e.g., Board of Educ. of Westside Community Schools v. Mergens, 496 U.S. 226 (1990); Widmar v. Vincent, 454 U.S. 263 (1981); Chandler v. James, 1999 WL 493495 (11th Cir. July 13, 1999). But there also are contexts in which such expression (or the government's endorsement of, or preference for, such expression) would violate the Establishment Clause — in particular, where such expression is, or would reasonably be perceived as being, the state's own religious speech, or as having been endorsed or preferred by the state. See, e.g., Lee v. Weisman, 505 U.S. 577 (1992); Allegheny County, supra; Engel v. Vitale, 370 U.S. 421 (1962); Chandler, 1999 WL 493495, at *3-*4, *8, *9; Doe v. Santa Fe Indep. School Dist., 168 F.3d 806 (5th Cir. 1999); Ingebreetsen v. Jackson Public School Dist., 88 F.3d 274 (5th Cir.), cert. denied sub nom. Moore v. Ingebreetsen, 519 U.S. 965 (1996); ACLU of New Jersey v. Black Horse Pike Regional Board of Educ., 84 F.3d 1471 (3d Cir. 1996). The Establishment Clause analysis will depend in large part on the facts and circumstances of each case, including, e.g., the persons responsible for the religious expression, the government's endorsement of, or preference for, the expression, the extent to which the expression can be said to occur in a "public forum," the extent to which the expression is conveyed in a situation where the government has created a "captive audience," and whether governmental action results in any sectarian discrimination.

Subsection 1202(c) of H.R.1501 would violate the constitutional separation of powers. That subsection would provide that "[t]he courts constituted, ordained, and established by the Congress shall exercise the judicial power in a manner consistent with the foregoing declarations [regarding the Ten Commandments and religious expression]." As explained above, the "foregoing declarations [regarding the Ten Commandments and religious expression]" are in certain respects inconsistent with governing Supreme Court doctrines. However, regardless of the particular content of the "foregoing declarations," and regardless of whether and to what extent those declarations are consistent with governing judicial precedent at any particular point in time, Congress may not direct the federal courts to interpret the Constitution in a particular way. See, e.g., City of Boerne v. Flores, 521 U.S. 507, 519 (1997) (Congress lacks the "power to decree the substance of the Fourteenth Amendment's restrictions on the States" and "the power to determine what constitutes a constitutional violation"); id. at 536 ("When the Court has interpreted the Constitution, it has acted within the province of the Judicial Branch, which embraces the duty to say what the law is.") (citing Marbury v. Madison, 1 Cranch 137, 177 (1803)); Monongahela Navigation Co. v. United States, 148 U.S. 312, 327 (1893) (Congress may

however, the Establishment Clause does, in certain contexts, "prohibit[]" the states from effecting such displays.

not "assume[] the right to determine what shall be the measure of compensation" for a taking of property, because the "ascertainment" of that "constitutional" requirement "is a judicial inquiry"); Crowell v. Benson, 285 U.S. 22, 60 (1932) ("in cases brought to enforce constitutional rights, the judicial power of the United States necessarily extends to the independent determination of all questions, both of fact and law, necessary to the performance of that supreme function"); cf. United States v. Klein, 80 U.S. (13 Wall.) 128, 145-48 (1872); Yakus v. United States, 321 U.S. 414, 468 (1944) (Rutledge, J., dissenting) ("It is one thing for Congress to withhold jurisdiction. It is entirely another to confer it and direct that it be exercised in a manner inconsistent with constitutional requirements This Congress cannot do. . . . [W]henver the judicial power is called into play, it is responsible directly to the fundamental law and no other authority can intervene to force or authorize the judicial body to disregard it.").

~~TITLE XIII - JUVENILE CRIME CONTROL AND DELINQUENCY PREVENTION~~

~~SUBTITLE A AMENDMENTS TO JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974~~

DEFINITIONS

H.R. 1501 § 1304(2), amending 42 U.S.C. § 5603 (page 142), a proposed amendment to Sec. 103(4) of the JJDP Act instructs to insert language before "the Omnibus." This term does not appear in the referenced section.

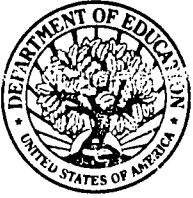
CONTENT OF MATERIAL PRODUCED WITH FEDERAL FUNDS

Section 1321 of H.R. 1501 directs that any hate crime prevention materials be "respectful of the diversity" of religious beliefs and "make it clear that for most people religious faith is not associated with prejudice and intolerance." We strongly oppose this provision as unnecessary and counterproductive.

~~SUBTITLE E STUDIES AND EVALUATION~~

GENERAL ACCOUNTING REPORT

Section 1364 of the House bill authorizes a GAO study of certain services available in local communities. Because of the federal trust responsibility to tribes, it would be particularly appropriate to study circumstances in Indian country. We recommend amending subsection (2) to require that at least two or three of the fifteen communities studied be located in Indian country as that term is defined by 18 U.S.C. § 1151.



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

August 24, 1999

NOTE TO: Mike Cohen, OS
Terry Dozier, OS
Heather Moore, OS
Ann O'Leary, ODS
Linda Roberts, ODS
Tom Corwin, OESE
Bill Modzeleski, OESE
Deborah Rudy, OESE
Delores Warner, OESE
Greg March, OSERS
Lonna Jones, OUS/BS
Larry Cohen, OUS/BS
Carol Cichowski, OUS/BS

Matt Onstott, OUS/BS
Sue Betka, OERI
Tom Kelley, OLCA
Heidi Bonner, OLCA
Sandra Cook, OLCA
Jean Veta
Phil Rosenfelt
Steve Freid
Mari Colvin
Susan Craig
Suzanne Sheridan
Jack Kristy
Jennifer Orzechowski

FROM: Paul Riddle

A handwritten signature in cursive script, appearing to read "Paul R", is written over the name "Paul Riddle".

RE: Department of Justice letter to conferees on juvenile crime bill: missing page

Attached, for your information, is one more page from the detailed statement of DOJ's views on the juvenile crime legislation that accompanied its recent letter to the conferees. This page was omitted from the materials I sent you last week, for which I apologize.

Attachment

cc: Leslie Somerville

TITLE XIV– CHILDREN’S INTERNET PROTECTION

REQUIRING SCHOOLS AND LIBRARIES TO IMPLEMENT AN INTERNET FILTERING TECHNOLOGY IN ORDER TO BE ELIGIBLE TO RECEIVE UNIVERSAL SERVICE ASSISTANCE

The Department of Education is submitting to you its objections to this provision. We note that the Department of Justice is reviewing H.R. 1501 § 1402(a) for constitutional concerns and we will provide further comments, if necessary, at a later time.

TITLE XV – TEACHER LIABILITY PROTECTION

Please see the discussion of Title XII of S. 254.

August 5, 1999

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

Dear Senator Hatch:

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

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

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

Issue: JJDPa 'Separation' protection.

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

Recommendation:

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

Issue: JJDPa 'Removal' protection.

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

Recommendation:

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

Issue: Dangerous conditions for incarcerated children.

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

Recommendation:

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

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

Recommendation:

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

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

Recommendation:

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

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

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

Recommendation:

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

3) Significantly invest in juvenile crime prevention.

Issue: Prevention funding set-aside and programs.

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

Recommendation:

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

4) Take serious steps to reduce gun violence.

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

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

Recommendation:

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

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

Issue: Graduated sanctions

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

Recommendation:

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

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

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

Recommendation:

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

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

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

Recommendation:

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

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

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

Recommendation:

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

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

Sincerely,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Priority Prevention Provisions

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

July 8, 1999

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

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

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

S. 254

S.254 Amendments

The Violent and Repeat Juvenile Offender and Accountability Act of 1999

(Shaded cells indicate amendments that passed)

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

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

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

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

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

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

March 8, 1999

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

Dear Senator Lott:

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

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

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

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

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

The Honorable Trent Lott
March 8, 1999
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S. 254 undermines efforts to deal with the issue of disproportionate confinement of minority youth. In virtually every state, minority youth are over-represented at every stage of the juvenile justice system, particularly in secure confinement. Current law directs states generally to "address" this issue, without requiring release of juveniles or incarceration quotas or any other specific change of policy or practice. S. 254, however, deletes all reference to "minority" or "race" and instead refers to "segments of the juvenile population." This minimizes an important issue, is offensive to many, and hinders efforts to remedy the disparate treatment of minority youth.

S. 254 fails to recognize the importance of juvenile justice research, training, and technical assistance. The bill transfers these functions currently supported by the Office of Juvenile Justice and Delinquency Prevention to the National Institute of Justice, an agency primarily responsible for research on adult crime. Juvenile justice research (e.g., on effective delinquency prevention programs), training of juvenile justice personnel, public officials and their staffs, and technical assistance to communities have proved invaluable to public officials, policymakers, and concerned citizens. There is a significant danger that these important activities will inevitably have a lower priority at NIJ, resulting in far fewer resources for communities to use in their juvenile crime control and prevention efforts.

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

S. 254 proposes drastic changes in the way that children are prosecuted in the federal system, changes which are opposed by prominent federal officials including Chief Justice Rehnquist and former Attorney General Edwin Meese III. Among some of the changes we oppose are: the presumption that children will be prosecuted in the federal system contrary to current law which assumes prosecution in the state system; prosecuting and sentencing children as young as 14 as adults; giving prosecutors unfettered discretion to prosecute children as adults without judicial review; subjecting children both in the juvenile and adult system to mandatory sentencing; and removing confidentiality protections in juvenile court by opening juvenile court proceedings to the public and making juvenile records available.

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

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

Sincerely,

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

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

Update:

Juvenile Justice Legislation, S. 254

May 3, 1999

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

Inadequate Attention to Prevention

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

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

Weakening of the Core Protections of the JJDP A

Disproportionate Minority Confinement

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

Removal of Juveniles from Adult Prisons

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



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

Separation of Juveniles from Adult Inmates

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

Other Concerns with S. 254

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

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

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

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

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

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





General Board of Church and Society of The United Methodist Church

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

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

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

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

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

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

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

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

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

United Methodist Policy:

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

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

AMERICAN ACADEMY OF CHILD & ADOLESCENT PSYCHIATRY

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March 29, 1999

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

Dear Senator Hatch:

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

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

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

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Washington, DC 20016-3007
202.966.7300 Fax 202.966.2891
Email executive@aacap.org
<http://www.aacap.org>

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

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

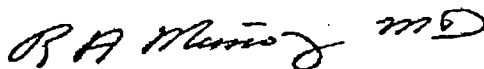
We urge you to refer S. 254 to the Judiciary Committee, and to amend the bill to address the issues of young offenders, especially those with mental illnesses. If you have questions or comments, please contact Mary Crosby at AACAP's National Office (202-966-7300 ext. 127) or Hilary Wilson at APA's Central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

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

Sincerely,



David B. Pruitt, M.D.
President
AACAP



Rodrigo A. Muñoz, M.D.
President
APA

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

Enclosures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

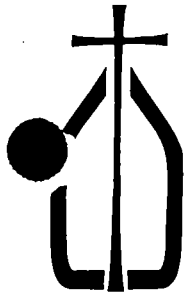
ABA Policy: This change in language de-emphasizes the race of children involved in the juvenile justice system. The extremely disproportionate representation of children of color in the juvenile justice system requires that race remain a specific focus of federal legislation.

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

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

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

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



Catholic
Charities
USA

April 22, 1999

Dear Senator:

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

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

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

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

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

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

Sincerely,

Fred Kammer, SJ
President

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Joseph M. Sullivan, DD

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May 5, 1999

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

Dear Senator Torricelli:

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

Actual prevention funding is not guaranteed:

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

The DMC core requirement is gutted:

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

Sight and Sound Separation requirement is weakened:

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

Gun violence is not addressed:

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

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

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

Court Records could be made broadly available to the public:

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

Protections in court proceedings are weakened:

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

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

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

Thank you for your consideration.

Sincerely,

David S. Liederman
Executive Director



**NATIONAL
ASSOCIATION OF
SCHOOL
PSYCHOLOGISTS**

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May 7, 1999

Dear Senator:

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

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

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

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

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

Sincerely,

Libby Kuffner, MSW
Director of Public Policy

H. R. 1501

HR 1501 Votes

Consequences for Juvenile Offenders Act of 1999

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

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

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

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

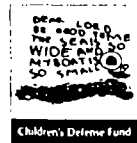
Date	Vote #	Vote	Sponsor	Amdt #	Description
					recommendations regarding how to combat the sickness of violence and to rebuild our national spirit.
6/17/99	224	Rejected 161-266: R 114-105; D 47-160	Wamp (R-TN)	46	Creates a consistent and comprehensive system for labeling violent content in audio and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

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

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

FINAL PASSAGE

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



House Juvenile Crime Amendments

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

CDF SUPPORTS:

Conyers Amendment (#137)

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

Davis Amendment (#164)

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

Goodling Amendment (#154)

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

Payne Amendment (#106)

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

Quinn Amendment (#155)

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

Roukema (#105)

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

Slaughter (#39)

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

Scott Amendment (#38)

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

Tauscher Amendment (#58)

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

Waters Amendment (#128)

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

CDF OPPOSES:

McCollum Amendment (# 162)

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

Schaffer Amendment (#21)

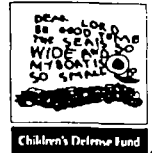
The Schaffer amendment removes core protections for children by allowing the Juvenile Justice and Delinquency Prevention Act to sunset. The core requirements of the JJDP Act must be retained if we are to have a humane juvenile justice system that focuses on the protection and rehabilitation of children.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

Kucinich Amendment (#40)

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

Barr Amendment (#139)

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



House Juvenile Crime Amendments

CDF SUPPORTS:

Roukema/McCarthy/Blagojevich Amendment

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

Blagojevich Amendment

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

Scott Amendment

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

Waters Amendment

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

Goodling Amendment

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

CDF OPPOSES:

Hyde/McCollum Amendment

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

Schaeffer Amendment

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

Kucinich Amendment

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



McCollum Juvenile Injustice

Amendment: A Danger To Children

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

Trying more children as adults

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

Placing children at risk of assault and abuse in adult jail

The McCollum amendment allows children to come into contact with adults in adult jails in the federal system. Children as young as 13 years old would be allowed to be in the same jail cells with adults. Allowing contact between juveniles and adults in adult jails would place children at risk of assault and abuse, as children are eight times more likely to commit suicide, five times more likely to be sexually assaulted, and twice as likely to be assaulted by staff in adult jails than in juvenile facilities.

Imposing new mandatory minimums sentences for children

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

Opening juvenile records

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

YOUTH LAW CENTER

Protecting America's most vulnerable children

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

H.R. 2037 - HONORABLE COLLUSION: JUVENILE CRIME BILL A POISON PILL PLAYING POLITICS WITH AMERICA'S CHILDREN

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

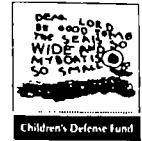
Prosecuting More Children as Adults : H.R. 2037 allows federal prosecutors unreviewable discretion to try children as young as 13 as adults, and broadens the scope of federal crimes for which juveniles can be tried as adults. This provision would mean that more children would be placed in adult jails,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

Placing Children At Risk of Assault and Abuse in Adult Jails: H.R. 2037 allows children to come into contact with adults in adult jails in the federal system. Children as young as 13 years old would be allowed to be in the same jail cell with adults. Allowing contact between juveniles and adults in adult jails places children at enormous risk of assault and abuse, with children eight times more likely to commit suicide, five times more likely to be sexually assaulted, and twice as likely to be assaulted by staff in adult jails than in juvenile facilities.

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

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

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



SUPPORT THE WATERS AMENDMENT TO STOP MANDATORY MINIMUMS FOR CHILDREN

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

These new "mandatory minimums":

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

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

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

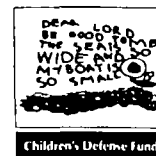
These "mandatory minimum" provisions were never part of the juvenile justice debate in the past two congressional sessions and are purely a "poison pill" to passing common sense juvenile justice measure which keep children safe and out of trouble.

FOR IMMEDIATE RELEASE

Contact: Grace Reef, 202-662-3558

Charles Fulwood 202-662-3613

JUNE 16, 1999



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

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

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

"With as much progress as we made on keeping children separate from adults in the Senate passed bill, it is simply incredible that the House would choose to now turn the clock back 25 years to a time when children routinely were housed with adults in adult jails," said Children's Defense Fund President Marian Wright Edelman. "Study after study has shown the dangers children face in adult jails. Children are eight times more likely to commit suicide, five times more likely to be sexually assaulted, and twice as likely to be assaulted by staff in adult jails than in juvenile facilities."

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

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

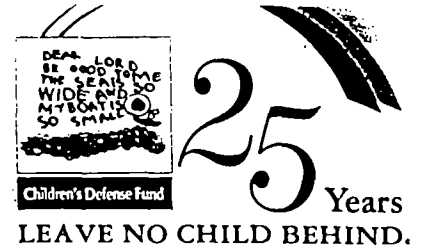
"This legislation is about politics, not policy. Prevention programs work and are cost effective. But, there is little in this bill in the way of prevention. Given the recent tragedies in Colorado, Georgia, Arkansas, and other states, it is unfortunate that the House decided not to focus on prevention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

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

June 14, 1999

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

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



Dear Representatives Dreier and Moakley:

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

Roukema/McCarthy/Blagojevich Amendment

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

Blagojevich Amendment

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

Scott Amendment

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

Waters Amendment

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

The Honorable David Dreier and Joseph Moakley
June 14, 1999
Page Two

Goodling Amendment

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

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

Hyde/McCollum Amendment

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

Schaffer Amendment

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

Kucinich Amendment

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Marian Wright Edelman". The signature is fluid and cursive, with a long horizontal line extending to the right.

Marian Wright Edelman

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

June 9, 1999

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

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

Dear Chairman Hyde and Representative Conyers:

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

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

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

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

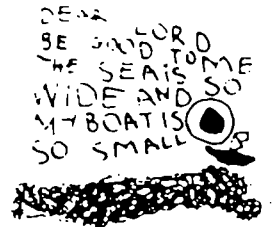
Sincerely,

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

June 8, 1999

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

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



Children's Defense Fund

Dear Representatives Goodling and Clay:

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

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

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

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

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

Sincerely yours,



Marian Wright Edelman

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E-mail
cdfinfo@childrensdefense.org
Internet
www.childrensdefense.org



Child Welfare League of America, Inc.

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

June 8, 1999

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<http://www.cwla.org>

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

Dear Mr. Chairman:

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

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

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

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

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

Sincerely,

Karabelle Pizzigati
Director of Public Policy

June 8, 1999

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

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



Dear Representatives Hyde and Conyers:

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

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

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

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

Sincerely yours,

Handwritten signature of Marian Wright Edelman.

Marian Wright Edelman

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June 16, 1999

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

Dear Representative:

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

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

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

Thank you for your consideration of this important issue.

Sincerely,

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



Child Welfare League of America, Inc.

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Charles A. Haas
Mai Bell Hurley
San M. Hyatt
Jen Jenkins-Jaeger
M. Karet
D. Key
C. Korz

James R. Mason
James P. McComb
Suzanne S. Megathlin
Elba Montalvo
Michael B. Moskow
Timothy F. Noelker
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<http://www.cwla.org>

June 15, 1999

Dear Representative:

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

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

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

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

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

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

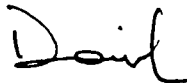
Support efforts to reduce disproportionate confinement of minority youth. H.R. 1150 contains a fair and reasonable provision on disproportionate minority confinement (DMC). This measure should be supported and whatever legislation emerges must include provisions to address DMC.

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

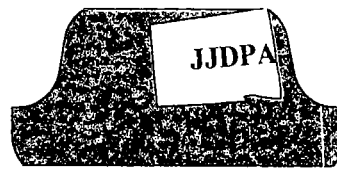
Reject broadly written attacks on First Amendment rights. The proposed measure that would criminalize the distribution of "sexual or violent materials" to minors is so broadly written that its prohibitions could affect museums, libraries, schools and even news photographs or broadcasts.

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

Sincerely,



David Liederman
Executive Director



The Juvenile Justice and Delinquency Prevention Act (JJDP)

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

✓ Deinstitutionalization of Status Offenders (DSO)

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

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

✓ Separation

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

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

✓ Removal

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

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

✓ Disproportionate Minority Confinement (DMC)

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

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

ISSUES IN FEDERAL JUVENILE JUSTICE LEGISLATION:

THE DISPROPORTIONATE MINORITY CONFINEMENT (DMC) MANDATE:

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

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

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

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

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

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

What is the DMC Mandate?

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

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

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

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

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

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

3. *Id.*

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

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

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

7. *Id.*

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

Fact Sheet:

Disproportionate Minority Confinement

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

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

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

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

How much racial disparity exists in the juvenile justice system?

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

What have states done under the current JJDP requirement?

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

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

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

The Juvenile Justice and Delinquency Prevention Act (JJDPDA)

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

✓ Deinstitutionalization of Status Offenders (DSO)

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

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

✓ Separation

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

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

✓ Removal

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

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

✓ Disproportionate Minority Confinement (DMC)

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

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

ISSUES IN FEDERAL JUVENILE JUSTICE LEGISLATION:

THE DISPROPORTIONATE MINORITY CONFINEMENT (DMC) MANDATE:

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

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

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

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

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

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

What is the DMC Mandate?

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

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

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

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

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

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

3. *Id.*

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

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

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

7. *Id.*

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

Fact Sheet: Disproportionate Minority Confinement

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

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

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

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

How much racial disparity exists in the juvenile justice system?

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

What have states done under the current JJDP requirement?

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

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

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

**Children in
Adult Jails**