



BUILDING SAFE COMMUNITIES
ONE CHILD AT A TIME

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July 23, 2007

The Honorable George Miller
Chairman, Education and Labor Committee
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Miller:

Thank you for the opportunity to testify at the July 12th, 2007, joint hearing of the Subcommittee on Healthy Families and Communities and the Subcommittee on Crime, Terrorism, and Homeland Security, titled "The Juvenile Justice and Delinquency Prevention Act: Overview and Perspectives." I truly appreciate the committees' consideration of and attention to the issues related to the reauthorization of this important statute.

Today, I am writing in response to questions posed to me, following the hearing by Representative Raul Grijalva (D-AZ) a member of the Healthy Families Subcommittee:

1. Please talk more about the transfer of youth to the adult court and placement of youth in adult jails. What are the implications for the reauthorization of the JJDP A?

Currently, all U.S. states, territories and the District of Columbia have laws that allow for the transfer/waiver of juveniles under the age of majority into adult criminal court. However, a recent study from the Centers for Disease Control, submitted with the written hearing testimony of Dr. Jennifer Woolard, Georgetown University, found that transfer of minors to adult court for prosecution and sentencing has, at best, no effect on public safety and, at worst, causes the transferred juveniles to become more likely to recidivate and to re-offend in more violent ways. The CDC report amplifies the findings and recommendations of two comprehensive reports on the topic, also included in the hearing record: Coalition for Juvenile Justice, 2005, "*Childhood on Trial: The Failure of Trying & Sentencing Youth in Adult Criminal Court*" and Campaign for Youth Justice, 2007, "*The Consequences Aren't Minor: The Impact of Trying Youth as Adults and Strategies for Reform.*"

In its reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP A), Congress can ensure responses that are more appropriate to a young person's age and stage of development. Several leadership organizations, the Coalition for Juvenile Justice and the Campaign for Youth Justice, among more than 150 other national and state-based organizations, recommend that the reauthorization seek to phase in an expansion of the core protections of the JJDP A to apply to all youth until



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the age of 18, whether tried and sentenced in juvenile or adult criminal court. Specifically, by consensus, this group of organizations recommends the following changes in the statute with which I concur:

- Amend Sec. 223(a)(13(A) to require states and local jurisdictions to –
 - remove all youth charged as adults and detained in adult jails pending trial, allowing for a four-year phase-in period for needed change to state statutes, and
 - implement the American Bar Association (ABA) standards for youth convicted as adults in adult jails and prisons, as contained in the ABA's publication, *Youth in the Criminal Justice System: Guidelines for Policymakers and Practitioners*, again allowing for a four-year phase-in.
- Amend Sec. 252 (b) to require the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to provide intensive Technical Assistance (TA) to states and counties to comply with the above provisions.
- Add a new (f) to Sec. 222 to provide incentive funding and technical assistance resources for model demonstration programs regarding effective and timely removal of youth from adult incarceration settings.
- Amend Sec. 204(b)(7) to require OJJDP to –
 - work with states and counties to collect ongoing data on youth in the adult criminal justice system, including age, race, ethnicity, gender, offense, pre-trial detention, transfer mechanism, sentencing outcome, placement pre and post trial in jails, prisons or juvenile facilities, and
 - conduct research on the outcomes of filing juveniles as adults in criminal courts, i.e. does it increase or decrease public safety and violence?; how does it impact facility conditions?; does it effect the state of developmentally appropriate services and programs for youth in adult jails and prisons?
- Amend Sec. 103(25) to clarify that the core requirements of the JJDPa expressly prohibit any contact of youth with adults in adult jails and prisons.
- Amend Sec. 103(26) to ensure that the core protections for children in the JJDPa apply to youth over age 18 in “extended



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juvenile jurisdiction” (EJJ) states so that these youth are not considered “adults” and states are not forced to remove them from juvenile jurisdiction.

2. When considering your recommendation to trim back the laundry list of core purposes in JJDP, what basic tenets should we keep in mind to guide us?

My recommendation is to use as guidance the basic tenets embodied by the “Act-4-Juvenile Justice Statement of Principles” submitted into the record with the testimony from witness Captain Derrick Johnson, Phoenix, Arizona, and signed by the same body of more than 150 national and state organizations mentioned above.

It is critical to squarely focus allowable uses of State Formula Funds (Title II Funds) on support for compliance with the JJDP core requirements [See Sec. 102 and Sec. 223 (a) (7) (B)]. There may be efforts to engulf the JJDP with priorities such as character education or law enforcement initiatives which are more appropriately managed in other statutes and under other authorities.

More specifically, I would recommend amending Sec. 223 (a)(7)(B) to strongly promote:

- Alternatives to detention and incarceration;
- Home and community based mental/behavioral health care for children;
- Discharge planning and access to aftercare services; and
- Access to effective quality counsel for children.

Additional important statutory changes could be made in the following sections:

Amend Sec. 223 (6)(B)(iii) and Sec. 223 (9)(C), (J) and (S) to ensure that mental health and substance abuse screening, assessment and referrals include culturally and linguistically appropriate services, and involvement of families in service design and delivery.

Elevate and amplify the work under current Sec. 223 (a) (22), known as the core requirement on “Disproportionate Minority Contact,” by strengthening it to require that OJJDP and its agents assist states and localities to achieve actual reductions in racial/ethnic disparities and differential treatment of youth of color in the justice system from the point of surveillance and arrest to the point of re-entry.

It is also important to prohibit the use of JJDP funds for ineffective programs, such as boot camps, scared straight programs, unlicensed



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private facilities, and large residential institutions. Such prohibitions can be appropriately added to Sec. 299 (C) (a) (2) in the reauthorization. Furthermore, it is critical to prioritize and focus the Office of Juvenile Justice & Delinquency Prevention (OJJDP) office's research and technical assistance functions so that they truly support states' efforts to comply with the core protections in the JJDPA. This can be done through adding more directive language regarding the functions of the OJJDP Administrator and staff in Sections 251 and 252 of the JJDPA. It is essential to ensure that OJJDP is responsive to state-identified/locally-identified needs and the State Plan process, including support in Sec. 251 for field-based and field-strengthening research and evaluation to refine and expand the array of best and evidenced-based practices.

Moreover, several states are reporting that their technical assistance requests regarding serious compliance concerns related to the Deinstitutionalization of Status Offenders (DSO) and Sight and Sound Separation of adult and juvenile inmates presently go unanswered by OJJDP. Yet, OJJDP was originally designed and authorized to support the mandates and precepts of the JJDPA. Congress must ensure sufficient oversight and transparency to intervene as needed to require assistance for states who are working to meet the mandates of the JJDPA.

Thank you once again for requesting my views. Please let me know if you have any additional questions or areas where my colleagues and I can be of any further assistance to you. I serve on the board of an excellent resource organization that is centrally involved in the "Act-4-Juvenile Justice" effort, the Coalition for Juvenile Justice. The executive director, Nancy Gannon Hornberger (202-467-0864, ext. 111 and nancy@juvjustice.org) and deputy executive director, Tara Andrews (202-467-0864, ext. 109 and andrews@juvjustice.org) stand by, ready to help, and are networked with many other expert groups and individuals.

Thank you, too, for your stewardship of this important federal statute which so positively affects the lives of youth and families and shapes more promising futures for them, their families and communities.

Sincerely,

Paul H. Lawrence
Judge, Goffstown District Court
Immediate Past Chair, Coalition for Juvenile Justice

cc: The Honorable Raul Grijalva, U.S. House of Representatives