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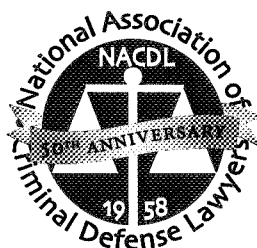
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NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

John Wesley Hall
PRESIDENT

March 24, 2009

The Honorable Patrick J. Leahy
 Chairman
 Committee on the Judiciary
 United States Senate
 Washington, DC 20510

The Honorable Arlen Specter
 Ranking Member
 Committee on the Judiciary
 United States Senate
 Washington, DC 20510

Dear Senators Leahy and Specter:

The National Association of Criminal Defense Lawyers (NACDL) strongly opposes any amendment to the reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP) that would increase the number of youth tried as adults or that would remove a judge's discretion to determine whether to prosecute a youth in adult court at the federal level. Such an amendment would run counter the JJDP's goals, which are based in the latest research and science on reducing crime. Therefore, we respectfully ask you to actively oppose such an amendment and ask your fellow Judiciary Committee Members to do the same.

NACDL has a specific policy on the transfer of youth to the adult criminal justice system. Our policy states that NACDL "opposes the prosecution of children offenders as adults and supports state legislation that prohibits the automatic and/or non-judicial transfer of children offenders to adult criminal court." For your convenience, I have attached a copy of our Board of Directors' resolution opposing the transfer of children to adult court.

Amendment that would increase the number of youth tried as adults or that would allow anyone other than judges to determine whether to prosecute a youth in adult court at the federal level would:

- Harm public safety. Research shows that youth transferred to the adult criminal justice system are more likely to commit crimes in the future when compared to youth who commit similar crimes, but are retained in the juvenile justice system.

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- A 2007 report released by the U.S. Centers for Disease Control and Prevention concluded that youth who have been previously tried as adults are 34% more likely to commit crimes than youth retained in the juvenile justice system.
- A 2008 report by the Office of Juvenile Justice and Delinquency Prevention concluded that transferring youth to the adult criminal system substantially increases recidivism and recommended changing laws to decrease the number of youth transferred to the adult criminal justice system.
- Disproportionately affect youth of color. Available data indicates that youth of color are disproportionately prosecuted in the adult criminal justice system.
 - Due to federal jurisdiction over American Indian lands, American Indian youth would be disproportionately affected by any change in federal transfer law. Although American Indian youth are only 1% of the national population, 70% of youth committed to the federal Bureau of Prisons (BOP) as delinquents are American Indian youth, as are 31% of youth committed to BOP as adults.
 - According to the most recent data available, African-American youth were only 19% of youth arrested by federal agencies, but African-American youth were 61% of the youth convicted as adults in the federal criminal justice system.
- Contradict public opinion. A recent Zogby poll found that 92% of Americans believe that the decision to try a youth in adult court is best made on a case-by-case basis by a neutral decision-maker, such as a judge. In addition, national polling shows that a vast majority of Americans support rehabilitating youth, even youth charged or convicted of serious offenses.
- Is inconsistent with the latest scientific evidence on the adolescent brain. Adolescent brain research shows that children's brains are still developing well into their early 20's and that youth do not have all the capacities of adults. Indeed, the final area of the human brain to mature is the prefrontal cortex, which governs the "executive functions" of reasoning, advanced thought and impulse control.

For the reasons above and for the reasons stated in our policy, NACDL strongly opposes any amendment to JJDPa reauthorization that would increase the number of youth tried as adults or that would allow anyone other than judges to determine whether to prosecute a youth in adult court at the federal level. We urge you to oppose this type of amendment.

Thank you for your consideration.

Sincerely,



John Wesley Hall
 President
 National Association of Criminal Defense Lawyers



NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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RESOLUTION OF THE BOARD OF DIRECTORS OPPOSING THE TRANSFER OF CHILDREN TO ADULT COURT

WHEREAS the majority of states have made it easier to prosecute children as adults over the last ten years;

WHEREAS the number of children prosecuted as adults has increased ten times in the last ten years;

WHEREAS eighty-five percent of determinations to prosecute children as adults are made by prosecutors and law enforcement with little information, rather than impartial judges whose decisions are based on detailed information about both crime and child;

WHEREAS children prosecuted as adults are far less capable than adults to fully assist defense counsel, make informed judgments about trial decisions including pleading guilty, make strong witnesses in their own behalf, or understand rights which they might assert or waive;

WHEREAS children lack the experience and emotional maturity to be held equally accountable as adults for their actions;

WHEREAS children prosecuted as adults are subjected to the same penalties as adults, including sentences in adult prisons, life without parole, and the death penalty;

WHEREAS minority children are disproportionately charged in adult court when compared with white children arrested for comparable crimes, representing eighty-two percent of all children charged in adult court;

WHEREAS sentencing children as adults leads to little or no education, mental health treatment, or other rehabilitation, when children are, by nature, able to be rehabilitated --and thus makes them more likely to be subject to repeat offender provisions at an earlier age if subsequently charged with a crime after release from an initial adult court sentence;

WHEREAS children in adult prisons are almost eight times more likely to commit suicide, five times more likely to be raped, twice as likely to be beaten by prison staff, and fifty percent more likely to be attacked with a weapon than children in juvenile detention centers;

WHEREAS recidivism rates are higher for children transferred to adult court than for children who remain in the juvenile justice system;

THEREFORE BE IT RESOLVED that the National Association of Criminal Defense Lawyers opposes the prosecution of children offenders as adults and supports state legislation that prohibits the automatic and/or non-judicial transfer of children offenders to adult criminal courts.

National Association of Criminal Defense Lawyers (NACDL)

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