



April 3, 2009

Mr. Bruce Cohen, Chief Counsel  
Senate Judiciary Committee  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear Bruce:

As we briefly discussed informally during the last session just before the Senate Judiciary Committee marked up the Juvenile Justice and Delinquency Prevention Act, NACO opposes any amendment that would remove a judge's sole discretion to determine whether to prosecute a youth in adult court. Such an amendment would run counter to the goals of the JJDPA, which are based in the latest research and science on reducing crime. Therefore, we respectfully ask Chairman Leahy to actively oppose such an amendment.

Moreover, the *American County Platform* has a specific policy on the transfer of youth to the adult criminal justice system. Our policy states that we oppose trying and sentencing youth in adult criminal court, except in the case of a chronic and violent offender, and then only at the discretion of a juvenile court judge. The proposed Kyl amendment would take that discretion away from neutral federal judges and instead places the decision with prosecutors. In our view, the federal system should serve as a positive model for state and local governments to emulate.


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.

- 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 percent 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 in the U.S. Department of Justice recently 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.
- Available data also indicates that youth of color are disproportionately prosecuted in the adult criminal justice system.
- A recent Zogby poll found that 92 percent 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.

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- 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 as 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, NACo strongly opposes any amendment to JJDPa reauthorization that would allow anyone other than judges to determine whether to prosecute a youth in adult court. We urge Senator Leahy to oppose this type of amendment.

Sincerely,  
  
Donald Murray  
Senior Legislative Director

CC: Nick Rossi  
Chief Minority Counsel