



BECAUSE THE CONSEQUENCES AREN'T MINOR

**TESTIMONY  
CAMPAIGN FOR YOUTH JUSTICE  
BEFORE THE NEVADA LEGISLATIVE COMMITTEE  
ON CHILD WELFARE AND JUVENILE JUSTICE  
APRIL 14, 2010**

Thank you Madam Chair for providing me the opportunity to testify today on behalf of the Campaign for Youth Justice. My name is Liz Ryan and I am the President and CEO of the Campaign for Youth Justice, a national organization working to reduce the number of youth prosecuted in adult court and to promote more effective approaches in the juvenile justice system as an alternative. The youth who are tried, sentenced or incarcerated in adult jails and prisons are a population that “falls through the cracks.” These young people are not considered part of the juvenile justice system. To date, there unfortunately has been very limited advocacy on behalf of this population. Our organization was founded almost five years ago to address this need.

Today I would like to share with you the latest research findings on youth in the adult criminal justice system, legislative and policy trends from across the states, and provide some preliminary ideas about policy options for you to consider as you explore ways to address the critical needs of children in Nevada.

According to the latest research, here is what we know:

First, thousands of youth are prosecuted, detained and incarcerated in the adult criminal justice system every year. An estimated 200,000 youth are prosecuted in the adult

criminal justice system every year and on any given day, approximately 10,000 youth are held in adult facilities, approximately 7,000 in adult jails and 3,000 in adult prisons.

The consequences of an adult conviction for a youth are serious, negative and life-long. Youth tried as adults face the same punishments as adults. Unfortunately in the majority of states across the country, including here in Nevada, youth can be placed in adult jails pre- and post-trial, sentenced to serve time in adult prisons, or be placed on adult probation with few to no rehabilitative services. Youth also are subject to the same sentencing guidelines as adults and may receive mandatory minimum sentences or life without parole. The only consequence that youth cannot receive is the death penalty. When youth leave jail or prison, are on probation, or have completed their adult sentences, they carry the identical stigma as adults of an adult criminal conviction. They often have difficulty finishing school or gaining access to a college education as they may be denied scholarship funding or admissions to universities.

Contrary to popular perceptions, the overwhelming majority of juveniles who enter adult court, and even those who are ultimately convicted, are not there for the serious, violent crimes. The national data show that as many as half of the youth transferred to adult court will be sent back to the juvenile justice system or not convicted at all. Yet most of these youth will have spent at least one month in an adult jail, and one in five will have spent over six months in an adult jail. An important finding is that many youth incarcerated in adult facilities serve no longer than the maximum time they would have served in a juvenile facility. In fact, nearly 80% of youth were released from adult prison before their 21<sup>st</sup> birthday, and 95% of youth were released before their 25<sup>th</sup> birthday. So while 5% of the young people who are convicted as adults are serving long sentences, 95% of youth convicted in the adult system are serving sentences comparable to those of youth adjudicated

in the juvenile court system. In fact, the average sentence length nationwide is 2 years and 8 months for youth convicted as adults.

An overwhelming body of research shows that prosecuting youth as adults does not work. Over the past three years, we have witnessed a steady stream of research demonstrating unequivocally that trying and sentencing children in adult court does not reduce crime; in fact, it does just the opposite. Trying youth as adults has both a detrimental impact on the youth tried as adults and harms public safety.

### **CDC Task Force Report Recommends Against Transfer Policies**

In 2007, the Centers for Disease Control and Prevention (CDC) Task Force on Community Preventive Services examined every study on transfer policies that was in a published journal or had been conducted by a government agency, and the task force checked to make sure each study compared the same kind of youth charged with comparable offenses, recognizing that youth who are transferred to the adult court may be charged with more serious offenses, or may have more serious backgrounds that make them different from youth in the juvenile system. The CDC review made sure that those factors were taken into consideration when it was doing its analysis.

After assessing all the research, the CDC task force recommended “against laws or policies facilitating the transfer of juveniles from the juvenile to the adult judicial system.”

Among the key findings of the report were the following conclusions:

- Transferring juveniles to the criminal justice system jeopardizes public safety because youth are more likely to commit additional crimes if prosecuted in the adult system.

The task force found that juveniles transferred from the juvenile court system to the

criminal system are approximately 34 percent more likely than youth retained in the juvenile court system to be rearrested for violent or other crime.

- Widening use of transfer policies puts youth directly in danger because juveniles are often victimized in adult facilities, and are at a much higher risk for suicide. The review found that youth are 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility.
- The CDC review found insufficient evidence to support the “deterrence theory” used as a common rationale for expanded transfer policies. The “deterrence theory” suggests that expanded transfer methods act as a general deterrent to prevent youth from committing crimes in the first place. The review found this not to be true, as well as finding no evidence to support a specific deterrence effect on youth who are tried in the adult system.

The task force thus concluded that “to the extent that transfer policies are implemented to reduce violent or other criminal behavior, available evidence indicates that they do more harm than good,” and “the use of transfer laws and strengthened transfer policies is counterproductive to reducing juvenile violence and enhancing public safety.”

### **OJJDP Bulletin Summarizes Latest Research on Transfer**

The following year, the Department of Justice’s Office of Juvenile Justice and Delinquency Prevention released a research bulletin and the findings mirrored those in the CDC report also finding that laws that make it easier to transfer youth to the adult criminal court system have little or no general deterrent effect, meaning they do not prevent youth from engaging in criminal behavior.

Youth transferred to the adult system are more likely to be rearrested and to reoffend than youth who committed similar crimes, but were retained in the juvenile justice system. In addition, the report explored why youth have higher recidivism rates. Higher recidivism rates are due to a number of factors including:

- Stigma and negative labeling effects of being labeled as a convicted felon
- A sense of resentment and injustice about being tried as an adult
- Learning more criminal behaviors from incarceration with adults
- Decreased access to rehabilitation and family support in the adult system
- Decreased employment and community integration opportunities due to a felony conviction.

After reviewing the research, OJJDP also concluded, “To best achieve reductions in recidivism, the overall number of juvenile offenders transferred to the criminal justice system should be minimized. Moreover, those who are transferred should be chronic repeat offenders – rather than first-time offenders – particularly in cases where the first-time offense is a violent offense.”

### **Report by Brookings Institution and Princeton University**

The Brookings Institution and The Woodrow Wilson School of Public and International Affairs at Princeton University, also released a policy brief entitled “Keeping Adolescents Out of Prison.” This brief discussed the history and purpose of the juvenile justice system which is to recognize the differences between youth and adults. These differences have been highlighted in recent years through research that has found major disparities between how youth and adults brains functions. On the topic of trying youth as adults, the report stated that “at a minimum the practice of harsh sentences for adolescents

does not work; it may even be counterproductive.” Indeed the report recommends that “[a]bove all, youth should be kept out of the adult criminal system unless they have committed repeat violent offenses. This course of action is especially recommended because most youth who commit criminal offenses will abandon illegal behavior at roughly the same age as they exit adolescence.”

### **State Legislative Trends**

In light of the research, particularly the data showing that youth prosecuted in adult criminal court are much more likely to re-offend than similarly situated youth in the juvenile justice system, a number of states have begun to re-examine their states policies and several states have changed their policies. States across the country have passed legislation that help youth in the adult system over the past five years and we will be issuing a report in the fall about these trends.

With broad bipartisan support, states have focused on reducing the prosecution of youth in adult criminal court and reducing or ending the placement of youth in adult jails and prisons. A number of states that enacted these policy reforms established commissions and/or utilized existing commissions and legislative committees such as this one as a vehicle to re-examine the state’s policies. Here is a list of the types of policy reforms that states have undertaken or are considering undertaking:

- 1) Changing the age at which youth can be eligible to be considered in adult criminal court, which Nevada did in the last session;
- 2) Changing the types of crimes for which youth can be eligible to be considered in adult criminal court;

- 3) Ending the automatic prosecution of all youth at certain ages in adult criminal court such as at age 16 or 17;
- 4) Narrowing the circumstances under which youth can be placed in adult jails pre-trial;
- 5) Removing youth from adult jails and prisons pre-trial and post-conviction;
- 6) Providing adult criminal court judges additional discretion on whether to send youth back to juvenile court rather than prosecuting youth in adult court;
- 7) Changing the law to disallow youth to be subsequently tried in adult criminal court if they have been tried in adult court once;
- 8) Disallowing adult mandatory minimums from applying to juveniles.

We have documented several of these reform efforts in reports available on our website at: <http://www.campaignforyouthjustice.org/advocacy-resource-center/state-legislative-options.html>. Additionally, once we release our report on state trends in the fall we would be pleased to share it with this committee.

### **Public Opinion Polling**

The public strongly supports investing in rehabilitative approaches to help youth, not prosecution in adult court or placement in adult jails and prisons. All of the public opinion polling in recent years – commissioned by the MacArthur Foundation, the National Council on Crime & Delinquency, and the Campaign for Youth Justice – strongly shows that the public favors investment in rehabilitation and treatment of youth. There is strong consensus in some of the state polls we've commissioned that a judge, who is perceived by the public as a neutral decisionmaker, should decide whether or not a child should be prosecuted in adult court, rather than a prosecutor. The public also strongly opposes placing children in adult jails and prisons.

We are pleased to be a resource to this committee as you consider these issues and potential policy reforms in the state. Thank you for your time and consideration.