

AMERICA'S JUVENILE JUSTICE SYSTEM IS NOT BROKEN

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I read with concern the recent commentary of Shay Bilchik (December 16, 2007) urging reform of the so called "get tough" policies of America's juvenile codes, including curtailing of the ability of states to transfer juveniles to adult court for prosecution. Mr. Bilchik's article was based upon some misleading facts and examples and reaches a misguided conclusion. America's juvenile justice system is not broken or in need of reform.

The changes made to most state's juvenile codes in the 1990's were not overly harsh on juvenile offenders. Rather, these laws strike a proper balance between protecting public safety, holding youth appropriately accountable for their crimes and rehabilitating youthful offenders. Contrary to the implications in Mr. Bilchik's article, the vast majority of youthful offenders in America are prosecuted in juvenile court. Few jurisdictions in our country prosecute more than 1-2 % of juvenile offenders as adults and in some jurisdictions this statistic is even lower. Also, few prosecutors in America would ever seek to charge as an adult a youth who merely sells marijuana, which was the misleading centerpiece example used by Mr. Bilchik.

Some exceptions exist, like the highly praised program in Jacksonville, Florida, where many youth charged with lower level felonies are prosecuted in adult court. These youth, however, receive sentences to a segregated youth-only section of the county jail, where the primary focus of their incarceration is on education and rehabilitation. This "adult court prosecution" may well be the best

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thing that ever happens to these troubled kids. Since this program was implemented, juvenile crime in the Jacksonville area has dropped significantly.

One of the primary fallacies of statistics misused by Mr. Bilchik and others to suggest that too many juveniles are prosecuted as adults in America is that these statistics are based upon using age 18 as the age of criminal majority. This is not the reality in all states in America. In fact, 13 states have a lower age of majority for purposes of criminal prosecution, and yet in computing the statistics as to the number of “juveniles” prosecuted as adults, 16- or 17-year old youth in these states who are adults under the law are treated as if they were juveniles transferred to the adult system. That is why the statistic claiming that 200,000 or more “juveniles” are prosecuted as adults each year in America for minor crimes is meaningless unless the age of majority issue is properly factored into such an analysis.

The simple fact of the matter is that juveniles who commit serious and violent crimes, particularly older youth, should in most instances face adult court sanctions. So, too, must this remedy be available for youth who have committed less serious felonies who have a long history of convictions for crime after crime for which no juvenile court disposition has been effective. I believe that if this question is fairly framed, as it seldom is in discussions of this important topic, most Americans would agree.

The National District Attorneys Association (NDAA) supports a balanced approach to juvenile justice which properly takes into consideration all relevant factors in deciding what criminal charge should be filed against a juvenile offender and whether the case should be disposed of in juvenile or adult court or handled under a “blended sentencing” model in those states incorporating this middle

ground approach of addressing juvenile crime. “Blended sentencing” models, which have been endorsed by the NDAA, currently exist in 15 states in America and represent a combination of both juvenile and adult criminal sanctions for serious, violent or habitual juvenile offenders whose crimes have been determined by either a prosecutor or a judge to not warrant immediate prosecution in adult court.

Articles such as Mr. Bilchik’s reflect an inappropriate attack upon America’s juvenile codes and wrongly cast aspersions upon prosecutors and judges who thoughtfully and professionally enforce those codes with fairness and impartiality every day. Not only are mitigating factors, such as a juvenile offender’s age and maturity and amenability to treatment and probation properly considered in the decision-making process at every stage of the handling of a juvenile crime, including whether juvenile offenders should properly face adult court sanctions for their actions, so too must aggravating factors be considered, such as the severity of the crime, the threat to public safety, the impact upon the victims and the offender’s criminal history. These factors are properly weighed in the decision making process each and every day by prosecutors and judges throughout America and as a result, America’s system of juvenile justice is properly balanced and not in need of reform.