



Office of the Attorney General
Washington, D. C. 20530

file juvenile
justice

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MEMORANDUM FOR: Melanne Verveer
Chief of Staff to First Lady Hillary Rodham Clinton

FROM: Janet Reno
Attorney General of the United States

SUBJECT: Juvenile Justice Legislation

Thank you for speaking with me earlier about the pending juvenile justice legislation. As I said, I believe the White House has an important opportunity here to set the high ground for the enactment of any juvenile justice legislation.

As you know, the Administration's approach to youth violence has been to *balance* tough enforcement measures with smart, effective crime prevention and intervention. Many young offenders are already hardened criminals, and need to be taken off the street. But many, many more young people are merely *at risk* for serious delinquency and crime, and the intervention of a strong, caring adult -- be it a parent, teacher, coach, mentor, or clergy member -- can still turn their lives around. Crime prevention and intervention are a critical part of any effective -- and cost-effective -- crime fighting strategy.

In its current form, S. 10, the "Violent and Repeat Juvenile Offender Act of 1997" under consideration in the Senate, gives short shrift to prevention and intervention in its effort to "get tough" on juvenile offenders. The White House has an important opportunity here to remind Congress that such a one-sided approach to youth violence is unacceptable.

As we discussed, many child advocate groups, including the Children's Defense Fund, are affirmatively trying to block passage of S. 10. By contrast, our approach has been to try to modify or eliminate the most objectionable parts of the bill, and to add as many key provisions from the President's legislation as possible. This strategy has two premises: first, it seems to be common wisdom that in this election year, Congress probably *will* move forward with its only "crime bill;" and second, S. 10 contains several important crime-fighting provisions that we would like to see become law.¹

¹Specifically, S. 10's reforms to the federal juvenile system, including increased prosecutorial discretion and greater protections for victims and witnesses, are very important. Many of the bill's amendments to federal criminal law that will make it easier for prosecutors to combat gangs, guns, and drugs came straight out of the Administration bill. In addition, while I

Given this framework, I believe the White House should make clear that there are three basic provisions that any acceptable juvenile justice bill must have. In recent months, the majority has warmed somewhat to these provisions, but if in the end they were not included, the bill would be quite bad. Therefore, I think the White House should take the opportunity now to ensure they are included in the final bill. The three “must haves” are:

- 1) **Statutory authorization of *at least* \$95 million (or else 20% of new block grant funds) for DOJ-administered prevention and intervention, and a commitment to appropriate those funds.**

Context: Although the bill authorizes \$500M per year for a range of purposes related to juvenile justice, it does not dedicate *one penny* to juvenile crime prevention. By contrast, the bill requires States to spend 60% of their funds on juvenile facilities, sanctions, recordkeeping, and drug testing (but not treatment) -- and yet makes crime prevention spending totally optional. We know from years of experience with block grants that despite its value, crime prevention rarely gets funded when it has to compete with shorter-term law enforcement interests.

Why It's Critical: While it is customary not to oppose a bill for what it lacks, this is a very important exception to that rule. First, a federal juvenile crime bill is largely symbolic. Few juveniles are actually prosecuted federally, and the money the federal government provides is small compared to vast State spending in this area. A juvenile crime bill that over-punishes, while committing nothing to prevention, sends a *wrong, dangerous* message to the States. Second, I do not believe we can afford to rely on after-school funds requested in the President's Childcare Initiative. Not only is that money not yet real (among other things, it largely depends on the success of the tobacco settlement), but it is not expressly focused on crime prevention. School-based after-school programs do not necessarily target the children most at risk for crime. Nor do they include truancy prevention measures or family intervention measures, both of which are vitally important to fighting youth crime.

- 2) **Statutory authorization of at least \$100M for state and local prosecutors and courts.**

Context: Although S. 10 authorizes funds for prosecutor and court support -- including court-based interventions like Operation Night Light in Boston -- it sets the authorization

think we can be pleased with the funding streams for prosecutors and courts achieved in the appropriations process -- and it is possible that such a result could be accomplished for prevention -- it is far preferable to establish a statutorily authorized basis for each of these three funding streams, as they exist now for police and prisons. Finally, I enthusiastically support several other provisions in the bill, such as the set-aside for Indian tribes, felony treatment for failure to pay child support, and authorization to spend prison drug treatment funds (RSAT funds) on non-residential aftercare.

level at only \$50M. This is substantially less than was appropriated for FY 98 for these purposes under the Juvenile Accountability Incentive Block Grant.

Why It's Critical: Recently, the federal government has provided funding streams for the front- and back-ends of the criminal justice systems -- police and prisons -- and both in the magnitudes of hundreds of millions of dollars. Prosecutors and court personnel (including defenders, judges, probation officers, and pre-trial services providers) need comparable resources to keep pace. Moreover, some of the most innovative approaches to crime intervention, like Operation Nightlight, at the heart of Boston's success, are prosecutor- and court-based.

3) **Preservation of the four "fundamental protections" addressing the incarceration of juveniles.**

Context: In a largely hypocritical effort to reduce federal "micromanagement" of state juvenile justice policy -- and I say that because elsewhere, the bill imposes several entirely *new*, dramatic requirements on State systems -- S. 10 would severely cut back on existing protections for juvenile delinquents in state custody. Some of these conditions have been law since 1974, when Congress responded to epidemic levels of abuse and suicide of youth in adult jails. Specifically, S. 10 would:

- ▶ abolish the requirement that juveniles be removed from adult jails and lockups;
- ▶ gut the sight and sound separation requirement that governs those exceptions where juveniles may be placed temporarily in adult facilities;
- ▶ permit detention of status offenders; and
- ▶ undermine the requirement that States address disproportionate minority confinement in their juvenile justice systems.

Why It's Critical: To the extent that certain modifications to these rules were appropriate in order to give States (and rural jurisdictions in particular) greater flexibility, they were included, at the Administration's urging, in H.R. 1818, the House bill that passed overwhelmingly last summer. That moderate approach is the right one, not the wholesale gutting of important protections *to which no State is particularly objecting*.

Moreover, these "core requirements," or "fundamental protections," are essential not only to the safety of youth, but to the safety of communities. There is no better way to ensure that a wayward youth becomes a hardened criminal than to detain him with adult, hardened criminals day and night. Retreat on these protections would be a dark day for children and for crimefighting efforts in this country.

For your convenience, I have attached a list of other Administration priorities for the juvenile justice bill, some of which are included in S. 10 already. I hope the White House will make it very clear, however, that without the three "must haves" at the top of the list, the bill will

not be acceptable.

I appreciate your attention to this matter. If you have any further questions or concerns, please call me. Members of my staff responsible for this issue are Kent Markus (514-3008) and Kinney Zalesne (514-2927), who are also happy to discuss these matters further with you.

Juvenile Justice Legislation

Must Have

- + Statutory authorization of *at least* 20% of JJ block grant funds for prevention/intervention and a commitment to appropriate those funds.
- + Statutory authorization of at least \$100 million for JJ court and prosecutor support
- + Preservation of the four "fundamental protections" dealing with the incarceration of juveniles

Should Have

- + Federal prosecutorial discretion with respect to charging juveniles as adults, with judicial review in most circumstances
- + Preservation of the presumption in favor of state prosecution of juveniles
- + Reforms in federal juvenile proceedings to better protect victims and witnesses
- + Ban on the possession of firearms by those who committed serious/violent offenses as juveniles
- + Appropriate penalties for certain drug and gun offenses frequently involving juveniles
- + New federal law provisions to combat state and local witness protection
- + Minimal (if any) new eligibility requirements for block grant funds
- + Reorganization of juvenile justice grant funding to permit greater flexibility for communities
- + Set-asides for both research and training & technical assistance
- + Set-asides for Indian country JJ funding and preservation of tribal "opt-in" provisions
- + Authorization for prison drug-treatment funds to be used in non-residential aftercare
- + Authorization for prison construction funds to be used for drug testing & treatment
- + JJ federal streamlining requirements without unwieldy budget certification mechanisms
- + Felony treatment for failure to pay child support