



EXECUTIVE DIRECTOR
LANETTA HAYNES TURNER, ESQ.

OFFICE OF THE
JUSTICE ADVISORY COUNCIL, COOK COUNTY, ILLINOIS
69 W. WASHINGTON STREET, SUITE 1110
CHICAGO, ILLINOIS 60602
TELEPHONE 312-603-1133
FACSIMILE 312-603-9974

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TESTIMONY BEFORE THE ILLINOIS HOUSE JUVENILE JUSTICE AND SYSTEM -
INVOLVED YOUTH COMMITTEE IN SUPPORT OF HB172

Good Afternoon. My name is Lanetta Haynes Turner and I am the Executive Director of the Cook County Justice Advisory Council. "The test of the morality of a society is what it does for its vulnerable population including its children." In the spirit of this often quoted principle, I am here today, on behalf of Cook County Board President Toni Preckwinkle, to urge you to pass HB 172 out of Committee, taking the first step to end the automatic transfer of juveniles to adult court.

President Preckwinkle has made this her top public safety priority. She has made it a priority for many reasons, a few of which I would like to highlight here today.

1. Ending automatic transfer would not prevent children from being transferred to adult court in the most serious situations, but it would prevent children who should not be transferred from experiencing the lifelong negative outcomes that come with an adult prosecution.
2. Automatic transfer laws do not recognize the fact that children are different than adults and should be treated differently.
3. Automatic Transfer does not enhance public safety.
4. Automatic Transfer is overbroad, fails to take into account the individual circumstances of the crime or the child, and takes one of the most important decisions in the criminal justice process out of the hands of a juvenile court judge.
5. As applied the law has a grossly disproportionate impact on children of color.
6. Automatic Transfer has a significant impact on County systems without any benefit to public safety.

This law does not prevent the transfer of a child to adult court:

This bill does not end transfer; it restores the practice of juvenile court judges deciding whether a child is tried in juvenile or adult court based on evidence presented by both the defense and the prosecution. It requires that on a motion to transfer by the prosecutor, an individualized hearing is held in front of a juvenile court judge. When making that decision, a juvenile court judge must take into account many factors, including the child's age, degree of participation in the alleged offense, and their previous criminal history.

Furthermore, ending the automatic transfer of children still leaves discretionary transfers and extended jurisdiction intact. Each of these laws potentially subjects children to adult sentencing. In the case of extended jurisdiction, which was not available when the automatic transfer laws were first enacted, a child receives both a juvenile and adult sentence, where the adult sentence takes effect if the juvenile sentence is violated. Each of these laws requires the judge to give the seriousness of the offense and the criminal history of the child the most weight when deciding whether they should be subject to the adult court or an adult sentence.

Children are different:

Research consistently finds that treating youthful offenders as adults is inappropriate, detrimental to their development and ineffective as a deterrent to crime.ⁱ Common sense and personal experience tell us that children are different than adults. They often make rash decisions, are more susceptible to peer pressure, and don't contemplate the long term consequences of their actions. Notwithstanding this, they also have a profound potential for change.ⁱⁱ Scientific research affirms thisⁱⁱⁱ and for the most part, our laws in Illinois recognize it. The automatic transfer law however, does not.

Automatic Transfer does not enhance public safety:

Research by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) found that transfer laws have little to no deterrent effect on children,^{iv} John Jay College found that there is no link between transfer laws and a reduction in violent juvenile crime,^v and the Centers for Disease Control found that children transferred to adult court have a 34% higher recidivism rate than children who stay in juvenile court.^{vi}

These and other studies indicate that, if anything, transfer laws undermine public safety.

Automatic Transfer is overbroad and results in perverse outcomes:

The current law is structured in a way that sweeps up all children who were in any way tangentially involved in a crime, and gives no opportunity for a neutral party to weigh various factors in order to determine whether adult prosecution is appropriate. Since becoming active on this issue, the President and our office have heard many stories about cases where most reasonable people would agree transfer was an unjust result, but was impossible to avoid under the current law. These stories include:

- A 16 year old student from Proviso-Leyden High School with no prior record who got into a cab with two friends, one friend pulled a gun and robbed the driver. All three ran and were eventually caught by the police. This young man who never touched the gun or the money was given the mandatory minimum of 21 years in the Illinois Department of Corrections. At sentencing, the judge stated that if she could, she would have given a different sentence, but her hands were tied.
- And the story of a 15 year old boy who walked with another boy and a 19 year old man to confront members of the 19 year old's rival gang. Tragically, the 19 year old shot and killed one of the rival gang members. The 15 year old, after witnessing the murder, went straight to the police, not realizing that as he recounted the events, he was confessing to being "accountable" for the crime. Unfortunately, despite having had no involvement in the plan and not touching the gun, he is now facing murder charges, his life and the life of his family, irretrievably altered in a matter of minutes.

These two young men, and countless others over the years who either made one stupid decision or played no true role in the crime, are sent to adult court and given adult sentences without any neutral party considering their previous record, their role in the crime or any of the other statutory factors. This is precisely why we need to pass HB 172 and restore judicial discretion in the transfer process. We must place the decision in the hands of juvenile court judges, to rely on their expertise in weighing the unique factors of a particular case when making the decision whether or not to transfer a child to adult court.

Automatic Transfer has a grossly disproportionate impact on children of color:

As applied, the Automatic Transfer law is one of the most extreme and unjust examples of minority overrepresentation in our juvenile and criminal justice systems. In a three year study of Automatic Transfers in Cook County, the Juvenile Justice Initiative (JJI) found that only one of the 257 children transferred were white, 83% were African American.^{vii} This trend continues today; of the 143 Automatic Transfers in our detention center on March 3, 2.5% were white, 82.5% were African American, and 14% were Hispanic. When judges made the decision, only 68% of the children transferred were African American.

Regardless of the potential reasons for this profound overrepresentation of children of color, we should all be disturbed by these numbers but heartened by the fact that ending the automatic transfer of these children to adult court is a small step to addressing the overrepresentation of children of color throughout the system.

Automatic Transfer has a significant impact on the Cook County Juvenile Detention Center without any benefit to public safety:

In the past year the population of Automatic Transfer children in our detention center has nearly doubled, from 72 in December of 2013 to 143 as of yesterday. Annualized, an average daily population of 143 children in the detention center costs approximately \$31.5 million dollars. Transfers make up such a large portion of the detention population because their cases take so much longer. The average time to disposition for a transfer charge is 332 days based on our most recent sample. This is much longer than a typical case in juvenile court. These children are spending an enormous amount of time in detention, a-waiting what is often either a dismissal or a guilty plea to a lesser crime. For example, in our sample of 339 transfers, of the armed robbery cases disposed of (n = 57), 26% were dismissed by the court or the prosecutor, 53% were plead. All but one of these pleas was for lesser charges which, if they had been the original charge would have remained in juvenile court.

If we only transferred those children who could not be appropriately treated in the juvenile justice system county resources would be saved, the state would avoid future recidivism costs, and those children for whom the juvenile system was designed would remain there.

Before, I finish, I would like to point out the large amount of support for transfer reform, including:

- The Administrator of the Office of Juvenile Justice and Delinquency Prevention under the Department of Justice endorsed our efforts to end automatic transfer in December 2014, and expressed that it would benefit public safety and the individual children subject to the law currently.
- The National Association of Counties has endorsed the philosophy that children should only be sent to adult court for violent crimes and only at the discretion of a juvenile court judge.
- The Illinois Supreme Court in *People v. Patterson*, urged the legislature to reform the automatic transfer statute in Illinois.

- The Illinois Juvenile Justice Commission has issued a statement against the automatic transfer of juveniles to adult court.
- The Cook County Board of Commissioners passed a resolution urging the Illinois General Assembly to restore judicial discretion in the transfer of children to adult court in January 2015.
- Finally, the Illinois General Assembly Joint Committee on Criminal Justice Reform recommended examination of the transfer provisions of the juvenile court act.

Thus, at every level of government there is support to end the current system. Regardless of the crime they are accused of, every child in Illinois deserves a chance to prove that they are suitable for the rehabilitative mission of the juvenile justice system. We ask that you pass HB 172 out of committee, and work with us to end the automatic transfer of juveniles to adult court and restore juvenile court judges' discretion as they are the best positioned party to make these decisions.

I have copies of my written testimony available along with county data analysis regarding Automatic Transfers.

^{i i} Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION (Juvenile Justice Bulletin), June 2010, at 6, <https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf>.

ⁱⁱ ILLINOIS JUVENILE JUSTICE COMMISSION, *Raising the Age of Juvenile Jurisdiction in Illinois*, February 2013, 17 - 21

ⁱⁱⁱ “Because juveniles have diminished culpability and greater prospects for reform, we explained, they are less deserving of the most severe punishments. [We] relied on three significant gaps between juveniles and adults. First, children have a lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking. Second, children are more vulnerable to negative influences and outside pressures, including from their family and peers; they have limited control over their own environment and lack the ability to extricate themselves from horrific, crime-producing settings. And third, a child's character is not as well formed as an adult's; his traits are less fixed and his actions less likely to be evidence of irretrievable depravity. Our decisions rested not only on common sense — on what “any parent knows” — but on science and social science as well.” *Miller*, 132 S.Ct. at 2464 (internal citations omitted).

^{iv} Redding, 2010.

^v Jeffrey A. Butts, *Transfer of Juveniles to Criminal Court is Not Correlated with Falling Youth Violence*, March 16, 2012, http://johnjayresearch.org/wp-content/uploads/2012/03/databit2012_05.pdf.

^{vi} *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to Adult Justice System*, CENTERS FOR DISEASE CONTROL AND PREVENTION, November 30, 2007.

^{vii} “Automatic Adult Prosecution of Children in Cook County, Illinois. 2010-2012: Over 30 years of poor outcomes from “automatic” adult prosecution of children.” Kanako Ishida & Elizabeth Clarke, April 2014. Available At: <http://jjustice.org/publications/>