

## BRIEF ANALYSIS

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## The Long Arm of Federal Juvenile Crime Law Shortened

Violent crimes committed by adults are declining, primarily because state and local governments are increasing punishment for these offenses. By contrast, the number of violent crimes committed by teenagers has doubled over the last decade, and the FBI predicts another doubling in the next 10 years. [See the figure.]

Congress is now pushing legislation meant to stem the increase in juvenile crime. But part of the reason for the explosion is that Congress imposed federal mandates on state and local governments to limit their ability to deal effectively with juvenile crime. Under current law, law enforcement authorities are hindered from using the most efficient techniques for detaining and confining juvenile criminals. As a result, these youths are often put back on the streets, sending the wrong message and posing a threat to people's lives and property.

If state and local governments have succeeded in reducing adult crime, why not juvenile crime too?

**The Juvenile Justice and Delinquency Act.** Federal regulations created under the Juvenile Justice and Delinquency Act (1974) have required states, as a condition of receiving federal money, to divert juvenile offenders from the justice system for more than two decades. Though the principal architect of the legislation, Senator Birch Bayh (D-IN), intended only to prevent the physical abuse of young detainees and to stop older, more experienced inmates from turning juveniles into worse criminals, the practical effect has been to limit the discretion of local law enforcement officials and shield young criminals from the consequences of their actions.

The act created the Office of Juvenile Justice and Delinquency Prevention (OJJDP) within the Justice

Department to administer grants for juvenile crime-combatting programs (currently about \$100 million a year), gather national statistics on juvenile crime, fund research on youth crime and administer four anticonfinement mandates regarding juvenile custody. Specifically, the act orders:

(1) *Deinstitutionalization:* Youths charged with "status" offenses that would not be crimes if committed by adults, such as truancy, running away and being caught with alcohol or tobacco, must be "deinstitutionalized,"

which in this case really means that, with certain exceptions (e.g., minor in possession of a handgun), status offenders may not be detained by police or confined.

The problem with this mandate is that it overrides state and local law, limits the discretion of law enforcement officers and prevents the authorities' ability to reunify an offender with his family.

(2) *Segregation:* Arrested youths must be strictly segregated from adults in custody. Under this "out of sight

and sound" mandate, juveniles cannot be served food by anyone who serves jailed adults nor can a juvenile walk down a corridor past a room where an adult is being interrogated.

This requirement forces local authorities to either free juveniles or maintain expensive duplicate facilities and personnel. Small cities, towns and rural areas are especially hard hit, drastically raising those taxpayers' criminal justice costs.

(3) *Jail and Lockup Removal:* As a general rule, youths subject to the original jurisdiction of juvenile courts cannot be held in jails and lockups in which adults may be detained. The act provides for a six-hour exception for identification, processing, interrogation and transfer to juvenile facilities, court or detention pending release to parents. The act also provides an exception of 24 hours for rural areas only.

(4) *Overrepresentation of minority youths:* States must systematically try to reduce confinement of minor-



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ity youths to the proportion of those groups in the population. This policy rests on the belief that justice can be dispensed by racial category or "quota." Affirmative action for young criminals makes even less sense than race-conscious remedies for other social ills.

**Avoiding Federal Mandates.** Some local programs involve clever ways of getting around federal impediments to juvenile crime fighting. In Charleston, S.C., for example, police get around the federal mandate against confining truants by taking them back to school. And to enforce curfews, parents can voluntarily agree that their own children should be forcibly returned home, circumventing civil liberties objections.

**Prospects for Reform.** Recognizing the problems federal mandates impose, several attempts have been made to remove or limit their intrusion into state and local law enforcement.

Rep. Bill McCollum (R-FL), head of the House Judiciary Subcommittee on Crime, held hearings on the burden of the federal mandates last year and submitted a repeal bill in the last Congress that attracted little support. Opponents included the American Civil Liberties Union, which said, "This is no longer a war on crime but a war on children."

Acknowledging that the regulations sometimes impose costly burdens on states and localities, the Clinton administration has said that it is willing to loosen some of the mandates to give states more flexibility to handle the growing number of violent juveniles. Yet the White House would like to retain "the core principles" of separation, allowing juvenile and adult offenders to share jail facilities such as gymnasiums and cafeterias only so long as they use them at different times.

The House and Senate are looking at reform. The Senate's "Violent and Repeat Juvenile Offender Act of 1997," sponsored by Sen. Orrin Hatch (R-UT), would essentially repeal the mandates by loosening the legislative language.

The House has taken a different approach. The Education and Workforce Committee, chaired by Frank Riggs (R-CA), has approved the "Juvenile Crime Control and Delinquency Prevention Act" (H.R.1818) with broad bipartisan support. This bill focuses on prevention, puts dollars and authority in the hands of states and local communities and consolidates programs into block grants.

Perhaps most importantly, the House bill loosens the link between federal money and compliance with the four mandates and relaxes the federal mandates themselves. Specifically, the bill:

- Allows states to receive half of their grant funding without fulfilling any of the four mandates and pays one-quarter of the remaining funds for each of the four mandates it fulfills.
- Allows for longer detention of runaways suitable for family reunification.
- Relaxes "sight and sound" segregation to allow incidental, supervised contact such as passing in a hallway.
- Extends the period a youth can be detained in a facility with adults to 48 hours before a court appearance and allows detention of a rural youth in an adult facility, provided the parent(s) and court agree and the confinement order is reviewed every five days.
- Prohibits numerical standards or quotas for reduction of minority youths in the juvenile justice system.

Given current political realities, the House approach is surprisingly good. Not only does it lighten heavy-handed federal control, but it enables state and local authorities to handle juvenile crime problems in accord with local conditions and law. As the juvenile crime problem grows, it also becomes economical for more communities to build and maintain separate juvenile facilities despite the high cost, especially when aided by new federal money.

Unlike another juvenile crime bill (H.R.3), which dealt with other areas of juvenile crime treatment by expanding the government's role and which has passed the House, H.R. 1818 reduces federal intrusion in the criminal justice system by loosening restrictions that already exist. This is essential to the improved handling of the juvenile crime problem.

**Conclusion.** The Senate version of the juvenile crime legislation drastically reduces the restrictiveness of federal mandates on state and local law enforcement activities. The House's approach is more subtle, but it still goes a long way toward limiting the mandates and may be more acceptable to the president. Both approaches return authority to states and local governments, allowing them to control juvenile crime as they have adult crime.

*This Brief Analysis was prepared by Morgan O. Reynolds, director of the NCPA Criminal Justice Center and economics professor at Texas A&M University.*