

August 6, 2008

The Honorable Mary Cheh
Councilmember
Council of the District of Columbia
Committee on the Public Safety and Judiciary
1350 Pennsylvania Avenue NW
Suite 108
Washington, DC 20004

Dear Councilmember Cheh:

We write you today in strong support of the Juvenile Justice Improvement Amendment Act of 2008, Bill Number B17-0913, and urge you to actively support this bill as it is considered by the [Committee on the Public Safety and Judiciary] [Committee on Human Services] [Council].

The Juvenile Justice Improvement Amendment Act of 2008 was introduced on July 15, 2008 by Councilman Mendelson and Councilman Wells. This bill would make several positive changes for youth under 18 charged as adults in the DC Criminal Division.

The Juvenile Justice Improvement Amendment Act would allow DC Criminal Division judges to send youth charged as adults back to the District's Family Division through a "reverse waiver" hearing at any time prior to their sentencing. Under current law, the decision whether to charge and try a youth as an adult in the District is made by the United States Attorney's Office (USAO), which prosecutes the case without review by a neutral and detached arbiter. Various analyses of publicly available data indicate that the USAO charges virtually every sixteen- and seventeen-year-old, arrested for one of the statutorily enumerated felonies as adults, even if the child has never been arrested before as a juvenile or an adult. According to a recently issued report by the District of Columbia Department of Corrections, a full 40% of the youth held at the D.C. Jail – a detention facility for adults – have no prior record whatsoever, and yet are held at an adult facility. This report also indicates that most of the youth held at the DC Jail are not charged with FBI "index crimes" (typically considered to be the most serious offenses) and only slightly more than half the youth held at the jail are actually convicted as adults.

Research shows that youth involved in the adult criminal justice system are more likely to reoffend. Youth who have been previously prosecuted as adults are, on average, 34 percent more likely to commit crimes than youth retained in the juvenile justice system, according to a report by the U.S. Centers for Disease Control and Prevention. Another report by the Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice recently concluded that transferring youth to the adult criminal system substantially increases recidivism and recommended changing laws to decrease the number of youth transferred to the adult criminal justice system. In addition, youth prosecuted as adults in the District are not eligible for many rehabilitative services made available to youth in the juvenile justice system and cannot be returned to the juvenile justice system even if they could benefit from these rehabilitative services. These rehabilitative services were first made available to youth with unanimous support by the Council.

Through the reverse waiver provision, the Juvenile Justice Improvement Amendment Act would allow a neutral decision-maker – a Criminal Division judge – to review the decision to charge a youth as an adult. During the reverse waiver hearing, the judge would consider the prospects for the youth’s rehabilitation and the public welfare’s interest by examining a variety of factors, including the youth’s age and mental condition as well as the relative availability of rehabilitative programs and staff. In order to inform the judge’s decision, the bill allows the judge to request a variety of evaluations. This type of hearing is broadly supported by the public. A Zogby poll commissioned by the National Council on Crime and Delinquency conducted last year found that 92% of Americans believe that the decision to try a youth in adult court is best made on a case-by-case basis by a neutral decision-maker, such as a juvenile court judge.

The Juvenile Justice Improvement Amendment Act would also ensure that youth charged as adults are not held at the DC Jail. Currently, DC law permits children as young as 15 to be prosecuted as adults. Once the decision is made to prosecute a youth as an adult, and if the youth must be detained, the youth must be placed in the DC Jail. The Juvenile Justice Improvement Act would change this provision by allowing the placement of youth charged with an adult crime in juvenile facilities both while the reverse waiver hearing is pending and before their trial. If a judge determines that the youth should be held in an adult facility, the youth must be kept separate from adults. These provisions also are supported by research; youth placed in adult jails are at risk of physical and sexual assault. In addition, youth are 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility, and 20 times more likely to commit suicide in an adult jail than youth in the general population.

Thank you for your consideration of and support for the Juvenile Justice Improvement Amendment Act. If you have any questions, please feel free to contact [PUT CONTACT INFO HERE](#).

Sincerely,