



**RESOLUTION SUPPORTING A COORDINATED AND BALANCED  
APPROACH TO JUVENILE JUSTICE**

**BE IT RESOLVED**, that the National District Attorneys Association (NDAA) supports a coordinated and balanced approach to juvenile justice, emphasizing the importance of proven prevention and early intervention initiatives, such as efforts to insure the availability of quality child care, after-school programs and programs aimed at reducing child abuse, in addition to insuring that proper laws are appropriately enforced to hold juvenile criminal offenders accountable for their crimes in a fair and just manner; and

**BE IT FURTHER RESOLVED**, that juvenile courts should continue to exist in the criminal justice system for the purpose of addressing most juvenile crime occurring in America in a manner which properly balances the juvenile offender's age, maturity and amenability to treatment and probation with the need to protect the public safety and the importance of assuring appropriate offender accountability and competency development; and

**BE IT FURTHER RESOLVED**, that the prosecution of juvenile offenders as adults be limited to appropriate cases involving serious, violent or habitual juvenile offenders and the decision-making process as to whether adult court prosecution of juvenile offenders is necessary should include consideration of all relevant factors including, but not limited to, the age and maturity of the juvenile offender, the threat to public safety, the seriousness of the crime, the certainty of appropriate punishment, and the impact of the crime upon its victims; and

**BE IT FURTHER RESOLVED**, that in furthering a balanced approach to juvenile justice, state legislatures are encouraged to enact blended sentencing models which provide enhanced sanctions to juvenile offenders committing serious crimes which do not initially warrant adult court prosecution, but which require greater sanctions than provided in the traditional juvenile court system, such as: stayed adult sanctions to be imposed at a later date should the juvenile offender not conform to the conditions of the juvenile court disposition; incentives for youth to remain law abiding in the future; and longer periods of supervision over the youth by the juvenile court; and

**BE IT FURTHER RESOLVED**, that the National District Attorneys Association hereby endorses the attached statement authored by the NDAA President and Chairs of the Juvenile Justice and Family Law Committee in response to the proposed ABA resolution concerning sentence mitigation for youthful offenders

Adopted by the Board of Directors, July 29, 2007 (Portland, Oregon)  
2007- SUM

## **Statement in Response to the Proposed Resolution Concerning Sentence Mitigation for Youthful Offenders**

May 4, 2007

The National District Attorneys Association's (NDAA's) Board of Directors has had the opportunity to review and comment upon the proposed resolution concerning sentence mitigation for youthful offenders which is under consideration by the Criminal Justice Section of the American Bar Association (ABA). The NDAA strongly objects to what we consider to be an overly broad and one-sided attempt to encourage state legislatures to revise juvenile codes across America to make it more difficult to prosecute juvenile offenders as adults for egregious crimes and to punish juvenile offenders less seriously for their criminal behavior solely because of their perceived immaturity.

The overwhelming majority of state legislatures appropriately adopted sweeping changes to their juvenile codes during the 1990's to properly address what the juvenile justice system had far too long overlooked, i.e., that protection of the public safety is of paramount concern whether the offender is a juvenile or an adult.

Not only does this proposed resolution fail to recognize the importance of this paramount concern of protecting the public safety, it also ignores other important concerns which should rightfully be part of the decision-making process in reference to crimes committed by juvenile offenders, such as the nature and circumstance of the offense, the impact upon the victim, and the juvenile offender's criminal history. This resolution rather focuses solely upon offender-based criteria as being the factors which should control the decision-making process, be it the decision to directly file or transfer a juvenile offender to adult court for prosecution or the decision as to what sanction should ultimately be imposed if a juvenile offender is convicted.

The 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<sup>1</sup> in those states incorporating this middle-ground approach of addressing juvenile crime. These factors should include the threat to

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<sup>1</sup> "Blended sentencing" models 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 judge to not warrant immediate prosecution or transfer to adult criminal court.

public safety, the seriousness of the crime, the offender's criminal history, the certainty of appropriate punishment, and the age and maturity of the offender. This proposed resolution considers only the age and maturity of a juvenile offender, which is clearly inappropriate. In fact, while age and maturity is an appropriate consideration in not only the sentencing but the charging of a juvenile offender (a factor, by the way, which is always taken into consideration by America's prosecutors), all of the aforementioned factors should be considered in the decision-making process as to juvenile offenders, with the greatest weight being given to protection of the public safety.

The unwritten, but clear implication of this proposed resolution is that too many juvenile offenders are prosecuted and sentenced as adults in our country. The reality is, in fact, quite the opposite. Very few juveniles are prosecuted and sentenced as adults in America, contrary to the unwritten implication of this proposed resolution and a public misperception driven in large part by sensationalistic media coverage of certain high profile cases. Few jurisdictions in America prosecute more than 1 to 2% of juvenile criminal offenders as adults, and in some jurisdictions this percentage is even lower. In those cases where adult court prosecution does occur, the simple fact of the matter is that adult court prosecution is clearly warranted in these instances.

In a poll conducted in 1993, 73% of those surveyed across the U.S. said that "violent juveniles should be treated as adults rather than as defendants in lenient juvenile courts."<sup>2</sup> While more information about human brain development is available today than existed in the mid-1990's, there are few juvenile offenders committing murders or crimes of violence who do not realize that their actions are wrong and most fully understand the gravity of the crimes they have committed. As noted above, the age and maturity of these juvenile offenders are factors properly considered both as to where the proper venue of the case should rest and as to the sentence to be handed down upon conviction. These are not, however, the only factors that must be considered in these important decisions.

Attached to this document is a compilation of just a few examples of the serious and violent juvenile offenders across America prosecuted as adults for their crimes in recent years. We believe the vast majority of citizens in our country would support the prosecution of these heinous offenders as adults, as well as the appropriate prison terms handed down upon conviction for these egregious crimes. To argue that these violent offenders should either not be prosecuted as adults or receive mitigation in their sentences once convicted, is something America's prosecutors will never support and is contrary to the interests of justice and protecting the citizens we proudly serve.

This proposed resolution also fails to recognize that 13 states in America have set an age of majority for criminal prosecution of less than 18 years of age. The NDAA does not agree with the ABA that the age of majority for adult criminal prosecution of offenders should be 18 years of age in every state in this country. To the contrary, this is a decision rightfully left to local control and the deliberate and thoughtful decisions of state legislatures on this important issue should be respected.

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<sup>2</sup> Sam Vincent Meddis, Poll: Treat Juveniles the Same as Adult Offenders, USA Today, Oct. 29, 1993, at 1A.

Even more importantly, this proposed resolution fails to acknowledge the most fundamental aspect of juvenile codes across America, namely that a juvenile offender's age and maturity are always taken into consideration in the disposition of a case. In fact, that's the reason why we have a juvenile court system in the first place – a system, by the way, which is supported by America's prosecutors. It is also important to keep in mind that age and maturity are also considered in cases involving juvenile offenders transferred and convicted as adults for their crimes, with the exception of the imposition upon conviction of certain mandatory sentences required by law (and in those instances, it is once again state legislatures that have properly concluded after thoughtful deliberation that certain crimes are so egregious that society should rightfully demand a mandatory minimum sentence for offenders convicted of them).

We outright reject the notion that juvenile offenders are “categorically less culpable than the average criminal”, which appears to be the driving rationale behind this proposed sentence mitigation for youthful offenders resolution. We do not believe it is appropriate to take language articulated in a U.S. Supreme Court decision concerning whether or not to impose the death penalty on juvenile murderers and apply the same logic in a completely different conceptual framework, as this proposed resolution attempts to do. As noted above, age and maturity are not the only factors to be considered in the decision making process in a case involving a crime committed by a juvenile offender. This proposed resolution, therefore, fails to capture the essence of balance and fairness that the American system of criminal justice, be it involving juveniles or adults, should properly be based upon.

The NDAA has adopted comprehensive policy positions on juvenile crime issues which appropriately capture the balance and fairness that this proposed resolution fails to recognize. We encourage you to read these policies, a copy of which is attached to this letter. Contrary to the implicit underpinnings of the proposed resolution and its attached commentary, prosecutors do not seek to prosecute every juvenile who has committed a serious crime as an adult.

The NDAA also supports consideration of blended sentencing options in appropriate cases where serious, violent or habitual offenders are not transferred or waived to adult court. These laws, which are sometimes referred to as a “middle-ground approach” or a “one last chance option” for juvenile offenders, are designed for those youth who have committed a serious offense which does not initially warrant adult prosecution, but which requires greater sanctions and/or longer supervision by the juvenile court than is provided in the traditional juvenile court system. Blended sentencing laws combine some juvenile and adult sanctions, provide for stayed adult sanctions to be imposed at a later date should the offender not conform to the conditions of the juvenile court disposition, provide incentives for the youth to remain law abiding in the future and lengthen the period of supervision over the youth by the juvenile court. Blended sentencing models are appropriate and necessary in the continuum of sanctions available for more serious, violent or habitual offenders, especially for younger youth committing very serious crimes. The NDAA would stand with the ABA in advocating for the passage of

appropriate blended sentencing options in states throughout America and we would strongly encourage this to become the focus of an ABA resolution addressing juvenile crime rather than sentence mitigation which is currently the misguided focus of the proposed resolution.

It appears to us that this proposed resolution is both ill-advised and unnecessary, and we strongly urge the ABA's Criminal Justice Section not to enact it. By its terms, it is a wholesale attack upon the juvenile codes of states throughout America and upon the 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, 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. Only when all these factors are properly weighed in the decision-making process will our system of justice be in proper balance and public confidence exist in the outcomes of the critical decisions made in connection with these cases.

For all of these reasons, the NDAA strongly opposes this proposed resolution. If a resolution is to be adopted, we would suggest the following:

**RESOLUTION:**

BE IT RESOLVED, that both the American Bar Association (ABA) and National District Attorneys Association (NDAA) support a coordinated and balanced approach to juvenile justice, emphasizing the importance of proven prevention and early intervention initiatives, such as efforts to insure the availability of quality child care, after-school programs and programs aimed at reducing child abuse, in addition to insuring that proper laws are appropriately enforced to hold juvenile criminal offenders accountable for their crimes in a fair and just manner; and

BE IT FURTHER RESOLVED, that juvenile courts should continue to exist in the criminal justice system for the purpose of addressing most juvenile crime occurring in America in a manner which properly balances the juvenile offenders' age, maturity and amenability to treatment and probation with the need to protect the public safety and the importance of assuring appropriate offender accountability and competency development; and

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and maturity of the juvenile offender, the threat to public safety, the seriousness of the crime, the certainty of appropriate punishment, and the impact of the crime upon its victims; and

BE IT FURTHER RESOLVED, that in furthering a balanced approach to juvenile justice, state legislatures are encouraged to enact blended sentencing models which provide enhanced sanctions to juvenile offenders committing serious crimes which do not initially warrant adult court prosecution, but which require greater sanctions than provided in the traditional juvenile court system, such as: stayed adult sanctions to be imposed at a later date should the juvenile offender not conform to the conditions of the juvenile court disposition; incentives for youth to remain law abiding in the future; and longer periods of supervision over the youth by the juvenile court.

Respectfully submitted by:

Mathias H. Heck, Jr., NDAA President and Prosecuting Attorney, Montgomery County, Dayton, Ohio; and the Co-chairs of NDAA's Juvenile Justice and Family Law Committee:

James C. Backstrom, Dakota County Attorney, Hastings, Minnesota;

Elizabeth D. Scheibel, District Attorney, Northwestern District, Massachusetts; and

Gary L. Walker, Prosecuting Attorney, Marquette County, Michigan