

Thomas F. Geraghty, Director

February 5, 2015

Mr. Chris Bernard
Legislative Coordinator
Justice Advisory Council
Cook County
69 W. Washington
Suite 1110
Chicago, IL 60602

Dear Chris,

Thanks for your update on the Automatic Transfer reform effort. I enthusiastically support the proposed resolution urging the Illinois General Assembly to restore judicial discretion in the transfer of juveniles to adult court. I endorse the points you make in support of the proposed resolution and those made in JJI's position paper on HBO 172 sponsored by Rep. Nekritz. I have also reviewed and support the views set forth in the document submitted by my colleague, Professor Julie Biehl, Director of the Bluhm Legal Clinic's Children & Family Justice Center.

I have a few comments to make in addition to those submitted by others and referenced above.

For 45 years, I have focused on the representation of young people charged with serious crimes in both juvenile and criminal court. When I began practicing law, Illinois relied upon a discretionary process presided over by a juvenile court judge to determine whether a young person's case should be transferred to criminal court. I participated in many of those "discretionary transfer" hearings and thought that the process was balanced and fair. Most importantly, the discretionary hearing process provided all involved—prosecutors, judges, defense lawyers, and probation officers—with a complete picture of the young person who was before the court. The information gathered in the transfer hearing process enabled the kind of individualized assessment that is so important in addressing the complex issues stemming from the behavior of youngsters who face the challenges of growing up in marginalized communities. Such children constitute the overwhelming majority of those who face the possibility of prosecution in criminal court.

The material submitted by President Preckwinkle and by the Juvenile Justice Initiative references the harm caused by the mandatory minimum sentences applicable to many youth who are automatically transferred to criminal court. I have represented many of these young people. The sentences they face in criminal court are, essentially, life sentences (ie., 21 years for armed robbery with a firearm, 45 years for murder with a firearm). While these offenses are without

doubt very serious, we should impose such sentences only, if at all, on youth who demonstrably pose a danger to society and who cannot be rehabilitated. Under the present system, we make no effort to determine who these very few young people are. Instead, without any preliminary investigation into the merits, we sentence 15 year-olds to prison terms that require incarceration until mid to late adulthood, by which time any potential for productive citizenship is destroyed and society has funded the very substantial and unnecessary cost of lengthy imprisonment.

Very truly yours,

A handwritten signature in black ink, appearing to read 'T. Geraghty', with a stylized flourish at the end.

Thomas F. Geraghty
Class of 1967 James B. Haddad Professor of Law
Associate Dean for Clinical Education
Director, Bluhm Legal Clinic