

**NATIONAL HISPANIC ORGANIZATIONS OPPOSE
“THE GANGBUSTER BILL” H.R. 1279.**

May 10, 2005

VIA FACSIMILE

RE: Oppose provisions in H.R. 1279 that prosecute youth as adults and impose mandatory minimum sentences.

Dear Member of Congress:

On behalf of the undersigned Hispanic organizations, representing more than 40 million Hispanic Americans living in the U.S. we are writing to urge you to oppose provisions contained in the “Gang Deterrence and Community Protection Act of 2005” (H.R. 1279). Please be advised that as members of the National Hispanic Leadership Agenda (NHLA), we will recommend that votes relevant to the Latino community and final passage of the bill be included in NHLA’s Congressional Scorecard.

The Latino community directly feels the effects of youth violence, it is for this reason that we believe that punitive measures designed to only punish and not reform youth violent behavior in fact exacerbates the problem. Instead, we call for a comprehensive research – based approach that gets at the root causes of youth violence – which includes but is not limited to prevention, treatment, and effective alternatives to incarceration.

H.R. 1279, if enacted into law, would have a disparate impact on Latino youth and their families. This bill would undermine overall public safety, given that it imposes excessively severe measures aimed at only punishing and not reforming youth violent behavior. Specifically, we strongly oppose two provisions – the prosecution and transfer of youth into the adult system and the inclusion of various mandatory minimum sentences for a broad category of offenses that are labeled “gang crimes” and numerous other offenses.

Section 115 of the bill allows for the prosecution and transfer of youth into the adult system. The latest research shows that transferring youth to adult status is a failed public policy approach, resulting in the opposite of what this bill is purporting to do. It will *increase* – not decrease – youth violence. The research shows that young people prosecuted as adults, compared to those prosecuted as juveniles, are more likely to: (a) commit a greater number of crimes upon release; (b) commit more violent crimes upon release; and (c) commit crimes sooner upon release. The research also shows that youth held in adult facilities, compared to youth held in juvenile facilities, are five times as likely to be sexually assaulted by other inmates, twice as likely to be beaten by staff, 50% more likely to be assaulted with a weapon, and eight times as likely to commit suicide.

With these kinds of risks, it does not make sense for the House to pursue legislation that includes the power to prosecute juveniles as adults in federal court for activities that the states are already well-equipped – indeed, better-equipped – to handle than the federal system. Also, putting the transfer decision at the sole discretion of a prosecutor, not a judge as the law currently requires, violates the most basic principles of due process and fairness.

Section 103 of the bill includes and expands mandatory minimum sentences for a broad category of offenses that are deemed “gang crime.” Under this bill, the mandatory minimum sentences for these crimes range from five to 30 years. Although the offenses are serious and individuals who are convicted should be properly held accountable, mandatory sentences often prevent judges from determining the appropriate punishment. When judges are restricted by mandatory sentences, they cannot assess an individual’s culpability during the crime or other factors that have bearing on recidivism, thus resulting in inappropriate sentences.

Although mandatory minimums were intended to reduce the racial disparities that were associated with indeterminate sentencing, in practice they exacerbate and mask such disparities by shifting discretion from the judge to the prosecutor. Prosecutors retain the power to plea bargain by offering defendants plea agreements that avoid the mandatory penalty. Studies have shown that this discretion results in a disparity in sentencing outcomes based largely on race and quality of defense attorney. According to testimony from the U.S. Sentencing Commission, in 1999, 39% of those receiving mandatory sentences were Hispanic, 38% were African American, and 23% were White. Hispanics comprised 44% of those subject to five-year mandatory sentences in 1999, 37% of the ten-year mandatory sentences, 20% of the 20-year mandatory sentences, and 8% of the mandatory life sentences. The reality for African American defendants is even bleaker.

We respectfully ask you to oppose legislation that prosecutes and transfers youth into the adult system and that includes and expands mandatory minimum sentences. If you have any questions please contact Angela Arboleda, NCLR Civil Rights Policy Analyst, at (202) 776-1789.

Sincerely,

Alianza Dominicana, Inc
American GI Forum
ASPIRA
Association for the Advancement of Mexican Americans (AAMA)
Hispanic Associations of Colleges & Universities
Labor Council for Latin American Advancement
League of United Latin American Citizens
MANA, A National Latina Organization
National Council of La Raza
National Puerto Rican Coalition
National Puerto Rican Forum
William C. Velasquez Institute