



January 14, 2019

Chairman Lindsey Graham
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Dianne Feinstein
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Serious Concerns About the Nomination of William Barr to Serve as Attorney General of the United States

Dear Chairman Graham, Ranking Member Feinstein, and Members of the Senate Judiciary Committee,

On behalf of the National Juvenile Justice and Delinquency Prevention Coalition and the organizations listed below, we write to express our concerns with the nomination of William Barr to serve as Attorney General of the United States. The National Juvenile Justice and Delinquency Prevention Coalition (NJJJPC) is a collaborative array of more than two hundred national and state youth- and family- serving, social justice, law enforcement, corrections, and faith-based organizations, working to ensure healthy families, build strong communities and improve public safety by promoting fair and effective policies, practices, and programs for youth involved or at risk of becoming involved in the juvenile and criminal justice systems.

As the nation's top law enforcement officer and leader of the U.S. Department of Justice (DOJ), the Attorney General is responsible for safeguarding our civil and constitutional rights, including those of children. That is a core and enduring mission of the Justice Department, and the nation needs and deserves an Attorney General who is committed to that mission and to our country's ongoing progress toward equal justice and racial equality. The Attorney General must also operate with integrity and independence in service to the people, not the president.

For the past two years, we have seen a concerning pattern emerging from the Department of Justice, particularly when it comes to justice-involved youth. Recent announcements from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) will loosen compliance with the Juvenile Justice and Delinquency Prevention Act's (JJJPA) core requirements and relax oversight of compliance with the Act.¹ These changes, concerning under any circumstances, are

¹ Caren Harp, OJJDP is Simplifying Title II Work to Focus on DMC Reduction, Not Process, JUVENILE JUSTICE INFO. EXCHANGE (June 29, 2018), <https://jjiie.org/2018/06/29/ojjdp-is-simplifying-title-ii-work-to-focus-on-dmc-reduction-not-process/>; Press Release, Dept. of Justice, Office of Public Affairs, Attorney General Jeff Sessions Rescinds 24 Guidance Documents (July 3, 2018), available at <https://www.justice.gov/opa/pr/attorney-general-jeff-sessions-rescinds-24-guidance-documents>.

particularly alarming in light of the recent JJDPa reauthorization bill that strengthens the statute's core protections, among other critical updates.² The Justice Department needs to be committed to its enforcement.

Under Attorney General Jeff Sessions, the DOJ Civil Rights Division's ability to enforce civil rights statutes has also been severely hampered by the decision to limit the scope of consent decrees, which are a key legal instrument of civil rights enforcement.³ Perhaps one of the most egregious examples came in 2018 when DOJ announced it would be ending its agreement to monitor the Juvenile Court of Memphis and Shelby County and the Shelby County Detention Center.⁴ In 2012, a federal investigation revealed that the Juvenile Court of Memphis and Shelby County (JCMSC) fails "to provide constitutionally required due process to children of all races," that they consistently "violate the substantive due process rights of detained youth by not providing them with reasonably safe conditions of confinement," and that they engage "in conduct that violates the constitutional guarantee of Equal Protection and federal laws prohibiting racial discrimination."⁵ Despite the fact that the JCMSC had not met all of the requirements of the consent decree, and over the objection of several elected officials, including Shelby County Mayor Lee Harris, DOJ decided to end its monitoring.⁶ These actions hurt children, particularly youth of color, who are disproportionately exposed to and harmed by the justice system for normal adolescent behavior.

The Justice Department and the nation need an Attorney General who will make a dramatic course correction and begin to enforce our federal civil rights laws with vigor and independence. William Barr is unlikely to do so. Mr. Barr has a troubling record on a number of civil rights issues, including juvenile justice. In a 1992 speech to the Governor's Conference on Juvenile Crime, Drugs and Gangs, Mr. Barr asserted that the punishments by juvenile courts are "too often light and ineffective," and that greater flexibility should be afforded to law enforcement to prosecute youth as adults.⁷ Since that time, there has been a dramatic and successful shift in how this country treats justice-involved youth. Research into adolescent brain development shows that youth are more likely than adults to be permanently traumatized by the harsh realities of the

² Press Release, Act 4 JJ Coalition, Congress Unanimously Passes Bipartisan Bill to Strengthen Federal Juvenile Justice Law (Dec. 13, 2018), available at <http://cfyj.org/news/cfyj-news-press-releases/item/congress-unanimously-passes-bipartisan-bill-to-strengthen-federal-juvenile-justice-law>.

³ Jeff Sessions, *Avoid Harmful Federal Intrusion*, USA TODAY (Apr. 17, 2017, 4:34 PM), <https://www.usatoday.com/story/opinion/2017/04/17/jeff-sessions-avoid-harmful-federal-intrusion-editorials-debates/100579848/>; Memorandum from The Attorney General on Principles and Procedures for Civil Consent Decrees and Settlement Agreements with State and Local Government Entities (Nov. 7, 2018), available at <https://www.justice.gov/opa/press-release/file/1109681/download>.

⁴ Katherine Burgess, *Department of Justice Ends Oversight of Shelby County Juvenile Court*, Commercial Appeal (Oct. 19, 2018, 10:14 AM), <https://www.commercialappeal.com/story/news/2018/10/19/departments-justice-closes-agreement-shelby-county-juvenile-court/1700088002/>.

⁵ Investigation of Shelby County Juvenile Court, U.S. Dept. of Justice, Civil Rights Division 1-2 (Apr. 26, 2012), available at https://www.justice.gov/sites/default/files/crt/legacy/2012/04/26/shelbycountyjuv_findingsrpt_4-26-12.pdf.

⁶ See Burgess, *supra* note 4 ("According to a county website, nearly half of the items under the equal protection category are in "partial compliance." Only 25 percent, or eight items in that category, were in "full compliance."").

⁷ Attorney General William Barr, Remarks to the Governor's Conference on Juvenile Crime, Drugs and Gangs 13, 19 (Apr. 1, 1992), available at <https://www.justice.gov/sites/default/files/ag/legacy/2011/08/23/04-01-1992.pdf>.

adult system.⁸ Further, research has shown that youth are more likely to respond positively to rehabilitation available in the juvenile system.⁹ States have taken note of this research, and a majority of states have taken action to pass laws to reduce the number of youth prosecuted, tried, and incarcerated in the adult system. The JJDPa reauthorization also extends the jail removal core protection to youth charged as adults. Taking this approach, youth crime is at a 30-year low.¹⁰

Despite these facts, former Attorney General Sessions's actions were not in line with the latest research and data. Mr. Barr recently called Mr. Sessions "an outstanding attorney general" and offered praise for his policies, including the decision to rescind numerous pieces of guidance,¹¹ which is a telling indication that Mr. Barr would continue to chip away at the protections for our nation's most vulnerable populations.

Precisely because of the serious threats to our democracy posed by concerns about Mr. Barr's independence, we must be especially vigilant about the implications for his service as Attorney General on federal civil rights enforcement. Our nation's young people deserve better. They deserve an Attorney General who will promote racial equality, vigorously enforce our federal civil rights laws, and fight discriminatory barriers for the most vulnerable among us.

Sincerely,

Campaign for Youth Justice
Children's Advocacy Institute
Coalition for Juvenile Justice
Justice Policy Institute
NAACP
National Crittenton
National Juvenile Justice Network
The W. Haywood Burns Institute

⁸ LET'S GET CHILDREN OUT OF ADULT COURTS, JAILS, AND PRISONS, CAMPAIGN FOR YOUTH JUSTICE (Feb. 12, 2018), available at http://www.campaignforyouthjustice.org/images/factsheets/BasicFacts_Final1.pdf.

⁹ *Id.*

¹⁰ John Gramlich, *5 Facts About Crime in the U.S.*, PEW RESEARCH CENTER (Jan. 3, 2019), <http://www.pewresearch.org/fact-tank/2019/01/03/5-facts-about-crime-in-the-u-s/>.

¹¹ William P. Barr, Edwin Meese III & Michael B. Mukasey, *We are Former Attorneys General. We Salute Jeff Sessions*, WASH. POST (Nov. 7, 2018), https://www.washingtonpost.com/opinions/jeff-sessions-can-look-back-on-a-job-well-done/2018/11/07/527e5830-e2cf-11e8-8f5f-a55347f48762_story.html?utm_term=.c7779a769caf.