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REFORMING THE JUVENILE JUSTICE SYSTEM TO IMPROVE CHILDREN'S LIVES AND PUBLIC SAFETY

HEARING

BEFORE THE

COMMITTEE ON
EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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REFORMING THE JUVENILE JUSTICE SYSTEM TO IMPROVE CHILDREN'S LIVES AND PUBLIC SAFETY

Wednesday, April 21, 2010
U.S. House of Representatives
Committee on Education and Labor
Washington, DC

The committee met, pursuant to call, at 9:59 a.m., in room 2175, Rayburn House Office Building, Hon. George Miller [chairman of the committee] presiding.

Present: Representatives Miller, Kildee, Payne, Scott, Woolsey, McCarthy, Tierney, Kucinich, Davis, Altmire, Clarke, Shea-Porter, Fudge, Polis, Sablan, Chu, Kline, Petri, Platts, Guthrie, and Roe.

Staff present: Ali Al Falahi, Staff Assistant; Andra Belknap, Press Assistant; Jody Calemine, General Counsel; Denise Forte, Director of Education Policy; Ruth Friedman, Deputy Director of Education Policy ; David Hartzler, Systems Administrator; Sadie Marshall, Chief Clerk; Bryce McKibbon, Staff Assistant; Alex Nock, Deputy Staff Director; Rachel Racusen, Communications Director; Alexandria Ruiz, Staff Assistant; Melissa Salmanowitz, Press Secretary; Dray Thorne, Senior Systems Administrator; Kim Zarish-Becknell, Policy Advisor, Subcommittee on Healthy Families; Mark Zuckerman, Staff Director; Stephanie Arras, Legislative Assistant; Kirk Boyle, General Counsel; Casey Buboltz, Coalitions and Member Services Coordinator; Allison Dembeck, Professional Staff Member; Brian Newell, Press Secretary; Susan Ross, Director of Education and Human Resources Policy; Mandy Schaumburg, Education Policy Counsel; and Linda Stevens, Chief Clerk/Assistant to the General Counsel.

Chairman MILLER [presiding]. The committee will come to order to conduct a hearing on the reauthorization of the Juvenile Justice Act and to hear from a series of witnesses on that—we are not delaying the markup, and thank you.

VOICE. Well, I would just like to deliver—because recession that you guys can't afford markers or whatever the issue is, but our community, there are people being fired because they are lesbian, gay, bi or transgender.

Chairman MILLER. As you know, we are working very hard on that legislation. We are working—I will not accept the marker. We are working on that as expeditiously as we can. Thank you very much.

VOICE. You are out of order.

Chairman MILLER. I appreciate it. Thank you.

VOICE. In Texas, Virginia, Mr. Chairman, I can be fired for being gay——

Chairman MILLER. I understand that. And that is why we are proceeding with the legislation.

Just for the record, and for members of the audience who aren't familiar, those are individuals who are seeking the passage of Ending Discrimination in Employment Act, which this committee has jurisdiction over and which we are working on and which we expect to bring to markup rather quickly. It is not an easy piece of legislation.

It is a fairly complicated piece of legislation. We want to get it right. But we expect it to have before this committee in the very near future.

With that, we will go back to the subject matter of this morning's hearing, which is the juvenile justice system in this country. At today's hearing, we will examine the state of juvenile justice system in this country and a system that currently affects thousands of children and youth.

It is a system much like the K-12 education system. There are numerous examples of successful programs, as well as programs and policies that continue to fail our children.

Much like public education, we know the juvenile justice system can be a place of redemption and rehabilitation or a place where children are thrown away.

The reauthorization of the Juvenile Justice and Delinquency Prevention Act is part of our committee's larger effort to support children, families and communities. Juvenile justice, like education, can be the cornerstone of a healthy community.

The Juvenile Justice and Delinquency Prevention Act was first written in 1974 with the goal of supporting states' actions to prevent youth crime and to provide certain core protections for children. The law rightfully recognized that clear biological differences between teenagers and adults meant that youth should not be treated in the same manner as adults. And scientific advances that are helping us better understand the biology of the brain development have validated this century-old viewpoint.

Without question, youth must be held accountable for their actions, but justice should not be driven by fads or politics. We need rational policies that prevent children from committing crimes in the first place, and we need to support effective alternatives to detention when possible and treat our incarcerated youth humanely when it is not possible.

We know from the research that policies such as these have greater impact on public safety than locking children up and throwing away the key. With this law up for reauthorization, we are here to take stock of how the current system is working and what more can be done to provide our youth, families and communities with the support that they need to avoid criminal behavior and to make our communities safer places to live.

Today, thanks to the hard work of families and communities across the country, juvenile crime is decreasing. Between 1999 and 2008, the number of juvenile arrests decreased by 16 percent.

We know that when there is a focused effort early in a child's life to prevent him or her from breaking the law, the juvenile crime rates goes down. We also know that when given the right kind of treatment, most of these children can turn their lives around, so it is in the best interest of our nation that we provide that opportunity.

But the data show a far different reality. First, too many children end up in detention, despite the fact that such policies can actually decrease public safety.

Second, minority youth are disproportionately involved in the juvenile justice system, and too few states are actively working to change this, despite the requirements in the law.

And, lastly, conditions of confinement interfere with rehabilitation and can increase recidivism.

Today we will hear from witnesses about effective reform efforts that don't excuse delinquency or criminal behavior, but also effectively redirect youth, providing appropriate treatment and services, and giving them a better opportunity to move in a more positive direction and ultimately make communities safer.

We will hear about the efforts to stop locking up status offenders. We will hear about the disturbing and growing trend of children being held in adult jails, despite the Center of Disease Control's concluding this has a negative impact on public safety.

Every year, some 200,000 youth in this country are held, sentenced or incarcerated as adults. According to the studies funded by the Department of Justice, children in adult jails are eight times more likely to commit suicide than in juvenile facilities. They are also 50 percent more likely to be attacked with a weapon and more likely to be raped.

Kids in adult jails don't have access to real education or rehabilitative services. It is much harder for them to turn their lives around.

We will hear this morning from Tracy McClard, a mother whose teenage son tragically took his own life after suffering horrific abuses in an adult jail. No one questions that her son needed to be held accountable for his actions, but neither should he have been put in conditions that led him to believe that taking his life was the only acceptable option.

No parent should have to experience what she has been through. Ms. McClard, we want to thank you for your courage to be here today and to share your story.

These are just several of the issues that we will explore as we work toward this reauthorization. I know every member of this committee agrees that nothing is more important than the safety and the well-being of our children.

Throughout this reauthorization, we will need to keep our focus on the reforms that will help reduce crime through effective and appropriate prevention and intervention, and keep the communities safe to ensure that our juvenile justice system preserves basic rights for the children it serves.

I would like to thank all our witnesses for being here today and thank you for your time and your expertise. And I look forward to your testimony.

And now I would like to recognize the senior Republican on the committee, Mr. Petri, for an opening statement.

[The statement of Mr. Miller follows:]

Prepared Statement of Hon. George Miller, Chairman, Committee on Education and Labor

Good morning.

Today's hearing will examine the state of the juvenile justice system in this country. It is a system that currently affects thousands of children and youth.

It is a system much like K-12 education. There are numerous examples of successful programs, as well as programs and policies that continue to fail our children.

Much like public education, we know that the juvenile justice system can be a place of redemption and rehabilitation or a place where children are thrown away.

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The law rightfully recognized that clear biological differences between teenagers and adults meant that youth should not be treated in the same manner as adults.

Scientific advances that are helping us better understand the biology of brain development have validated this century-old viewpoint.

Without question, youth must be held accountable for their actions.

But justice should not be driven by fads or politics.

We need rational policies that prevent children from committing crimes in the first place.

And we need to support effective alternatives to detention when possible, and treat our incarcerated youth humanely when it is not possible.

We know from the research that policies such as these have a greater impact on public safety than locking children up and throwing away the key.

With this law up for reauthorization, we are here to take stock of how the current system is working, and what more we can do to provide our youth, families, and communities with the supports they need to avoid criminal behavior and make our communities safer places to live.

Today, thanks to the hard work of families and communities across the country, juvenile crime is decreasing.

Between 1999 and 2008, the number of juvenile arrests decreased by 16 percent.

We know that when there is a focused effort, early in a child's life to prevent him or her from breaking the law, the juvenile crime rate goes down.

We also know that when given the right kind of treatment, most of these children can turn their lives around so it is in the best interest of our nation that we provide that opportunity.

But the data show a far different reality.

First, too many children end up in detention despite the fact that such policies can actually decreases public safety.

Second, minority youth are disproportionately involved with the juvenile justice system and too few states are actively working to change this, despite the requirements in the law.

And lastly, conditions of confinement interfere with rehabilitation and can increase recidivism.

Today we'll hear from witnesses about effective reform efforts that don't excuse delinquency or criminal behavior but also effectively redirect youth, providing appropriate treatment and services, and giving them a better opportunity to move in a more positive direction and ultimately make our communities safer.

We'll hear about efforts to stop locking up status offenders.

We'll also hear about the disturbing—and growing—trend of children being held in adult jails despite the Centers for Disease Control concluding this has a negative impact on public safety.

Every year, 200,000 youth in this country are held, sentenced or incarcerated as adults.

According to studies funded by the Department of Justice, children in adult jails are eight times more likely to commit suicide than in juvenile facilities.

They are also 50 percent more likely to be attacked with a weapon and much more likely to be raped.

Kids in adult jails also don't have access to real education or rehabilitative services.

It's much harder for them to turn their lives around.

We'll hear from Tracy McClard, a mother whose teenage son tragically took his own life after suffering horrific abuses in an adult jail.

No one questions that her son needed to be held accountable for his actions, but neither should he have been put in conditions that led him to believe taking his life was his only acceptable option.

No parent should have to experience what she has been through. Mrs. McClard, thank you for your courage to be here and share your story.

These are just several of the issues we will explore as we work toward this reauthorization.

I know every member of this committee agrees that nothing is more important than the safety and well-being of our children.

Throughout this reauthorization, we will need to keep our focus on reforms that will help reduce youth crime through effective and appropriate prevention and intervention, keep our communities safe and ensure our juvenile justice system preserves basic rights for the children it serves.

I'd like to thank all our witnesses for being here today. I look forward to your testimony.

Mr. PETRI. Well, thank you very much, Mr. Chairman, for having this important hearing. And welcome to our witnesses.

Mr. Kline, the ranking Republican on the committee, sends his regrets that he is unable to be here this morning, but I am delighted to have the opportunity to participate in this hearing.

We are here today to examine juvenile justice and the goals of the Congress as it looks to reauthorize the Juvenile Justice and Delinquency Prevention Act. Last reauthorized in 2002, the Juvenile Justice and Delinquency Prevention Act helps states and local leaders reduce juvenile crimes through programs and activities aimed at prevention.

An important part of this effort are faith-based programs that offer valuable services to help reform juvenile offenders once they have served their time. Such organizations are an avenue for juvenile offenders to escape the downward spiral from delinquency to criminality.

I am particularly interested to hear the testimony today of John Solberg, executive director of Rawhide Boys Ranch, in Wisconsin. The Rawhide Boys Ranch, which I have had the—I used to have the opportunity to represent and I have had the opportunity to visit many times, is a residential childcare center licensed with the state of Wisconsin to treat at-risk youth, 12 to 21 years of age.

And I am pleased that this committee has an opportunity to hear about the important work underway at that institution.

No one questions the important role organizations like Rawhide Boys Ranch play in the lives of juvenile offenders. Alternatives to traditional incarceration are an important component of the juvenile justice system, offering youth offenders a path back into the community. Yet there continues to be—there continue to be cases where the crimes are so serious or the risk to the community is so great that traditional incarceration or other substantial punishment may be the best course of action.

As federal policymakers, we cannot presume to know what is in the best interests of every juvenile offender or local community. States should have the ability to address juvenile offenders in a variety of ways, such as faith-based programs, residential facilities, and detention centers, when they are deemed necessary.

As we consider alternatives to incarceration, the proper application for the institutionalization and strategies to reduce recidivism, we should remember that state and local leaders hold a unique and critically important perspective on these policy questions.

We should move forward in a way that notes and pays attention to their concerns and provides them with the flexibility they need to serve the best interests of the juvenile offenders and the safety of their local communities.

Mr. Chairman, again, thank you for holding this hearing, and I look forward to hearing——

[The statement of Mr. Petri follows:]

Prepared Statement of Hon. Thomas E. Petri, a Representative in Congress From the State of Wisconsin

Thank you Mr. Chairman and welcome to our witnesses. Mr. Kline sends his regrets that he is unable to be with us this morning.

We are here today to examine juvenile justice and the goals of the Congress as it looks to reauthorize the Juvenile Justice and Delinquency Prevention Act. Last reauthorized in 2002, the Juvenile Justice and Delinquency Prevention Act helps state and local leaders reduce juvenile crime through programs and activities aimed at prevention.

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I am particularly interested to hear the testimony today of Mr. John Solberg, the Executive Director of Rawhide Boys Ranch in Wisconsin. The Rawhide Boys Ranch is a residential care center licensed with the state of Wisconsin to treat at risk youth 12 to 21 years of age. I am pleased that this Committee has an opportunity to hear about the important work underway in my home state of Wisconsin.

No one questions the important role organizations like Rawhide Boys Ranch play in the lives of juvenile offenders. Alternatives to traditional incarceration are an important component of the juvenile justice system, offering youth offenders a path back into the community. Yet there continue to be cases where the crimes are so serious, or the risk to the community is so great, traditional incarceration or other substantial punishment may be the best course of action.

As federal policymakers, we cannot presume to know what is in the best interest of every juvenile offender and local community. States should have the ability to address juvenile offenders in a variety of ways, such as faith-based programs, residential facilities, and detention centers when they deem them necessary.

As we consider alternatives to incarceration, the proper application for institutionalization, and strategies to reduce recidivism, we should remember that state and local leaders hold a unique and critically important perspective on these difficult policy questions. We should move forward in a way that heeds their concerns and provides them with the flexibility they need to serve the best interests of juvenile offenders and the safety of their local communities.

Mr. Chairman, thank you again for holding this hearing, and thank you to the witnesses for being with us this morning.

Chairman MILLER. Thank you very much.

At this point, I would like to introduce our panel of witnesses. Our first witness will be the Honorable Steven Teske, who has served as judge in the juvenile court of Clayton County, Georgia, since his appointment in 1999. Judge Teske is the immediate past president of the Georgia Council of Juvenile Court Judges and appointed by the governor to chair the Governor's Office for Children and Families. The governor also appointed him to serve as the Judicial Advisory Council of the Board of Juvenile Justice and Federal Advisory Committees for the Juvenile—for the Juvenile Justice for the U.S. Department of Juvenile—jeez, that is a long title. [Laughter.]

Judge Teske is a very busy man. Let me just put it that way. And we appreciate you being here. But from the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention. We are going to have to work on your resume, Judge.

Okay. Mr. Hasan Davis is the deputy commissioner of Kentucky Department of Juvenile Justice and a frequent speaker and presenter on issues of education, juvenile justice, and the arts in local, state and national levels. Once labeled as a delinquent with an early arrest record, Mr. Davis went on to earn his GED, a B.A. from Berea College, and a J.D. from the University of Kentucky College of Law.

Mr. Davis has served as director of the Lexington Youth Violence Prevention Project, chair of the Kentucky Juvenile Justice Advisory Board, and a fellow at the Rockefeller Foundation's Next Generation Leadership Program.

Michael Belton is the current deputy director of juvenile corrections for Ramsey County, where he oversees the county's juvenile detention and probations and correctional programs. He has previously served as director of Hennepin County juvenile probation and most recently with the county's JDAI coordinator. Mr. Belton is the 2005 Bush Foundation Fellowship recipient.

Tracy McClard became involved in juvenile justice system when her youngest son, Jonathan, was arrested on an assault charge. At 16 years old, he was certified as an adult. And 3 days after his 17th birthday, Jonathan committed suicide by hanging himself in his cell. Since Jonathan's death, Ms. McClard advocates to keep children out of adult criminals justice system and is a member of the National Parents Caucus, which works to bring together parents of those children who have been involved in adult criminal justice system. Ms. McClard resides in Jackson, Missouri, with her husband and is finishing her last year as special education teacher.

And now I would like to yield to Mr. Petri to introduce Mr. Solberg.

Mr. PETRI. Well, thank you again, Mr. Chairman. And it really is an honor for me to have the opportunity to introduce the longtime family friend, John Solberg, who is the executive director of the Rawhide Ranch, having worked there many, many years.

I mentioned in my introductory remarks I have had the opportunity to visit that institution, and it is really a wonderful place to visit. And the success record of taking kids who—basically, this is their last chance. They have been sentenced to prison, and they are given the choice if they—if they sign up for the program of undergoing the Rawhide experience. And they have an opportunity to remake their lives, and many have done it and have been exemplary leaders in a whole range of fields in our society.

So these are young people with a great deal of promise who have gotten themselves in very, very deep trouble with almost no way out. And Rawhide has been one of the ways that has been a successful way out.

It was founded by John and Jan Gillespie and legendary Green Bay Packer quarterback Bart Starr and his wife, Cherry, in 1965. And Mr. Solberg has been employed by Rawhide since 2000 and served on the board of the Wisconsin Association of Family and Children's Agencies from November 2005 to 2009 and is a past

member of the Alliance for Children and Families public policy committee.

He in 2006 participated in the Substance Abuse and Mental Health Services Administration's Building Bridges Summit that created a forum for residential and community-based service providers. And recently he was appointed by our governor, Jim Doyle, to an 11-member statewide committee to examine Wisconsin juvenile justice institutions and explore how to best serve juveniles in the future.

Prior to joining Rawhide, he spent 8 years at First National Bank-Fox Valley, where he served as a vice president. He is a graduate of the University of Wisconsin, Madison, with a B.A. in economics and political science and Marian University with a master's degree in organizational leadership and quality.

I look forward to John's testimony, and I know the committee will find it useful.

Thank you for joining us.

Chairman MILLER. Thank you very much.

Our last witness will be Mr. Scot Burns, who has served as the executive director of the National District Attorneys Association since March 2009. Prior to his work for the association, Mr. Burns served from 2002 to 2009 as a deputy director of the White House Office of Drug Control Policy, where he was responsible for coordination, implementation of the president's national drug control strategy. Mr. Burns also served as an elected county attorney and chief prosecutor from Iron County, Utah, for 16 years.

Welcome to the committee again.

And, Judge Teske, we are going to start with you. In front of you is a little box with lights on it. When you begin your testimony, a green light will go on. Your full testimonies will be placed in the record of this hearing, and the extent to which you can summarize will be appreciated, but we want you to feel—you know, make sure you convey your important points.

An orange light will come on, and you will have about a minute to wrap up, and 5 minutes, the red light will come on. So welcome, and thank you again for your taking your time to be with us.

STATEMENT OF JUDGE STEVEN TESKE, JUVENILE COURT, CLAYTON COUNTY, GA

Judge TESKE. Thank you.

Chairman MILLER. And now I switched glasses so I can see who the hell you are for start.

Judge TESKE. Good morning, Chairman Miller, Ranking Member Petri, and members of the House Education and Labor Committee.

Thank you for having me here to testify today about the Juvenile Detention Alternatives Initiative, known as JDAI, and how JDAI has worked in Clayton County, Georgia, to reduce the unnecessary and costly detention of youth while improving public safety outcomes.

My name is Steven Teske, and I am a judge at the Clayton County juvenile court in Georgia, just south of Atlanta. In addition to my 10 years as a judge, I have been involved in the juvenile justice system in other capacities, as previously noted by you, Mr. Chairman.

In the juvenile justice system, detention is where youth are held before a hearing to determine if the youth has actually committed a delinquent act, essentially the equivalent of adult jail. Today, 400,000 youth are detained every year, with 25,000 youth held on any given night. Two-thirds are detained for property or drug crimes, public order offenses, technical probation violations, status offenses, or violations of court orders.

Youth of color, who are nearly 70 percent of detained youth in 2006, are disproportionately represented in detention facilities. Research shows detention results in harsher treatment of a youth throughout their involvement with the system, independent of the youth's charges or prior records.

In addition, detention has been shown to increase recidivism, prolonged delinquency, and create new or exacerbate existing mental health disorders for youth.

Not only does over-reliance on detention not work from a public safety perspective, it is expensive. On average, one detention bed costs over $70,000 per year to operate, and the average cost to build, finance and operate a single detention bed over its first 20 years is approximately $1.5 million per bed.

In 2004, Clayton County became a JDAI site, and the results have been nothing but dramatic. Since becoming a JDAI site, our county has seen a 70 percent decrease in our average daily population in juvenile detention facilities, a 48 percent decrease in the number of youth committed to juvenile correctional facilities, and a 65 percent decrease in the number of youth of color who are detained.

Most importantly, we have made these reductions while making our community safer. And since becoming a JDAI site, Clayton County has seen a 54 percent reduction of the number of youth with formal charges filed with the court.

What the numbers don't show is the culture change that JDAI has stimulated. By following the JDAI model, Clayton County now makes collaborative data-driven decisions that enable us to keep youth in their homes and communities rather than in detention facilities.

Our multi-agency collaboration has helped us get to the root causes of why youth come to the attention of the system and utilize different agency services to address what I call the youth's delinquency-producing needs.

For example, one of our biggest changes has been the implementation of finding alternatives for safety and treatment, or FAST, panels. These panels composed of representatives from youth-serving organizations and justice system agencies meet before detention hearings to determine what, if any, services, supports and supervision are needed to safely release youth charge with delinquent acts.

These panels have been extremely successful at diverting youth not only out of detention, but out of the juvenile justice system entirely. For example, having mental health experts at the table allows the court to identify and divert youth with mental health needs more quickly than a judge could.

Another major change has been reducing referrals from the education system to the juvenile justice system. After examining data,

we found that over one-third of the juvenile justice system referrals were coming from the education system, and over 90 percent of these referrals were from minor school disciplinary matters.

We use the JDAI model to bring together the police chief, the school superintendent, and other stakeholders to negotiate guidelines on when school misbehavior would be handled by the school and when such behavior would result in a juvenile justice system referral and to create an alternatives to suspension program.

JDAI was started over 20 years ago by the Annie E. Casey Foundation with the goals of safely minimizing detention, reducing DMC, improving conditions of confinement, and deploying juvenile justice system resources more effectively.

Since its inception, JDAI has grown from a handful of sites to more than 110 local jurisdictions in 27 states. The JDAI reform model, which is used in every site, includes collaboration, collection and utilization of data, objective admissions screening, new or enhanced non-secure alternatives to detention, case processing reforms, flexible policies and practices to deal with special detention cases, like probation violations, and intensive monitoring of conditions of confinement.

Using these strategies, JDAI sites have reduced detention by an average of 35 percent without any decrease in public safety. In fact, most sites report improved public safety outcomes because they are more likely to identify and detain those youth who do pose significant risk. These sites have saved millions of taxpayer dollars by closing almost 1,000 unused secure beds and redeploying some of these resources to community-based programming.

These sites are also the only places nationally that have measurably reduced the disproportionate confinement of minority youth.

As the committee considers the reauthorization, I would recommend that the committee include the JDAI principles that have worked so well in Clayton County in its reauthorization bill, including reducing reliance on detention and incarceration of youth, incentivizing jurisdictions to reinvest money spent on detention and incarceration into effective community-based alternatives, promoting the use of data to reform and inform decisions made by the juvenile justice system, and finally, Mr. Chairman, encouraging state and local agencies that serve youth to work collaboratively with the juvenile justice system.

Thank you very much for having me here.

[The statement of Judge Teske follows:]

Prepared Statement of Hon. Steven C. Teske, Judge, Clayton County Juvenile Court, GA

Good Morning, Chairman Miller, Ranking Member Kline, and members of the House Education and Labor Committee. Thank you for having me here to testify today about the Juvenile Detention Alternatives Initiative (JDAI), how JDAI can help strengthen and transform juvenile justice policy and practice, and how JDAI has worked in Clayton County, Georgia.

My name is Steven Teske and I currently serve as a judge at the Clayton County Juvenile Court in Georgia. In addition to the ten years I have spent on the court, I have been involved in the juvenile justice system in many other capacities. At the Governor's request, I represent the 13th Congressional District on the Board of Georgia Children and Youth Coordinating Council (and serve as the Chair of the Board), chair the Governor's Office for Children and Families, and serve on the Judicial Advisory Council to the Board of the Department of Juvenile Justice. I also serve as a representative for Georgia on the Federal Advisory Committee on Juve-

nile Justice for the United States Department of Justice's Office of Juvenile Justice and Delinquency Prevention. In 2008, I served as the President of the Georgia Council of Juvenile Court Judges.

In my testimony today, I would like to provide background on JDAI, including its goals, strategies, and results, and to put JDAI into context with the juvenile justice system as a whole. I would also like to address how JDAI has specifically worked in Clayton County to reduce the unnecessary and costly detention of youth while also improving our public safety outcomes.

Overview of JDAI

The Juvenile Detention Alternatives Initiative (JDAI) is an initiative of the Annie E. Casey Foundation, which was established over 60 years ago in 1948 to help build better futures for disadvantaged children in the United States. To further this mission, the Annie E. Casey Foundation funds initiatives aimed at strengthening those public systems established to respond to the challenges faced by fragile and disadvantaged children and families.

One of these initiatives is JDAI, which began over 20 years ago as an effort to strengthen the nation's juvenile justice systems and improve the odds that delinquent youth would become productive adults. JDAI focuses on the detention component of juvenile justice—a worthy ambition in its own right—but was based on the notion that the policies, practices and skills that would be required to change detention would have a transformative effect on other components of the system as well.

JDAI was also a direct response to dramatic growth in detention use in the 1990s that was unrelated to juvenile offending. The initiative has five main objectives:

1. Decreasing the number of youth unnecessarily or inappropriately detained in juvenile detention centers. Put another way, JDAI seeks to ensure that the only the right youth are detained and that these youth are detained for the minimum amount of time needed to advance to the next phase of the juvenile justice process;
2. Reducing the number of youth who fail to appear in court or re-offend
3. Redirecting public funds spent on juvenile justice towards effective processes and public safety strategies;
4. Ensuring that those youth who must be detained, and the staff responsible for their care and custody, are held in facilities whose conditions of confinement meet, at least, the constitutional standards established by law; and,
5. Reducing the disproportionate minority confinement and contact of the juvenile justice system.

Since its inception in the 1990s, JDAI has grown exponentially from a handful of sites to more than 110 local jurisdictions in 27 states, including Clayton County. Seventeen states have signed on as JDAI partners committed to supporting local efforts to adopt JDAI throughout their state. In total, over 61% of youth in the United States live in a state with at least one JDAI site.

Before I delve deeper into how JDAI works and its results, I believe it is crucial to understand where juvenile detention fits into the broader juvenile justice system, how detention affects youth, and why the Initiative focuses on improving this particular component of the juvenile justice system.

The Importance of Detention

The juvenile justice system is a system unique and apart from the adult criminal justice system with its own terminology and culture. In the juvenile justice system, detention refers to the holding of a youth in a locked juvenile facility after their arrest until an adjudication hearing can be completed to determine if the youth has actually committed a delinquent act. In adult court terms, juvenile detention is the equivalent of holding adults in jail pending trial.

Although the vast majority of youth in detention are awaiting an adjudication hearing, youth are often held in detention for a variety of other reasons as well. Youth may remain in detention awaiting placement in another facility or a community-based program following adjudication. For example, if a judge has ordered a youth to a particular program in the community, but there are no available slots open, the youth can be held in detention until a slot becomes available. Frequently, youth also are held in detention pending probation violation hearings. Finally, in many jurisdictions, youth can be sentenced to serve short terms in the local detention facility.

Most state statutes and professional standards agree that detention should be used for the limited purposes of ensuring a court appearance and minimizing the risk of the youth committing a new offense prior to adjudication hearing. However, during the 1990s, the use of detention rose exponentially, even after juvenile delinquency rates began to decline and despite the limited purposes for which detention was typically supposed to be used. Today an estimated 400,000 young people every

year are admitted to detention nationwide and approximately 25,000 young people are held on any given night. Despite popular misconception, these detention facilities are holding primarily low-risk youth; today, approximately two-thirds of detained youth are detained for property or drug crimes, public order offenses, technical probation violations, status offenses or violations of court orders related to status offenses.

Why is detention such an important piece of the juvenile justice system? Studies have shown that detained youth are more likely to become more deeply involved in the juvenile justice system. Youth who are detained are more likely to be formally referred to court (rather than being diverted), more likely to be adjudicated delinquent and more likely to be committed or placed in residential facilities than similar youth who are not detained pending adjudication. Detention, therefore, propels youth more deeply into the system and results in harsher treatment independent of the youth's charges or prior records.

The expansion of detention in the 1990s came with critical consequences, including:

• Overcrowding: Many facilities became overcrowded—in 1985, just 20 percent of detained youth were confined in overcrowded facilities; a decade later, 62 percent of detained youth were in overcrowded facilities. Overcrowded facilities led to a reduction of safety for youth in the facilities and staff alike.

• Rising disproportionate detention of youth of color: Youth of color composed 43 percent of juvenile detainees nationwide in 1985 and 69 percent of detained youth in 2006.

• Costly building of new detention beds: In order to accommodate more youth, many jurisdictions built new facilities or created new space in existing facilities for additional detention beds, which are very costly. On average, operating one detention bed can cost over $70,000 per year and the average cost to build, finance, and operate a single detention bed over its first 20 years is approximately $1.5 million per bed.

This expansion also had important unintended consequences, not only for youth, but for their communities as well. Research shows that detention has long-term, negative effects on youth—actually increasing recidivism and prolonging delinquency. Data also shows that detention can create new or exacerbate existing mental health disorders for youth. Finally, detention can complicate a youth's return to their school system, making getting an education more difficult.

The JDAI Model

In 1992, the Annie E. Casey Foundation decided that detention reform was not only needed in our country, but that it could be an "entry point" for overall juvenile justice system strengthening and transformation. In order to achieve the goals mentioned earlier in my testimony, JDAI created a comprehensive reform model that is replicated in jurisdictions desiring to transform their detention systems. Each JDAI site is expected to include each of the following components, which were shown to be effective in JDAI's first demonstration grants sites:

• Collaboration among the local juvenile court, probation agency, prosecutors, defenders, and other governmental entities, as well as community organizations—including a formal partnership to cooperatively plan, implement, and assess detention reforms;

• Collection and utilization of data to diagnose the system's problems and proclivities, assess the impact of various reforms, and assure that decisions are grounded in hard facts—rather than myths and anecdotes;

• Objective admissions screening to identify which youth actually pose substantial public safety risks, which should be placed in alternative programs, and which should simply be sent home;

• New or enhanced non-secure alternatives to detention targeted to youth who would otherwise be locked up and—whenever possible—based in neighborhoods where detention cases are concentrated;

• Case processing reforms that expedite the flow of cases through the system, reduce lengths of stay in custody, expand the availability of non-secure program slots, and ensure that interventions with youth are timely and appropriate;

• Flexible policies and practices to deal with "special" detention cases, such as violations of probation and failures to appear in court, that in many jurisdictions lead automatically to detention even for youth who pose minimal risks to public safety;

• Persistent and determined attention to combating racial disparities, including careful study to identify specific strategies to eliminate bias and ensure a level playing field for kids of color; and

• Intensive monitoring of conditions of confinement for youth in secure custody to ensure that detention facilities are safe and appropriate care is provided.

JDAI firmly believes that each of these eight components is crucial to achieving comprehensive and meaningful detention reform. Although every jurisdiction implementing these components must adjust them to their own community's needs and unique challenges, on the whole JDAI has seen successful results in various states and localities across the country.

JDAI Results

As I mentioned earlier in my testimony, JDAI now has a presence in 110 local jurisdictions in 27 states and the District of Columbia. Through the use of the core JDAI principles, many of these jurisdictions across the country have seen significant changes in their use of detention, including:

• Reduced Detention Populations: Most jurisdictions utilizing JDAI safely reduced the size of their detention population by lowering the number of youth admitted to detention and, for those youth admitted to detention, shortening their length of stay. In a recent survey of JDAI sites across the country, the average reduction in detention populations was 35%.

• Improved Public Safety: Though jurisdictions typically employ many different statistical measures on public safety outcomes, JDAI sites have generally reported consistent improvements in public safety outcomes, including reduced pre-adjudication re-offending rates, court appearance rates and overall delinquency rates.

• Cost-effective use of juvenile justice funding: Across the country, JDAI jurisdictions have reduced the number of detention beds that must be funded by nearly 1,000 beds. These reductions have allowed jurisdictions to close units within detention facilities and stop the building of new, planned facilities. Instead of paying for new detention beds, localities have reinvested funds in more cost-effective to alternatives to detention. For example, in Cook County, the juvenile justice system stopped planned construction of a 200-bed facility, which would have cost $300 million to build, finance, and operate over a 20-year period, and instead invested $3 million annually in alternatives to detention. This resulted in a savings of an estimated $240 million over two decades to taxpayers.

• Reductions in racial disparities: As stated earlier in my testimony, youth of color are significantly overrepresented in detention populations. However, many JDAI sites have reported reductions in the number of youth of color in detention populations at a time when the number of youth of color in detention nationally is increasing. On average, JDAI sites have reported a 22% decrease in the number of youth of color detained, while this number has risen 6% nationally. These reductions are critically important and, because of the collection of detailed data about who is being detained, nearly all JDAI sites have been able to have collaborative conversations about reducing racial and ethnic disparities that is data-driven for a specific locality.

In addition to creating positive results in detention, many sites successfully have used JDAI to reform other aspects of their juvenile justice system as well. First, JDAI helps juvenile justice systems to develop a variety of cost-effective, community-based programs that allow youth to safely be held accountable in their communities instead of detention facilities. Youth who participate in alternatives to detention are less likely to be incarcerated post-adjudication in juvenile correction facilities and many sites have moved to create community-based alternatives for youth who have been adjudicated delinquent instead of placing these youth in corrections facilities. Second, by encouraging collaboration among stakeholders within the juvenile justice system and other child-serving agencies, JDAI fosters a culture of shared common goals that allows these individuals to work together creatively on the wide variety of issues facing youth in the juvenile justice system. Third, sites have expanded the data collection required by JDAI to look beyond detention to see how their entire system is performing and other potential areas that could be improved. Finally, sites have begun using objective criteria—such as the criteria utilized to make the decision whether or not to detain a youth—for other decisions in the juvenile justice system, such as where a youth should be placed post-adjudication, what sanctions should be imposed, and the types of treatment a youth should receive.

These results are extremely encouraging on a nationwide level, but are even more impressive on a local level in jurisdictions like Clayton County.

JDAI in Clayton County

Clayton County has been a JDAI site since 2004 and, from that time until now, I can truly say that JDAI helped to change the culture of the juvenile justice system in our County and create a whole new way of doing business for the juvenile court. By following the JDAI model, Clayton County has been able to and continues to

make collaborative, data-driven decisions and take great strides toward keeping youth in their homes and communities rather than locked in detention facilities.

The comprehensive JDAI model has also aided our court in having a better understanding of the juvenile justice system as a whole. Too often, the juvenile justice system is viewed as a single agency that exists separate and apart from other state agencies that work with youth. However, in order to achieve the desired outcome of the juvenile justice system—preventing delinquency for youth not involved in the system and keeping youth already in the system from re-offending—we must understand why youth are getting into trouble in the first place. By using a collaborative approach, we can identify the root causes for youth coming to the attention of the system and utilize different agencies' services to address what I call youths' "delinquency-producing need."

The data shows that this approach has been working in Clayton County. Below are several outcome measures that compare Clayton County's numbers the year before JDAI introduction to the most recent data collected, we have seen:

- The average daily population in juvenile detention facilities drop from 61 youth in a 60 bed facility to 18—a 70% reduction;
- The number of youth committed to the juvenile delinquency system decrease from 124 to 62—a 48% reduction; and
- The number of youth of color detained drop from 48 to 17—a 65% reduction.

Most importantly, we have made these reductions while making our communities safer. In the year prior to becoming a JDAI site, Clayton County had a total of 2,604 delinquency petitions—or "formal charges"—filed with the court. In the most recent reporting year, only 1,199 delinquency petitions were filed in the court—a 54% reduction.

While Clayton County has made a variety of changes in implementing the JDAI principles, I would like to highlight two model programs that are concrete examples of how this initiative works.

FAST Panels: Under JDAI, our County began utilizing Finding Alternatives for Safety and Treatment (FAST) Panels to create a collaborative approach to case planning before a detention decision was made. The FAST Panels are led by the County's JDAI Coordinator and consist of representatives from a variety of agencies and stakeholders, including the education system, the mental health system, community-based program providers, family and children's services, and the youth's parent or family. The goal of the Panels is to explore options for keeping high- or medium-risk youth out of detention and in the community while ensuring public safety.

With all these individuals at the table, the FAST panels allow for creative interagency collaboration where everyone can help identify a variety of resources to provide appropriate supervision to youth on a case-by-case basis. These panels have been extremely successful at diverting youth not only out of detention, but out of the juvenile justice system entirely and into existing community resources. For example, having mental health experts at the table allows the court to identify youth who come to the attention of the juvenile court system with mental health needs more quickly than a judge could. These youth then can be diverted into the mental health system to get appropriate treatment.

School reduction referral: When Clayton County began collecting data under JDAI on youth involved in the juvenile justice system, we were sure to include data on how youth were being referred to the juvenile justice system. We were alarmed to find that over ⅓ of the juvenile justice system referrals were coming from the education system, which had introduced School Resource Officers (SROs) and a zero tolerance policy into schools. Since SROs had been introduced into the schools, school-based referrals to the juvenile justice system increased 2000%. Instead of protecting youth from more serious crimes like exposure to violence or drugs, the SROs were being utilized by school administrators to enforce discipline for relatively minor offenses. Indeed, over 90% of the referrals from the education system were low-level misdemeanor offenses stemming from minor school disciplinary matters that should have been handled in schools.

After analyzing this data as well as relevant data from the school system, we used the JDAI model to bring together the police chief, the school superintendent, and other stakeholders. This group met regularly to negotiate guidelines on when school misbehavior would be handled by the school and when such behavior would result in a juvenile justice system referral. Instead of automatically taking youth to the juvenile justice system, SROs would have a variety of options, including giving youth up to two warnings and referring the youth to a conflict skills class in the community or mediation. In examining the school level data, we also found that youth who were being suspended repeatedly were dropping out at very high levels. Therefore, we worked to create an "alternatives to suspension" program to give administrators options besides suspensions.

Since these two changes have been made, we have significantly reduced the number of cases referred from the schools to the courts, reduced the number of serious incidents at schools, and improved school outcomes. Graduation rates have risen 21% while juvenile felony rates have decreased by 51%. Additionally, reducing school referrals to the juvenile justice system resulted in a 38% reduction in the number of youth of color referred to the juvenile justice system.

In Georgia, I am currently working with other judges and state officials to expand JDAI to additional counties across the state. The successes we have seen in Clayton County have definitely come to the attention of judges throughout the state. My goal is to take the lessons and successes we have had in Clayton County state-wide, with the support and technical assistance from the Foundation, to help new jurisdictions adopt this model.

Recommendations

As the Committee looks to reauthorize the Juvenile Justice and Delinquency Prevention Act (JJDPA), I ask that the Committee consider the following recommendations based on JDAI successes:

• Reduce reliance on detention of youth: The high numbers of youth in detention in the U.S. is concerning, particularly given the research that shows the negative effects and poor results associated with detaining youth. JDAI has shown that reductions can be achieved while maintaining—or even improving—public safety outcomes.

• Incentivize the reinvestment of detention dollars in effective community-based alternatives: At a time when so many states and localities are struggling with tight budgets, the high cost associated with keeping youth in locked facilities is worth another look. Research shows that investing resources in detention beds does not yield good results, particularly given the exorbitant price tag. Fortunately, JDAI sites across the country are working collaboratively to develop alternatives that cost less and work better than detention. By reducing unnecessary detention and reinvesting those dollars into effective detention alternatives, we could help jurisdictions create a financially effective solution to youth who come to the attention of the juvenile justice system. The JJDPA could help incentivize this reduction in detention and reinvestment in community-based alternatives.

• Promote data-driven decisions in the juvenile justice field: The accurate collection of data has been absolutely critical to the changes being made in Clayton County. Without this data, it would have been impossible to track how youth were entering the juvenile justice system and whether the changes we made were having the right effects. Data also can help to bring along stakeholders who may be reluctant to the changes taking place. Finally, data can help to show the public whether their taxes are being spent efficiently and effectively.

• Encourage state and local agencies to work collaboratively with the juvenile justice system: In Clayton County, many of our successes have resulted from having the right people around the table at the right decision-making moments. Instead of bogging down the juvenile justice system process, this collaboration has actually allowed us to divert youth from the justice system and into more appropriate programs that deal with the underlying reasons the youth came to the attention of the system.

Thank you again for having me here to testify and I look forward to any questions you have for me.

Chairman MILLER. Thank you.

Mr. Davis?

STATEMENT OF A. HASAN DAVIS, DEPUTY COMMISSIONER, KENTUCKY DEPARTMENT OF JUVENILE JUSTICE

Mr. DAVIS. Good morning, Chairman Miller, Ranking Member Petri, members of the committee. Thank you for inviting me here to speak today. My name is Hasan Davis, deputy commissioner of operations with the Kentucky Department of Juvenile Justice, with operational responsibility for all residential facilities.

My comments today are based primarily on my professional work in juvenile justice and my personal experience in the juvenile justice system as a child.

Kentucky has not always done what is considered in the best interests of youth when they come in contact with our system. Three years ago, we were in danger of being out of compliance with the deinstitutionalization of status offenders core requirement of the JJDPA, due in large part to the misuse and overuse of the valid court order exception to DSO, allowing judges to place status youth—runaways, truants and curfew violators—in locked facilities.

In 2007, the valid court order exception to DSO had been invoked in Kentucky almost 2,000 times, allowing judges to order locked detention for non-delinquent youth. To put that in context, for the same year, almost half of the states reported that less than 250 valid court order exceptions existed. Only three states had more than 1,000.

In response, Kentucky had to make a choice: forsake the JJDPA and the protection it provides our youth or challenge ourselves to do better. I am proud to say we decided to take the challenge and to make better use of our facilities to meet the unmet needs of status offense youth without placing them in locked facilities.

Sadly, youth of color and girls continue to be disproportionately affected and are more likely to be detained in status offense—with status offenses than their white or male counterparts. To address our challenge with DSO, Kentucky state advisory group allocated formula grant dollars to pilot the Detention Alternatives Coordinators program.

After success, the Department of Juvenile Justice committed resources to expand this program, and today we provide alternatives to secure detention, dedicated work of detention alternative coordinators housed in each of our nine secure residential detention facilities.

DACs partnered with the Administrative Office of the Courts to educate attorneys and judges on resources in the community. After courts approved eligible youth for alternative placement, the DACs complete a risk assessment, match these youth to the appropriate supervision and restrictions, and facilitate their transfer from secure to non-secure custody.

The positive impact of our DACs is illustrated in Vicky's story. Vicky was a habitual runaway, climbing out of her window, walked away from school, regularly using drugs, and coping with a diagnosis of oppositional defiant disorder. Vicky wanted to disappear, from school, from home, from the eyes of the world.

She was picked up, and the DACs requested that she be diverted to an electronic monitor. During her placement, Vicky was ordered into treatment by the court and began needed prescription medication. As a result, school attendance became more regular, her grades began to improve, and today, Vicky is a college student at Eastern Kentucky University in control of her life and living drug-free.

There are times when locked detention is the only reasonable option to address a youth's delinquent behavior, but status offenses generally do not meet this threshold. With this in mind, I respectfully make the following recommendations regarding the Congress's reauthorization of the JJDPA.

First, eliminate the valid court order exceptions to DSO. This critical change received bipartisan approval by the Senate Judiciary Committee. If passed into law, judges would no longer be able to lock up non-delinquent youth out of frustration or a misguided sense of protection. The VCO exception was introduced in the 1980 reauthorization of the JJDPA, leaving states to sort out the sanctioned judicial use of locked detention for status youth. Too often, however, the exemption has followed the rule.

Each year, nearly 40,000 status offense cases still involve locked detention. More than 30 percent would be prohibited if the VCO exception was removed from the JJDPA.

In Kentucky, the DACs are addressing these challenges every day, and we believe that our state could serve as a model. There are alternatives to locked detention that create positive outcomes for youth and families, many of which may be supported by Title II formula grant program monies from the JJDPA.

My second recommendation is that the committee consider ways it can strengthen the act to support the efforts to refine and expand best practices in delinquency prevention, intervention, and treatment.

Issues that the states are most interested in are meeting the needs of runaway and unaccompanied youth within healthiest and least restrictive environments, effective approaches for girls, who are over-represented among status youth, innovations to guard against bias and racial-ethnic disparities, proactive truancy prevention, reducing school referrals to law enforcement, and effective positive family engagement strategies.

Finally, I urge the committee to use the JJDPA reauthorization process as a vehicle for recovering and strengthening support to the states to achieve goals and purposes of the JJDPA itself. Since 2002, juvenile justice appropriations to states that support important priorities under the JJDPA, such as a continuum of services and care, alternatives to detention, and gender-specific services have fallen by more than 50 percent.

Here, again, you have the opportunity to restore research, evaluation, and funding resources, as well as training and technical assistance resources needed to meet critical needs for girls and other children involved in the courts.

You will find these recommendations are in keeping with the best practices and with the recommendations of the Coalition for Juvenile Justice, an association of JJDPA state advisory groups, as well as the broad-based Act-4-Juvenile Justice Campaign that includes more than 350 organizations in juvenile justice, law enforcement, youth and family services, child welfare, mental health and substance abuse treatment, and representing many faith communities, among others.

In closing, I wish to avail myself if you should have further questions. I would like to thank you for the opportunity to speak to you today. It has been my honor.

[The statement of Mr. Davis follows:]

Prepared Statement of A. Hasan Davis, Esq., Deputy Commissioner for Operations, Kentucky Department of Juvenile Justice

Good morning. Chairman Miller and Members of the Committee, it is my distinct honor to speak with you today regarding needs and challenges faced by vulnerable

and troubled youth who come into contact with the juvenile justice system. I am Hasan Davis, Deputy Commissioner of Operations at the Kentucky Department of Juvenile Justice, where I have direct oversight of all state-run residential facilities, including detention centers, youth development centers and group homes, as well as day treatment schools and the classification division which manages the detention alternatives coordinators.

Improving the odds for challenged youth has always been my work. Prior to assuming my current position, I directed the Youth Violence Prevention Project in Lexington, Kentucky. In addition to my experience as a trainer and technical assistance provider in juvenile justice, I continue to work nationally with successful U.S. Department of Education initiatives like GEAR UP and TRIO. For ten years, I served as chair of the Kentucky Juvenile Justice Advisory Board, the governor-appointed state advisory group on juvenile justice charted under the Juvenile Justice and Delinquency Prevention Act, and for three years served as Vice-Chair of the Federal Advisory Committee on Juvenile Justice.

However, the truth that informs my work most is that if not for second chances, I would not have accomplished any of these things. I grew up with visual and hearing challenges and an early diagnosis of dyslexia and Attention Deficit Disorder (ADD). After an increasing amount of preteen delinquent behavior, I was arrested at age eleven. In her infinite wisdom, the judge for my case decided that locking me up would not serve me or the community. So she sent me home on conditions of probation. Although my challenges were far from over, that judge prevented my early entry into the juvenile justice system and ultimately provided me the opportunity to seek a better outcome for myself and my family.

For all of these reasons, I am thankful for the opportunity to share with Members of the Committee the progress that Kentucky has made and continues to make to realize the goals and purpose of the Juvenile Justice and Delinquency Prevention Act (JJDPA), which has allowed us to develop and adopt proven effective approaches to meeting the needs of vulnerable youth and increase community safety.

Now I want to be clear: Kentucky has not always done what is considered to be in the best interest of youth when they come into contact with our juvenile justice system. There was a time when Kentucky was out of compliance with the Jail Removal core requirement of the JJDPA due to our practice of holding juveniles in cells located within adult facilities. More recently, in 2006, Kentucky was in danger of being found out of compliance with the Deinstitutionalization of Status Offenders (DSO) core requirement of the JJDPA, due in large part to the misuse and overuse of the valid court exception to the DSO core requirement, which allows judges to place non-delinquent status youth—such as runaways, truants and curfew violators—in locked facilities.

In response to these challenges, Kentucky, like other states, had to make a choice: do we forsake the JJDPA and the protections it provides for our youth, or do we challenge ourselves to do better? At our core, we have always believed in the safeguards that the JJDPA provides for court-involved youth. Consequently, on both occasions we made a commitment to face our challenges head on. We requested external assistance, examined our internal culture and created the reforms necessary to ensure our return to full compliance with the JJDPA, and to act in the best interest of Kentucky's youth, families and communities in the short and long run.

Kentucky's Improved Approach to Status Youth

I'll begin by talking about the progress Kentucky has made over the last three years to better address the unmet needs of youth charged with status offenses without placing these youth in locked facilities.

Status offenses are those offenses considered by the court only because of the minor status of the child involved—"offenses" that would not be criminal matters at the age of adulthood. Examples include truancy, violating curfew, running away from home, and behavior that may cause a parent or guardian to deem a child ungovernable.

In 2007, as a result of a routine compliance audit conducted by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), we learned that high numbers of detention orders were being issued for status youth statewide. More specifically, the valid court order exception (VCO) to the DSO core requirement had been invoked almost 2,000 times, allowing judges to order the locked detention of non-delinquent youth whose most serious "offense" involved repeatedly running away, skipping school or being rebellious to an adult authority figure. To put that in some context, for that same year almost half the states reported using the VCO less than 250 times; only three states reported using the VCO more than 1,000 times.i

It would be impossible for me to overstate the concerns raised by Kentucky's overuse of detention orders at that time. The underlying causes of status offenses are

typically linked to problems at home and school, and to unmet trauma and mental health needs of young people.ii Locked detention is not designed to treat or to resolve such causes. More importantly, the negative outcomes that can arise from detention far outweigh any benefits of short-term confinement without access to critical services necessary to eliminate the reasons for the status offense. Detention in general, and particularly for status youth and other low-risk youth, has been widely shown to be destructive rather than productive, adding to the often overcrowded conditions that many detention facilities face. Nationally, nearly 70% of detained youth are held in facilities operating above capacity. Under such conditions, discipline can become unduly harsh; education, medical and mental health treatments are often minimal. Among youth in crowded detention facilities, there are a high number of reports of suicidal behavior, as well as stress-related and psychiatric illness. Sadly, too, youth of color and girls continue to be disproportionately affected, and are more likely to be detained for a status offense than their white or male counterparts.iii Currently, girls are reported to account for 14% of youth in juvenile facilities for delinquency, but make up 41% of those in facilities for status offenses.iv

To address Kentucky's challenges with the DSO core requirement, in 2003 Kentucky's state advisory group allocated a portion of its JJDPA Title II State Formula Grants dollars to pilot the Detention Alternatives Coordinator program. After a successful test, run the Kentucky Department of Juvenile Justice committed its own resources to ensure the program would survive and expand. Today, we provide a wide-array of alternatives to secure detention through the dedicated work of a Detention Alternatives Coordinator (DAC) housed in each of our nine regional juvenile detention centers. Over the past few years, DACs have partnered with the Administrative Office of the Courts to educate judges and identify resources which make it easier for frustrated judges to commit status youth to appropriate non-secure settings. After the court approves each eligible youth for an alternative to detention placement, the DAC completes a risk assessment screening, matches the youth with an appropriate level of supervision and restriction, and facilitates their transfer from secure to non-secure custody. Each year, we receive requests from more judges and the Judicial College to provide education on DACs and how their work can support the courts.

The positive impact of our DAC program is illustrated by Vicky's story. Vicky was a habitual runaway. She climbed out her window in the middle of the night, walked away from school, etc. Vicky was regularly using a number of drugs and coping with a diagnosis of Oppositional Defiant Disorder (ODD). Vicky wanted to disappear—from school, from home, from the eyes of the world. When she was picked up, one of our DACs requested that she be diverted and placed on electronic monitoring. During her placement, Vicky was ordered into treatment by the court and began taking needed prescription medications. As a result, her school attendance became more regular and her grades began to improve. Today, Vicky is a college student attending Eastern Kentucky University. She has taken control of her life and is living it drug free.

In Kentucky, we understand and accept that there are times when locked detention is the only reasonable option to address a youth's delinquent behavior. For instance, locked detention may be necessary if a youth poses a serious threat to public safety. Status offenses such as running away, skipping school, violating curfew and using tobacco and/or alcohol under age generally do not meet this threshold. In keeping with this view, we seek to meet the JJDPA's mandate not to detain status youth except in these very limited circumstances.

Kentucky's Improved Compliance with the Jail Removal Core Requirement

Next, I'll talk about the progress that Kentucky has made to achieve and maintain compliance with the Jail Removal core requirement of the JJDPA.

As I stated at the top of my testimony, there was a time, back in the 1990s, when Kentucky was out of compliance with the Jail Removal core requirement of the JJDPA due to our practice of holding juveniles in cells located within adult facilities. At that time Kentucky had only two secure juvenile detention centers. Local jails were reimbursed for housing youth, which created an obvious incentive for long-term detention without attention to the needs and issues particular to youth. With the creation of the Kentucky Department of Juvenile Justice in 1996, we committed to establishing a pre-service training academy for direct care staff, developing an internal investigation unit, hiring a board certified physician to guide medical staff, and building state-run regional detention centers. We currently maintain nine secure detention centers across the state, making available a secure facility within one hour's drive of any of our 120 counties. As a result of these changes, I can attest that on January 16, 2001, Kentucky was found to be in full compliance with the JJDPA Jail removal core requirement.

More significantly, Kentucky has gone even further. We have removed all juveniles—including those charged as adults—from adult facilities pre-trial, and serve some transferred juveniles posttrial in our juvenile facilities. Currently, youthful charged as adults when they were juveniles participate and succeed in our detention treatment and group home facilities, allowing their behavior and treatment progress—not the nature of their offense—to determine their placements. The research is clear: incarcerating youth with adults is a dangerous practice that puts youth at risk of great physical, emotional and mental harm.v Moreover, according to a number of studies, incarcerating youth with adults actually increases the likelihood that they will re-offend once released, and re-offend more quickly and more seriously.vi Given that our dual aim should always be the safety of the community and the safety of the youth, we stand with the Coalition for Juvenile Justice, the Act 4 Juvenile Justice Campaign, and more than 350 international, national, state and local allies in the belief that it is time to end the practice of detaining youth charged as adults in adult facilities.

Recommendations

Remove the VCO Exception to the DSO Core Requirement

Right now, the House Education and Labor Committee is charged with reauthorization of the JJDPA. In place since 1974, the JJDPA provides important safeguards and resources to assist troubled, vulnerable and court-involved youth. A change to the JJDPA that I believe is most critical to protect vulnerable and troubled youth has already been approved by the Senate Judiciary Committee this past December, in the form of an amendment to the DSO core requirement. This amendment, which received bipartisan approval by the Committee as part of

S. 678, calls upon states to eliminate the (VCO) exception—an unfortunate loophole that allows judges to place status youth in locked detention. If passed into law, judges would no longer be able to lock-up non-delinquent youth out of frustration or a misguided sense of protectiveness. Furthermore, eliminating the VCO exception comports with current law or practice in approximately two dozen states and territories.

Testimony given at the time of the passage of the JJDPA cited that status youth should be "channeled away" from lock-ups and toward human service agencies and professionals to avoid creating greater social, emotional, family and/or peer-group upheaval among this highly vulnerable population. Yet, the JJDPA has not adequately addressed alternatives along a continuum of home and community-connected services that would more appropriately and effectively address the needs of status youth and their families. In the 1980s, the VCO exception to the DSO core requirement was included in the JJDPA, but it was left to states to sort out the sanctioned judicial use of locked detention for status youth. Researchers, legal scholars, as well as juvenile court professionals and advocates, are seeking remedies to the problem of over-use of the VCO exception, as well as to problems that arise when federal and state law contradict.

Overall, as a result of the DSO core requirement, since 1974, there has been an overall decline in the use of secure detention for status youth. Yet, each year nearly 40,000 status offense cases still involve locked detention.vii Of these, more than 30%, or approximately 12,000 nationwide, would be prohibited if the VCO exception is removed from the JJDPA.viii Troubled youth, children in need of protective services, runaways and many youth with behavioral health concerns wind up in detention, not because of worries about public safety, but because of a perceived or real lack of community alternatives, a lack of system collaboration, and a lack of knowledge among judges about what resources and effective approaches are available.ix Our DACs in Kentucky are addressing these challenges, and we believe that our state could serve as a model. There are, in fact, many alternatives to institutionalization/detention of status youth shown to create positive outcomes for youth and families, including Functional Family Therapy, intensive case management, non-secure shelter care and temporary crisis care, and family interventions and support—all of which may be supported by the Title II State Formula Grants Program of the JJDPA.

Strengthen the JJDPA Jail Removal Core Requirement to Remove Juveniles Charged as Adults from Adult Jails

The original intent of the JJDPA was to recognize the unique needs of youth in the justice system and establish a separate system to specifically address these needs. One of these unique needs for youth is protection from the dangers of adult jails. As aforementioned, placing youth in adult jails can have dire consequences for the youth, his/her family and the community.

As currently written, the Jail Removal core requirement protects youth who are under the jurisdiction of the juvenile justice system by prohibiting these youth from being held in adult jails and lock-ups except in very limited circumstances, such as while waiting for transport to appropriate juvenile facilities. In these limited circumstances where youth are placed in adult jails and lock-ups, the Sight and Sound core requirement limits the contact these youth have with adult inmates.

While these core requirements have worked to keep most children out of adult jails for more than 35 years, the JJDPA does not apply to youth under the jurisdiction of the adult criminal court. Rather, on any given day, 7,500 children are locked up in adult jails before they are tried.x Nearly 40 states have laws that allow children prosecuted in adult courts to be placed in adult jails, prior to their first court hearing.xi

To ensure that more youth are afforded the protections originally conceived by Congress back in 1974, Congress should amend the JJDPA to extend the Jail Removal and Sight and Sound requirements of the JJDPA to all youth, regardless of whether they are awaiting trial in juvenile or adult court. In the limited exceptions allowed under the JJDPA where youth can be held in adult facilities, they should have no sight or sound contact with adult inmates.

Generate Greater and Better Resources for Effective Implementation of Federal Juvenile Justice Policy

Regarding use of federal funds under the JJDPA, Congress should strongly consider prohibiting the use of federal funds for ineffective and damaging approaches such as highly punitive models shown to increase, rather than decrease re-arrest and re-offense, including boot camps, excessive use of physical restraint, force and punishment, and the building of large residential institutions.xii

I also urge the Congress to consider ways to provide resources for field-based and field-strengthening research and evaluation that will refine and expand the array of best and evidence-based practices in delinquency prevention, intervention and treatment. Issues that states are hungry to address include the following, among others:

- effective approaches for girls, as well as for diverse cultural and linguistic groups;
- innovations to guard against bias and racial/ethnic disparities;
- proactive approaches to truancy prevention;
- ways to reduce school referrals to law enforcement;
- effective approaches for positive family engagement.

In addition, Congress should look to strengthen the implementation the JJDPA which addresses research, demonstration and evaluation and authorizes the OJJDP Administrator to "conduct, encourage, and coordinate research and evaluation into any aspect of juvenile delinquency, particularly with regard to new programs and methods which seek to strengthen and preserve families or which show promise of making a contribution toward the prevention and treatment of juvenile delinquency."

Consider simple language changes in the JJDPA to state that the OJJDP Administrator shall rather than may provide support for research, replication and high fidelity adaptation of evidenced-based practice models, across a wide range of racial, ethnic, geographic and societal circumstances—urban and rural, both in and outside of institutional settings for applications with many populations, girls, Native American youth, youth in the U.S. territories, Latino youth, African American youth, and others. Insist that the research and findings be made widely available to the public and backed-up with training and technical assistance to the parties principally charged with JJDPA implementation—state advisory group members and state juvenile justice specialists.

Since 2002, juvenile justice appropriations to the states that support important priorities under the JJDPA such as continuums of care; alternatives to detention; gender-sensitive and gender-specific services and effective prevention initiatives have fallen by more than 50%. Here, again, you have the opportunity to restore the research, evaluation, and funding resources, as well as training and technical assistance resources needed to meet critical needs for girls and other children involved with the court.

You will find that these recommendations are in keeping with best practice and with the recommendations of the Coalition for Juvenile Justice—an association of the JJDPA State Advisory Groups—as well as the broad-based Act-4-Juvenile Justice Campaign that includes more than 350 organizations in juvenile justice, law enforcement, youth and family service, child welfare, mental health and substance abuse treatment and representing the faith community, among others.xiii

In closing, I wish to avail myself to you should you have any further questions. Many thanks for the opportunity to speak before you today.

ENDNOTES

[i] Unpublished JJDPA compliance monitoring data from the Office of Juvenile Justice and Delinquency (OJJDP), pertaining to 2007.

[ii] National Center for School Engagement. (2009). What is truancy? Denver, CO. *http://www.schoolengagement.org/TruancypreventionRegistry/Admin/Resources/Resources/40.pdf; Hammer, H., Finkelhor, D., & Sedlak, A. J. (2002). NISMART: National Incidence Studies of Missing, Abducted, Runaway and Thrownaway Children, Runaway/Thrownaway Children: National Estimates and Characteristics. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, http://www.ncjrs.gov/pdffiles1/ojjdp/196469.pdf*

[iii] Coalition for Juvenile Justice, Unlocking the Future: Detention Reform in the Juvenile Justice System, January 2004.

[iv] Sickmund, Melissa, Sladky, T.J., and Kang, Wei. (2008). Census of Juveniles in Residential Placement Databook. Available: *http://www.ojjdp.ncjrs.gov/ojstatbb/cjrp/*.

[v] Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America, Campaign for Youth Justice, available at *http://www.campaign4youthjustice.com/Downloads/NationalReportsArticles/CFYJ-Jailing—Juveniles—Report—2007-11-15.pdf. (November 2007).*

[vi] Centers for Disease Control and Prevention, "Task Force Recommends Against Policies and Laws Facilitating Transfer of Youth to the Adult Justice System to Reduce Violence among Transferred Youth," Guide to Community Preventive Services, available at *http://www.thecommunityguide.org/violence/Violence-YouthTransfer—rev.pdf. (April 13, 2007).*

[vii] National Center for Juvenile Justice: *www.ncjj.org.*

[viii] Unpublished JJDPA compliance monitoring data from the Office of Juvenile Justice and Delinquency (OJJDP), pertaining to 2007.

[ix] Schwartz, I., Barton, W. Reforming Juvenile Detention: No More Hidden Closets, 1997.

[x] Jailing Juveniles, p. 4.

[xi] Id. at 24.

[xii] Mendel, Richard A. and American Youth Policy Forum, Less Hype, More Help: Reducing Juvenile Crime, What Works—and What Doesn't (2000), and Less Cost, More Safety: Guiding Lights for Reform in Juvenile Justice (2001).

[xiii] See: *www.juvjustice.org* and *www.act4jj.org.*

Chairman MILLER. Thank you very much.

Mr. Belton?

STATEMENT OF MICHAEL BELTON, DEPUTY DIRECTOR OF JUVENILE CORRECTIONS, RAMSEY COUNTY, MN

Mr. BELTON. Good morning, Chairman Miller and Congressman——

Chairman MILLER. I think you are going to need to bring your—one, is the mic on? And a little closer to you. Thank you.

Mr. BELTON. Okay. Good Morning, Chairman Miller and Congressman Petri and members of the House Education and Labor Committee.

My name is Michael Belton, and I am the deputy director of the Ramsey County Community Corrections Juvenile Division in St. Paul, Minnesota.

I am here standing on the shoulders of my ancestors, and I speak in the name of our children. Racial and ethnic disparities in the juvenile justice system is the great human and civil rights question of the 21st century. And by disparities, I mean said youth of color are treated differently to white youth for the same offense.

Unlike the 1960s and the 1970s, where the civil rights and equal justice struggles were played out in the streets, in the 21st century, the struggle for equal rights and justice will be decided in rooms just like this.

Because this civil and human rights struggle is about us, people working in systems working to respond to human needs in a more equitable and humane manner.

Nationally, youth of color are overrepresented at every point of contact within the juvenile justice system. A 2006 survey of detention facilities was in the United States showed that youth of color are significantly overrepresented. According to that count, when compared to white youth, black youth were more than five times more likely to be detained. Native American youth are nearly four times more likely to be detained, and Latino youth are more than twice as likely to be detained.

Minnesota is home to some of the worst levels of disproportionality in the nation. Black youth are nearly 10 times more likely to be detained than white youth, and Latino youth are more than twice as likely to be detained.

Members of the committee, one of the things that I want to leave you with is this: We have the tools to eliminate racial and ethnic disparities in our juvenile justice system. What we lack is the will.

In Ramsey County, we know reducing the overrepresentation of youth of color in the juvenile justice is possible. And we know that it takes intentional focus.

To foster a positive impact on reducing disparities on a national stage, we support the reauthorization of JJDPA and in particular strengthening the provisions of the core protection around DMC.

Currently, JJDPA requires states to address DMC without requiring concrete guidance. I submit that unless Congress strengthens this vague requirement, little progress will be made beyond admiring the problem.

In our written testimony, we reference a number of things that local jurisdictions need, but right now I want to leave you with these three things local jurisdictions require to crack the seemingly intransigent problem of DMC and racial and ethnic disparities.

One, leadership, local and congressional leadership. On a congressional level, your leadership through reauthorization and strengthening of DMC core requirements by giving states specific guidance on reducing DMC, such as analyzing key decision points to determine where disparities exist, collecting data, developing work plans, and publicly reporting efforts. Such leadership would set the tone for this work nationwide.

Two, collaboration with impacted communities of color. These communities provide a sense of urgency, perspective, hidden knowledge, and wisdom and accountability.

Three, data-driven policy and practice reform. Jurisdictions have to ask the question, are we getting our money's worth with our juvenile justice dollars? And if not, what else do we need to do? And more importantly, underneath that question is one of fairness. Is what we are doing fair, not what we intend, but our results?

Ramsey County is in the middle stages of using the strategies above, but we have reduced daily average population in our detention center by 65 percent from 2005 to 2009. While Congress cannot legitimate the will to reduce racial and ethnic disparities, it can formulate policies that will have an important and measurable impact. The federal government can provide the guidance around what it takes to do this work effectively.

Strengthening of the DMC core requirement in the JJDPA is an important step to ensuring justice is administered fairly for all of

our children who come in contact with our juvenile justice system. Thank you. It is an honor to be here.

[The statement of Mr. Belton follows:]

Prepared Statement of Michael Belton, Ramsey County Deputy Director of Juvenile Corrections

Good Morning Chairman Miller, Ranking Member Kline, and other Members of the Committee.

I appreciate the opportunity to address the reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDPA) and specifically to speak to the issue of racial and ethnic disparities in the juvenile justice system. My name is Michael Belton, and I am the Deputy Director of the Ramsey County Community Corrections Juvenile Division. As someone who has worked and managed staff on the frontlines of juvenile corrections for over 30 years, I offer a perspective as a practitioner who has seen the troubling effect of the disproportionate representation of young people of color in the juvenile justice system and the impact of this disproportionate representation on their families and communities.

I appear before you standing on the shoulders of my ancestors, and I speak 'In the Name of Our Children.' I introduce my testimony in this fashion because I believe DMC and successfully reducing racial and ethnic disparities must be a more passionate and intentional pursuit than it is a technical exercise of making declarations, simply collecting data and hoping for a good result. And, given the current crisis of the overrepresentation of youth of color in the juvenile justice system, reducing DMC and racial and ethnic disparities in our juvenile justice system is an endeavor that we must pursue. We must pursue it with intentionality and by using strategies that have demonstrated success in jurisdictions throughout the country, including Ramsey County.

Throughout my testimony, disproportionate minority contact (DMC) refers to the disproportionate representation of youth of color in the juvenile justice system as compared to their representation in the "at risk" youth population. In contrast, reducing racial and ethnic disparities refers to changing the decisions and processes in the system that produce disparate outcomes for similarly situated youth—such as youth with similar charges or youth with similar past prior involvement with the juvenile justice system—who differ from each other only in race and ethnicity. In essence, disparities in juvenile justice decision making produce the DMC we see in the juvenile justice system.

DMC and racial and ethnic disparities exist in Ramsey County. However, with the help of the W. Haywood Burns Institute and the Juvenile Detention Alternatives Initiative (JDAI), we have committed to engaging in an intentional, collaborative and data driven approach to reduce DMC and eliminate racial and ethnic disparities. It is for this reason that I am particularly pleased to have the opportunity to speak with you today about enhancing the core protection in the JJDPA that focuses specifically on addressing the overrepresentation of youth of color in the juvenile justice system.

DMC and Racial and Ethnic Disparities: The Scope of the Crisis

National research consistently indicates that youth of color are overrepresented at each point of contact within the juvenile justice system, and the overrepresentation is cumulative—meaning it has a greater effect the deeper a youth gets into the juvenile justice system—as youth proceed through the decision system from arrest to secure placement to transfer to adult court.[i] This cumulative effect is perhaps easiest described by the data—a 2007 study of decision points in the juvenile justice system found that youth of color represented 28% of youth arrests, 37% of those who were detained, 35% of those who were transferred to criminal court, and 58% of those admitted to state prisons.[ii]

A 2006 survey of detention facilities within the United States showed that youth of color are significantly overrepresented in the juvenile detention facilities. According to the count, when compared to White youth, Black youth are more than five times more likely to be detained, Native American youth are nearly four times more likely to be detained, and Latino youth are more than twice as likely to be detained.[iii] The disparities are similar in locked facilities beyond detention where data shows that Black youth are more than four times as likely as White youth to be sentenced to locked facilities, and Latino youth are two times as likely. Native Americans are held in secure confinement three times more frequently than White youth.[iv]

The State of Minnesota is home to some of the worst levels of disproportionality in the nation. The overall youth of color population aged 10-17 in Minnesota is cur-

rently 18% youth of color,[v] yet youth of color represent 38% of youth detained in juvenile detention facilities and 46% of youth committed to a residential facility as part of a court-ordered disposition (or "sentence" in adult court terms).[vi]

In 2007, in the three largest metro counties in Minnesota—Dakota, Ramsey and Hennepin Counties—youth of color represented 31% of youth aged 10-17, yet accounted for 71% of youth securely detained before their adjudication hearing, and ranged from 43% to 83% of youth receiving post-adjudication placements in ranch camps, group homes and other out-of-home residential placement settings including secure treatment programs.[vii] And an analysis of the decision point of transfers to adult court in these counties revealed that youth of color account for almost 100%.

In trying to explain the phenomena of youth of color overrepresentation in the juvenile justice system, claims often are made that youth of color are overrepresented because they commit more crime and more violent crime than White youth. However, an examination of the data paints a different picture. Nationwide, research demonstrates that youth of color are treated more harshly than White youth, even when charged with the same category of offense. Self-reports of drug use indicate that White youth and youth of color use drugs at the same rate. However, White youth are much more likely than Black youth to be placed on probation, and Black youth are twice as likely as White youth to be sent to locked facilities for drug use or drug related crimes. Latino youth are incarcerated for twice as long as White youth for drug offenses and are one and a half times more likely to be admitted to adult prison for these offenses.

In Minnesota, research also demonstrates that similarly situated youth of color are treated more harshly than White youth. Statewide data reflect that youth of color arrested for only 37% of Part I crimes (serious offenses eligible for transfer), but account for 45% of youth transferred to adult court.

These statistics underscore the crisis of DMC and racial and ethnic disparities in our Nation and in the State of Minnesota. Clearly, youth of color are overrepresented in the juvenile justice system, and clearly, this overrepresentation cannot be explained by differential patterns of offending. Youth of color consistently receive more punitive responses from the justice system than White youth.

What is more, the youth of color population continues to grow both nationwide and in the State of Minnesota. Already, more than 47 percent of all children under age 5 in our nation are youth of color. Of all young people aged 0-17, 43 percent were youth of color in 2008 (compared with 31 percent of those 20 or older), up from 38.5 percent just eight years earlier.[viii] This is true in Minnesota as well. Minnesota's metro counties of Dakota, Ramsey and Hennepin have growing immigrant Latino, Hmong, and Somali populations, placing the Twin Cities among the fastest growing ethnically diverse areas in the country. The result is a growing youth of color population being cycled through a juvenile justice system that appears unable or unwilling to produce equitable outcomes and that creates devastating impacts on these youth.

The extent of DMC and racial and ethnic disparities has reached a level crisis that must be addressed, and it is a crisis that can be addressed with a strategic and intentional approach.

Local Efforts to Reduce Racial and Ethnic Disparities in Ramsey County

In the prior portion of my testimony, I described the negative treatment that youth of color face in the juvenile justice system—particularly in Minnesota. Fortunately, in Ramsey County we have had the support of the W. Haywood Burns Institute and the Juvenile Detention Alternatives Initiative and have committed to engaging in an intentional, collaborative, and data driven approach to reducing DMC and racial and ethnic disparities

In the Fall of 2005 with the support of our County Board of Commissioners, Ramsey County embarked on a collaborative project with Annie E. Casey Foundation to reduce our reliance on detention. The County saw disturbing trends of escalating detention populations. The juvenile detention center routinely exceeded its capacity of 86 beds causing staff to double bunk young people in cells and stage cots in the gym. When the center averaged a daily population of 89 youth, we knew change was necessary. Very quickly, we learned of the significant overrepresentation of youth of color. According to our initial analysis, youth of color, and particularly Black youth were represented in pre-adjudication admissions to secure detention at Ramsey County Juvenile Detention Facility. In 2005 Black youth represented 14% of the overall youth population in Ramsey County aged 10-17, but 50% of youth admitted to detention pre-adjudication. Although we committed to reforming our juvenile justice system and to reducing our reliance on secure detention, disproportionality in Ramsey County became the seemingly intractable problem we

sought to understand and to solve. DMC reduction drove the primary purpose for juvenile justice reform.

The Corrections Department engaged the W. Haywood Burns Institute in 2006 to conduct an assessment of our existing reform efforts and to review the status and extent of disproportionality and disparities, to review our policies, practices and procedures to offer recommendations on how we could work more intentionally to reduce DMC and racial and ethnic disparities. The Burns Institute assessment revealed the need for (1) more strategic collaboration between traditional and non-traditional stakeholders, (2) better and more consistent data collection and monitoring of disparities, and (3) more thorough review of how policies and practices uniquely impact youth of color.

(1) Collaboration

We learned that is it critical that impacted communities of color be part of the reform process. These communities provide a sense of urgency, perspective, and insight into what is driving system involvement for our must vulnerable youth. Too often these juvenile justice stakeholders with important insight and the greatest personal "stake" in reducing racial and ethnic disparities are excluded from the effort.

In 2008, Ramsey County Corrections again engaged the Burns Institute to help us develop a strategy for community engagement. Now, Ramsey County commits to engaging community in our work to reduce disparities, and we commit to engaging community in a meaningful way. Ramsey County Corrections invested in learning from the community—we hosed community dialogues in the communities with the highest prevalence of system involved youth of color. As a result we have culturally specific community-based alternatives both pre and post adjudication that were surfaced by the Ramsey County Alternatives Committee, which comprises community representatives from impacted communities of color. This group identified community agencies and programs that had been working with 'at risk' populations, that the community trusted, and programs that operated from a cultural center. Community advocacy groups were also instrumental in the Ramsey County Board investing in funding to support community based alternatives that lead to juvenile justice reforms. The community also works with us to evaluate these services and to make recommendations for improvement.

(2) Data Collection and Analysis

Prior to our engagement with Burns Institute and JDAI, the Corrections Department and other local stakeholders did not use data to inform policy or practice. What is more, we did not maintain consistent reports to let us know what was driving disproportionality in our juvenile justice system. Over the last 5 years, there has been a significant shift toward collecting, analyzing and reporting data through the lens of race, ethnicity, gender, geography and offense. We are no longer relying on anecdotes. Rather, we use empirical evidence and data to drive our work on reducing DMC and racial and ethnic disparities. Now, we not only identify the extent of disproportionality at various points in our juvenile justice system, we know more about the factors driving disproportionality and disparities. Black youth on enhanced probation, a special probation unit for high risk youth were required to waive to their right to a court hearing before being locked up as a condition of disposition. This policy allowed probation officers to detain youth for up to 48 hours. Youth were being detained on average 1.6 days and could be placed on "waiver violations" for subjective reasons, and repeatedly. We identified this specific response as 100% youth of color. We questioned the policy's efficacy since many youth were not having their rehabilitative needs met while being detained for only a day and admissions for violations were contributing to disproportionality. Through our examination of the issues surrounding this policy we worked with community partners to establish an alternative that could be used for high risk probation youth in lieu of detention, resulting in a 61% decline for youth of color enhanced probation admissions from 2008 to 2009. Our DMC Committee, comprised of community and system stakeholders, also recommended to eliminate this policy, and this request has been honored.

(3) Juvenile Justice Decision Point Analysis

Finally, we learned that we were not aware of how all juvenile justice decision makers were, intentionally or not, contributing to DMC and racial and ethnic disparities in our juvenile justice system. Ramsey County is currently engaged in decision point analysis that reviews all juvenile justice decision making points—from arrest, to entry onto probation, to detention and out of home placement. We are conducting a thorough assessment of both our policies and our practices to ensure that

we are not unintentionally treating similarly situated youth differently, and ensuring we are responsive to the many diverse communities we serve.

With this intentional focus, Ramsey County has had the following measurable reductions and successes:

(1) A reduction in the average daily population for youth of color in detention by 65% from 2005 to 2009 using an objective detention screening tool. Use of the objective detention screening, the Risk Assessment Instrument (RAI) has ensured that youth will be either released from juvenile detention intake, released from juvenile detention intake with certain conditions or be admitted to our Juvenile Detention Center based on their level of public safety risk, their presenting offense and prior history of offense and flight risk. Several databases are used to assess youth eligibility for release to home (0-9), an alternative to detention (10-14) or detention (15+). In developing and using our RAI, we learned that the vast majority of youth of color the RAI-identified were low risk youth who were previously being detained. Used with a clear purpose of detention, we've experienced dramatic reductions in the overall daily population in detention and significantly reduced detention admissions for youth of color. The RAI was implemented in January 2008 after months of collaborative deliberation with such stakeholders as corrections, law enforcement, county attorneys, public defenders, judges, schools, and community representatives. Most recently Ramsey County launched an automated version of the tool cutting the assessment time by more than half and thereby releasing youth who do not require secure detention.

(2) For Black youth, who represent the majority of youth of color in detention, a reduction in rate of detention by 33.2% from 2005 to 2008, and a reduction in rate of secure confinement or out of home placement by 85.9% In addition to the RAI, our Probation staff,with partners, developed an objective tool, the Graduated Response Grid, which standardizes probation officers' responses to violations based on a youth's level of risk to reoffend and the level of non-compliance. When we examined the youth being admitted to detention on probation violations and intensive supervision sanctions, more than 80% were youth of color. Black youth were especially overrepresented. These youth were being admitted primarily on status offenses or low level infractions. Youth were treated inconsistently by Corrections when they violated their probation, and the result was that Black youth were being disproportionately admitted to detention for reasons that did not meet our locally identified purpose of detention: short term public safety interests and flight risk.

The grid presents a continuum of community based options and incentives that are used to redirect youth behavior and firmly positions detention and out of home placement as deep end tools only to be used when public safety and a youth's rehabilitative needs require it. A philosophical, policy and practice shift has created an emphasis on least restrictive, community based options wherever possible, which has impacted the number of youth of color in Ramsey County. Black youth are not being sent to detention and out of home placement as often due to this new policy No longer are secure detention and out of home placement used as accountability measures or 'punishment', but for their respective intended purposes.

The implementation of culturally specific, community-based alternatives to support both detention reforms and probation reforms that divert youth from detention and out of home placement to community based options. Data showed that many of the youth coming to detention came from two main neighborhoods in St. Paul—the 55106 or East St. Paul,area, community in transition with a large Black and Hmong population, and 55104, the Rondo neighborhood, a historically Black area. When alternatives were designed, programs were intentionally placed in the impacted neighborhoods where youth were coming from to ensure that supports were being developed right where young people live and that programs are accessible and culturally relevant to increase program success rates.

Most important, in Ramsey County our leadership has prioritized DMC and reducing racial and ethnic disparities for conducting juvenile justice system reform. Work to reduce DMC and eliminate racial and ethnic disparities is a part of my Department's Five Year Strategic Plan. The goals of this plan include:

1. completing a decision point analysis for entire juvenile division by race, ethnicity, gender, geography, and offense (REGGO) ;
2. identifying points of differential impact on youth of color and developing strategies that eliminate disparities in partnership with stakeholders;
3. establishing authentic "discussions" with communities of color and the Community Corrections Department ;
4. reducing and monitoring the efficacy of out-of-home placements;
5. ensuring that all families are welcomed and respected as they intersect with our juvenile justice system; and
6. placing a stronger emphasis on culturally and gender specific responses.

The process and goals of our work in Ramsey County reflect the level of intentionality required to make meaningful and sustainable reductions to DMC and racial and ethnic disparities in the juvenile justice system. It is a process that produces measurable results, and more importantly, can be replicated by jurisdictions throughout the nation. With guidance, intentionality and a strategic approach, jurisdictions that have simply admired the problem of disparities in their juvenile justice system for decades can finally take action to eliminate those disparities.

Strengthening the Core Protection to "Address DMC" in the JJDPA

Currently, the JJDPA requires States to "address" disproportionate minority contact (DMC) within the juvenile justice system. Specifically, the law requires States to "address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system."[ix]

Unfortunately, this vague requirement that states "address" efforts to reduce DMC has left state and local officials without a clear mandate or guidance for reducing racial and ethnic disparities. With limited guidance, jurisdictions can get stuck studying the problem or endlessly working on projects that do not lead to measurable reductions. Indeed, throughout the country, jurisdictions have spent significant time and money trying to reduce racial and ethnic disparities in juvenile justice with limited results. I contend that unless Congress strengthens the DMC core requirements of JJDPA, little progress will be made beyond "admiring the problem."

Strengthening the JJDPA will make it possible for more jurisdictions to reduce racial and ethnic disparities in the juvenile justice system by giving states more guidance on how to go about reducing DMC and racial and ethnic disparities through focused, informed, data-driven strategies like those successfully utilized in Ramsey County. Thus, I believe the reauthorization of the JJDPA must guide states toward engaging in specific approaches to effectively address racial and ethnic disparities.

Specifically, I recommend strengthening the core protection by requiring States to take concrete steps to not just address, but to actually move toward reducing racial and ethnic disparities in the juvenile justice system. Using elements of the model used in Ramsey County, MN and other jurisdictions that have effectively reduced racial and ethnic disparities, strategies to reduce DMC and racial and ethnic disparities must include:

Encouraging collaboration of local juvenile justice stakeholders, including community leaders of communities in which youth of color are disproportionately represented in the juvenile justice system.

Mapping decision points in local and state juvenile justice systems to identify key decision points and how departmental policy, practice and procedure may disparately impact youth of color and be contributing to disproportionality.

Developing and implementing data systems that identify where racial and ethnic disparities exist in the juvenile justice system and track and analyze such disparities, using descriptors disaggregated as appropriate by race, ethnicity, gender, geography, offense, delinquency history and age.

Creating a work plan to reduce racial and ethnic disparities that includes measurable objectives for system change and/or policy and practice change designed to reduce any forms of bias, differential treatment of youth of color or disparity found to be associated with race and ethnicity; and

Publicly reporting progress towards measurable objectives in reducing racial and ethnic disparities that must be monitored and evaluated on an annual basis.

By strengthening the core requirement of the JJDPA regarding disproportionality in the juvenile justice system, you would be making a statement that you recognize the intentionality necessary to reduce DMC and racial and ethnic disparities in the system and are make this work a national priority. You are giving more jurisdictions throughout the nation the opportunity to build on the experiences of jurisdictions that have successfully reduced disproportionality and disparities.

Conclusion

Thank you for the opportunity to address you regarding this critical issue. In Ramsey County, we have realized that reducing racial and ethnic disparities in the juvenile justice system while maintaining public safety is possible. We also know that it is only possible with intentionality and by implementing the strategies discussed above.

With its current reauthorization, Congress has the opportunity to offer specific guidelines to States in their efforts to reduce the growing disproportionality of youth of color in the juvenile justice system. And while Congress cannot legislate the will

to reduce racial and ethnic disparities, it can formulate policy that will have an important and measurable impact on the lives of children.

I am happy to answer any questions you might have regarding my testimony.

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Chairman MILLER. Ms. McClard, welcome.

STATEMENT OF TRACY MC CLARD, MOTHER OF A CHILD WHO COMMITTED SUICIDE IN AN ADULT FACILITY

Ms. MCCLARD. Thank you.

Good morning, Chairman Miller, Ranking Member Petri, and members of the committee. Thank you so much for having me here today.

In 2008, I lost my 17-year-old son Jonathan to Missouri's criminal justice system. First, I would like to put our story in context. Each year, 200,000 youth are prosecuted as adults, and every day, 10,000 kids under 18 are locked in adult jails and prisons. This practice exists even though research shows that prosecuting youth as adults actually increases crime.

Other studies show that youth in adult jails face physical and sexual assault and little to no access to education, mental health programs, or substance abuse treatment. As my family tragically knows too well, youth in adult jails are 36 times more likely to complete suicide in jail than juvenile detention.

In July 2007, my son, Jonathan, who was 16 years old, made an extremely poor decision. His ex-girlfriend called to say that she was pregnant with his baby, but was going to commit suicide because her new boyfriend was going to force her to kill the baby. Under the influence of drugs, in what he thought was an attempt to save two lives, Jonathan shot the boyfriend, who survived, to scare him into leaving the ex-girlfriend alone.

Thinking the police would understand, Jonathan immediately turned himself in. I believed Jonathan should be held accountable, but I never imagined what he would face in the adult system.

He was first placed in juvenile facilities, including a psychiatric hospital and a juvenile detention center. While in the hospital, Jonathan was prescribed a high amount of anti-psychotic medications that took several weeks for his body to adjust to. In the meantime, he suffered recurring nightmares and hallucinations of blood running down the walls. In the detention center, he was allowed to stay caught up in school.

On September 6, 2007, he was transferred to the adult system and placed in an adult jail, a 140-pound slight-build 16-year-old child among much older, bigger men. On his arrival, all his medication was abruptly stopped due to the jail's anti-narcotics policy, causing intense withdrawal with shaking, more hallucinations, and severe depression.

At the jail, he could no longer continue his education. His school no longer sent homework, and he was dropped from the roster. This was really hard for him, because he loved school. He had a lot of friends, good grades, and good relationships with his teachers.

He was working towards scholarships and to become a doctor or psychiatrist. He tried to work on a GED book, but the jail was too noisy and no one would help or support him. At night, he couldn't sleep, as the lights were kept on and the adult inmates stayed up. Jonathan timed trips to the restroom or taking a shower to avoid being assaulted.

After 2 weeks, he was transferred to another jail in Charleston, Missouri. We were allowed only one 15-minute visit a week through glass by talking on a phone. On our first visit, my husband and I were shocked. Cuts and bruises covered his face and head. His hair was shaved, and he had a new tattoo that other inmates said he needed to survive.

The night he arrived, he had been attacked by a fellow inmate coming down off meth from the meth lab in the jail. I immediately broke down and wept because I was utterly powerless to keep him safe. He kept trying to reassure me that he would be okay, but we both knew he wouldn't.

In our next visits, Jonathan always had stories about violent things he saw and comments he heard from other inmates on how to survive and was constantly trying to strengthen his body to survive attacks.

Although he was recommended for Missouri's dual jurisdiction program, which allows youth up to 21 tried as adults to serve their time with other youth, the judge denied him this opportunity. After being placed in several other facilities, Jonathan learned he would be going back to Charlestown, the same town where he had horrible jail experiences.

This possibility was too much for him. And on January 4th, 3 days after his 17th birthday, he was found hanging in his cell.

While in jail, Jonathan lost everything: freedom, friends, safety, privacy, sanity, childhood, scholarships, college, dreams, Six Flags, family vacations, and holidays, and time with his brother, sister and a close extended family.

Jonathan's experience taught me that no child should be placed with adults no matter what, because when children are put with adults, they die, physically or mentally.

I also believe that all kids deserve a second chance. As a parent, one of the most frustrating things for me was that the court, the judges, the prosecutors didn't know my son. They hadn't raised him like I had. But they weren't willing to give him the second chance they might have given their own kid.

Finally, if the criminal justice system is supposed to keep our communities safe, how safe can they be if a kid has spent 5, 10,

15 or more years in the conditions Jonathan faced and the role models he had?

In closing, I urge the committee to extend the jail removal and sight and sound core protections in the JJDPA to youth in the adult system. I also ask that you allow states the option to let youth convicted in adult court serve their sentence in juvenile facilities rather than adult prisons.

Thank you again for having me here to testify and for giving me the chance to share my story, my family's story, and Jonathan's story with you.

[The statement of Ms. McClard follows:]

Prepared Statement of Tracy McClard, Parent

Good Morning, Chairman Miller, Ranking Member Kline, and members of the House Education and Labor Committee. Thank you for having me here to testify today on the Juvenile Justice and Delinquency Prevention Act (JJDPA) and share my story.

My name is Tracy McClard and I live in Jackson, MO. In 2008, I lost my barely 17 year old son, Jonathan, in Missouri's criminal justice system.

Background and Context

Before I begin telling my family's experience with having our son in the adult criminal justice system, I would like to give you some data to help put our story into context. Each year, an estimated 200,000 youth go into the adult criminal court and every day 10,000 kids under the age of 18 are incarcerated in adult jails and prisons.

These policies exist even though research shows that prosecuting children as adults causes harm to these youth and does not increase public safety. Reports from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Centers for Disease Control and Prevention (CDC)'s non-federal Task Force on Community Preventive Services, show that prosecuting youth as adults actually increases crime. The CDC report found that youth involved in the adult system are 34% more likely to commit crimes than children who have done similar crimes, but remain in the juvenile justice system. The OJJDP report found that prosecuting youth as adults increases the chances of a youth re-offending and recommended decreasing the number of youth in the adult criminal justice system.

Research also shows that youth in adult jails face unbelievable conditions. First, these youth are at great risk of physical and sexual assault. The National Prison Rape Elimination Commission recently found that "more than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk for sexual abuse" and said youth be housed separately from adults. Second, youth in jails typically do not have access to things like education, mental health programs, or substance abuse treatment, especially when compared to kids in juvenile facilities. Finally, and as my family tragically knows too well, youth in adult jails are at a high risk of suicide—youth in adult jails are 36 times more likely to complete suicide in an adult jail than youth juvenile detention facilities.

Jonathan's Story

In July 2007, my son Jonathan, who was 16 years old at the time, made an extremely poor error in judgment. That morning Jonathan's ex-girlfriend called to tell him that she was pregnant with Jonathan's baby, but that her new boyfriend was abusive and was going to force her to inject cocaine and kill the baby. She also told him she was going to commit suicide before the new boyfriend could do this. Under the influence of drugs, and in what he thought was an attempt to save two lives, Jonathan shot the boyfriend, who survived, with the intent to scare him into leaving the ex-girlfriend alone. Thinking the police would understand why he did what he did and not understanding the gravity of his actions, Jonathan immediately turned himself in. While I believed that Jonathan needed to be held accountable for his actions as well as pay retribution, I never would have imagined the conditions he would face in the adult criminal justice system that ultimately took his life.

Our ordeal began with Jonathan being taken to an adolescent psychiatric hospital in St. Louis, MO within two hours of his arrest due to shock and suicidal thoughts in the aftermath of the event. The charge nurse there said that Jonathan was very confused and afraid. He remained in that facility for two weeks and was then ulti-

mately transferred to the Cape Girardeau Juvenile Detention Center to be closer to home.

While in the psychiatric hospital, Jonathan was prescribed an extremely high amount of anti-psychotic medication. When he was transferred back to the juvenile facilities we, as his parents, had no control over Jonathan's medication or the dosage. It took several weeks for his body to adjust and during this time he had recurring nightmares about the loss of his baby and hallucinations of blood running down the walls. Eventually his body adjusted to the medication. In the juvenile detention center, Jonathan was allowed to complete homework from school and stay caught up. Jonathan remained in the Cape Girardeau County Juvenile Detention Center until September 6, 2007.

On that day, Jonathan had a certification hearing where he was transferred to the adult system. At the conclusion of the hearing he was immediately placed in the Cape Girardeau County Jail with adults in Jackson, MO. He was a 140 lb., slight built, 16 year old child among much older, bigger men. As soon as he arrived, all the medication he was forced to take earlier was abruptly stopped due to the jail's anti-narcotics policies, causing intense withdrawal symptoms, including shaking, another bout of hallucinations and severe depression. There was no medical care, medication or concern on the part of the jail's staff as Jonathan was forced to suffer these withdrawal symptoms.

At the jail, the ability for Jonathan to continue his education was also put on hold. Because he was now in the adult system, his school was no longer required to send homework and he was officially dropped from their roster. This was really difficult for Jonathan to deal with as he loved school, learning, reading and research. He had a lot of friends, made good grades and his teachers really enjoyed having him in class. He was working toward scholarships and had plans to become a doctor or psychiatrist. In the weeks waiting for his certification hearing, he mentioned several times how worried he was about his education. The night before the hearing he said, "I wonder if my teachers know I have to go to jail tomorrow and I can't be in school anymore. My life is over."

In order to continue with his education, Jonathan tried to work on a GED book, but he told me that it was too noisy in the jail and nobody was there to help or support him. He ended up staring at the TV every day and at night he could not sleep as the lights were kept on and the adult inmates stayed up. He waited to use the restroom and take a shower in the mid-morning hours when the other inmates were sleeping to avoid being assaulted. Jonathan spent approximately two weeks in the Cape Girardeau County Jail and due to a change in venue was then transferred to the Mississippi County Jail in Charleston, MO.

I knew the transfer was coming, I just didn't know when. Due to security protocol, families are not allowed to know when loved ones are being moved. Before Jonathan was transferred, I called the Mississippi County Jail to speak to the supervisor about his safety. The supervisor led me to believe he was very concerned about having someone so young in his jail, that he would be very careful about which pod he chose to place Jonathan, and that other inmates had been singled out to watch over him. I was told that the officers would keep an eye out for him and he would be fine.

Jonathan was transferred on a Thursday. We were allowed only one 15 minute visit a week, either on Monday or Thursday between one and four o'clock. My husband and I took time away from our jobs each week to visit. We visited through glass by talking on a phone. Since Jonathan was moved on Thursday, the following Monday was our first opportunity to see him.

As Jonathan approached his side of the glass, my husband and I were shocked by what we saw. Jonathan had cuts and bruises all over his face, ears, and head. His hair was shaved off and he had a tattoo under his eye. He was told by the other inmates in the facility he needed the tattoo to survive. I immediately broke down and wept because I was utterly powerless to keep him safe. As I questioned him about what happened, I learned that he was attacked the night he arrived there. He said there was a meth lab in the jail and the person who attacked him was someone he shared a cell with and who was coming down off of meth. This person took Jonathan's shirt and pulled it over his head so he couldn't see and so his arms were trapped. Jonathan kept trying to reassure me that he would be okay and this was his fault because he'd gotten himself into this nightmare. We both knew he wouldn't be okay.

Following the extremely short visit, Jonathan was led back into the madhouse and my husband and I sought out the supervisor that I had spoken with on the phone. When we asked about the events of the fight and Jonathan's promised safety a very unconcerned supervisor told us, "Things like this happen! What do you ex-

pect? We don't tolerate fighting of any sort so if Jonathan participates in it again he'll be placed in solitary confinement. I don't care what the circumstances are."

On our next visit a week later, Jonathan was visibly shaken. He said, "Mom this place is so scary." I asked what happened. He described an incident that happened that week of a new inmate coming in. He said when this man was brought in several inmates grabbed him and dragged him to the back. He said, "Mom, I could hear him screaming and screaming and nobody did anything! When they brought him back out I couldn't recognize him because he was so bloody and beat up and he got sent to solitary, but nobody else got into trouble."

For the next several visits, Jonathan always had stories to tell about violent things that happened that week and comments he was hearing from inmates who had been to prison about how to survive if he had to go to prison. He was constantly trying to strengthen his body to survive present and future attacks. He talked about how he was told he needed to be in a gang, which he didn't want to join, to survive. At this point, he was trying to decide between making education a priority and dealing with the bullying and beating that came with studying for the GED or if he should forget his education so he could join a gang and be safer. Jonathan remained in the Mississippi County Jail until his sentencing hearing on November 13, 2007.

Missouri has a blended sentencing option in place called the Missouri Dual Jurisdiction Program, which is run by the Missouri Department of Youth Services (DYS) and serves youth up to age 21 who have been certified as adults. Youth sentenced to this program are placed in a secure facility near St. Louis and are allowed to live in dorm style rooms, wear their own clothes, and have their own possessions from home. They also receive their high school diploma or GED, can take college classes, and have extensive individual and group counseling geared toward substance abuse, positive choices, victim empathy and restoration and other issues geared toward this specific population. Families are also encouraged to visit and remain involved. To be allowed into this program, a youth is interviewed by the DYS and a recommendation is given to the judge for acceptance or rejection. If accepted, the adult sentence is suspended while the youth receives intensive counseling and education. At the age of 21, another hearing is scheduled to decide if the youth can go home on probation or if the youth must serve the rest of the sentence in the adult prison. The decision for initial placement and adult placement is ultimately up to the judge.

Jonathan was interviewed for this program and was highly recommended. A representative from the DYS came to his sentencing hearing (which is unusual) to testify about the huge possibility for success Jonathan possessed. Namely, Jonathan had a close, supportive, extended family, was a good student in school, was well liked by peers, grew up in church and was involved in the youth group, and had goals and plans for his future. Although the DYS person who interviewed Jonathan thought Jonathan would be a good candidate for the program, the DYS worker also said that the judges in our court district typically were difficult to work with and wished Jonathan's case was in a different district. Tragically, the judge in Jonathan's case refused to listen to this recommendation.

Jonathan left the jail two days later and was placed in several other facilities. On December 13th, Jonathan took his GED test and passed with a 99th percentile in the nation. On January 4th, three days after his 17th birthday he was found hanging in his cell. A few days before, he had learned that he would be going back to Mississippi County to the prison in Charleston, which was the same town where he had lived and witnessed horrible experiences while in the jail.

While in jail, Jonathan lost everything. He lost his freedom, his friends, his safety, his privacy, his sanity, his childhood, skateboarding, swimming, his girlfriend, summer vacation, scholarships, college, dreams, Six Flags, marriages, births, deaths, family vacations, Christmas, Thanksgiving, time with his brother and sister (who now have tattoos in his honor and named their children after him), time with a close extended family and cousins who have always been a huge part of his life, his whole entire future and his life.

Our family also suffered while Jonathan suffered and we nearly lost everything as well. Jonathan's older brother, Charles, had recently moved out on his own, but began experiencing panic attacks and seizures due to extreme stress and worry over Jonathan and was forced to move back home. Shortly after Jonathan died, Charles attempted suicide. A few weeks before Jonathan's death, my husband also attempted suicide and was hospitalized. Jonathan's older sister, Suzanne, who is in the Army National Guard, was scheduled to deploy a few days after Jonathan's death and also ended up in the hospital suffering from panic attacks.

Recommendations and Conclusion

Jonathan's experience taught me that no child should be placed with adults no matter what, because when children are put in with adults they die—physically or mentally. I also believe that all kids deserve a second chance. As a parent, one of the most frustrating things for me was that the court, the judges, and the prosecutors didn't know my son—they hadn't raised him like I had; they didn't even know him as a person—but they weren't willing to give him the second chance they might have given to their own kids if they were in the same situation. Finally, if the goal of the juvenile and criminal justice system is to keep our communities safe, how safe can our communities be if a kid in Jonathan's position would have spent five, ten, fifteen or more years in the conditions Jonathan faced and with the role models he had?

In terms of JJDPA reauthorization, I have two main recommendations for the Committee. First, the current JJDPA law has two core requirements—jail removal and sight and sound separation—that recognize the dangers of keeping youth out of adult jails and out of contact with adults in these facilities. However, right now these two requirements only apply to youth who are under the jurisdiction of the juvenile court. Once a youth is charged as an adult, these protections no longer apply and, like Jonathan, kids can be placed in the same cell as adults. I hope the Committee can extend the jail removal and sight and sound protections to all youth under 18, no matter what court they are tried in. The alternative is just too dangerous for our youth and our communities.

Second, I hope that the JJDPA will continue to allow States to have the option to let youth who are convicted in adult court to serve their sentence in juvenile facilities rather than adult prison. It is my understanding that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) recently stopped penalizing States that were allowing youth to serve their time in juvenile facilities and I would like for the Committee to make sure this decision is permanent.

Thank you again for having me here to testify and for giving me the chance to share my story, my family's story, and Jonathan's story with you today.

Chairman MILLER. Thank you very much.

Mr. Solberg?

STATEMENT OF JOHN SOLBERG, EXECUTIVE DIRECTOR, RAWHIDE BOYS RANCH

Mr. SOLBERG. Good morning, Chairman Miller, Congressman Petri, and members of the committee.

As the executive director of Rawhide Boys Ranch, a faith-based, licensed residential care center in Wisconsin, I am honored to present testimony about the front-line impact our organization is making to improve the lives and safety of youth in the juvenile justice system.

I am also prepared to testify on my observations regarding the impact of funding priorities associated with the Juvenile Justice and Delinquency Prevention Act on Rawhide and on a state and national level through contacts with state and national juvenile justice providers through participation in state and national associations.

As the leader of a nonprofit associated with the care of over 120 juvenile placements each year, a board member with WAFCA, our statewide association, a previous public policy member for the Alliance for Children and Families, and a participant in the Building Bridges Summit sponsored by SAMHSA, I have gained insight into the benefits and challenges associated with sometimes competing interests and goals of JJDPA priorities.

My hope is to provide you an insight as to what is happening in Wisconsin and a practitioner's perspective, as well as to the impact of policy on community-based services in relation to out-of-home

care or what might be referred to as levels of sanctioned care in Wisconsin and nationally.

Rawhide Boys Ranch was founded by John and Jan Gillespie and Bart and Cherry Starr in 1965 as an alternative to corrections for youth in our juvenile justice system. What started as one home serving youth for periods up to 3 years back in 1965 has transformed into seven boys homes serving over 120 youth each year in intensive short-term programs ranging from 4 months in length to 1 year.

Youth placed at Rawhide come from over 50 counties in Wisconsin through referrals from county juvenile courts and state secure facilities. They receive high-quality, individualized education at our on-grounds high school, Starr Academy. They are provided with work experience, training in seven different vocations, including vehicle repair and evaluation, food service, grounds and landscaping, general office administration, to name a few.

Youth are provided programs that are evidence-based, including family learning model, community services opportunities, individual and group counseling, to name a few.

In turn, this rich environment has led to independently researched success rates of 77 percent for youth placed at Rawhide in terms of not re-offending in the community. And that was a study done by Department of Corrections. It was also determined that we have 73 percent success rate in producing sustained positive behavior 6 months after discharge from the program.

I would like to direct my testimony to JJDPA formula grant allocation priorities for juvenile justice programs. Rawhide, as a residential facility, has experienced the impact of priorities established by JJDPA for the funding of community-based alternatives to incarceration.

Today, placements at our institution no longer include status offenders and rarely first-or second-time offenders, but youth with a significant history of criminal contacts and oftentimes significant emotional challenges requiring medication and significant treatment.

A typical youth placed at Rawhide 15 years earlier would not even resemble the youth we receive today in terms of multiple psychological diagnosis and numerous documented offenses. This is in part due to a greater emphasis among communities to treat individuals through a growing continuum of community-based services that provide various treatment and family services in response to criminal contact.

To our credit, Wisconsin is a leader nationally in achieving shorter lengths of stay for juveniles in out-of-home care. Wisconsin is also a leader in providing community-based services that respond to the needs of youth in the juvenile justice system, most notably through Wraparound Milwaukee.

However, the combination of shorter residential placement, coupled with more emotionally challenged youth and development of effective programs is creating greater financial challenges for residential providers.

While community-based services are an important response to many youth with offenses, a growing challenge is the assessment and appropriate response to treatment for youth with crimi-

nological thinking. Due in part to limited resources at the state and local level, we experience youth that are coming to residential and out-of-home care at a time when they have exhausted all community resources and would have benefited from more intensive services provided in residential care at an earlier stage in their life.

Another concern that is clear from my experience is that the lack of agreed-upon outcomes to document success in all phases of care. As noted in "What Works, Wisconsin, What Science Tells us about Cost-Effective Programs for Juvenile Delinquency Prevention," published in June of 2005, stated on page four, "The need for proven, effective, high-quality prevention and intervention programs remains a high priority in Wisconsin and across the nation. Unfortunately, the effectiveness of many current programs and practices remains unproven at best, while some are known to be ineffective or even harmful."

Later in the study, it is noted that, "Unfortunately, while there has been a remarkable growth in the number of evidence-based prevention programs, their adoption and use by practitioners lags far behind. In the field of juvenile justice, the percentage of programs that are evidence-based may be even lower."

As a result of funding priorities incorporated in the JJDPA directed toward state and local governments and in part to private agencies, there is a growing tension among community-based providers and out-of-home care providers that threatens the capacity to provide adequate care in the future.

Understandably, communities with limited resources are resistant to choosing more expensive forms of care, since much of juvenile justice is funded at the local level in Wisconsin. In turn, youth may stay much longer in community-based services when a more appropriate placement may be in a residential setting.

The growing tension between community-based providers and out-of-home care providers led to a national summit in 2006 that produced a document that I have as appendix A, but it was an attempt to really quell that difference between community-based providers and those at out-of-home care.

This tension is somewhat driven by the competition for declining resources, a strong belief in particular level of care, and a lack of understanding and experience. I am pleased to report that the summit brought about a greater understanding and appreciation among those participants, although that does not hold for the rest of the nation, per se.

Of particular concern to this committee is, in my opinion, what should be related impact that JJDPA funding priorities directed to community-based priorities has on diminishing the capacity of states, who are losing money for out-of-home care or sanctioned care that result in the closure of licensed programs.

Over the past 45 years of operation, Rawhide has experienced the direct impact of federal policy related to juvenile justice. By way of example, I currently serve on a commission appointed by the governor of Wisconsin that is charged with recommending the closure of one of two secure juvenile facilities in the state.

Should this happen, Wisconsin could lose 50 percent of its capacity to provide secure detention of juveniles. While a 35 percent decrease in juveniles placed at Wisconsin juvenile facilities is worthy

of note, the question remains if this trend will continue at a time when all programs offered to youth are experiencing diminished funding.

In addition, Wisconsin's private and non-profit programs are experiencing increased pressure to close or merge, leading to lower capacity for varying levels of care.

The challenge for this committee is to recognize the funding priorities of JJDPA have contributed to tensions among the continuum of care and may diminish and put at risk the necessary and capital-intensive infrastructure throughout the nation in the form of out-of-home care or sanction-level care.

In addition, I feel the lack of agreed-upon measurable outcomes at each level of care remains a challenge to determine the most effective treatment for youth in the juvenile justice system.

Thank you for allowing me the honor of presenting my testimony this morning and the opportunity to provide you my insights as a practitioner in the care of juveniles placed in our care. I commend you in your service to our nation's at-risk youth. I would be happy to entertain any questions.

[The statement of Mr. Solberg follows:]

Prepared Statement of John S. Solberg, M.S., Executive Director, Rawhide Boys Ranch, New London, WI

Good morning Chairman Miller, Ranking Member Kline, and Members of the Committee. As the Executive Director of Rawhide Boys Ranch, a faith-based, licensed residential care center in Wisconsin, I am honored to present testimony about the front line impact our organization is making to improve the lives and safety of youth in the Juvenile Justice system. I am also prepared to testify on my observations regarding the impact of funding priorities associated with the Juvenile Justice and Delinquency Prevention Act (JJDPA) on Rawhide and on a state and national level through contacts with state and national juvenile justice providers through participation in state and national associations.

As the leader of a non-profit charged with the care of over 120 juvenile placements each year, a board member for the previous four years with the Wisconsin Association of Family and Children's Agencies, a previous public policy committee member for the Alliance for Children and Families and a participant in the Building Bridges Summit sponsored by the Substance Abuse and Mental Health Services Administration (SAMHSA), I have gained insights into the benefits and challenges associated with the sometimes competing interests and goals of JJDPA priorities. My hope is to provide you an insight as to what is happening in Wisconsin from a practitioner's perspective as well as the impact of policy on community-based services in relation to out-of-home care or what might be referred to as levels of sanction care in Wisconsin and nationally.

Rawhide Boys Ranch was founded by John and Jan Gillespie and Bart and Cherry Starr in 1965 as an alternative to corrections for youth. At that time the Gillespie's founded Rawhide with a passion for assisting troubled young men by creating a stable caring home environment on 714 acres along the Wolf River. This location provided the experiential environment that responded to the needs of at-risk young men aged 12 to 17. That same year the Gillespie's were joined by Hall of Fame quarterback Bart Starr and his wife Cherry who shared in the belief that young men need the structure, discipline and love that came from house parents modeling effective life skills for youth that lacked a stable environment and needed help to get their lives back on the right track.

What started as one home serving 7 youth for periods up to 3 years has transformed into seven boys homes serving over 120 youth each year in intensive short term programs ranging from 4 months in length to 1 year. Youth placed at Rawhide come from over 50 counties in Wisconsin through referrals from county juvenile courts and state secure facilities. They receive high quality, individualized education at our on grounds high school, Starr Academy. They are provided with work experience training in seven different vocations, including vehicle repair and evaluation, food service, grounds and landscaping, general office administration, to name a few. Youth are provided programs that are evidence based including the family learning

model, community services opportunities, individual and group counseling, to name a few.

In turn this rich treatment environment has led to independently researched success rate of 77% for youth placed at Rawhide not reoffending when placed back in the community after being placed for at least one year. This was based on a study conducted by the Wisconsin Department of Corrections. (Appleton Post Crescent article, "Most Rawhide Alumni Go Straight, Peter Geniesse, 3/20/94) It was determined that the longer youth were in care the higher the success rate. Rawhide conducted its own independent study over a three year period concluded in 2003 by an independent psychologist who found youth assessed at entry, discharge and six months after discharge demonstrated sustained positive behavior at a rate of 73%. (Rawhide Outcome Study, Clinical and Functional Effectiveness utilizing the Youth Outcome Questionnaire conducted by Dr. Frank Cummings, Ph.D., Psychologist)

I would direct my testimony next to JJDPA Formula Grant Allocation priorities for juvenile justice programs: Rawhide, as a residential facility has experienced the impact of priorities established by JJDPA for the funding of community-based alternatives to incarceration. Today placements at our institution no longer include status offenders and rarely, first or second time offenders but youth with a significant history of criminal contacts and often time significant emotional challenges requiring medication and treatment. A typical youth placed at Rawhide 15 years earlier would not resemble the youth we receive today in terms of multiple psychological diagnosis and numerous documented offenses. This is in part due to a greater emphasis among communities to treat individuals through a growing continuum of community-based services that provide various treatment and family services in response to criminal contact. To our credit, Wisconsin is a leader nationally in achieving shorter lengths of stay for juveniles in out-of-home care. Wisconsin is also a leader in providing community-based services that respond to the needs of youth in the juvenile justice system most notably through Wraparound Milwaukee. However, the combination of shorter residential placement coupled with more emotionally challenged youths and development of effective programs is creating greater financial challenges for residential providers.

While community based services are an important response to many youth with offenses, a growing challenge is the assessment and appropriate response to treatment for youth with criminological thinking. Due in part to limited resources at the state and local level, we experience youth that are coming to residential, out-of-home care at a time when they have exhausted all community resources and would have benefited from more intensive services provided in residential care at an earlier stage in their life.

Another concern that is clear from my experience is the lack of agreed upon outcomes to document success in all phases of care. As noted in What Works, Wisconsin—What Science Tells us about Cost-Effective Programs for Juvenile Delinquency Prevention published in June 2005, stated on page 4, "The need for proven, effective high quality prevention and intervention programs remains a high priority in Wisconsin and across the nation. Unfortunately, the effectiveness of many current programs and practices remains unproven at best, while some are known to be ineffective or even harmful." Later in the study it is noted that, "Unfortunately, while there has been a remarkable growth in the number of evidence-based prevention programs, their adoption and use by practitioners lags far behind. In the field of juvenile justice, the percentage of programs that are evidence based may be even lower."

As a result of funding priorities incorporated in the JJDPA directed toward state and local governments and in part to private agencies there is also a growing tension among community-based providers and out-of-home care providers that threatens the capacity to provide adequate care in the future. Understandably communities with limited resources are resistant to choosing more expensive forms of care since much of juvenile justice is funded at the local level in Wisconsin. In turn, youth may stay much longer in community-based services, when a more appropriate placement may be in a residential setting.

This growing tension between community-based providers and out-of-home care providers led to a national summit in 2006, called the Building Bridges Summit hosted by SAMHSA under the direction of Gary Blau, Ph.D. and Chief of Child, Adolescent and Family Branch, Center for Mental Health Services. This summit brought together residential and home and community-based service providers, family members, youth, national and state policy maker, system of care council members, tribal representatives and representatives of national associations related to children's mental health and residential care. The purpose was to address the historical tensions between residential and community-based service providers and supports. As a participant, I was surprised at the strong beliefs among some com-

munity-based participants that residential services were no longer needed in light of community-based alternatives. This tension is somewhat driven by the competition for declining resources, a strong belief in a particular level of care and a lack of understanding and experience. I am pleased to report that this summit brought about a greater understanding and appreciation among participants for an appropriate continuum of services and the need to support the capacity communities have available to provide and a wide range of services to protect the community and provide treatment to youth. The outcome of this summit was a joint resolution to Advance a Statement of Shared Core Principles. (Appendix A)

Of particular concern to this Committee, in my opinion should be the related impact that JJDPA funding priorities directed to community-based services has on diminishing the capacity of states, who are losing money for out of home care or sanction care that result in the closure of licensed programs. Over the past 45 years of operation, Rawhide has experienced the direct impact of Federal policy related to juvenile justice. By way of example, I currently serve on a Commission appointed by the Governor of Wisconsin that is charged with recommending the closure of one of two secure juvenile facilities in the state. Should this happen, Wisconsin could loose 50% of its' capacity to provide secure detention of juveniles. While a 35% decrease in juveniles placed at Wisconsin juvenile facilities is worthy of note, the question remains if this trend will continue at a time when all programs offered to youth are experiencing diminished funding. In addition, licensed private non-profit programs are experiencing increased pressure to close or merge leading to lower capacity for varying levels of residential care.

The challenge for this committee is to recognize the funding priorities of JJDPA have contributed to tensions among the continuum of care and may diminish and put at risk the necessary and capital intensive infrastructure throughout the nation in the form of out-of-home or sanction level care. In addition, I feel the lack of agreed upon measurable outcomes, at each level of care, remains a challenge to determine the most effective treatment for youth in the juvenile justice system.

Thank you for allowing me the honor of presenting my testimony this morning and the opportunity to provide you my insights as practitioner in the care of juveniles placed in our care. I commend you in your service to our nation's at-risk youth. I would be happy to entertain any questions of the committee.

Appendix A

BUILDING BRIDGES BETWEEN RESIDENTIAL AND COMMUNITY BASED SERVICE DELIVERY PROVIDERS, FAMILIES AND YOUTH

Joint Resolution to Advance a Statement of Shared Core Principles

[Final Draft August 28, 2006]

PREAMBLE

An exciting and significant step towards transforming the children's mental health system occurred at the recent Building Bridges Summit in Omaha, Nebraska on June 14-17, 2006. In order to address historical tensions between residential and community-based service providers and systems, a meeting was held to better integrate and link residential (out-of-home) and community services and supports. The Summit participants were chosen because of the range of their experience and knowledge as well as their personal commitment to ensuring services that are respectful, empowering and effective. Participants included residential and home and community service providers, family members, youth, national and state policy makers, system of care council members, tribal representatives, and representatives of national associations related to children's mental health and residential care.

The purpose of the Summit was to:

1. Establish defined areas of consensus, related to values, philosophies, services and outcomes;
2. Develop a joint statement about the importance of creating a comprehensive service array for children, youth, and families, inclusive of residential and out-of-home treatment settings as part of the entire range of services;
3. Identify emerging best practices in linking and integrating residential and home and community-based services;
4. Set the stage for strengthening relationships and promoting consensus building; and
5. Create action steps for the future.

To a large degree the Summit accomplished these goals. Participants were able to dialogue and learn from each other's perspectives and experiences. Presentations highlighted positive outcomes from integrating residential and system of care services. The youth and family voice was powerful and provided leadership in helping

to establish the emerging vision. A particular accomplishment was that a Joint Resolution of common purpose, shared principles, values and practices was developed.

The Joint Resolution identifies an urgent need for transformation and envisions a comprehensive, flexible family-driven and youth-guided array of culturally competent and community-based services and supports, organized in an integrated and coordinated system of care in which families, youth, providers, advocates, and policymakers share responsibility for decision making and accountability for the care, treatment outcomes and well being of children and youth with mental health needs and their families.

Participants believe that actualizing this vision will yield a more efficient service delivery system, more effective and appropriate individualized services to children, youth and families, better use of resources, and improved outcomes.

The meeting and Joint Resolution represent a new level of unity, partnership, and collaboration among participating constituencies. A fundamental principal underlying this resolution is that children, youth and families are ultimately empowered across all areas. The group agreed to develop a multi-faceted strategy to promote the implementation of the Joint Resolution in policy and practice across the country. Meeting participants hope that the principles, values, and practices will be adopted and implemented by organizations, local communities, state and national associations, states, and the federal government. The Summit and the follow-up plans are evidence of important, critical new partnerships, and demonstrate a strong commitment to transforming children's mental health care in America.

Chairman MILLER. Thank you.

Mr. Burns, welcome.

STATEMENT OF SCOTT BURNS, EXECUTIVE DIRECTOR, NATIONAL DISTRICT ATTORNEYS ASSOCIATION

Mr. BURNS. Chairman Miller, Ranking Member Kline, members of the committee, and fellow panelists, I want to thank you all—especially you, Ms. McClard—for the courage and coming forward and tell your story.

I appear today on behalf of the National District Attorneys Association. We represent about 39,000 district attorneys, state's attorneys, attorneys general, city and county prosecutors, solicitors who have the responsibility of prosecuting over 95 percent of all the criminal cases in the United States.

Juvenile justice remains one of the most important challenges facing America's criminal justice system. In the past, too many troubled juveniles who could have been guided by innovative prevention programs, intervention, and treatment services fell through the cracks of an overburdened and under-funded juvenile justice system, leading too many juveniles to a life of crime.

Senate Bill 678, the Juvenile Justice Delinquency Prevention Act, would assist state and local governments in their efforts to reduce juvenile crime through the funding of prevention programs and activities while authorizing a formula grant program, a comprehensive juvenile delinquency and prevention block grant program, and incentive grants for local delinquency prevention programs.

While NDAA applauds the efforts made by Senator Leahy and other members of the Senate Judiciary Committee to address the serious problems facing America's juvenile justice system, within Senate Bill 678, we do have concerns with some of the framework in this legislation, specifically, mandating that states be penalized under federal formula grant funding unless certain benchmarks are met within each states' criminal justice system regarding the detention of juveniles.

With increased budget challenges felt by state and local jurisdictions in America, coupled with the shortage of state and federal detention facilities, it is our hope that a reasonable amount of flexibility will be allowed for states to comply in order to not punish other State agencies focused on juvenile justice services.

During the introduction of Senate Bill 678 to the United States Senate, Senator Leahy was mindful of these concerns, stating, "We must do this with ample consideration for the fiscal constraints on states, particularly in these lean budget times, and with deference to the traditional roles of states in setting their own criminal justice policy."

The national district attorneys also believe that it is important to allow states to decide how to both address the needs of youth in the juvenile justice system, while also ensuring the safety of the community. It is important for states to have the flexibility to deal with youth offenders through a variety of programs, such as community-based programs, faith-based programs, residential facilities, and detention centers, depending upon the need of the youth and of the community.

As an elected state and local prosecutor for almost 16 years, I had the opportunity to appear in juvenile court and at our juvenile detention center on many occasions. I submit to you that the goal was, and it is today, to do individual justice in each case. And I submit to you that, while one can always find outrageous anecdotes or cases that simply are outside believability to make a point, in every jurisdiction I am aware of, juveniles are not incarcerated or taken to detention for status offense, such as truancy, unless there are some overriding reasons.

Juveniles are not placed in general population with adult offenders unless certifies or unless there are certain overriding reasons. And I should say that the National District Attorneys Association several years ago passed a resolution opposing housing juveniles in the same general population as adult offenders.

Overrepresentation of minorities in the juvenile justice system, I submit to you, speaking on behalf of district attorneys, is not a result of intentional discrimination. Any state and local prosecutor will tell you that, one, we take our victims and our offenders as we get them. The majority of victims of minority juvenile crime are also from the minority population, especially in urban communities. And many juvenile offenses occur in high-crime areas, where the community has demanded and received intense police presence to increase public safety, and because of that increased presence, more juvenile offenders are apprehended.

This isn't to say that we can't do better, and we should. In preparation for this hearing, I called DAs from a large city—Brooklyn, New York—a medium-sized city—Sacramento, California—and a small city—my hometown of Cedar City, Utah. Representatives from each of these cities stated that, in sum and substance, unless a juvenile commits a serious violent crime, a serious sex crime, or has repeated serious criminal behavior and simply cannot be controlled—this is them speaking on behalf of their offices—that it would be extremely rare for a juvenile to be incarcerated in detention.

Prosecutors and district attorneys have no interest, get no extra credit, don't notch belts by putting juveniles in detention or incarcerating them. It is the last option.

Again, I am certain there are examples of when the system did not work, but the vast majority of cases in the system, we do find the appropriate solution. While those of us that work in the criminal justice system can always do better, improvement and policy discussions should also take place at a state and local level.

Chairman Miller, Ranking Member Kline, members of the committee, I appreciate the opportunity to testify before you on this important legislation and will answer any questions that you may have.

[The statement of Mr. Burns follows:]

Prepared Statement of Scott Burns, Esq., Executive Director, National District Attorneys Association

Chairman Miller, Ranking Member Kline, members of the Committee, thank you for inviting me to testify today on behalf of the National District Attorneys Association (NDAA), the oldest and largest organization representing 40,000 district attorneys, state's attorneys, attorneys general and county and city prosecutors with responsibility for prosecuting 95% of criminal violations in every state and territory of the United States.

Juvenile justice remains one of the most important challenges facing America's criminal justice system. When juveniles commit crimes and enter into America's criminal justice system, each step juveniles are processed through will affect their perception and respect—or lack thereof—for law and order for the rest of their lives. In the past, too many troubled juveniles who could have been guided by innovative prevention, intervention and treatment services instead fell through the cracks of an overburdened and under funded juvenile justice system, leading too many juveniles to a full-time life of crime.

S. 678, The Juvenile Justice Delinquency Prevention Act (JJDPA), would assist State and local governments in their efforts to reduce juvenile crime through the funding of prevention programs and activities while authorizing a formula grant program, a comprehensive juvenile delinquency and prevention block grant program, and incentive grants for local delinquency prevention programs.

While NDAA applauds the efforts made by Senator Leahy and other members of the Senate Judiciary Committee to address serious problems facing America's juvenile justice system within S. 678, we do have concerns with some of the framework in this legislation; specifically, mandating that States will be penalized under federal formula grant funding unless certain benchmarks are met within each States' criminal justice system regarding the detention of juveniles. With increased budget challenges felt by State and local jurisdictions in America, coupled with the shortage of State and federal detention facilities, it is our hope that a reasonable amount of flexibility will be allowed for States to comply in order to not punish other State agencies focused on juvenile justice services. During his introduction of S. 678 to the United States Senate, Senator Leahy was mindful of these concerns, stating "We must do this with ample consideration for the fiscal constraints on States, particularly in these lean budget times, and with deference to the traditional role of states in setting their own criminal justice policy." [1]

NDAA also believes it is important to allow States to decide how to both address the needs of youth in the juvenile justice system, while also ensuring the safety of the community. It is important for States to have the flexibility to deal with youth offenders through a variety of programs, such as community-based programs, faith-based programs, residential facilities, and detention centers, depending on the needs of the youth and of the community.

NDAA would also like to applaud the efforts made in S. 678 to authorize additional resources to enhance substance abuse services for juveniles, including evidence-based or promising prevention and intervention programs for youth. Due in large part to my service as Deputy Director of the White House Office of National Drug Control Policy (ONDCP), I've seen countless examples of juveniles who have lost their way due to the affects of substance abuse—both by themselves and by their immediate family. It has been reported that 80% of juveniles that enter into

[1] *http://thomas.loc.gov/cgi-bin/query/F?r111:1:./temp/?r111IouwDd:e18913:*

America's juvenile justice system have been connected to substance abuse,[2] and it remains no secret that the lifeblood of gangs in America is through the sale of illegal drugs into our communities; significant examples of how dangerous substance abuse and the culture surrounding illegal drugs are towards America's impressionable youth.

As an elected State and local prosecutor for almost 16 years, I had the opportunity to appear in juvenile court and at our Juvenile Detention Center on many occasions. I submit to you that the goal was, and is today, to do individual justice in each case. I also submit to you that, while one can always find an outrageous anecdote to try and make a point, in every jurisdiction I am aware of juveniles are not incarcerated or taken to detention for status offenses such as truancy or runaways; juveniles are not placed into general population with adult offenders; and the "Overrepresentation of Minorities in the Juvenile Justice system", is not a result of intentional discrimination. Any State and local prosecutor will tell anyone that will listen that:

(a) Prosecutors take victims and offenders as they receive them;

(b) The majority of victims of minority juvenile crime are also from the minority population in urban communities, and;

(c) Many juvenile offenses occur in high crime areas, where the community has demanded and received intense police presence to increase public safety, and because of that increased presence more juvenile offenders are apprehended.

This isn't to say we can't do better—and we should. In preparation for this hearing, I called DA's from a large city (Brooklyn, New York), a medium-sized city (Sacramento, California) and a small city (my hometown of Cedar City, Utah; population 30,000). Representatives from each of these cities stated, in sum and substance, that unless a juvenile commits a serious violent crime, a serious sex crime or has repeated serious criminal behavior and simply cannot be controlled, that it would be extremely rare for a juvenile to be incarcerated in detention.

With the foregoing in mind, States must have the latitude to use all of the tools in the criminal justice system and prosecutors, defenders and judges must have to freedom to craft individual sanctions in order to protect the victim, the community and the juvenile offender. Again, I am certain there are examples of when the system did not work, but in the vast majority of cases the system does work and placing restrictions upon those that are "on the front line and know their business" is not helpful. While those of us that work in the criminal justice system can always do better, improvement and policy discussions should also take place at a state and local level.

Chairman Miller, Ranking Member Kline, members of the Committee, I appreciate the opportunity to testify before you on this important legislation and will answer any questions that you may have.

Chairman MILLER. Thank you very much.

And thank you to all of you for your testimony.

Judge Teske, in your recitation of the changes that have been made in Clayton County, Georgia, the rather dramatic drops in various segments of the population in the referrals, the detention, and sort of across the board, and if I heard your testimony correctly, this was really about getting people together in the system to look at what they were doing and whether it was—I guess whether it was working, what it was costing, and what were the results for the juveniles and for the system.

And I think it was Mr. Belton's case, you also suggested that the same thing happened in Ramsey County, that when people got together and analyzed the system, you saw some dramatic changes in the number of detentions and upfront referrals and apparently some drop in the crime rate, part of what we may be experiencing nationally, at that same time.

And also, apparently, finally, looking at the data to see what you were doing with what populations and what the results were, dramatic results doesn't sound like a really difficult thing to do, except

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[2] *http://thomas.loc.gov/cgi-bin/query/F?r111:1:./temp/?r111IouwDd:e18913:*

apparently a lot of other jurisdictions aren't doing it, and the process just continues.

And I would just with you might take a moment, because I think it goes to an issue raised by Mr. Solberg, which was, as jurisdictions are in tough economic times and trying to figure out how to parse the population here, if you are just taking an unnecessary incoming population, you are going to lose—you are going to lose your ability to manage it in the most effective way, both in terms of crime prevention, reducing detention, and maybe dealing with more serious offenders.

Judge TESKE. That is correct, Mr. Chairman. You have summed it up. The dramatic reductions are based upon getting the stakeholders together.

And I would like to just lay a really brief foundation. If you think about what the juvenile justice system is, you cannot analyze it by looking only at the juvenile court system or looking at any state or county agency that is named a department of juvenile justice.

When you look at what causes kids to commit delinquent acts, there are primarily six delinquent-producing needs. And if you take those six needs and link them up to those entities and people in the community that could address those needs, you find that the juvenile justice system is much bigger than what we call juvenile justice. And——

Chairman MILLER. Hence your discussion of the school referrals.

Judge TESKE. Schools is but one, and they are especially important, Mr. Chairman, because the first research shows that the best protective factor or buffer against delinquency is the family. The second one is being connected to the school.

That means we have to involve social services, mental health, the school system. They are all the juvenile justice system. And we have to start thinking outside the box and bringing them together.

The real question is where the rubber hits the road is, how do you do that? And as a juvenile judge, unlike judges in adult courts, juvenile judges have a legal and a moral obligation to not only judge on the bench, but when they step off the bench, to engage those community stakeholders, bring them together, because the juvenile court is the intersection of the juvenile justice system. And I have often said the juvenile judge should be the traffic cop to make it happen.

Chairman MILLER. Mr. Belton, you ended up—in your testimony, you talk about the daily population of the youth of color in detention. There was a reduction of some 65 percent. Again, did you look at the income? What was the data you used to reduce that number?

Mr. BELTON. Well, we used a JDAI strategy called a RAI. This is a risk assessment tool and objective instrument to determine who gets into our detention center, who gets released outright to their parent, and who goes to a community-based detention alternative.

This risk assessment instrument was developed through a collaborative process of all of the justice stakeholders in Ramsey County, including impacted communities of color. And in addition, police, the county attorney's office, corrections, the juvenile bench, everyone was represented and everyone has a stake in this risk assessment instrument.

It was a huge risk for us. And I want to also say that this kind of collaborative effort is relatively new in juvenile justice, and it is hard work, and it takes a lot of focus and a lot of energy, a lot of meetings for us to come up—and a lot of compromise for us to come up with the instrument.

Chairman MILLER. I am going to—I am going to pose a conclusion. I am running out of time. But this kind of upfront work seems to me has the ability to then allow the system to concentrate on young people that may, in fact, be dangerous to themselves or to others, that may, in fact, be a serious criminal matter, and I think it goes to the question of—if you want to comment, Mr. Solberg—on trying to use these monies more efficiently so that you can then focus on the kinds of treatments that you are discussing.

Mr. SOLBERG. Yes, I think a lot of it comes down—a lot of it comes down to the appropriate assessment at intake, when you are working with the youths, to understand what those issues are and to understand the supports that are in place, as was referenced earlier, looking at the protective factors, as well as the risk factors that are present in that youth, and then looking for the appropriate level of care, and then, at the same time, measuring outcomes.

I think, again, as I stated earlier, you know, to basically ensure that you have a system that returning youth to the community in a way that promotes safety and the health and the safety and the welfare of young people. It is making sure that we have agreed-upon outcomes that we can all look at and be able to make judgments as to whether programs are truly effective.

Chairman MILLER. Thank you. I will come back on the second round. But the point of this is that there is a lot of discussion going on now, certainly in the business community, various—scientific community about mining data, and what do you learn about complex organizations if you really pull the data apart? And how do you see what the best use is for whatever purposes?

And as I look at some of the reviews of various jurisdictions across the country, it appears that some of them have rather successfully—even in this sort of first iteration—been able to mine that data, to pull this population apart, and start to make distinctions and really develop a much more efficient system, both in terms of the future of young people that are caught up in this system, but also in terms of the cost and then making these kinds of determinations.

But I will stop there. Mr. Kline or you—Mr. Petri, I don't know. It is you. It is you. Okay, Mr. Kline?

Mr. KLINE. Well, thank you, Mr. Chairman. If I could beg your indulgence and ask that Dr. Roe go first, he has got to leave. Thank you.

Chairman MILLER. Dr. Roe?

Mr. ROE. Thank you, Mr. Chairman.

And thank you all for being here. And listening to this panel has been fascinating to me, because you see and deal with—and those of you who get young people into the juvenile justice system, to Mr. Burns, who has to decide whether to prosecute them, changes a life. And I will give you an example.

One of the criminals that lived in my house egged a principal's house when he was in eighth grade and ended up in front of the

juvenile judge and had to write 1,000 times, "I will never throw an egg again," I mean, and he didn't throw an egg again, all the way to this weekend that we had a 16-year-old who allegedly or apparently killed his grandparents.

So you all see every variation of that and have to make a determination. And what Ms. McClard saw was a failure at both ends. A bad decision was made, and then a bad system made it worse.

You all hold the balance of our youths' lives in their hands. And I think it is—I mean, that is our future. And some of these kids are going to turn out like, Mr. Davis, Vicky. I would only argue that she shouldn't have gone to Eastern Kentucky University. It is one of our rivals.

But other than that, she made—that is a great story here about how this young person—I don't know how many obstacles she overcame to get where she is, but she is going to be a productive citizen, and you all hold in your hands in this system, are we doing it right? Does this person go down this path or do they go down this path?

And we know what this path is. This is a path of incarceration, failure, death, whatever. This other path is a meaningful life and a productive citizen. And I don't know the right way to do it.

And, Mr. Belton, I wanted to ask you, on the racial disparity, that concerned me because everyone should be treated the same. If the—whatever the problem is, it shouldn't make any difference what color or your religious background or anything else. What do you attribute that to? What did you—was it racism? Or was it—as Mr. Burns said, maybe police presence in a community. Or what do you attribute it to?

Mr. BELTON [continuing]. I keep forgetting, Chairman Miller.

I attribute it to just sort of the culture that has developed in juvenile justice. I think during the late 1980s and the early 1990s, juvenile justice really hardened up, and we had a lot of practices that I think were much more in keeping or mirrored our adult system.

And in terms of disparities, I am not here to make blame. I am not here to—and that is not a part of my work at all. It is really looking at our systems, really looking at our results, looking at our data, and looking how kids are treated differentially.

I am not entirely sure how this happened. But I just think we have a culture within juvenile justice that produces these results and we have to do something to get a different result.

Mr. ROE. See, I think what you all do are some of the most important things we do in our society, because a lot of kids get off rail. They get off track in their life. And you don't want a bad decision made by a youngster—12, 13, 14, 15 years old—to affect the next 50 years, which it will, because you are going to make some bad decisions in your life. Anybody that says they hadn't is lying, I can tell you that.

And I believe that, Judge, you have as a juvenile justice—I was a mayor of our city before I came here, a city of 60,000. I think the juvenile judge has the hardest job. And you as a prosecutor, Mr. Burns, for juveniles have the hardest job of all, because you are making decisions that are going to affect the next 60, 70 years. You

put a criminal in at 70 years old, it is not going to affect anything very long.

So I don't know how you fix this system and make it better and more amenable. I agree there needs to be less institutionalization certainly of the non-violent kids. There is no reason in the world to have them in. At home, we have a place called Free Will Baptist Ministries that houses, much like Mr. Solberg's do in Wisconsin. And it has been very successful.

When you give kids—and the reason they are there, no child shows up at your place if that is their first option, but everything else has failed or they are not there. Every other system has failed. School has failed. Family has failed. Everything else has failed. So you are really a last resort. And that is an awesome responsibility.

And I think maybe we should do more of that. And certainly for the violent offenders, that is a different situation. But for the non-violent ones, there is a chance to salvage these kids. And I don't know the right answer. I will just let you chime in, if you would, Mr. Solberg.

Mr. SOLBERG. Well, I think, you know, the response that, you know, a local government or a community takes to respond to, you know, the appropriate care for youth is going to be really a level of commitment that individual organization takes to making changes.

And I would agree that things like status offense and smaller types of things are things that really don't resolve—or needs the kind of care that you would find in either detention or even a residential facility.

There are issues. In Wisconsin, for example, we have state statutes that really stand in the way of having status offenders be referred into some type of a detention center, so some of it comes down to states and also funding.

Some of the things that local governments have are the pressures that come along with responding to types of cares that would involve more expenses at the local level. So there are some logistical things that exist within states that stand in the way of some of the things that you are talking about.

Mr. ROE. Mr. Chairman and Ranking Member, thanks for holding this very important meeting.

Chairman MILLER. Thank you.

Mr. Polis?

Mr. POLIS. Thank you, Mr. Chairman.

I would like to thank our distinguished panel, in particular, Ms. McClard. I know it always takes particular courage to share such a personal story, in your case, such a powerful story, and I really appreciate you sharing that with our committee and with our country.

School failure is clearly a major factor that contributes to juvenile crime and the cycle of juvenile crime. Of the approximately 150,000 youth offenders incarcerated in juvenile facilities, about 75 percent are high-school dropouts and lack basic literacy skills to become gainfully employed. The median reading level for a 15-year-old offender is at the fourth-grade level. Nearly one-third, actually, 15-year-olds in juvenile justice are at below the fourth-grade level.

It is estimated that from between 12 percent and 17 percent of youth currently confined are eligible for special ed under IDEA. However, I know that many kids in jails have limited or no access to a high school education.

One of the few rays of light come from charter schools. I am the sponsor of a bill, the ALL-STAR Act, H.R. 4330, that would allow for successful charter schools to expand and replicate.

And I want to bring the committee's attention and your attention to two charter schools in my district that have innovative programs. One is called Boulder Preparatory Academy. Boulder Preparatory Academy was founded by five juvenile justice professionals as a way to help the large percentage of youth entering the juvenile justice system who didn't have viable education plans. Many of the students had been suspended, expelled, or had dropped out of school.

In 1996, Boulder Prep started serving 12 students in the probation conference room at the justice center. The school as granted a charter by Boulder Valley School District in 1997, greeted 25 students that year, and enrichment has increased by 20 percent each year. It now serves over 100 students and has moved into a permanent facility in Boulder.

It was created to serve primarily expelled, suspended and adjudicated youth. And without objection, I would like to submit a more detailed description of Boulder Preparatory Academy to the record.

I would also like to share with the committee and the panel another charter school in the Boulder area called Justice High School. Justice High School is an even smaller school that was created for at-risk youth who are disconnected from traditional schools because of juvenile delinquency, drugs, alcohol, or other factors, provides the students with a structured academic setting, and its philosophy is that these at-risk youth can become successful if given an opportunity in a structured environment.

And I would like to submit some additional information about Justice High to the record.

[The information follows:]

[Additional submissions of Mr. Polis follow:]

Boulder Prep High School

Where Youth-At-Risk Become Youth-Of-Promise

Background

The mission of Boulder Preparatory High School is to help youth-at-risk transform into college bound youth-of-promise. The school was founded by five juvenile justice professionals when they discovered that 75% of the 800 youth entering the Juvenile Justice System did not have viable educational plans. The school started in 1997 with 12 students in a jury room at the Boulder County Courthouse and now serves over 180 students annually between the ages of 14-20; 57% are youth of color and 52% come from low-income homes.

About The Students

Imagine * * * an 18 year old young man who was sexually abused by his stepfather, a 17 year old girl addicted to cocaine, three sisters whose father is in prison for murder, a junior in high school with 4th grade skills, and a 15 year old transgendered male * * *

These are only a few of the stories that students have at Boulder Preparatory High School. Most schools would turn these students away or give up on them. At Boulder Prep we see the potential in each student and foster a transformation that most think is impossible.

How do we do it:

We are a SMALL public school serving any student looking for a college preparatory education in a safe environment with people who care. Our classes average 15 students NOT 40. Staff know each and every student by name. Classes are fun yet challenging, and students must earn a C− or better to pass the class. Rigorous academics focus on skill building for college. A "Life Skills" program prepares students for their social responsibilities in the world community. As schools become more segregated, we continue to have a balance of ethnicities with no group in a majority. Most importantly, 98% of the students feel that at least one staff member cares about him or her.

The Results:

- All graduates are accepted to college before receiving their diplomas.
- 60% of graduates are enrolled in post-secondary programs.
- ACT (American College Test) Scores are at or above the national average.
- Students earn college credit while in high school.
- Service learning requirement gets students to give back to the community.
- Other communities want to replicate the Boulder Prep model.

BPHS Accountability Report
2008/2009 School Year

School Goals:

1. Increase Academic Proficiency
2. Increase Participation in School
3. Maintain 100% college acceptance for graduates

Measurement and Reporting:

In order to validate the Boulder Prep mission, we collect independent, local and national data on standardized tests as well as self reported data to share with our extended community and students. When students are aware that they are improving and are "statistically" as prepared as other college bound freshman, they engage their education more effectively. Below you will find the independent data, the organizations that collect them, how we document our improvements and how our students compare to others.

1. Increase Academic Proficiency

A. WRAT 4—As part of the enrollment process students with no previous ACT score and/or less than 100 credits will take the WRAT 4 to get baseline proficiency data. If students are below 9th grade proficiency they enroll in Direct Instruction classes and get re-tested when appropriate until they reach high school proficiency for reading and math.

i. Summary:

a. Process Data: Number of students that participated in Direct Instruction in 08/09 = 65

b. Process Data: Number of contact hours in 08/09 = 2667

c. Outcome Data: Students improved on average 1 grade levels per 14 hours of instruction.

d. Longitudinal Data:

Year	Participants	Hours	# who reached grade level	% who reached grade level
08/09	65	2667	39	60%
07/08	81	3116	40	49%
06/07	71	3148	33	46%
05/06	58	2150	Unavailable	Unavailable
04/05	46	1780	Unavailable	Unavailable
03/04	24	1635	Unavailable	Unavailable
02/03	15	1000	Unavailable	Unavailable

e. Sample Improvements:

- Juan improved from 4th grade math to high school algebra and 7th grade reading to 10th grade reading in one year with 124 hours of direct instruction.
- Ivan started at 5th grade math and improved four grade levels after 65 hours of instruction.

• Samantha received 40 hours of instruction and improved 3 grade levels in math.

B. ACT—For students performing at or above high school level proficiency, the ACT is used to measure academic progress. The Junior ACT is used as a baseline measurement and subsequent national tests are used to show improvements.

i. Summary:

a. Process Data: 55% of 2009 graduates scored at or above the national average on the ACT. The average ACT score for the Boulder Prep class of 2009 was 20.1.

b. Outcome Data: 2009 graduates improved on average 2 points between their lowest and highest ACT scores.

c. Outcome Data: Students tested as juniors in 2008 improved their scores on average by 0.2 points when they tested as seniors in 2009. State average improvements were 0.6 points.

d. Longitudinal Data:

GRADUATES

Class Of:	BPHS # of Grads	BPHS Grad. Avg.	State Grad. Avg.	BPHS Avg. Gains	Low	High	% over 20
2009	22	19.3	20.8	2	14	25	55%
2008	19	20.1	20.5	2.2	16	28	50%
2007	17	20.1	20.4	2.5	14	27	47%
2006	18	21.2	20.3	3	16	28	53%
2005	20	21.0	20.2	2.4	15	28	63%
2004	12	17.6	20.3	2.9	12	23	27%
2003	12	20.0	20.1	2.5	15	27	50%

JUNIORS & SENIORS* (Based on ACT High School Profile Report)

Test Year:	# of Juniors Tested	BPHS Junior Avg.	State Junior Avg.	# of Seniors* Tested	BPHS Senior Avg.	State Senior Avg.
2009	27	19.2	20.0	49	18.0	20.8
2008	37	17.8	20.2	40	18.0	20.5
2007	33	16.2	19.8	40	18.0	20.4
2006	34	16.1	19.7	41	18.5	20.3
2005	27	17.6	19.7	38	18.0	20.2
2004	12	16.6	19.6	30	16.9	20.3
2003	20	14.9	19.7	27	17.2	20.1

JUNIOR TO SENIOR* GAINS
(Based on ACT High School Profile Report)

	BPHS	State
2008 to 2009	0.2	0.6
2007 to 2008	1.8	0.7
2006 to 2007	1.9	0.7
2005 to 2006	0.9	0.6
2004 to 2005	1.4	0.6
2003 to 2004	2	0.6

*The number of seniors is based on the ACT School Profile Report. Not all seniors complete their graduation requirements on time, so this is the reason for the lower number of graduates reported in the table above. Boulder Prep has high standards for graduation and seniors who do not finish on time can continue until they complete the requirements, transfer to another school, take the GED, or dropout.

2. Increase Participation in School

A. Transcript data is used to show increased participation. The number of credits completed in one semester at the student's previous school is used as baseline data. This will be compared to the number of credits earned at Boulder Prep for the most recent two blocks.

i. Summary Format:

a. Outcome Data: 90% of students had improved grades since being at Boulder Prep.

b. Outcome Data: 84% of students reported having better attendance since being at Boulder Prep.

3. All graduates accepted to a post-secondary institution

A. Copies of acceptance letters must be turned in before student can receive diploma

i. Summary:

a. Process Data: In 2009, all graduates were accepted to college.

b. Longitudinal Data: Due to financial obstacles students take 18-24 months to enroll in a post-secondary program.

Class Of:	BPHS # of Grads	% Accepted to College	% Enrolled in Post Secondary
2009	22	100%	64%
2008	19	100%	72%
2007	17	100%	76%
2006	18	100%	89%
2005	20	100%	85%
2004	12	100%	41%
2003	12	100%	66%
		Average	70%

4. School Climate and Snapshot Data

A. Boulder Prep is proud of the positive learning environment that has been created at the school. Beyond academics, the school has created a healthy and safe school community where students feel accepted and supported. The data from the student climate survey shows that Boulder Prep scored above the school district in nearly all areas. The results from the parent and staff snapshot surveys were also favorable. There were areas where scores went down between 2008 and 2009. The administration and the staff have had extensive conversations about the decline and are actively implementing strategies to strengthen the overall school climate.

STUDENTS	BPHS		BVSD	
	'09	'08	'09	'08
1. I feel welcomed at school.	88%	91%	79%	78%
2. I have an adult at school I trust.	81%	84%	74%	69%
3. I feel respected by my teachers.	75%	84%	64%	59%
4. At school, I feel it's OK for me to ask questions.	90%	93%	81%	77%
5. At school, I get the academic help I need	92%	89%	74%	70%
6. At school, I get the help I need on non-academic issues	71%	76%	45%	43%
7. I feel positive about my school	82%	88%	63%	58%
8. The school sets high and realistic expectations for me	81%	89%	67%	64%
9. In my classes there are rules against name calling/put downs.	79%	87%	62%	61%

PARENTS AND STAFF	PARENTS		STAFF	
	'09	'08	'09	'08
1. The classes provide a solid foundation for my student's future.	95%	94%	100%	93%
2. Teachers at this school encourage my student to do his/her best.	95%	100%	100%	100%
3. Teachers are available to discuss my student's work and behavior.	90%	100%	100%	100%
4. This school teaches my student about the cultural heritage of many groups.	90%	100%	91%	92%
5. Students of different cultural, racial and ethnic backgrounds are treated with respect at this school	90%	100%	100%	100%

Boulder Preparatory High School Program Descriptions

- *Stories Program*

Each morning a staff member, student, or guest speaker shares a story, song, poem, or current event that addresses an important life skill or lesson.

- *Breakfast Program*

Fruit and breakfast snacks are provided for free to all students every morning. This ensures that students have adequate nourishment for the day.

- *Direct Instruction*

SRA Direct Instruction (intensive tutoring) is provided for students below grade level to help them reach grade-level proficiency in reading, spelling, and/or math.

- *Service Learning Program*

Students participate in a Service Learning Class where they prepare lunch for the whole school and volunteer at Community Food Share and Cultiva Gardens.

• *Arts Program*

Students have the opportunity to express their creativity through art history, painting, drawing, dance, or video and music production.

• *Family Outreach*

Boulder Preparatory High School hosts four community events per year for families and community members to meet staff members and learn more about the school.

• *Personalized Interventions*

Interventionists are available to help students with academic or personal issues that may arise.

• *Life Skills Program*

Every Friday, students spend the day learning valuable life skills. Sample topics include: Study Skills, Time Management, Health and Nutrition, Diversity Training, Gender Issues, and Current Events.

• *ACT Incentive Program*

Students participate in an ACT Prep class. They can earn scholarship money for every point they improve on the ACT (American College Test).

• *College Prep Class*

Seniors participate in a college prep class where they research post-secondary options, complete college applications, financial aid forms, and scholarships applications.

• *Concurrent Enrollment Program*

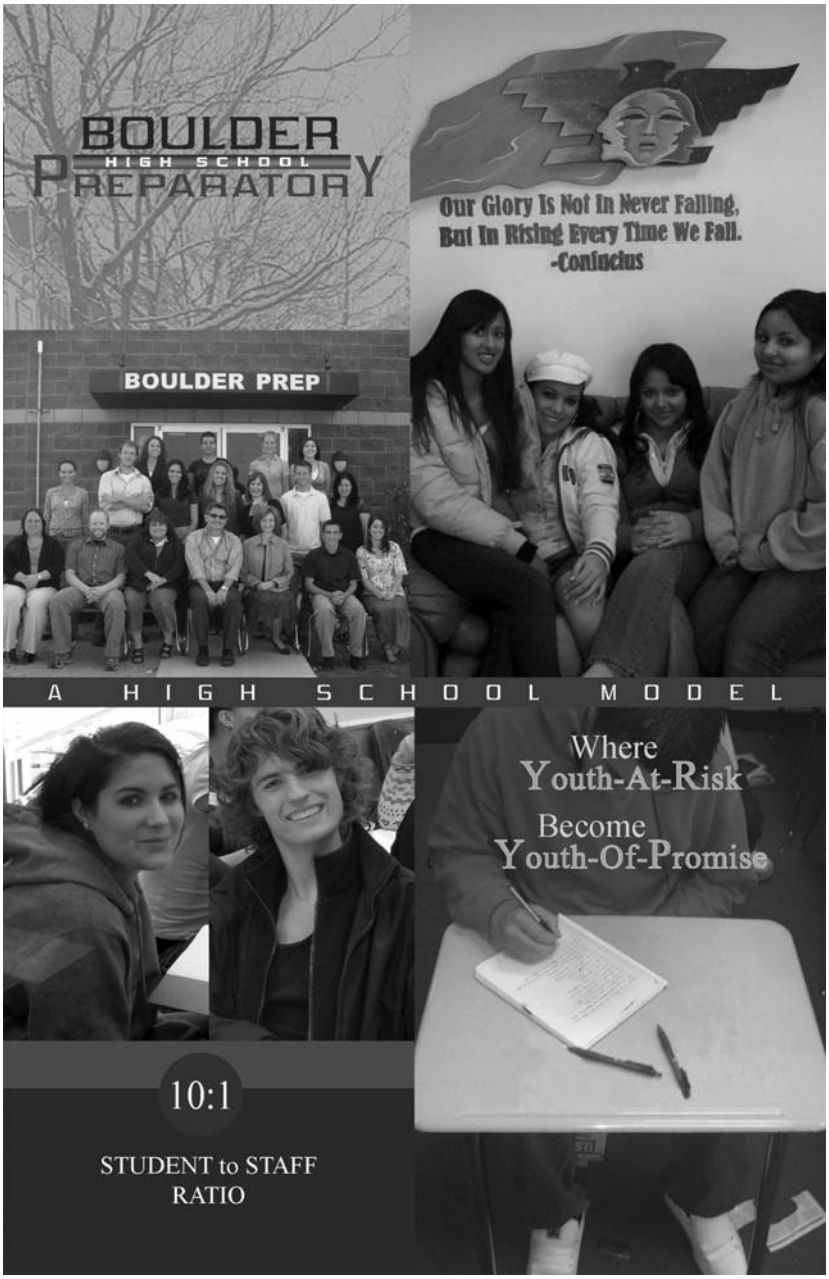
Students can take college courses through CU Denver while enrolled at Boulder Preparatory High School.

• *American Indian Focus Program*

Native American students can enroll in culturally relevant classes including Lakota Language and Culture, 500 Nations, and Native American Arts. American Indian youth learn more about their cultures while also sharing their traditions with other students in a safe and respectful environment.

• *Trustee Scholarship Program*

The Boulder Prep Board of Trustees and Faculty have created a scholarship program. Funds are raised throughout the year and scholarships for various achievements are awarded at graduation.


BOULDER
HIGH SCHOOL
PREPARATORY
Our Glory Is Not In Never Falling,
But In Rising Every Time We Fall.
-Confucius
BOULDER PREP
A HIGH SCHOOL MODEL
Where
Youth-At-Risk
Become
Youth-Of-Promise
10:1
STUDENT to STAFF
RATIO

ABOUT US

OUR MISSION

Boulder Preparatory High School encourages the pursuit of knowledge and education as an intervention for youth. We educate by inspiring in each student an enthusiasm for learning and the self-confidence needed for intellectual, physical, and ethical development. We will not give up on students even when they give up on themselves. Boulder Prep strives to graduate young people ready and eager to meet the challenges of college and adulthood with an appreciation of their responsibilities in the world community.

WHO WE ARE:

- A school where youth-at-risk become college bound youth-of-promise
- An environment that fosters leadership and academic excellence
- An innovative college preparatory program
- A school that requires college acceptance for graduation
- A small community with an enrollment of 150 students; 10:1 Student to Staff and 17:1 Student to Teacher

HOW WE DO IT:

- Eight-week year round block schedule
- 90 minute classes provide stronger focus in greater depth
- Accelerated program allows students the opportunity to graduate in 2 years
- Life Skills Program to complement the academics
- ACT and independent assessments provide accountability; Boulder Valley School District and State of Colorado standards
- Students receive extensive personalized attention
- Funded by Boulder Valley School District, Colorado Department of Education, and other grants

OUR HISTORY

- **1995** — The concept of Boulder Prep began with a few students in a jury room at the Justice Center.
- **1996** — We had 12 students in the Probation conference room and a partnership with C.U. Boulder for practicum teachers.
- **1997** — The Boulder Valley School Board approved our charter to serve 25 high-risk students.
- **1998** — We opened our doors to over 30 students in a local shopping center, our first campus away from the justice center.
- **1999** — We increased our contract to 40 students and leased space in a local industrial park.
- **2000** — New administration hired to facilitate growth and change.
- **2001** — We renewed our contract with the Boulder Valley School District for 53 students.
- **2002** — Our student population increased to 75, and we moved into our new home, a 6000 square foot facility.
- **2003** — Our community grew to 85 students and 11 staff.
- **2004** — Boulder Prep was recognized nationally as a High Flying School for working to close the achievement gap.
- **2005** — Boulder Prep reaches an enrollment of 103 and continues to refine programs and develop partnerships.
- **2006** — We started an extended hours program to offer students more support.
- **2007** — Boulder Prep hires two co-Headmasters and grows to 149 students.

Student Demographic

GENDER
Male = 59%
Female = 41%

ETHNICITY
White = 44%
Hispanic = 35%
Black = 3%
American Indian = 15%
Asian = 3%

GRADE
9th Grade = 1%
10th Grade = 18%
11th Grade = 35%
12th Grade = 46%

CITY OF RESIDENCE
Boulder = 22%
Longmont = 46%
Lafayette = 15%
Louisville = 10%
Other = 7%

Board Members:

Frank Dubofsky - Judicial Arbiter / Professor
C.J. Gauss - Financial Advisor
Kim Howard - Chief of Juvenile Probation
Diana Nemergut - C.U. Professor
Brian Nuttall - Partner in Accounting Firm
John Taylor - Retired Teacher
Pam Ford - Headmaster
Andre Adeli - Headmaster (Ex-offico)
Greg Brown - Chief of Probation (Ex-officio)

Contribute to Our Capital Campaign

In August of 2007, Boulder Preparatory High School finalized the purchase of its facility with a 70% down payment. We still need to raise $250,000 to own the building outright. Full ownership will free up enough money to hire additional staff and add new programs.

PROGRAMS

WHAT WE DO... THAT MAKES US UNIQUE

■ *Stories Program*

Each morning a staff member, student, or guest speaker shares a story, song, poem, or current event that addresses an important life skill or lesson.

■ *Breakfast Program*

Fruit and breakfast snacks are provided every morning. This ensures that students have adequate nourishment for the day.

■ *Direct Instruction*

Intensive tutoring in small groups or one-on-one helps students reach grade-level proficiency in reading, spelling, and/or math.

■ *Arts Program*

Students have the opportunity to express their creativity through painting, drawing, art history, dance, or video and music production.

■ *Family Outreach*

Boulder Preparatory High School hosts four community events per year for families and community members to meet staff and learn more about the school.

■ *Concurrent Enrollment Program*

Students can take college courses through CU Denver while enrolled at Boulder Preparatory High School as part of the CU Succeed program.

■ *Service Learning Program*

Students participate in a Service Learning class where they prepare lunch for the school and volunteer in the community.

WHY STUDENTS SUCCEED AT BOULDER PREP

■ *Personalized Interventions*

Interventionists are available to help students with academic or personal issues that may arise.

■ *Life Skills Program*

Every Friday students spend the day learning valuable life skills. Sample topics include: Study Skills, Social Capital, Peace Leadership, Cultural Awareness, Gender Issues, and Current Events.

■ *ACT Incentive Program*

Students participate in an ACT Prep class. They can earn scholarship money for every point they improve on the ACT (American College Test).

■ *College Prep Class*

Seniors participate in a college prep class where they research post-secondary options, complete college applications, financial aid forms, and scholarship applications.

■ *Indian Focus Program*

Native American students can enroll in culturally relevant classes including Lakota Language and Culture, 500 Nations, and Native American Arts. American Indian youth learn more about their cultures while also sharing their traiditons with other students in a safe and respectful environment.

■ *Scholarship Program*

The Boulder Prep Board of Trustees and Faculty have created a scholarship program. Funds are raised throughout the year and scholarships for various achievements are awarded at graduation.

PARTNERSHIPS

AFFILIATIONS & COLLABORATIONS

- 20th Judicial District
- Community Food Share
- C.U. Denver (C.U. Succeed)
- University of Colorado at Boulder
- Colorado League of Charter Schools
- Cultiva Growing Gardens
- Education for Peace International
- Boulder Parks and Recreation
- BUENO Center for Multicultural Education

CONFERENCES

Boulder Preparatory High School has been selected to speak about its success at local, national, and international conferences.

International Education for Peace Conference- Vancouver, BC (2007)
Recognized as the first school in North America to implement Education for Peace®.

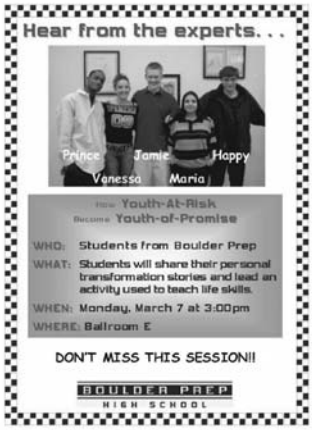
National Youth-At-Risk Conference - Savannah, Georgia
(2003, 2004, 2005, 2006) BPHS was recognized as a High Flying School in 2004 for working to close the achievement gap.

Colorado League of Charter Schools Annual Conference
Denver, Colorado (2002, 2003, 2004, 2005)

Oxford Round Table
Oxford, England (2003)

100% College Placement

We require all our students to be accepted by a college or university before receiving their diplomas.



SUCCESS

Student Success Story

One student was determined to drop out of high school on her 16th birthday. She hardly attended school and wasn't passing any classes. Her boyfriend convinced her to attend Boulder Prep. Her transcript went from all Fs to mostly As. She became a leader in the community and an outstanding young woman. She is currently enrolled full-time at Front Range Community College.

Student Testimonial

"What makes Boulder Prep High School unique to me is that unlike large main stream high schools, I am a person, not just a number. I can relate to all of the other students in some form because we are all in the same boat, which is that we didn't fail at our last schools, the system failed us." - Student

Class of '07

Parent Testimonial

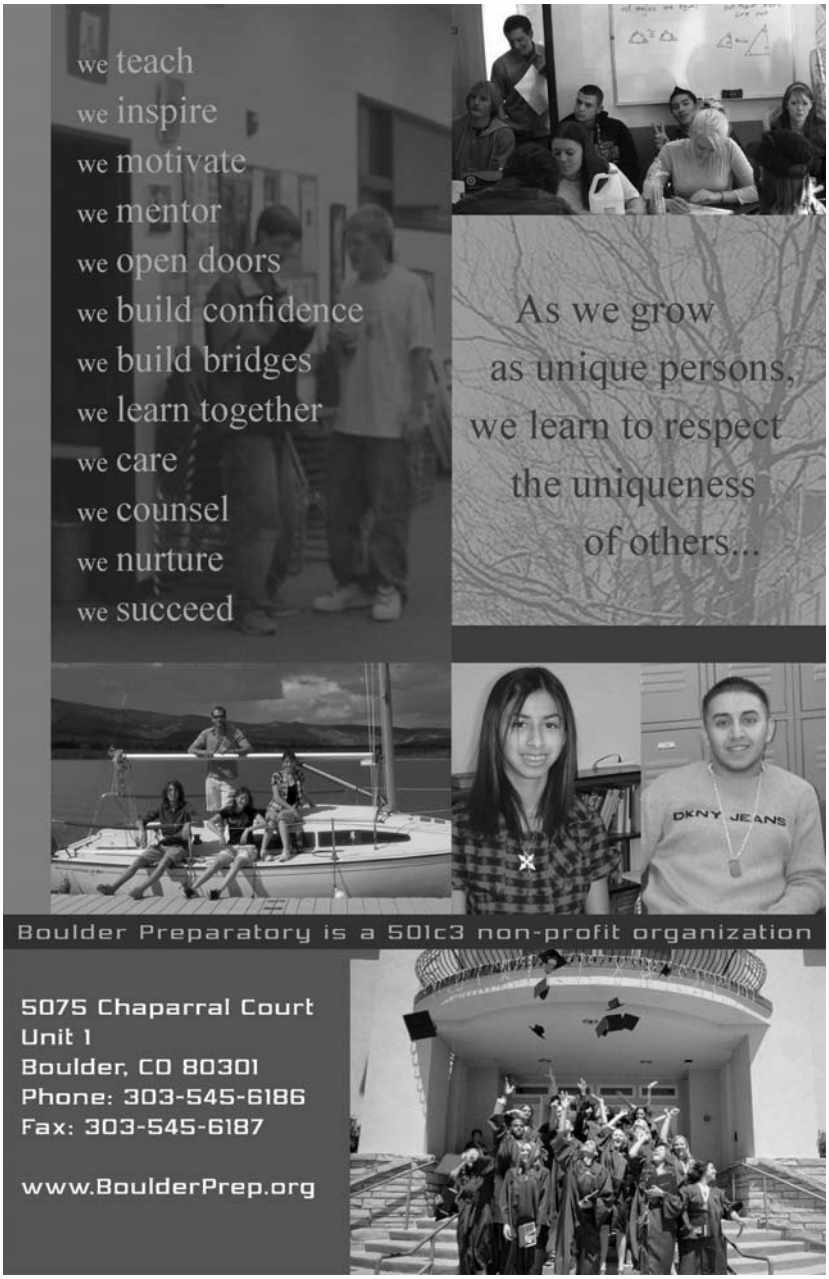
"It is clear that Boulder Prep gets it! This school should be commended for …a service that is difficult to provide but so desperately needed. Boulder Prep met my son at every turn. The faculty let him know that the power supporting his successful completion of high school was greater than all the forces encouraging him to fail."

- Parent '05

HOW YOU CAN HELP

- Volunteer
- Join Our Board
- Sponsor a Class
- Donate to our Operating Fund
- Give to our Scholarship Program
- Contribute to our Capital Campaign

For more information call 303-545-6186



Justice High School

The mission of Justice High School is to provide year round college prep education for all enrolled Boulder Valley and St. Vrain Valley students. Justice High School's curriculum and program design is ideal for at risk youth who are disconnected from

the traditional school system because of juvenile delinquency, drugs and alcohol, alienation, or other factors. Justice High provides its students with a structured academic setting with high expectations. Justice High's philosophy is that these 'at risk' youth can become successful if given an opportunity and structured environment.

The school's program provides instruction using the AP model. Justice High's educational program will allow students attending full time to finish their high school requirements within two to three years. Justice High School does not discriminate in its hiring practices or its admission of students. Justice High gives each student the opportunity to grow into respectful adults who will have the knowledge, will, and self-esteem to succeed in college and life.

Justice High School prepares its students for college and the professional environment by requiring students to read, comprehend, and write effectively. Students are taught how to do presentations, and do college level math and science. Justice High uses the college prep FIRAC method. Students analyze the key facts, issues, rules, and formulate conclusions of the material. All of these skills are necessary for success in College and the business world.

All Justice High students must be accepted into three colleges prior to graduation, take and pass two college level courses and pass their ACT scores with an 18 or above. Justice High provides all students the opportunity to pursue professional opportunities through its Real Estate, Hospitality, and Dental Assistants programs. Students can also seek certificates in a variety of other fields like cosmetology, auto mechanics and construction. Justice High also requires its students to do community service work and participate in extracurricular activities to learn teamwork and collegiality.

Justice High supports its students' postsecondary aspirations through seven in-house scholarships and post-graduate tutoring services. Justice High also has a college program where students can take college classes for significantly reduced tuition.

Justice High promotes academic excellence by setting the academic bar high for its students. Students are taught everyday that academics are the key to their futures and that to graduate from Justice High they will have to master the five skills that are necessary to be successful in the business and college worlds. Students are taught to think creatively and to incorporate a sense of community into their education. At-risk students need to have negative labels taken off and positive ones put into place. Justice High does this by requiring its students to take rigorous classes and pass two college-level courses.

[The Justice High video may be accessed at the following Internet address:]

http://www.youtube.com/watch?v=gQLgZ981D3E

Mr. POLIS. So clearly, if we have these kinds of opportunities, we can help kids get back on track. Minors need access to quality academic and educational programs, and frequently, those represent the last opportunity to prepare them for successful transition into society.

So my question is for Mr. Davis—and then we will open it up to anybody else who cares to address it—as someone who has worked nationally with successful initiatives like GEAR UP and TRIO—and I had the chance to visit TRIO at the University of Colorado just 2 days ago—I would like you to discuss the availability and quality of effective educational services for kids, such as charter schools, district programs, community college outreach programs, TRIO, GEAR UP, and offer us any recommendations on improving federal law and support in this critical area.

Mr. DAVIS. Mr. Chairman, Mr. Polis, first, I would like to say that education in the Kentucky Department of Juvenile Justice is one of our primary objectives. We have a unique situation where, in each residential county that we have a facility—residential,

group home, or detention—the schools provide us educators in our facilities to directly work with young people.

And so we have cases every day of young people who make up a year or 2 years of education from the time that they are with us, so that when they do return to the community, they are actually prepared to re-enter and be successful.

As an educator, as a person who works with education programs, and as a person who was failed by education as a young person, I know how important it is for education to be a piece of the success puzzle for these young people. In fact, GEAR UP and TRIO programs are a strong model.

My staff—education staff at our central offices—has actually started a process of working and negotiating with the GEAR UP program in our state to see if we can provide services, because I know that crucial link is there.

Any educational opportunity we can provide for these young people, a chance to be successful without the possibility of failure, which I think really does happen, if we are paying attention. Unfortunately, I have heard horror stories of places and I have experienced places where, once a young person has made a mistake, they are eliminated from any possibility of success, and that is a real challenge, because all the data that you have mentioned, all of the statistics state that a young person—most young people that find themselves into the system have been failed by education.

If we don't find a way to reclaim them to provide them some educational strength, they cannot possibility survive any way other than they have been surviving up to that point. And so any educational resources we can provide, any opportunity to create more direct and, I think, intentional—because a lot of what we have done with education has been ancillary, accidental, because agencies have decided this is necessary, but I think there needs to be clear focus and intention on providing strong education for the young people that we meet.

Very often, we find teachers who have been censured or served questionably in their own schools, the ones that superintendents and communities like to offer up to us in juvenile justice or in alternative settings. And one of the things that we push back very hard on, particularly in Kentucky, is that we won't accept your cast-offs. We want the kind of teachers that make results just like you do, and we think that our results are necessary, because it keeps the entire community safe and it moves the whole community forward.

And so we absolutely believe that education is key to successful transition back into the community for these young people.

Mr. POLIS. Thank you. Yield back.

Chairman MILLER. Thank you.

Mr. Kline?

Mr. KLINE. Thank you. Thank you, Mr. Chairman.

I would like to thank the witnesses.

And, Mr. Chairman, I must say, this is an outstanding panel of witnesses that we have today, really, really experts.

Chairman MILLER. Thank you.

Mr. KLINE. We very much appreciate your time here today, your testimony, and your frank answers to our questions. As you prob-

ably notice, you have members coming and going. It is just a horrible way that we do business in Congress. There are a piece of legislation that are being voted on even as we speak in other committees, and it is just part of the turmoil that we live in. And, again, we are grateful for your patience with that.

I am delighted to have somebody from Minnesota here. Any time we get a Minnesotan, I am excited, but I mean—because every once in a while, I need that to kind of dispel the idea out there that we all live in igloos and there is really only three or four of us or something like that, so nice to have you here, Mr. Belton.

In fact, let me start with you, if I might. You expressed concern—I believe you said little progress can be made if Congress doesn't strengthen the DMC core requirements. And yet you made great progress without that strengthening. Why do you think that other places can't do what you have done? I know they are not all Minnesotans, but why do you think that we need this federal legislation in order to get other people to exercise the same sort of initiative that you and the system in Minnesota has taken?

Mr. BELTON. Chairman Miller, Ranking Member Kline, because they are not all above average like we are. [Laughter.]

Mr. KLINE. There is a Lake Wobegon.

Mr. BELTON. On the serious side, I am not contending that others can't. But what we have found locally is that the ability to do this work really hinges upon leadership, okay, very intentional, dedicated leadership, and putting in the right tools.

We happen to be fortunate to have had the opportunity to become a JDAI jurisdiction about 5 years ago. And JDAI handed us the tools and the language and the framework to begin this work. And we became a JDAI county because we were concerned about Minnesota's—and in Ramsey County, because we were a major contributor—Minnesota's horrible, shameful disproportionality.

We intentionally—our leadership intentionally—and this is leadership at all levels, you know, talking about leadership on the county level, leadership at the state level, the judicial leadership, corrections, our community people, step forward and said, "We have to do something different."

Mr. KLINE. I guess my—if I could interrupt for just a second——

Mr. BELTON. Sure. I am sorry.

Mr. KLINE [continuing]. I guess my point is that you were allowed the flexibility to take the actions that you took, and it was a question—as the point you are making is, it was leadership that did it. It wasn't a matter of statute.

Mr. BELTON. Right.

Mr. KLINE. And so I am not—I am just—what I want to be careful of is, when we pass laws here, we need to make sure that we are not restricting, you know, Ramsey County or any other county's ability to adapt and exercise that leadership to get the job done.

Mr. BELTON. Right, I understand. I am sorry. I got a little far afield here.

I think by just strengthening the JJDPA, that that does not restrict anyone, but it allows some frameworks for jurisdictions that are not JDAI jurisdictions, that don't know where to start, that don't have an idea as to how to crack this seemingly uncrackable nut, how to begin and do this work.

This is offering guidelines and tools for these jurisdictions that don't have these guidelines and tools.

Mr. KLINE. Okay, thank you. My time is going to expire here, and I had a whole bunch of questions for a whole bunch of people.

Mr. Solberg, I am fascinated by the Rawhide ranch. And you indicated that this was built around a family environment, which we know is broken down in many, many places, and many, many of the folks who have entered the system simply don't have that family environment.

Can you just kind of talk—you have sort of created one there. Can you talk about what those day-to-day experiences might be within this family unit?

Mr. SOLBERG. Sure. Thank you, Ranking Member Kline.

We have seven boys homes. And of those seven, five have family live-in model, in which a house parent couple lives in the home and provides—really, by providing a role model for the youth and role-playing exactly what it means to be a husband, what it means to be a father, what it means to be a man. We have learned that young men observe—they learn a lot by what they observe.

And so as they see this model before them, it is an active example for them to understand the act of what it means to be a father. Many of our youth will say to some of our house fathers, "Is this what it means to be a father?" Because they have grown up most of their life without any father role model example.

And so this is a declining trend. I mean, we are really among the few that remain in the nation that continue to stay with the family live-in model. It is a difficult model to continue to sustain because of demands on a marriage, on a couple, to—and they both have to be equally qualified to do this type of work.

And so many have moved away from a family model to more staff or shift type of work, but that really breaks down, you know, I think the effectiveness of any program, as you are working with young men who are trying to build trust with the staff and understand that they are safe and that they are cared for. Those are really the motives behind this type of model, because it opens up the opportunity to really have them disclose some of the issues that have gone in their past.

As we are able to develop more trust with the young men, they are able to open up and share about things in their past and really about the trauma that, in many cases, lies at the very foundation of their behaviors. And as we are able to understand what that hurt is and be able to expose that and be able to treat that in relative therapeutic environments, those young men, you know, really are set free in a lot of ways from future behaviors.

Mr. KLINE. Thank you.

I yield back, Mr. Chairman.

Chairman MILLER. Thank you.

Mr. Scott?

Mr. SCOTT. Thank you, Mr. Chairman.

Judge Teske, you indicated the importance of looking at six underlying factors. Can you talk about that for a minute?

Judge TESKE. Yes, sir. Based upon about 40 years of research, beginning in the late 1970s, it has been determined that it is—the social scientific name is criminogenic needs, but the risk factors in-

clude cognition, attitudes, values and beliefs, your peers—you know, are they anti-social friends—weak problem-solving skills, school connectedness, education, substance abuse, and family function.

And the importance of those, Mr. Scott, is that when we develop—when we assess kids, we are trying to look to see how many of those delinquent-producing needs they possess. And there are assessment tools to help to determine that.

And then the next step is to design a treatment plan around only those delinquent-producing needs they possess. And usually the high-risk offenders—the high-risk offenders will always have two or more, possess two or more.

And then lastly, Mr. Scott, you have to make sure the program is based on what Mr. Solberg was saying, and that is that it is evidence-based, that we do know that they work, such as multi-systemic therapy, family functional therapy, cognitive restructuring programming. And then other things incidental to that could help out and build a family, such as wraparound services.

Mr. SCOTT. Well, Mr. Solberg mentioned the importance of being evidence-based. Are there enough programs out there that are evidence-based as opposed to slogan-or poll-tested based to work with, so that we could focus our money on only those things that actually work, on enough things that work?

Judge TESKE. Well, yes, sir. I mean, fact—I am just going to be blunt about it. Just Google it. Just Google what works, community corrections, okay? Let me go ahead and steer you to Dr. Ed Latessa at the University of Cincinnati who is one of the leading researchers, among others, in the world on this topic.

And you will—you will have all the evidence-based on what works—you know what? They will even tell you via Google what doesn't work, okay?

And I hate to put it that way, but what bothers me, Mr. Scott—and I have to say, I spent 10 years as a parole officer in the streets of Atlanta, and I was deputy director of the state board of parole in charge of programming, it is out there, and it bothers me why so many juvenile justice practitioners aren't researching it.

Mr. SCOTT. Well, part of it—I think you can—you are looking at us as the problem, and in similar legislation I have introduced, we have put evidence-based in the bill, which is I think somewhat insulting that you would have to put that, you know, as opposed to, what else would you spend your money on? But for the reasons you have outlined, I guess we need to put it in there, that your money ought to be placed in evidence-based initiatives.

Is there any way that you can have a successful program, Judge, without it being comprehensive?

Judge TESKE. The answer is, no, it has to be comprehensive. In fact, Mr. Scott, when you look at, what are the characteristics of effective programs, you will find that they have to be long in duration, at least—some say 6 months, but the real good studies show at least 8 months and longer. You have to take up 70 percent of the youth's time with pro-social, you know, activities, after-school programming.

With that—and I can keep going with the list, but you can see, members, that that is comprehensive and that is where collabora-

tion comes in, because it takes all the entities, including citizens and advocates in the community, coming together to tie all of these things to bring these comprehensive activities, to tie up kids' time in a pro-social way.

And lastly, Mr. Scott, may I say, to deference to Mr. Solberg, that even as a judge, when I do have that smaller targeted population that do present a higher risk to the community and they have to be treated outside the community—and may I say, that is a smaller population, okay—I do prefer programs that are residential as opposed to secure confinement for the reasons that have been stated here.

Mr. SCOTT. Well, you have indicated what happens after the juvenile gets in trouble. What kind of approaches should be designed so they don't get in trouble in the first place?

Judge TESKE. Mr. Scott, there needs to be what I call a single point of entry in communities. In Clayton County, we have what is called a CCCCST, the Clayton County Child Collaborative Study Team. It is a multidisciplinary panel that meets every week.

All systems—primarily the school system—refers kids to this multidisciplinary panel that has a psychologist, a mental health worker, the director of the Department of Family and Children Services, the kids counselor, social worker. It is moderated by a staff member from my court.

And what they do is they assess the child who is at-risk, who are doing things—let's say what I call the chronically disruptive Johnny, okay? Well, rather than suspending the kid from school—I mean, gee, who would ever think that keeping kids in school would actually increase the rate of graduation?

Well, maybe we need to come up with better alternatives by bringing the community together, the people who are already there. The real problem is—and not to blame these—people operate in individual silos. You can't blame DFCS—in Georgia, we call DFCS social services, the school system—they have got their own mandated budgets and rules and regulations. God help them, okay? Help them see outside the box. Somebody has to do it. And they need to be incentivized to do it.

How can they—how can they be incentivized? Gee, reauthorization. Include something in there. Help us out.

And to what Mr. Kline—great question, Mr. Kline. It is about leadership. But sometimes you have to look at each state. They are different, different government structures that operate differently, and sometimes you get rural versus urban, and people get stuck, and they just need a little help. That is all. They just need a little help.

There are great professionals out there. I have a lot of fantastic colleagues on the judicial bench, but we have different philosophies sometimes, but they are great people. We all need a little help.

Chairman MILLER. Mr. Guthrie?

Mr. GUTHRIE. Thank you.

First, Ms. McClard, thank you so much for coming today. I know it is difficult. And I have seen or been around people that lost a child or a loved one that was able to relate that into some public policy changes, and that is a great memorial that you can do, and I appreciate you coming today.

And, Mr. Davis, I used to see you in the State Capitol Annex walking around when I was in the state senate, and it is great to see you again here in our capital city. Glad to have you here.

And I was—I got there at, well, 1998, but 2000 was my first session, and, really, a lot of the work had been done. I think Governor Patton was a great leader in what you did with regional centers and so forth. Could you just kind of elaborate as Kentucky as a state?

And I would point out, I know that we have the same issues that we have to address with the minority population, but it is also common across the country, too. It is not a Kentucky phenomenon, as we point—I just wanted to point that out, what we have heard here today. It needs to be addressed. You have got to figure that out.

But just kind of talk about the process—Pam Thomas—Pam Lester-Thomas, I think now is her name—went through the process of kind of the Kentucky story. I will give you a few more minutes to tell. I know you were trying to get through your presentation, so——

Mr. DAVIS. Okay.

Mr. GUTHRIE [continuing]. After the yellow light comes on—about 4 minutes.

Mr. DAVIS. Kentucky has gone through a number of transformations. In 1996, we did not have a Department of Juvenile Justice. And Child and Family Services took care of most of our youth problems.

We came on a consent decree in 1996 and were forced to change everything about what we did. One of the things we were found to be lacking is clearly jail removal, removing young people from adult jails. And with an incentive for every local and county jail to receive dollars for housing young people, it really didn't make sense for them to send them home, no matter what the problem was, and mental health services and those types of things were clearly not happening.

After the consent decree came down, the Department of Juvenile Justice was established by House Bill 117, I believe. And it created the Department of Juvenile Justice, in that it created an emphasis for us to build 9—well, at the time, 10 detention facilities, ensuring that no child in Kentucky was more than 1 hour away from a facility in any county, making sure that we had local services that were close enough to family, that were close enough to communities that we could actually start to create solutions.

Also, we began to look at the core requirements, DMC being a big piece of it. As the Juvenile Justice Advisory Board was re-established in the late 1990s, we began a process of really strengthening DMC, jail removal, in particular looking at status offense issues, DSO. And we have done a lot of work with the legislature, with the help of folks who believe, whether they have different ideology of how we go about it, knowing that there is a need for young people to be successful. The Department of Juvenile Justice has been supportive across the board in making some significant transformations.

Currently, we are excited because, after getting back into compliance with the core requirements, we decided to move further. And our DACs is just one example of that.

We are very excited about the fact that, you know, even today, when we talk about jail removal—and especially looking at violent offenders or high-level offenders, young people who are high-level offenders charged as adults in adult jail—in adult court, in Kentucky, those young people don't go to adult facilities. Every child who was charged as an adult comes into our facilities. And until they are 18, we make sure their needs are met. And, in fact, many of the judges use that 18-year-old date as a tipping point.

If we can go to those judges after 2 or 3 years and show that that young person has begun treatment, started a process of transformation, they understand their challenges and how to overcome those challenges, we have had judges who have actually commuted those adult sentences and said, "You are ready to go," and we are very proud of that fact, that we don't find young people who are too dangerous to be treated like children, and we don't believe that any of them are absolutely disposable.

And that has just been our philosophy, and I think we should be very proud as a state to have held that as our philosophy and to be successful with it.

And we also—well, I think those are the highlights. I am very excited about those and kind of get going sometimes. But I think it is very important for people to understand, the conversation always comes around about not having enough money to do the work.

The Kentucky Department of Juvenile Justice has been cut almost 15 percent in the last 2 years to our operating budget, and we have not lost one step in our services, because the first thing that came was our commitment to do the job well and then finding a way to make that commitment stick.

And any jurisdiction that decides that their work is to create better outcomes for young people on the other side of their commitment to the system can do this. And I think that if we do, as we do it, it creates more impetus for our state legislature, our federal legislators to say, yes, we have got to support this kind of thing, because there is our initiative to make the problem go away, and then there is the possibility of getting support for that initiative.

I know the Chinese proverb says the best time to plant a tree is 20 years ago, and the second best time is right now. We can't do anything about the past. It is an immutable characteristic that can't be changed. But we can absolutely do something about what happens tomorrow, and we intend to do that.

Mr. GUTHRIE. Well, appreciate it. It is great to have a Kentuckian here talking about our success stories in this environment. I know that there are still a lot of difficult things we have to do, but success stories—I appreciate it. My time is up, and I yield.

Chairman MILLER. Thank you.

Ms. Fudge?

Ms. FUDGE. Thank you, Mr. Chairman.

And I thank all of you for your testimony today.

Mr. Davis, I certainly wish Ohio was like Kentucky in that we did not incarcerate young people in adult prisons. But, unfortunately, we are not.

I served 10 years in the county prosecutor's office in my county in Cleveland, Ohio, as well as mayor of a city for 10 years. I under-

stand some of the problems that exist in the juvenile system, but just help me understand how we might take this one step further.

What I found, particularly as mayor, when a young person was arrested, there really was no space for them in the juvenile justice system, because I live in a county where we bring back approximately 6,000 adult felons annually.

So what happens is, they spend all the money on the adult prisons, and they short-change the juvenile. So there was no place to hold them. So what do they do? They try to find some juvenile facility, but normally they can't, so they would bring them to my jail, which I could only hold them for 24 hours, and then what happens to them? They take them to an adult facility.

So I think part of the problem is that we don't put enough resources into having juvenile facilities that are appropriate. That is why I think that that is a big problem. And I don't know how this legislation would help that, but if you would just think about that for me, I would appreciate it.

I think the other thing that happens is that we do spend too little time trying to connect the dots as it relates to family, to social services, to education. I mean, something as simple as a midnight basketball program, which my police department started years ago, during that time, juvenile crime went down 95 percent, 95 percent. Every day that we had it, 95 percent.

So I think that at some point we do have to connect all the dots. I think that that is the big issue. But if you could just talk with me just for a minute, any of you who would like to talk about this, how does this kind of legislation change the fact that we really do—as far as funding—short-change juvenile facilities? And there really is no place to put these young people other than in adult holding facilities.

Anyone? That is the—see, that deals in the real world, because that is the world I live in.

Mr. BURNS. Well, Congresswoman Davis, as a fellow prosecutor, I think—I couldn't agree with you more. And I don't think America's prosecutors could agree with you more.

The best thing we can do is to have the ability to send a young person to one of these great programs that we have heard about today. That is dessert. I mean, that is just wonderful, if there is an opening and we can refer and watch this young person develop.

But the reality of it, the rubber hits the road, the front lines, the everyday prosecutors, women and men making these decisions about what do we do in a moment's notice, is we have limited options. And you have, I believe, hit the nail on the head. There are not enough detention facilities to hold young people until we can assess, do we have to get her off meth? Do we have to get him medication?

Are mom and dad going to be able to sleep tonight because he has been on the road for 5 or 6 days and then turn around and have the prosecutor accused of locking up and putting in detention a young person, when clearly the motive is and always is the best interests of the child?

Ms. FUDGE. Yes, Judge?

Judge TESKE. Ms. Fudge, if I may play devil's advocate, the question assumes, though, that the kids that are brought in need to go initially into detention, okay? And if I may for just——

Ms. FUDGE. I don't assume that, but that is what happens.

Judge TESKE. I understand that. And I want to challenge that thinking that I believe is nationwide.

For example, when I took the bench in 1999, there were over 100 kids in my facility, okay? They were sleeping on mattresses.

Ms. FUDGE. Yes.

Judge TESKE. Today, the daily average population is 12.4 in a 60-bed facility. Our juvenile crime rate has gone down. Now, it hasn't gone down just because we have reduced the tension alone. That is a ridiculous statement to make. It is because, going to the question that Mr. Scott presented, it had to do with—well, I mentioned cognitive restructuring as an effective program for kids and even for adult offenders.

It is also good for just adults like us. We need to be cognitively restructured, okay? And we need to ask the tough question, okay? Why is it that we—I mean, let's really take a look at how many kids are really high-risk versus low-risk——

Ms. FUDGE. Judge, my time is running out.

Judge TESKE. Okay.

Ms. FUDGE. Can I just do this one last thing? That goes back to, as a prosecutor, how many times I saw young people overcharged for minor crimes. It is a huge problem in our system that young people are overcharged so that they have got so many charges against them, you look at it, a judge looks at it, says, "Oh, they need to go into some kind of facility."

And I see my time is up. Thank you, Mr. Chairman.

Chairman MILLER. Mrs. McCarthy?

Mrs. MCCARTHY. Thank you, Mr. Chairman.

And I thank the panel. It has been a fascinating conversation, listening to everyone.

In New York state, we are allowed to charge children at 16. And the one complaint I hear constantly from my correction guards is that half of them should not be where they are. Most of them should be getting mental health. Most of them should be getting—most of them have learning disabilities or some other issue that could be worked on outside of being in the prison.

But as Ms. Fudge just said, you know, we are facing the real world here. And the truth of the matter is, we went through a time in this country that those of us that thought giving services to young teenagers before they would end up getting in the jail—you mentioned after midnight basketball, I remember that debate, watching it. I wasn't here. But I remember that debate on the Senate side saying what a waste of taxpayers' monies that we are giving money to underserved areas so the kids could play basketball.

That area that they were talking about—because I used to go down to watch the basketball games—they didn't have the problems that they have today. Our problem is that we need to do more in our schools.

Now, I know that is going to be a separate subject, but as we go through reauthorization of leave no child behind, we should be

looking at those kids that need the services that—so they don't end up on your doorstep.

I wish we could do more, but financially we can't. The states are hurting right now. But going back to why I believe it should be on a federal level, because each state is different, and we need to look at, yes, the flexibility of the state, but I think we also need to look at putting a 16-year-old or a 14-year-old with all the information we have, that young adults at 25 are still not considered mature, and we are dealing with 14-, 15-, and 16-year-old kids?

So it is frustrating for us, too, because we know we have the answers. We don't have the willpower to put those answers into motion or we don't have the money. And I think that is the real problem. So I hope that we can come to some solutions.

But, basically, looking at that—and I also know that we have alternative schools. Most of the kids that are put into the alternative schools, if they are acting up in school, they don't want to go back to their regular school. Why? Because they are getting the special services. They are getting everything that they need, and so it is the whole community.

So if we are going to spend our money, I would rather spend it pre-than having it even come in front of any of you, but we have got to deal with both, because obviously that is the world, real world we live in.

So the question I will ask you is, especially in Kentucky, there are systems in place for people outside the DJJ to monitor the conditions of the facilities. And I was just wondering, how are they doing? And do you think they help the agency protect the kids and serve them—or can they serve them better?

Mr. DAVIS. Well, I think we are doing well, ma'am. We have two structures in place to ensure that our work stays above board.

First, there is an internal structure. Young people in a facility, family members of a young person, attorneys can file a grievance, can file a concern, and we have an internal ombudsman who addresses that concern if the facility cannot address it to make sure that the needs are being met.

If it is an egregious challenge or major corrective action needs to be taken, they have a red—not a bat phone, but they have an emergency line that goes directly to the Office of Investigations for our cabinet, the secretary's office, and those investigators immediately start action, go to the facility, and they determine what is going on. We stay out of it.

Our second part is for the Department of Public Advocacy in their post-adjudication branch. They are the watchdogs that make sure we are doing our work. And for a long time, that was a very contentious relationship, because we were out of compliance, and there were lots of challenges. Our relationship in the last few years has become very great, because we have actually allowed them to sit in on our policy review of the way we do our work so that at the front end they can actually tell us where the flags are and what we need to be doing better so they can monitor us better and we can ensure there is not a need for them to monitor us as much.

And so the checks and balances are there for us to make sure that we don't have egregious mistakes, that we don't—that there

is anything that falls through the cracks that we are not aware of and that we can't address immediately and successfully.

Mrs. MCCARTHY. I guess, Judge and Mr. Burns, I think one of the things I also hear from judges from the district attorneys, they don't have enough flexibility, because we have put in place mandatory sentencing for some cases or even, you know, kids that could be helped that can't, you know, get those services.

What do you think that we need to do in this particular legislation on reauthorization?

Mr. BURNS. Well, as a representative of state and local prosecutors and the women and men that do 95 percent of all criminal cases in this country, and acknowledging the fact, as has been stated, Georgia isn't the same as Colorado, isn't the same as New Hampshire, and you have different judges, you have different prosecutors.

And you are exactly right. you have different statutory schemes, where legislators on a state level have decided over the years, you didn't get it right, this is the way you are going to do it, and then they tweak it some more. This is the way you are going to do it.

And in some jurisdictions, you simply end up digging the ditch, because everybody has told you, "Check these boxes," and that is how we resolve these cases. So I would ask that the more flexibility to the individual states is the best.

Judge TESKE. Mrs. McCarthy, I want to echo what Mr. Burns stated, but I want to be specific in two areas. The pre-disposition or pre-adjudication versus post-disposition, in the way of, you know—I think that judges should have more discretion regarding who should go into a detention initially, but I have to say, though, that judges need help.

You know, I may wear a robe, but I like to think I don't suffer from robe-itis and that I am God-like and that I know everything. But people expect me to wear the educator's hat, the social services hat, the mental health hat, and I am not any of those. And, in fact, if I think I am, I am going to do more damage.

I need—I think we need to promote——

Chairman MILLER. You can finish the sentence.

Judge TESKE. Thank you.

Mrs. MCCARTHY. Thank you.

Judge TESKE. We need to promote objective assessments to help judges in assessing risk.

Chairman MILLER. Thank you.

Ms. Shea-Porter?

Ms. SHEA-PORTER. Thank you very much.

And thank you all for being here. This is actually very painful to listen to, but there is some hope sprinkled in the middle of all this.

The first, Ms. McClard, I wanted to say that your son's spirit is here, and you certainly honor him by showing the courage to be here. And I hope you don't mind if I ask you a few questions.

I am a social worker, and I was concerned about, obviously, what happened to him, but it seemed like the lack of voices that would be advocates through that process, that it didn't seem to be anybody, a social worker in the prison or somebody, who would say,

"Wait a minute. This is a kid, and we need to figure out what to do."

So could you start by telling me, first of all—I assume he probably was having a rough adolescence, okay? And was anybody helping at that point? And did he have any advocates leading up to this?

And then, what happened through that terrible process? I mean, most people hearing that story would say, "Let's take him out and have a look at this." And so can you tell me where you think the whole system broke down?

Ms. MCCLARD. Honestly, I think just about every adult in Jonathan's life failed, if you want the honest truth. This happened in the summer of 2007. He had started dating this girl back the previous October. She came from a very rough family. I was not comfortable with him dating this girl.

And like any parent, I kind of—he was 16. She lived a block away from the high school, so, you know, instead of saying, "No, you cannot see her," you know, I said, "Well, you can, but she needs to come to our house." And, you know, the more she came to our house, the more we got attached to her, because she was 14 years old, and she came from a very rough family.

And so we took her to church with us. And Jonathan was a very good student in school, and this girl struggled, because of her family life, so Jonathan would help her through school. And honestly, that whole year went very well with him doing that with her.

I was formerly in the Army, and I resigned because of this. But the summer that this happened, I had been gone training in South Carolina. And right within 2 weeks after I left for training, this girl broke up with him and started dating this other boy that I mentioned.

And pretty much the two of them messed with Jonathan's head the whole summer, not—and I am not blaming anybody. They were all three adolescents. They all three got involved in drugs that summer. They were all doing stupid stuff, all three of them. So I am not placing any blame except on Jonathan, because Jonathan is the one that did this. But my absence certainly contributed to it, which was not good.

Ms. SHEA-PORTER. But rather than have you try to, you know, claim the blame or anything like that—because that is a very typical tale—what I am wondering is, were there social workers, were there people in the school system who could see changes in your son? Was there anybody who looked and said, you know, this child is headed down the wrong road right now?

Because the idea, obviously, is to keep these kids from winding up in the system. And my concern is—and I appreciate what the judge said—that they need help. You can't be everything by the time—you know, if you are a judge, you are not expected, and yet you have to have all those other skills to work with these kids and their families.

So where do you think the point could have been best touched to help him before this? This is a horrific story. I just can't imagine that many adults looking at this, seeing him beaten, seeing the signs, and nobody saying, "We have got to pull this one out and have a look."

Ms. MCCLARD. When he was 14 years old, he was found with pot at school. He did go through the necessary drug court, but it was sadly lacking in services.

He would go once a week and have a drug test that he always passed, but, you know, after he passed a few drug tests, they would say, "Okay, you are fine. You can go home." And at the time, he was struggling with depression, and he had a different girlfriend at the time, and he was just one that, when he had a girlfriend, he just went head over heels and he would do anything he thought to protect her. He always thought he was the big protector.

But besides that short time in the drug court, and then they released him because he was—you know, tested negative, they let him go. They didn't see anything during the school year.

Ms. SHEA-PORTER. So my question is, in the middle of all this, could and should there have been more services to stay working alongside of your son? Were there enough flags there, enough warning flags——

Ms. MCCLARD. There were plenty of flags——

Ms. SHEA-PORTER [continuing]. Okay, that if there had been resources——

Ms. MCCLARD. There should have been—there should have been. He should have been seeing a counselor. Instead of just going to the drug court to check in every week, you know, for the 5-minute pee test, he should have been seeing counselors.

Ms. SHEA-PORTER. Right, okay, so he was kind of left at the curb and said, "Just make sure that you don't do drugs again."

Ms. MCCLARD. Right.

Ms. SHEA-PORTER. Okay, I think that is one of the biggest problems that we have, that we don't catch up to these kids until after, until everything has fallen apart, and then all of a sudden we are there like a ton of bricks on them. And if we invested earlier and we helped them and helped their families—I mean, you cannot—you cannot be responsible for everything. Once they have walked out of the door, you know, we all know that, that things are out there in the world.

So it seems to me that the great tragedy is there was no place for him to turn or for you to turn earlier. That would be not just a moment or a test, but an actual safety net to help walk them through a few years of difficult adolescence.

Okay, thank you. I yield back.

Ms. MCCLARD. Thank you.

Chairman MILLER. Mr. Kildee?

Mr. KILDEE. Thank you, Mr. Chairman.

About 20, 25 years ago, I was chairman of the committee that had jurisdiction over Juvenile Justice and Delinquency Prevention Act and saw all the problems. And 20, 25 years have passed. I used to work with a Judge Lincoln in Michigan who was one of the pioneers in this.

I will ask you, Judge Teske and Mr. Solberg and any of you, kind of going back over that span of years, how would you judge the progress or lack thereof that we have made in those 20 to 25 years? You were all pretty young then, but if you could share that with us.

Judge TESKE. Well, if I may, Mr. Kildee—I will just be real brief—there has been progress, okay? You know, I would say that, at this point, we can make more progress. And while we—I am here to ask for reauthorization, because there has been progress.

The question is, now that we are here asking about reauthorization, what more needs to be done to improve the existing systems where we have already made some progress? We need to keep going, especially since, 20 years ago, we have even more research that shows what works. Let's hone in on that.

Mr. SOLBERG. Congressman, I would say that there has been a lot of progress. And even though my testimony doesn't really come out and say we have made a lot of progress, I think the point of the testimony is to say, 30 years ago, there really wasn't the infrastructure in communities to provide related programs and community-based services to youth who are offenders or at risk.

And today, that is a different landscape. I mean, in our urban settings in Wisconsin, there are significant programs that have been established to respond. And as a result, as I shared in my testimony, we are seeing shorter lengths of stay, which is a good thing. Having kids in a program for three years historically, going back 15, 20 years ago, was not necessarily the best type of treatment for a young person. Today, as a result, our programs have changed to really bring about significant change in shorter lengths of stay and then provide community supports as they transition back to group home, foster care, or back home.

So there has been—there has been good progress. I think to some degree part of my testimony states that we have to be a little cautious about how much progress and the funding incentives that are in place through the juvenile justice prevention act, because what is happening is we are seeing a lot of our capital-intensive residential programs close today. And to some degree, there may be overcapacity. And so to some degree, that may not be a bad thing.

On the other hand, if we start going so far that we lose what is really a capital-intensive place for youth to go who need significant treatment, and maybe in some cases should have received it much earlier, we stand at risk of really losing what has been something that has taken years to develop.

Community-based programs you can develop within a relatively short period of time. Within a matter of months, you can find people with the skills and the program elements to develop a community-based program.

A residential program or more intensive programs take years to develop. And that capacity at some time—I think the committee needs to be aware of—there is a point when you can—you have to find that balance, in terms of the capacity the country needs to support intensive services and to the extent that we need to support community-based services.

But there has been a lot of progress, and I think to some degree you can congratulate yourselves on what has been established through this act.

Mr. KILDEE. Have we made improvement? Back in those days, you would find some robe-itis, judges or sheriffs, other law enforcement officers who really felt that we here, Washington, should have

nothing to say on this. And yet we made reception of the money contingent upon following these things.

Has there been any improvement in attitude of those who are in the system in those years? Anyone?

Mr. BURNS. Well, I would say yes, Congressman. I think, first and foremost, you brought and assisted in bringing the issue—bringing national attention to the issue that all of us involved in the criminal justice system learned, that it is different. We have to think differently. We have to act differently. And I applaud and commend you and others for doing that.

I will give you a quick example. Twenty, twenty-five years ago—and you have to appreciate—and I still don't believe this myself—but 80 percent of all the district attorneys' offices in this country, 80 percent have five lawyers or less. They are not Joe Hines in King County, in Brooklyn. They are not Jan Scully with 450 in Sacramento. They are Scott Garrett with four in Beaver, Utah.

And it used to be that the new guy in, the new woman in, would get juvenile court and misdemeanor court. You would get to go do traffic and juvenile court.

That is not so in many, many offices today. We realize it takes different skills. We realize that it takes intense training. And we ask in many cases that those people assigned to juvenile court stay on for a longer period of time because of how special that is. So that is great progress.

Mr. KILDEE. Thank you, Mr. Burns.

Thank you. I thank all of you. Thank you very much.

Chairman MILLER. Mrs. Davis?

Mrs. DAVIS OF CALIFORNIA. Thank you so much to all of you for being here, and particularly to Ms. McClard. I really didn't have a chance to be here to hear you. I read your testimony. And I just want to thank you for the courageous work that you are involved in. It is a tribute to your son.

Ms. MCCLARD. Thank you.

Mrs. DAVIS OF CALIFORNIA. One of the issues that we are always very, very aware of is the extent of mental health care in our institutions. And I wonder, as you think about the authorization that we are looking at here, there is always a conflict between being too prescriptive and causing difficulties in terms of who, what and where and how.

And yet some of the major benchmarks, I think, that we should be looking at in terms of the kind of care that is being delivered, in your experience, what is it that we absolutely need to be concerned about here? Is it more of the capacity within the system itself? Is it the training of the people who are there? Is it pure numbers and resources?

What do you think is really key in trying to address these mental health needs? Clearly, in your son's case, the fact that they didn't have any follow-up in the facility is outrageous to me. But I know that all states and local authorities grapple with this all the time, and they feel that we put so much pressure for the kind of medical care that is available that then other things are not realized.

What can you tell us? What absolutely needs to be in any kind of reauthorization regarding mental health care?

Mr. DAVIS. Mrs. Davis, I would like to start by saying I think that mental health is absolutely a key piece of our success in this work. The statistics show clearly that more than 70 percent—even on the most, you know, conservative estimates—of young people to come into the system have some kind of mental behavior health challenge. And we have ignored that for a long time.

In Kentucky, one of the things we do is, we actually recognize that—and as part of our transformation, created the mental health division. Every facility has clinicians, have professionally trained staff, and then we have regional staff and statewide staff that work not just in the facility, but also with young people when they go back home to their communities.

And it is very important, that continuum of care. We only serve them for a short time, and we put them on the right track. But when they return home to their families and communities, pretty often the ball is dropped. And so that is where we start to focus.

In fact, we are re-training and emphasizing more training for our mental health staff to actually work with the family, because we know that we can't make the child successful if we don't change anything about the home they go back into, and so bringing that whole family into therapy together, into conference together, and talk about how they as a family succeed and help this young person be more successful and how they actually own, identify, and address their mental health challenges, together and individually.

And it has been a real struggle for us, because that is a huge transformation of the paradigm that we have worked with, but our responsibility, again, is to make the child more whole, not less. And if the only way we can do that is to serve the family, then we must serve the family.

And I think that has to be our mantra across the board. We can't say that, you know, it is okay for some people to ignore a child who is screaming for help and assistance because it is not in our job description or it is not written down for us.

Those people—maybe they need something written down. Maybe it is time for us to codify and clarify that this expectation is there and it won't change.

Mrs. DAVIS OF CALIFORNIA. But I am guessing there is a lot of pressure, though, for some of those resources and so maintaining that is difficult.

Yes, Judge Teske?

Judge TESKE. Mrs. Davis, just quickly, I think we need to incentivize and improve the initial screening of kids who are brought to the juvenile justice system at the front door. And we really need to come up with a better way to divert those kids from the juvenile justice system, because from my experience, which has also drawn from the research, as well, that we aggravate kids who are mentally ill, have serious mental disorders, when we put them into a system that itself is not able to provide—I mean, think about it.

Most states have a division of mental health; then they have a department of juvenile justice. Why are you putting kids who are mentally ill, with serious mental health disorders, okay, in which their delinquency is a manifestation of that, into a department of juvenile justice and not over here?

Mrs. DAVIS OF CALIFORNIA. Are there some detention alternatives, though, that you have seen that have worked and have made it through the community processes? Because I think one of the difficulties I see is we get a lot of NIMBY-ism when we want to create alternatives for young people.

Judge TESKE. Yes, ma'am. And that goes back to system reform. That goes back to key leadership somewhere in the community—for me, I think it should be the judge, but if anyone will step up to the plate who can say, "We need to all get together, pool our resources. This is the objective. Let's have a better—let's develop a system of care, okay, that we can put the—where there is a multisystemic assessment and care for these kids in the community where the community is kept safe."

Just because a kid commits a delinquent act doesn't make the kid delinquent. Sometimes we fail to think that way.

Mrs. DAVIS OF CALIFORNIA. I know my time is up, Mr. Chairman. I don't know if it is possible to get any other responses.

Chairman MILLER. No, we are going to go to Mr. Platts, and we are going to have a second round, so, Mr. Platts?

Mr. PLATTS. Thank you, Mr. Chairman. I will be brief. And I apologize to all of our witnesses. I am running between meetings, and I am running back out to another one, but I wanted to thank each of you for your written testimony that you have provided and the great insights that it gives us as we work through this issue, and that shared goal of how do right by society and all of our citizens and protecting them from wrongdoing, but do right by the youth who clearly make mistakes, but we want to help them learn from those mistakes and reform and go forward and have a successful life.

And I especially wanted, Ms. McClard, to thank you. And reading your written testimony, you know, my boys are 11 and 13. And while I would like to think they are always going to make the right decision, you know, I hope that the tragic circumstances that you and your family have suffered through are not repeated in the years ahead for other families and that we learn from that.

And especially the specific recommendations in your testimony that give us, as we look at reauthorization and how to strengthen the system, including protecting those in detention, that we learn from the treatment or mistreatment that your son suffered through and don't allow those errors to be repeated.

And your presence here today and working to turn a family tragedy to public good is extremely commendable, and we are grateful for your presence here, and you are certainly honoring your son by your work. So—and thank you.

I yield back, Mr. Chairman.

Chairman MILLER. Thank you.

Mr. Tierney?

Mr. TIERNEY. Thank you, Mr. Chairman. Thank you for having this hearing, Mr. Chairman, for these excellent witnesses, as well.

Ms. McClard, I won't repeat what Todd just said, but I will echo it on that, and we do appreciate you coming. I don't think there is a parent in this country that doesn't fear that what happened to you might happen to their child, so all of us have issues with alcohol and drug addiction in our families or our friendships or our

neighborhood somewhere on that, so you do us all a great service, as well as your son's memory.

And I also want to just tell all the witnesses how much we appreciate what it is you do every day. I assume—I hope that you hear it in your own communities on that. This comes so far—I mean, I have been practicing law—I started practicing law maybe 33, 34, 35 years ago. And it was a whole different attitude then.

Judges looked at it differently. And I want to really respect the judges and how far you have come and what you have done on this. District attorneys looked at it differently. Mr. Burns and, you know, John Blodgett up in my area, Essex County, Massachusetts, is a leader in the sense of when everybody else wanted to get tough—you know, how long can we lock them up for, how hard can we punish them—was strong enough in his own self that he knew that was wrong, used this other way to go about it.

And you have people like Sally Patton on the juvenile court up there, tough people, former prosecutors, prosecutors who would stand up to the public and say, "That isn't right," with respect to this. We have got to do prevention. We have got to do other alternative programs instead of just going in the wrong direction.

It takes that kind of leadership and that kind of strength to go against the tide and do that. And all of you are representative of that, and I appreciate it, I mean, because we can easily get led the wrong way and have in this country over and over again.

We have covered a lot of ground, so I don't want to recover it, but I do have one question. We have in our area some specialized high schools for students with alcohol and drug issues. Good idea or bad idea?

Ms. MCCLARD. I can answer that as a teacher.

Mr. TIERNEY. Thank you.

Ms. MCCLARD. In Cape Girardeau County, there is a school for that, that other school districts are allowed to go to. It is kind of a general base for everybody in Cape Girardeau to Scott County. Most of the students that go there overcome their drug and alcohol abuse, because there is some backup counseling for them there.

But they do have to want to go. And they do have to earn a certain grade point average to be able to stay there. The graduation rate for that is about 89 percent, so it is huge.

Mr. TIERNEY. Well, it is successful in our area, as well. When I talked to the students there, they also would rather prefer being there. It is voluntary, as you say. But they seem to get a lot of comfort and support on that, but that is participants.

I was wondering from the experts out here whether they agree that that is a good setting for those kids and it doesn't stop them from progressing once they get out of that school. So it is generally—I am seeing a lot of nodding heads, so I will take that as the fact that we should move in that direction.

Do you do anything, Mr. Burns—and I know the district attorneys are very active on that—on identifying young people in high school or even in college, freshmen or whatever, as leaders on these issues of alcohol and drug abuse? And do we have any programs or situation where we identify those people and let them become leaders in their institution?

So many kids there would follow them if we found the right kid—I am thinking of one student in particular who went to a college in my area and started an organization for people with issues like that and found an unbelievable number of kids that turned out and became part of that.

Do we encourage that in any way?

Mr. BURNS. You know, there are individual programs, as you know, Congressman, depending on the city and the state, but I would concur with you. The tough on crime, we can also be smart on crime, and we can be innovative, and there are hundreds of district attorneys across the country that are engaged in a program like you just mentioned, as well as community centers and other efforts.

Mr. TIERNEY. Well, I will let it go. Thank you all very, very much for what you do, as well for being here today. Thank you.

I yield back, Mr. Chairman.

Chairman MILLER. Ms. Clarke?

Ms. CLARKE. Thank you very much, Mr. Chairman. And I want to thank all of you for your commitment to improving our juvenile justice system.

My first question is for Judge Teske, Mr. Belton, and Mr. Davis. Research has shown that unnecessary detention leads to worse outcomes for youth. Research has also shown that community-based interventions, such as those that are being implemented in certain parts of New York, like New York City where I am from, result in better outcomes, are cost-effective and more effectively reduces crime.

In fact, one study concluded that a significant way to avoid having to build adult prisons down the road is to implement evidence-based cost-beneficial prevention programs for youth in the juvenile justice system.

In your opinions, why haven't more states followed the lead of New York and Georgia and begun instituting evidence-based approaches to juvenile justice? And more importantly, what can we do to encourage states to employ evidence-based public policy options in their juvenile justice system?

Mr. BELTON. Chairman Miller and Congressman Clarke, I think the reason why more states don't do this is because I think, for a long time, many states, many jurisdictions had very much an institutional culture and basis and orientation for providing programs for young people who are offenders.

And it is taking—it is sort of like turned into the Queen Mary around in a teacup. It is taking a long time to get people to begin to shift and jurisdictions to begin to shift from institution-to community-based, where it is more cost-effective, where it is more effective programming, and it just makes sense.

You want to solve the problem close to where the problem first originated. It makes sense. But it has taken a long time to do that.

And fortunately, with leadership, and also incentives, hopefully, with the reauthorization of JJDPA and strengthening, that there will be incentives to provide more community-based alternatives to institutional responses to young people.

Judge TESKE. And if I am piggybacking his answer, sometimes it goes to what I call the politics of fear. And I am going to address policymakers at the state level.

The question is, who are—what constituents are they really listening to? Because some people—I had a preacher once that gave a sermon that said there are four different types of personalities. One of those is the complainer, but usually the complainer complains about how everyone is complaining about the preacher, when it is probably only one or two, but they just complained the loudest, and so policies are made based upon the loudest, who only represents the few.

And so the "lock them up" has become prevalent, you know, over the years. And so policies through state statutes, like automatic transfers to adult court, started happening. And we lose sight of the research. We don't look beyond that.

But, in fact, if you really want to know what the community is thinking, come to court with me and listen to the victims in my court. I make the victims—I don't make—but I ask them—strongly ask them to come and speak. You know what they say 9 times out of 10? "Please help this young man who hurt me. Don't lock him up."

Mr. DAVIS. Ma'am, I think the Senate bill version of the act does address some of these issues and actually put funding in place to specifically look at evidence-based programs. And I think it is important that, as you all go through the process, that be a real option. You know, evidence-based programs will only be effective if we have the money to seek those and to create those, too.

As far as the community goes, I think that, in the work that we do, there has been a real shift, and I think fear has been a big piece of it. When we get elected by promising people certain kinds of elements won't be in their community, then we have to hold to those promises. And no matter what is least restrictive, no matter what is most necessary for the recovery of a child, we can't go there, and I think that is the thing we face in most places, that we promise people that we will keep those sex offenders out of the community, and now, you know, we are in the situation where we can't put them back to the place where we could possibly make them whole because of a fear of the next election.

Chairman MILLER. Ms. Chu?

Ms. CHU. Thank you so much for your testimony.

And thank you, Ms. McClard, for coming out and sharing your story.

Over the past 5 years, juvenile justice appropriations have fallen nearly 30 percent. And I know in my area of Los Angeles County, this decrease in funding has significantly affected the juvenile justice system's ability to invest in evidence-based solutions to juvenile crime.

I have heard from advocates who are very upset about this, because they know that there is so much more that we can do for juveniles while they are in the system.

Mr. Davis, I know you touched upon this, but I wonder if the panelists could share with us how this decrease in funding has affected your organization's ability to be successful.

Mr. DAVIS. Ms. Chu, I spoke before—and I think it is really clear—that all of us have been deeply impacted by the reduction in funds. It makes it challenging for us to do our best work. And I think, at the end of the day, as a professional in this field, that is what we like to think we do. And it more importantly has made it more creative.

I think that if we had funding restored or increased, it would give us the opportunity to do what we know needs to be done with less restriction, with less concern about robbing Peter to pay Paul. In our system in particular, we continue to struggle with, we know this has to happen, so what is it that we can do without that is good, but not great, in order to make sure we take care of great? And it shouldn't be that way.

And so for us, it has been a challenge. And it continues to be. But, again, as I said earlier, it won't be the thing that limits our willingness to continue to do the hard work, but it would make our work much easier if we had the dollars in place to ensure that we could move forward without question, without hesitation.

Ms. CHU. And could you say specifically where you think those funds should be concentrated?

Mr. DAVIS. For us, I think moving back to looking at evidence-based programs, and especially in community re-entry. Family-and community-based programming, I think—I know is where we are going. We have identified it. We have started to look at how we transform our staff to address it appropriately.

But we cannot serve children in our facilities. We have to get them home, and we have to get them home with all of the things that they need to be successful. In fact, my boss always says, we have to teach them how to access the system at home, in place where they are going to have to survive, not in a facility where it is a false positive if they succeed.

And so for us, having to transition back to community and the resources to really provide them with services, with counseling, with job training, with access to social services and educational opportunities will create the possibility for transformation that I think we haven't even seen yet. It is very exciting for us.

Mr. SOLBERG. Yes, Ms. Chu, I would build on that a little bit and just share that—and I related to it in my testimony briefly, is that there is this increased tension, I believe, between community-based providers and residential providers, in terms of what is the most appropriate care.

And so you will see in some cases in community-based settings, where there is a dogma almost that says this child will not leave the community, and there may not be the appropriate resources to really provide the most appropriate care based on assessments, and so these young men tend to fail at various levels before the decision is finally made to put them in a setting that really was probably more appropriate at an earlier stage in their care.

And so, as you look at decreased funding, it really creates those tensions, you know, in terms of providing the most appropriate care, even though that more appropriate care may be more expensive, and take them out of the community, and really means that they have to do as much as they can to provide the services in the community as much as possible.

And so it comes down to the most appropriate care for that youth, and that is what we have always fought for, in terms of—if it is most appropriate to keep them in the community, do so. If it is not, then we need to look at funding sources and streams to provide the most appropriate care for them.

Mr. BELTON. Congresswoman Chu, I would like to sort of—at least in Ramsey County, Minnesota, where I am the juvenile director, I want to move beyond the tension—and it is a natural tension between community-based and institution-or residential-based services. Both are needed.

And I would like to maybe think about in terms of more of a public health approach, where—in our communities, we provide certain things for children because they are children and they need certain things, and that is regardless of race, income, neighborhood, and all those kinds of things. And some of those are services. Some of those are services such as mental health services, so that corrections—or the juvenile justice doesn't become the venue or the delivery service system for mental health services for certain kinds of kids.

Some of it is drug abuse abuses. Some of it is educational, remedial educational services, so that the kids who are served through the juvenile justice can get these things in the community beforehand.

But when they present enough of a risk to public safety, when they have to be in the juvenile justice system and they have to be in residential treatment, we need enough money so that we have programs and services in those institutions where they can function properly, they are evidence-based, and kids can make these improvements so that they can become productive citizens.

So I think, in short, we need an array of services. We need money and funding in a number of key areas and not just one specific area.

Ms. CHU. Thank you. I yield back.

Chairman MILLER. Thank you. Thank you very much.

Ms. McClard, I want to echo what Congressman Platts said and associate myself with his remarks about your appearance here and your advocacy. As I read your testimony yesterday, and then I started going through the testimony of others and some of the reports that have been prepared for the reauthorization, I kept trying to think where there would have been a circuit breaker so somebody could have said, "Wait a minute. What is going on here?"

Because it seemed to me, as I read your narrative, that you couldn't stop the train. I mean, it was just—there was no ability to reach up and pull a cord and get some independent review of what is taking place. And we all understand the pressures that are on the justice system.

But when I come back to, you know, what was being referred to here as evidence-based programs, comprehensive programs, you get a sense that instead of working faster and harder, the organizations and systems that are working smarter seem to open up more opportunities for those interventions, for somebody to walk in and say, "Wait, wait. Should this be a placement like Mr. Solberg's or should this be a locked facility? Or should this be at home?" And if you are not working smart, you are just shoveling in Louisiana.

And that is my real concern, is that we are at this point—Mr. Kildee, we were all here when this program started—that we now continue to fund jurisdictions that are just doing it the way that—you know, tomorrow the way they did it yesterday. And I think whether it is to try to develop the best plans for detention, if necessary, or for interventions or for prevention, that clearly, given the limited resources, we really have to now start looking at rather compelling and a critical mass of evidence that suggests there is another way to address this caseload, and to be smarter with better outcomes, in terms of crime rates, in terms of education attainment, in terms of treatment of these young people.

And that is really the challenge that we ask this challenge to—this panel to present to us, and I think you have successfully done that this morning, and I appreciate it.

You know, I was quite taken—the district attorneys association, supported Fight Crime, Invest in Kids, and the home visiting program that ended up being—in the large health bill, there is a billion something dollars recognizing that the district attorneys kept saying, "I am just getting more and more crime. I have got to work with these families and newborns and teach people parenting skills and all the rest of that."

And people are saying, well, that is not what district attorneys do, except they started thinking smarter, in terms of—well, you go up the river, see who is throwing the baby in the river.

And so, you know, we have responded there what we think is evidence-based and what people in the system think helps them deter the behavior that is acted out.

So I just wanted to thank you for this rather comprehensive view of the system and the recommendations that you have made that have been really tested over the last 24 hours and matching this against Jonathan's progress in this system and how he was moved through the system without some kind of check.

But I think we see some rays of hope in various jurisdictions around the country that have looked at these alternatives in the most comprehensive fashion, I guess, is what is necessary. A lot of people have had divergent programs and the rest of that, and we all know what happens to them in our communities. But that comprehensive approach is really what is encouraging to me about the presentations made here today, so thank you very, very much.

Mr. Kline?

Mr. KLINE. Thank you. Thank you, Mr. Chairman.

Again, thanks to our witnesses.

And, Ms. McClard, I too wanted to identify myself with remarks of Mr. Platts. Your sacrifices and now your work are remarkable.

I have been struck by the testimony of all of you, and you were stressing the importance of comprehensive—or I would say, collaborative—I think the judge mentioned a number of times. And it seemed to me, wouldn't it be nice if we could just take this panel and sort of replicate you many times and move you from state to state and district to district and get that sort of collaboration and teamwork, which it occurs to me is—listening to all of your comments—is at the heart of doing this right.

You can't just have the good judge and nothing else working out there or the good director or the good teacher or the good residential home or the good district attorney. You have got to have it all.

And our challenge is going to be, what can we do here to facilitate that? And certainly not to restrict it. So I think we have got our work cut out for us here. Again, I want thank you for being here today, for your testimony, for your comments, and for your terrific work and the jobs that each of you is doing.

You provided a lot of great information and ideas and a path for how this can work so that we don't have repeated what Ms. McClard has gone through. So I just want to again say thanks to all of you, and I will yield back.

Mr. SCOTT [presiding]. Thank you.

Mr. Belton, the judge pointed out some of the things we can be doing to deal with young people when they have been identified at risk. Can you talk about the importance of comprehensive plans to get young people on the right track and keep them on the right track so they don't even develop the risk factors?

Mr. BELTON. Congressman, I think it is vitally important to have comprehensive plans, but I think that, again, referring back to some of my earlier comments, we need resources in our communities so that kids don't even come into—aren't even touched by the juvenile justice system, so that we are not even assessing these kids, because they are getting what they need in our communities before they even touch our juvenile justice system.

Mr. SCOTT. And does that system—so they don't get in trouble in the first place, if they get on the right track early and stay on the right track, does that have to be comprehensive?

Mr. BELTON. Yes, it does, absolutely. Kids need stuff. They need all kinds of things, including services, including recreational outlets, and various other things.

Mr. SCOTT. And if you provide that, many of them will not develop the risk factors that get them into trouble, and then when they get in trouble, they need to be dealt with as quickly as possible. Is that right?

Mr. BELTON. As quickly as possible, but also as comprehensively and intelligently, using science-and evidence-based practices, yes.

Mr. SCOTT. Now, Mr. Davis, you indicated that there should be no exception to locking up status offenders. What happens when you inappropriately lock up a status offender? What happens to the trajectory of that child?

Mr. DAVIS. Well, all the data shows us that a young person who is locked up as a status offender receives very low results on the other end. There is increased possibility of criminality being in close proximity and sometimes trying to survive, again, with those more sophisticated young people who have committed, you know, sometimes egregious crimes.

And then they also are limited in their access to mental health, which we know, as most of them are runaways, truants, or some other thing that is not criminal, alcohol or drug use underage. When they get into the system, they don't have access to any of the support systems that deal with that, AA, Narcotics Anonymous, counseling, educational access, especially in detention facilities, most likely.

And so everything about their projection is decreased, with the possibility of attaining educational aspirations, of finding and securing work in community, of eliminating the badge or the baggage of being a delinquent youth and having gone through the system. All those things create lower outcomes for them.

Mr. SCOTT. Thank you.

Now, Mr. Burns, you indicated a need for flexibility. Would your flexibility be adversely affected if we limited your flexibility to evidence-based plans?

Mr. BURNS. No, Congressman, but I guess the flexibility we ask is to not try and apply something nationally when there are so many differences between the individual states.

Mr. SCOTT. And if a comprehensive plan were developed locally tailored to that locality, it would be better than a nationally imposed plan?

Mr. BURNS. Yes, but I think the honest answer to that is, is if you bring everybody in to the process from the beginning, instead of tell them from Washington, D.C., "This is what we are going to do."

Mr. SCOTT. Bring them together, you mean in the locality?

Mr. BURNS. Yes, bring in the prosecutors——

Mr. SCOTT. So that you could assess what the local situation is, what the local resources and needs are, and fashion a plan tailor-made for that locality?

Mr. BURNS. That is right, so we know if we can afford it.

Mr. SCOTT. Thank you.

Mr. Solberg, you indicated evidence-based and we should be having priorities. Do you have a list of priorities where we ought to be focusing?

Mr. SOLBERG. Well, I think the—we talked about evidence-based a lot, because there has been a certain amount of research that has been done to demonstrate this type of program is going to be successful in a kind of controlled environment.

You take those now—for example, in the Wisconsin Works study that was done, with regard to juvenile justice, there are not—for example, if you were to say at a national level we want to have evidence-based programs, you know, basically rolled out across the country, there are not a lot of really canned programs where you can basically take evidence-based and duplicate it in a juvenile justice system. In the study, it was found that those were lacking.

There are evidence-based programs, but to take and replicate them in communities is a significant investment, and also making sure you are doing it based on the evidence and the control that was put in place for that program.

Beyond that, I think one of the things that—on my testimony is, for me, the lack of agreed-upon outcomes. We typically would develop programs and develop outcomes, but can we develop a set of—you know, in a research environment within individual states and local communities, to agree, "We are expecting these types of outcomes in our young people"?

It startles me at some times when I am meeting with peers on a state or national level that there is just very little discussion around outcomes. It has a lot to do with evidence-based programs, but can we all agree on, what are we agreeing on in terms of out-

comes so, at the end of the day, we know that we have been effective?

Mr. SCOTT. Thank you very much.

I want to thank all of our witnesses, particularly Ms. McClard, for your very courageous testimony. It is very helpful to put a face on exactly what are we doing in your testimony—I am sure at great pain—is very helpful.

I thank all of our witnesses. Without objection, members will have 14 days to submit additional materials or questions for the hearing record. And I would ask unanimous consent that a statement from the National Disability Rights Network be entered into the record. So ordered.

Any other comments?

Without objection, the hearing is adjourned.

[Additional submissions of Mr. Miller follow:]

Prepared Statement of the W. Haywood Burns Institute

During the April 21, 2010 House Committee on Education and Labor Hearing on "Reforming the Juvenile Justice System to Improve Children's Lives and Public Safety," Ranking Member Kline asked a question regarding the importance including in the Juvenile Justice and Delinquency Prevention Act (JJDPA) concrete guidance around reducing racial and ethnic disparities. Specifically, Ranking Member Kline asked Ramsey County Corrections Deputy Director of Juvenile Corrections, Michael Belton the following question:

"I believe you said little progress can be made if Congress doesn't strengthen the DMC core requirements. And yet you made great progress without that strengthening. Why do you think that other places can't do what you've done?"

The question was an important one. Currently, the JJDPA requires States to "address" disproportionate minority contact (DMC) within the juvenile justice system. Specifically, the law requires States to "address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system."[i]

This vague requirement that States "address" efforts to reduce DMC has left state and local officials without clear guidance for how to actually reduce racial and ethnic disparities. This lack of clarity on how to reduce racial and ethnic disparities has resulted in many jurisdictions getting stuck studying the problem or endlessly working on projects that may sound good on paper or in theory, but do not lead to measurable reductions. As a result, many jurisdictions have spent have spent significant time and money "spinning their wheels" trying to reduce racial and ethnic disparities in juvenile justice with limited results.

Over the past two decades, several organizations—the Annie E. Casey's' Juvenile Detention Alternative Imitative (JDAI), the MacArthur Foundation's Models for Change, and the W. Haywood Burns Institute—have worked with jurisdictions across the country to reduce DMC in juvenile justice systems. Through this work, a growing number of jurisdictions throughout the nation have employed a guided, intentional, and strategic approach to reducing racial and ethnic disparities, and they have achieved measurable results—showing that reducing racial and ethnic disparities is possible. The work of these organizations has consistently shown that the approach to working to reduce disparities must be done with focused, informed, and data-driven strategies.

Strengthening the JJDPA will make it possible for more jurisdictions to build on best practices that we know work to effectively reduce racial and ethnic disparities in the juvenile justice system rather than just studying the problem. Each of the organizations mentioned above uses a similar approach to reducing disparities that is based on successes and best practices used in jurisdictions across the country. The approach incorporates traditional and non-traditional stakeholder collaboration, collection of key data on a variety of juvenile justice decision making points, strategically using data to identify disparities and develop a work plan to reduce disparities, and monitoring the effect of any implemented strategies.

Thus, the recommended provisions to modify the DMC core requirement are based on the following components that—across the country—have demonstrated effectiveness in targeted work to reduce racial and ethnic disparities:

1. The work involved in reducing racial and ethnic disparities requires a committee exclusively dedicated to overseeing and monitoring state efforts to reduce disparities and offering guidance and support to local jurisdictions in their efforts to reduce disparities.

State Advisory Groups (SAGs), the governor-appointed entities responsible for administering and managing federal funds allocated in the JJDPA, have numerous responsibilities and are often stretched thin in order to accomplish them. Some SAGs have DMC subcommittees, but for those that do not, it is uncommon that SAGs can devote the time needed to oversee and guide implementation of statewide DMC-reduction strategies. All States need a body of individuals committed to DMC reduction guiding this focused work.

In California, for example, Formula Grants are administered by the Corrections Standards Authority (CSA), which leads the State's DMC efforts and monitors all ongoing local efforts to address DMC. The CSA's DMC subcommittee includes juvenile justice practitioners and experts with experience in successfully reducing racial and ethnic disparities. Reducing racial and ethnic disparities is interwoven into requirements for all juvenile justice-related federal funding streams administered by the state, and more than one third of California's Title II award is allocated specifically to reduce disparities.

California uses a multi-faceted approach to reducing disparities which includes direct service, education, and support and advocacy. The direct services component currently includes a three-phase competitive grant awarded to five counties. The grant is designed to assist probation departments in understanding how to identify DMC, and to equip them with the tools and resources necessary to provide leadership in a collaborative effort to reduce DMC involving traditional and nontraditional stakeholders throughout the county. The education component includes DMC training to all grantees receiving federal juvenile justice-related funding, and DMC trainings for all School Attendance Review Boards throughout the State. The state provides the support and advocacy component through strategic technical assistance that allows stakeholders to develop innovative, low-cost DMC interventions throughout the State.

In California, we recognize that reducing racial and ethnic disparities is a uniquely local issue. However, in California we also realize that without guidance, local jurisdictions are unclear how to tackle the issue of racial and ethnic overrepresentation. A committee that is designated exclusively to reducing disparities is necessary to provide critical guidance and support for local jurisdictions in their work to reduce disparities.

• *Shalinee Hunter, CA State DMC Coordinator*

2. Analysis at each decision point is needed so that targeted policy and programmatic changes can be implemented.

To ensure that strategies for reducing racial and ethnic disparities are based on evidence rather than perceptions, it is critical that States collect and analyze data at each juvenile justice decision point. In a meta-analysis of studies on race and the juvenile justice system, researchers found that almost three-quarters of the studies of DMC showed unwarranted racial disparity in at least one decision point in the juvenile justice process.[ii] Analysis of all juvenile justice decision making points sheds light on the entire system flow equally, and thus minimizes opportunities for blame.

The Tucson, Arizona Police Department has engaged in intensive work to reduce racial and ethnic disparities. In DMC work, the police are often the first to blame. In our experience, however, the opposite was true. The collection and analysis of data encourage open dialogue that is based on fact, not politics. In doing so, we avoided the 'blame game' and 'finger pointing.' The analysis helped our department learn what we are doing well, and where we need to dig deeper to investigate whether local policy and practice have a disparate impact on youth of color.

• *Rick Wilson, Lieutenant, Tucson Police Department*

The argument has been made that minority youth are overrepresented in the juvenile justice system simply because youth of color commit more crime. Careful data collection and analysis reveals that this is generally not the case. A more likely scenario is that DMC is driven by a group of factors that may even be at work simultaneously. Some factors could include: selective police surveillance and enforcement practices, differential opportunities for early prevention and treatment, differential handling of minority youth, indirect effects of juvenile justice policies, and legisla-

tive changes, administrative policies, and legal factors.[iii] All of these drivers of racial and ethnic disparity and, once identified, can be remedied through evidence-based interventions.

3. To have an impact on racial and ethnic disparities, jurisdictions need to engage in routine data collection that can guide implementation of meaningful solutions.

In many jurisdictions, race and ethnicity data currently are not collected adequately or used effectively to guide policy and practice changes aimed at reducing racial and ethnic disparities. Existing data and available information can be used to reveal unconscious biases that might guide individual decisions, as well as trends in the disproportionate representation of youth of color at various stages of the system.

Nearly all States collect some form of data, including the Relative Rate Index required by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to identify whether and to what extent racial and ethnic disparities exist within their juvenile justice systems. In a 2008 survey of DMC coordinators, 97% of respondents (N=33) reported that data collection and analysis efforts were underway in their States.[iv] However, many State officials and juvenile justice stakeholders are concerned that the collection of data is where DMC reduction efforts often begin and end. Moreover, many jurisdictions are unclear how to use the data to effect change. The survey also revealed that only 27% of states examine seemingly race-neutral policies and practices that might drive DMC.

We have successfully collected Relative Rate Index data, but the data have little utility for real change at the local level. In order to effect real change locally, we would need to look behind the numbers to learn where disparities exist. For many jurisdictions, it seems like the data collection is an exercise, not a mechanism to review where we can take action to reduce disparities. In addition, some jurisdictions within the State have expressed reservations regarding the accuracy of the data collected. If we had a better system that required more than simply the collection of data, we might engage in a conversation that would surface any inaccuracies and allow us to move forward in digging deeper into the data.

• *Maurice Nins, Minnesota Juvenile Justice Specialist*

Data regarding Latino involvement in the juvenile justice system are particularly inadequate. In many parts of the country there are no accurate data on the number of Latino youth in the juvenile justice system. Instead, Latino youth are counted as "White" or "Black," resulting in significant undercounting of Latino youth.[v] Although some data on Latino youth are available, they may not represent the full extent of disparate treatment for Latino youth in the juvenile justice system because some jurisdictions mix their counting of race and ethnicity. In these jurisdictions, Latino youth must choose between reporting their race and their ethnicity because the systems do not have capacity to report both (for example, that a youth is both African American and Latino).[vi] With accurate data, disaggregated by race and ethnicity, communities can plan and coordinate culturally- and linguistically-appropriate services that are effective for youth and their families.[vii]

4. To accomplish measurable reductions in racial and ethnic disparities, jurisdictions must implement programs designed to address their identified disparities.

Data collection and analysis are critical to understanding the presence and severity of DMC, but the work cannot end there. A few jurisdictions have achieved measurable reductions in racial and ethnic disparities by implementing data-driven strategies that are guided by collaborative groups of traditional and nontraditional juvenile justice stakeholders. The following are examples of these successes:

• Peoria County, Illinois examined data from school referrals to the police and determined that the county's DMC was aggravated by school discipline policies that had a disparate impact on youth of color. The County successfully reduced disproportionate referrals of youth of color to the juvenile justice system by working with the school system to strengthen school-based conflict resolution protocols.[viii]

• In Travis County, Texas, analysis of probation data showed racial and ethnic disparities in the detention of youth who violated probation. The county reduced its disproportionate incarceration of youth of color who violated probation by establishing a Sanction Supervision Program, which provides more intensive case management and probation services to youth and their families.[ix]

• Pennsylvania has recently implemented a system of statewide juvenile justice data collection that captures ethnicity separately from race.[x] Berks County, Pennsylvania found disproportionate representation of youth of color in both detention and secure placement. Through development of a detention assessment instrument and an evening reporting center as an alternative to detention, the county has reduced its detention population by 45%. The county's introduction of multi-systemic therapy, an evidence-based treatment program for youth and their families in their

own homes, along with promotion of other alternatives to incarceration, has significantly dropped the population of youth in residential placement as well.

• Santa Cruz County, California found ethnic disparities in detention and subsequently reduced disproportionate admissions to detention of Latino youth by focusing on reducing admissions for youth who were initially detained by probation but released by the Judge at first appearance. Development of alternatives to detention in a neighborhood from which many Latino youth entered the juvenile justice system helped reduce the detained population.[xi]

• Baltimore County, Maryland observed a racially disparate impact at the decision to detain youth who did not appear in court after receiving a bench warrant. The County instituted a reminder call program and subsequently reduced secure detention of African American youth by 50%.[xii]

5. States are eager to learn about how other States have successfully reduced racial and ethnic disparities. Annual public reporting of DMC reduction efforts and progress would assist states in learning about successes and challenges that can inform their future efforts.

States and local jurisdictions throughout the nation are at different stages in their current efforts to reduce racial and ethnic disparities. Some jurisdictions have sustained reductions of disparities in targeted populations for several years, and some jurisdictions have yet to identify whether racial and ethnic disparities exist. States at all stages of this work can benefit from learning about successful efforts in other States.

Moreover, ensuring that monies allocated for work to reduce racial and ethnic disparities are being used effectively requires transparency. Requiring that States publicly report their efforts to reduce disparities will ensure that juvenile justice resources are spent wisely.

ENDNOTES

[i] P.L.93-415

[ii] Pope, C.E., Lovell, R., & Hsia, H.M. (2002). Disproportionate Minority Confinement: A Review of the Research Literature from 1989 through 2001. OJJDP: Washington, DC.

[iii] Nellis, A. (2005). Seven Steps to Develop and Evaluate Strategies to Reduce Disproportionate Minority Contact (DMC). Washington, DC: Justice Research and Statistics Association.

[iv] CJJ Survey for ECD, 2008.

[v] Id. at p. 1.

[vi] Villarruel, Francisco A.; Walker, Nancy; et al., (July 2002) Donde Esta la Justicia? A call to action on behalf of Latino and Latina youth in the U.S. justice system, p. 42-44. Available: *http://www.buildingblocksforyouth.org/Full%20Report%20English.pdf.*

[vii] Id.

[viii] Conversation with Laurie Brown, Peoria County Site Coordinator, August 6, 2007.

[ix] Conversation with Britt Canary, Travis County Juvenile Probation Department, April 4, 2008.

[x] National Center for Juvenile Justice (2006). Guidelines for Collecting and Recording the Race and Ethnicity of Juveniles in Conjunction with Juvenile Delinquency Disposition Reporting to the Juvenile Court Judges' Commission. Available: *http://www.jcjc.state.pa.us/jcjc/lib/jcjc/publications/cclp001-race—booklet.pdf*

[xi] Conversation with Scott MacDonald, Santa Cruz County Probation Department, February 13, 2008.

[xii] Conversation with Tiana Davis, Baltimore County DMC Coordinator, March 15, 2008.

Prepared Statement of the American Psychological Association; Bazelon Center for Mental Health Law; Mental Health America; and the National Disability Rights Network

On behalf of the American Psychological Association (APA), Bazelon Center for Mental Health Law, Mental Health America (MHA), and the National Disability Rights Network (NDRN), we thank you for holding this important hearing on juvenile justice.

Together, our organizations represent disability and mental health advocates, consumers, and professionals, and strongly support the Juvenile Justice and Delinquency Prevention Act (JJDPA). This critical law serves to protect communities, prevent delinquent behavior, guide the treatment of justice-involved and at-risk youth, and address dangerous conditions of confinement. We see its pending reauthorization as an opportunity to address the mental and behavioral health needs of this population which exist at rates 3 to 4 times that found in the overall population under the age of 18.

We are encouraged by Senate efforts thus far and the convening of today's hearing. S. 678, the Juvenile Justice and Delinquency Prevention Reauthorization Act

of 2009, contains a number of provisions related to mental and behavioral health that:

• Add the Administrator of the Substance Abuse and Mental Health Services Administration to the Federal Coordinating Council for Juvenile Justice and Delinquency Prevention;

• Add experts in mental health to the State Advisory Groups;

• Direct states to outline in their State Plans their efforts to use evidence-based mental health and substance abuse screening and assessment programs for youth in secure facilities;

• Provide states with training and technical assistance related to effective mental health and substance abuse screening, assessment, and treatment;

• Authorize a much-needed study to fill in significant gaps in the research regarding the prevalence of disabilities among the juvenile justice population; and

• Create a new incentive grant program to help State and local governments address mental health and substance abuse needs among juvenile justice-involved youth by: fostering linkages between juvenile justice and public mental health agencies; promoting the use of evidence-based prevention, identification and intervention strategies; providing staff training; and supporting at-risk youth.

These important provisions represent a sure step forward in addressing the disparate mental health needs of justice-involved and at-risk youth, and we look forward to working with the House of Representatives to identify additional ways that JJDPA can provide effective interventions for this group of young people.

Background Issues

Research shows that between 60 and 80 percent of youth involved with the juvenile justice system meet the criteria for at least one psychiatric diagnosis and that, of this group, approximately 80 percent meet the criteria for two or more mental health or substance abuse disorders. Youth experiencing serious emotional disturbance make-up approximately 15-20 percent of the population in juvenile justice facilities, a rate up to 10 times higher than their representation in the community.

In addition, recent federal reports demonstrate that juvenile justice systems regularly act as weigh-stations where youth await treatment, functions not intended for juvenile justice. In 2003, the Government Accountability Office reported on the tragedy of parents being forced to relinquish legal and physical custody of their children to child welfare and juvenile justice agencies in the often unfounded belief that doing so would secure otherwise unavailable mental health services for their children. Data for 2001 from 19 States and 30 counties showed that nearly 9,000 children and adolescents were sent to the juvenile justice system for this reason.

Furthermore, in 2004, the House Committee on Government Reform reported that two-thirds of juvenile detention facilities located in 47 states held youth with mental disorders solely due to a lack of community mental health treatment, and spent an estimated $100 million each year to house youth who are waiting for community mental health services. The survey also revealed that of more than 340 juvenile detention facilities across the country that held youth waiting for community mental health services, almost half reported suicide attempts and more than one-quarter reported having poor or no mental health treatment for youths in detention.

The price of inaction is significant. Facilities in the juvenile justice system were not designed to serve as mental health treatment centers, and most are not equipped to care for young people with special needs. Facilities are often overcrowded and understaffed, leading to poor supervision, and use of inappropriate or ineffective behavioral management strategies. Youth in these facilities often are exposed to stress, trauma and serious harms due to dangerous conditions of confinement, including physical and sexual violence. Youth who have behavioral health needs are particularly vulnerable to these harms, which has resulted in serious injuries, self-mutilation, suicides and death.

Finally, there are no national standards regulating conditions of confinement in facilities in the juvenile justice system. There is little or no monitoring and oversight to holding these facilities accountable for how they care for and supervise youth with mental health needs. Unlike any other residential facilities where youth with mental health, psychiatric or other disabilities are protected by national standards relating to abuse and neglect, there are no analogous standards for youth in secure juvenile justice facilities.

Recommendations

Juvenile Justice and Delinquency Prevention Act (JJDPA) Reauthorization

With regard to mental and behavioral health issues, this critical reauthorization must address two seemingly conflicting goals: helping to remove incentives to drive youth deeper into juvenile justice systems, while still fostering and ensuring an ap-

propriate range of critical services. Our organizations strongly encourage the Committee to consider the following principles during JJDPA reauthorization.

1. Create incentives for comprehensive and meaningful collaborations among state and local agencies, programs, and organizations that serve children, including schools, mental health and substance abuse agencies, law enforcement and probation personnel, juvenile courts, departments of corrections, child welfare, other public health agencies, and institutes of higher education.

2. Identify vulnerable youth with mental health and substance abuse disorders post adjudication through comprehensive screening and assessments in order to provide needed treatment, supports and services. In addition, policies should be developed and implemented to screen youth at intake or the point of detention, and to ensure that vulnerable youth with mental health and substance abuse disorders are protected from abuse, neglect, self-incrimination, or misuse of health information.

3. Provide grants to divert youth from detention and incarceration into home- and community-based care, whenever appropriate, which are less expensive and more effective settings for meeting their needs than juvenile justice facilities.

4. Make training available through OJJDP for law enforcement officers, juvenile and family court judges, probation officers, and other decision makers about the signs and symptoms of mental and behavioral health needs, the existence and purpose of screening and assessment, and the effectiveness of home- and community-based treatment and other mental health supports and services.

5. Develop an individualized discharge plan for each youth upon admission to any juvenile justice facility, including detention centers, in order to link them to appropriate aftercare services, including behavioral health services and supports, when they are released back into the community.

6. Provide incentives for juvenile justice systems to implement programs and services that involve families and have been proven through research to reduce recidivism and improve outcomes for juvenile offenders, such as Functional Family Therapy, Multi-Dimensional Treatment Foster Care, and Multi-Systemic Therapy.

7. Create a national technical assistance center and a series of regional technical assistance centers to assist juvenile justice agencies in all matters related to juveniles with mental health and substance abuse disorders, and create grants to assist state and local juvenile justice agencies as they work to reform their systems.

8. Provide grants for increased training opportunities, including best practices related to mental health, and technical assistance for law enforcement and probation officers, corrections and community corrections personnel, court services personnel and others as an appropriate means of reducing juvenile crime.

9. Create reporting requirements to the Department of Justice that will improve understanding of the prevalence of mental health and substance abuse disorders in the juvenile justice system.

10. Establish safeguards to ensure that psychotropic medications given to youth in the juvenile justice system are provided only as part of a treatment plan, based on a mental health assessment performed by a qualified, licensed mental health professional.

11. Establish and fund a system of independent monitoring and oversight to identify and remediate dangerous conditions in juvenile justice facilities.

Other key legislative priorities

- Re-introduce and enact the Keeping Families Together Act, which would expand systems of care to address the mental health needs of children and youth and reduce the unnecessary entry of young people into the juvenile justice system;
- Principles contained in the Mental Health Juvenile Justice Act, introduced in 2001 and 2002, respectively, by Congressman Miller and Senator Wellstone; and
- Enact H.R. 1931, the Juvenile Crime Reduction Act, which reflects many of the principles outlined above.

Conclusion

We thank you for the opportunity to share our perspective on the intersection of juvenile justice and mental health and substance abuse, and the need for changes to the federal investment in juvenile justice and delinquency prevention. The science behind mental health issues is far beyond where the evidence-based literature was the last time JJDPA was reauthorized. We now know how to better address and ameliorate the mental health crisis among our nation's youth. Given the progress in science and better collaboration among the stakeholders, the next reauthorization of JJDPA needs to seize this opportunity and dramatically shift the way in which it addresses mental health issues. We appreciate the Committee's ongoing commitment and leadership to addressing vital juvenile justice issues and look forward to continuing to work with you on these critically important efforts.

[Additional submission of Messrs. Scott and Grijalva follows:]

Prepared Statement of the National Disability Rights Network

On behalf of the National Disability Rights Network, and the 57 Protection and Advocacy Systems we represent nationwide, we thank you for having a hearing on the important topic of the juvenile justice system.

The National Disability Rights Network is the membership organization for the Protection and Advocacy (P&A) Systems, a nationwide network of 57 congressionally mandated, legally based disability rights agencies operating in every state and territory in the United States. P&A agencies have the authority to provide legal representation and advocacy services to all people with disabilities.

The Juvenile Justice and Delinquency Prevention Act (JJDPA) stands as one of the most important federal laws on the treatment of children in the juvenile justice system. While this law serves many important purposes, and provides many important protections for juveniles in contact with the juvenile justice system, the testimony that you will hear today and the juvenile justice advocacy by our network clearly show the time is right to reauthorize and update this Act.

The stories have been replete in newspapers and on television demonstrating the problems with the current juvenile justice system: Judges with a financial stake choosing to incarcerate juveniles in a for-profit prison; high incidents of sexual and physical abuse; juvenile justice facilities that are overcrowded, unsanitary, unsafe, and understaffed, children not receiving needed education or mental health services while incarcerated, leading to increased amounts of recidivism upon release; juveniles awaiting trial in adult facilities, and others who have committed no more than truancy being confined in secure juvenile correctional facilities to languish and suffer due to the outdated Valid Court Order provision.

These problems fall disproportionally upon children with a disability. Each day some 100,000 children and youth are locked up in juvenile detention centers and correctional facilities, and more are incarcerated in jails and prisons. About 70—80% of these youth have a mental health, cognitive, developmental, physical, learning, or other disability, including youth with IQs in the low 40s. Unfortunately, experience has shown that youth with disabilities are more vulnerable to being exploited and harmed in juvenile justice facilities, and incarceration has a profoundly negative impact on their mental and physical well-being.

The Senate has taken many important steps in its version of the reauthorization of the JJDPA, but there remains more work that could be done to address systemic problems in the juvenile justice system. As the House Education and Labor Committee begins to craft its version of the JJDPA reauthorization, NDRN and the P&As suggest that the Committee look at strengthening the Senate provisions addressing mental and behavioral health. In addition, more protections need to be enacted to ensure juveniles that do not belong in the adult criminal system do not end up there, more needs to be done to divert children from the juvenile justice system and dismantle the school to prison pipeline, and the outmoded concept of incarcerating status offenders for violations of a Valid Court Order needs to be abolished.

However, while all those changes would make a positive change in the juvenile justice system, there is still an important component that is lacking, and that is independent monitoring and oversight. Juvenile justice facilities are currently largely unregulated and free from independent, third-party monitoring and oversight. Current reporting requirements regarding deaths, serious injuries, and critical incidents in juvenile justice facilities are inadequate, and monitoring and oversight systems are ineffectual or non-existent, or subject to the whims of state and local budget cuts.

Into this gap in independent oversight and monitoring has stepped P&A systems all around the country. P&As are monitoring facilities and ensuring: problems in unsafe and understaffed facilities are identified and remedied; juveniles are receiving needed and mandated services while incarcerated; youth who can be diverted from the juvenile justice system are being appropriately referred; and youth who are being released are linked to needed services and supports that reduce the rate of recidivism. All P&As have an interest in performing this important work, however, a lack of dedicated funding has meant that not every P&A can perform this important independent oversight of the juvenile justice system.

In addition to the recommendations made earlier concerning the reauthorization of the JJDPA, NDRN and the 57 P&As it represents believe that a new provision should be added to the Act to dedicate a stream of funding to allow every P&A to provide a level of independent monitoring and oversight to the juvenile justice system in their state or territory. Such a Juvenile Justice Protection and Advocacy program will promote the use of practices in the juvenile justice system that are cost

effective and increase public safety by holding youth accountable while helping them become productive adults.

Creating a Juvenile Justice Protection and Advocacy program is an extremely cost effective way to provide independent oversight of the juvenile justice system. First, it is always cost effective to identify dangerous conditions and practices as early as possible to correct them before they result in costly liabilities. This is something that the P&A System has clearly shown throughout its more than 30 year existence in juvenile justice facilities as well as other facilities where individuals with a disability reside.[i]

Providing dedicated funding to the P&A System to perform juvenile justice work eliminates the need to create a new system of independent oversight as the infrastructure already exists within this federally mandated nationwide network with a proven track record for more than 30 years. P&As already have unique federally-mandated authority to access juvenile justice facilities, jails and prisons in order to monitor and investigate conditions and practices, including violations of the Juvenile Justice and Delinquency Prevention Act (JJDPA). The P&A System would bring independence, disability expertise, experience, and knowledge of evidence-based practices, and is ready to begin immediately as soon as funding becomes available.

Another benefit of the P&As is that they tailor their advocacy activities to the unique needs and issues in their jurisdictions. The range of potential P&A activities that are already being performed in the juvenile justice system and would be expanded with a dedicated stream of funding includes:

- Community-based advocacy. Promoting inter-agency collaborative approaches to reducing the disproportionate contact of youth with disabilities with the juvenile justice system.
- Diversion advocacy. Training for and consulting with judges, probation officers, and others about disability issues and resources in order to divert youth from confinement, as appropriate.
- Facility-based advocacy. Identifying dangerous conditions and practices that place confined youth at risk of harm. Advocating for special education and mental health services that promote positive youth development.
- Discharge planning advocacy. Promoting reintegration of youth into their communities via aftercare services that reduce recidivism (e.g., education, employment, mental health care).

NDRN and the P&As feel there is an opportunity with the reauthorization of the JJDPA to make many positive changes to the Act, most importantly the addition of independent oversight to our nation's juvenile justice system. Given the P&As' record of achievement and the efficiency and cost effectiveness of using an already existing system with representation in every state and the territories, NDRN and the 57 P&As feel strongly that a dedicated stream of funding to the P&As focused on the juvenile justice system will achieve the goal of independent oversight and monitoring of the juvenile justice system.

We thank you for the opportunity to submit this testimony today, and stand ready to work with all Members of the House Education and Labor Committee to pass a strong reauthorization of the JJDPA.

[Whereupon, at 12:30 p.m., the committee was adjourned.]

[i] For additional information about the need to Include a Juvenile Justice Protection & Advocacy Program in the JJDPA Reauthorization Act, see: *http://www.ndrn.org/issues/jj/faq.htm#why1*