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LOST EDUCATIONAL OPPORTUNITIES IN ALTERNATIVE SETTINGS

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTHY FAMILIES AND COMMUNITIES

COMMITTEE ON EDUCATION AND LABOR

AND THE

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, DC, MARCH 12, 2009

Serial No. 111–7
(Committee on Education and Labor)

Serial No. 111–5
(Committee on the Judiciary)

Printed for the use of the Committee on Education and Labor
and the Committee on the Judiciary

Available on the Internet:
http://www.gpoaccess.gov/congress/house/education/index.html and
http://www.house.gov/judiciary

U.S. GOVERNMENT PRINTING OFFICE

47–722 PDF WASHINGTON : 2009

For sale by the Superintendent of Documents, U.S. Government Printing Office
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LOST EDUCATIONAL OPPORTUNITIES IN ALTERNATIVE SETTINGS

Thursday, March 12, 2009
U.S. House of Representatives
Subcommittee on Healthy Families and Communities
Committee on Education and Labor
Subcommittee on Crime, Terrorism, and Homeland Security
Committee on the Judiciary
Washington, DC

The subcommittees met, pursuant to call, at 10:03 a.m., in Room 2175, Rayburn House Office Building, Hon. Carolyn McCarthy [chairwoman of the Healthy Families and Communities Subcommittee] presiding.

Present from the Subcommittee on Healthy Families: Representatives McCarthy, Clarke, Scott, Shea-Porter, Platts, McKeon, and Guthrie.

Present from the Subcommittee on Crime, Terrorism and Homeland Security: Scott, Pierluisi, Jackson Lee, Gohmert, Poe, and Goodlatte.

Staff present from the Subcommittee on Healthy Families: Paulette Acevedo, Legislative Fellow; Tylease Alli, Hearing Clerk; Fran-Victoria Cox, Staff Attorney; David Hartzler, Systems Administrator; Fred Jones, Staff Assistant, Education; Jessica Kahanek, Press Assistant; Sharon Lewis, Senior Disability Policy Advisor; Joe Novotny, Chief Clerk; Lisa Pugh, Legislative Fellow, Education; Kim Zarish-Becknell, Policy Advisor, Subcommittee on Healthy Families and Communities; Stephanie Arras, Minority Legislative Assistant; James Bergeron, Minority Deputy Director of Education and Human Services Policy; Robert Borden, Minority General Counsel; Kirsten Duncan, Minority Professional Staff Member; and Linda Stevens, Minority Chief Clerk/Assistant to the General Counsel.

Staff present from the Subcommittee on Crime, Terrorism and Homeland Security: Veronica Eligan, Professional Staff Member; Jesselyn McCurdy, Counsel; Bobby Vassar, Chief Counsel; Karen Wilkinson, (Fellow) Federal Public Defender Office Detailee; Kimani Little, Minority Counsel; and Caroline Lynch, Minority Counsel.

Chairwoman MCCARTHY [presiding]. A quorum is present. The joint hearing of the House Committee on Education and Labor Subcommittee on Healthy Families and Communities and the House Committee on Judiciary Subcommittee on Crime, Terrorism, Home-

land Security on lost education opportunities in alternative settings will come to order.

Before we begin, I would like to ask everybody to take a moment to ensure that your cell phones and BlackBerries are on silent.

Something just beeped over there.

I now recognize myself, followed by Chairman Bobby Scott of the House Judiciary Committee's Subcommittee on Crime, Terrorism and Homeland Security.

After Mr. Scott, the Subcommittee on Healthy Families and Communities ranking member, Todd Platts, from Pennsylvania, will be recognized for an opening statement, followed by the Congressman from Texas, the Subcommittee on Crime, Terrorism, Homeland Security and Ranking Member Gohmert. Thank you for all being here.

I would like to thank you all for being here today. And I thank you for traveling and spending the time with us. I think it is very important.

The testimony that we heard, or I should say read, is very interesting. And I was meeting with my National PTA people upstairs before I came down here, and one of things that was on their agenda was that a lot of young people were going into the juvenile justice system even just for truancy. And that is something I know that we are going to be discussing here.

Each of us sitting here knows that the importance of education in a child's life—unfortunately there is a whole population of students not receiving adequate education services, and there is no or little to no accountability. This hearing will focus on youth who in many instances need the most help but all too often fall through the cracks. For them, the opportunity for a decent education is lost.

The students we are talking about may be in day treatment programs, residential treatment centers, group homes, foster care settings, juvenile justice facilities or private therapeutic programs. Data reflects that minority youth, low-income youth and youth with disabilities are overrepresented in these particular systems. Youth are commonly shuffled from one setting to the next with education services—in each placement locality and state.

A 2007 report by the Government Accountability Office on residential facilities found state governments that are responsible for the oversight of juvenile facilities often do not monitor the quality of the education programs in these facilities or monitor them inconsistently. The consequences for the students include a lack of qualified teachers, shortened school days, low quality of curriculum and overall lost opportunities.

In fact, data shows that only 17 percent of teachers in juvenile facilities are fully certified. We hear stories of teenage students being given coloring sheets as their schoolwork, teachers are not showing up to teach class, and lockdown situations that leave children without any form of education for days at a time.

One of our witnesses, Dr. Blomberg, will touch on the school-to-prison pipeline where students begin in a traditional public school and are referred to alternative placements, many times for minor infractions, like truancy. Another witness, Ms. Steel, will talk about growing up with undiagnosed learning disabilities, dropping out of school and fighting her way back to become an attorney who

protects the education rights of vulnerable, at-risk youth, including those in foster care and those with learning disabilities. I understand Ms. Steel's situation, as I was diagnosed with dyslexia at the age of 30.

These students then receive substandard education and ultimately end the cycle from within a juvenile justice facility or incarcerated. It is not realistic to expect students receiving this type of education to graduate high school or let alone go to college.

We know a good education is one of the most effective ways to prevent delinquency. The overall economic costs for individuals in the corrective system are astonishing. To address the educational needs of students from the beginning of a child's school career, before that child falls through the cracks, is not only economically sound but is simply the right thing to do. So each of our witnesses here today can speak to successes despite the odds. Success for these vulnerable youth is not the norm.

Thank you all for joining us and I look forward to hearing your testimony.

I now recognize the distinguished chairman of the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security, who is also a member of this subcommittee, for his opening statement.

[The statement of Mrs. McCarthy follows:]

Prepared Statement of Hon. Carolyn McCarthy, Chairwoman, Subcommittee on Healthy Families and Communities

I would like to thank you for being here today. Each of us sitting here knows the importance of education in a child's life.

Unfortunately there is a whole population of students not receiving adequate education services, and there is little to no accountability. This hearing will focus on youth who, in many instances, need the most help but all too often fall through the cracks.

For them the opportunity for a decent education is lost.

The students we are talking about may be in day treatment programs, residential treatment centers, group homes, foster care settings, juvenile justice facilities or private therapeutic programs. Data reflects that minority youth, low-income youth and youth with disabilities are overrepresented in these systems.

Youth are commonly shuffled from one setting to the next, with education services varying in each placement, locality and state.

A 2007 Report by the Government Accountability Office on residential facilities found state governments that are responsible for the oversight of juvenile facilities often do not monitor the quality of the educational programs in these facilities or monitor them inconsistently. The consequences for the students include a lack of qualified teachers, shortened school days, low quality of curriculum and overall lost opportunities. In fact, data shows that only seventeen percent of teachers in juvenile facilities are fully certified.

We hear stories of teenage students being given coloring sheets as their school work, teachers not showing up to teach class, and lock down situations that leave children without any form of education for days at a time.

One of our witnesses, Dr. Blomburg, will touch on the school to prison pipeline, where students begin in a traditional public school and are referred to alternative placements, many times for minor infractions like truancy.

Another witness, Ms. Steele, will talk about growing up with an undiagnosed learning disability, dropping out of school, and fighting her way back to become an attorney who protects the educational rights of vulnerable and at-risk youth, including those in foster care and those with learning disabilities. I understand Ms. Steele's situation, as I was not diagnosed with dyslexia until my thirties.

These students then receive substandard education and ultimately end the cycle within a juvenile justice facility or incarcerated. It is not realistic to expect students receiving this type of education to graduate high school, let alone go to college. We know a good education is one of the most effective ways to prevent delinquency.

The overall economic costs for individuals in the correctional system are astounding. To address the educational needs of students from the beginning of a child's school career before that child falls thought the cracks is not only economically sound, but it is simply the right thing to do.

Though each of our witnesses here today can speak to successes despite the odds, success for these vulnerable youth is not the norm.

Thank you all for joining us on this issue. I look forward to hearing your testimony.

Mr. SCOTT. Thank you, Chairwoman McCarthy, and I am pleased to join you in welcoming members, witnesses and guests to today's joint hearing, entitled "Lost Educational Opportunities in Alternative Settings," before the Committee on Education and Labor's Subcommittee on Healthy Families and Communities and the Subcommittee on Judiciary—Crime, Terrorism and Homeland Security, which I chair.

I believe this is a timely hearing on a timely subject of ensuring that all children receive a world-class education that will allow them to compete for jobs and prosperity in a rapidly changing and challenging world economy. It is, I think, interesting to note that it is an Education and Judiciary Committee joint hearing, because, Madam Chairwoman, if we don't get it right in your subcommittee on Healthy Families, I am going to have to deal with it in my subcommittee on Crime.

So I am particularly pleased to welcome one of our expert witnesses today, Dr. Cynthia Cave, who is director of the Office of Student Services at the Virginia Department of Education, whom I had the pleasure to work with when I was in the General Assembly and I will be introducing her a bit later.

Today's hearing will examine the challenges associated with educating children in an alternative setting and how to overcome obstacles in providing quality education in these settings. For many reasons, children in this country are educated with public funds in settings other than traditional public schools.

Generally, alternative settings, such as alternative schools, juvenile detention facilities and foster care settings, were established with the objective of addressing children's individualized needs while educating them so that they can eventually move back to the public school system. Not providing an educational setting to children when they have been suspended or expelled from their home is not only counterproductive but morally wrong. Society pays a much higher cost financially and otherwise if we don't provide an educational alternative than if we do.

Given the importance of a solid education in achieving a successful life, we must make sure that the quality of education that young people receive in alternative settings is sufficient for them to continue on to vocational training or college, just as any other student. Some alternative settings have created positive therapeutic environments for young people that have proved to be very successful, and we need to learn from these models.

Unfortunately, it is clear that not all children who are educated in alternative schools are being provided with the educational opportunities—with the good educational opportunities that they need to become successful in life. Families and educators alike are concerned that instead of addressing the individualized needs of

students, some alternative schools are pushing students out of school and into the streets and eventually into the juvenile and criminal justice system.

The school system has become a gateway to the juvenile justice system through disciplinary policies such as zero tolerance that require school suspension, expulsion and arrest for an increasing number of common student behaviors and rule violations. The National Center for Educational Statistics found that 31 percent of students who have been suspended three or more times before the 10th grade drop out of school compared to only 6 percent of those who have never been suspended.

The high and growing percentage of youth who are suspended or expelled from school are youth of color; African American, Latino, Asian and Native Americans are 58 percent of students suspended or expelled from school. Indeed, many children of color start on a trajectory of school failure, suspension, expulsion and then to prison. They start on that trajectory at birth.

The Sentencing Project estimates that one out of every three black male students born today can expect to go to prison in their lifetime if the current trends continue. This development has led the Children's Defense Fund to conclude that many black children are born on what they call the cradle-to-prison pipeline. We have to change that trajectory and put these children on a cradle-to-college or cradle-to-the-workforce pipeline, because it is not only tragic but also much more costly to our society in the long run if we don't.

Department of Justice and other estimates show that we spend an average of over $23,000 per inmate per year to incarcerate, while it only costs $8,000 a year to educate them. The Alliance for Excellence in Education projects that if the male graduation rate is increased by only 5 percent, the nation would see an annual savings of almost $5 billion in reduction in crime-related costs. A report by the American Youth Policy Forum indicates that dropouts are three and a half times more likely than high school graduates to be incarcerated during their lifetime, so we know that education is key to keeping our children away from the prison cell and getting them back on the right track towards a college dorm room or the workforce.

An issue of quality education in an alternative setting is especially important with the new accountability under No Child Left Behind as well as mandates for students who are under the Individuals with Disabilities Act. All students must have a challenging curriculum that will prepare them to pass state standardized tests and to graduate them from high school.

Other challenging educational settings in educating children—another educational setting educating children is foster care. These children have many obstacles to getting a quality education as youth in the juvenile justice system. Young people in foster care often experience numerous changes in their home placements that require them to change schools frequently. Foster care children have to adjust to new teachers, classmates, curricula and rules in every new home placement, and as a result, children often end up losing academic credits, experiencing delays in student record transfers, delayed enrollment and reporting of grades. So we must be concerned about foster care students, regardless of whether they

are in the traditional or alternative educational placements due to these challenges.

I look forward to listening to the testimony from today's witnesses and hearing more about how we can assist school systems in successfully overcoming the challenges in providing quality education to children in alternative settings and to foster care students particularly in all settings.

And thank you, Madam Chairman, for holding this hearing.

[The statement of Mr. Scott follows:]

Prepared Statement of Hon. Robert C. "Bobby" Scott, Chairman, Subcommittee on Crime, Terrorism, and Homeland Security

Good morning, I am pleased to welcome you to today's joint hearing titled "Lost Educational Opportunities in Alternative Settings" before the Committee on Education and Labor's Subcommittee on Health Families and Communities and the Committee on the Judiciary's Subcommittee on Crime, Terrorism, and Homeland Security.

Among our expert witnesses today, we are joined by Dr. Cynthia Cave, Director of the Office of Student Services for the Virginia Department of Education. Dr. Cave oversees alternative education for the Department of Education in Virginia and she works closely with Virginia's bipartisan Commission on Youth to study the quality and areas for improvement in the education of at-risk youth. She has also been involved in intensive dropout prevention and truancy reduction efforts.

Today's hearing will examine the challenges associated with educating children in alternative settings and how to overcome obstacles in providing quality education in these settings. For many reasons, children in this country are educated with public funds in settings other than traditional public schools. Generally, alternative settings such as alternative schools, juvenile detention facilities and foster care settings were established with the objective of addressing children's individualized needs while educating them so that they can eventually move back to the public school system. Providing an educational setting to children when they have been suspended or expelled from their home schools is a better alternative than leaving them with them out on the street. However, we must make sure that the quality of education that young people in alternative settings is sufficient enough for them to continue on to vocational training or college. Some alternative schools settings have created positive therapeutic environments for young people and we need to learn from these model schools.

Nonetheless, it is not clear whether children who are educated in other alternative schools are being provided the educational opportunities and support they need to become successful in life. Families and educators alike are concerned that instead of addressing the individualized needs of children, these alternative schools are pushing students out of school and into the juvenile and criminal justice system. The school system has become a gateway into the juvenile justice system through disciplinary policies such as "zero tolerance" that require school suspension, expulsion, and arrest for an increasing number of common student behaviors and rule violations. The National Center for Educational Statistics found that 31% of students who had been suspended three or more times before the tenth grade dropped out of school compared to only 6% of students who had never been suspended.

A growing number of the youth who are suspend or expelled are youth of color and statistics indicate that one in every 3 Black male children born today can expect to go to prison in their lifetime if current trends continue. This development led the Children's Defense Fund to conclude that many Black children are born on a "cradle to prison pipeline." We must put these children on the path to a cradle to college pipeline, because it is tragic and much more costly to our society in the long run, if we send these young people to prison and not to college.

The Department of Justice estimates it spends an average of almost $25,000 per inmate per year to incarceration offenders. However, the Alliance for Excellent Education projects that increasing the high school graduation rate and college attendance for male students by only 5 percent would lead to combined savings and revenue of almost $8 billion each year.

We know that education is the key to getting children on the right path away from a prison cell and toward a college dorm room. Without an education, statistics show that dropouts are 3½ times more likely than high school graduates to be incarcerated in their lifetime.

The issue of quality education in alternative settings is especially important with the new accountability under the No Child Left Behind Act as well as mandates for student access in the Individuals with Disabilities Education Act (IDEA). All students must have a challenging curriculum that will prepare them to pass state standardized tests and in many states allow them to graduate from high school.

Children in foster care have as many obstacles to getting a quality education as youth in the juvenile justice system. Young people in foster care often experience numerous changes in their home placements that require them to changes schools frequently. Foster children have to adjust to new teachers, classmates, curricula and rules with every new home placement. These school disruptions often result in children losing academic credits, repeating grades, delaying enrollment in school and transferring of student records. I look forward to listening to the testimony from today's witnesses and hearing more about how some schools systems have overcome the challenges to providing education in alternative settings.

It is now my pleasure to recognize the esteemed ranking member of the Healthy Families and Communities Subcommittee, the Gentleman from Pennsylvania Todd Platts.

Chairwoman MCCARTHY. And I thank you, Mr. Scott.

Now I will introduce my ranking member, Mr. Platts, from Pennsylvania, who has been a good colleague the last several years, working very well together.

Mr. PLATTS. Thank you, thank you, Madam Chair. Want to thank you very much for holding this very important hearing on our alternative education systems and really so we can learn from our expert witnesses on the strengths and weaknesses of our systems throughout the country.

I am very pleased that we have been joined by our colleagues on the Judiciary Subcommittee and Chairman Scott, Ranking Member Gohmert, delighted to join you as well as the other members of both subcommittees.

I am going to submit my statement for the record.

[The statement of Mr. Platts follows:]

Prepared Statement of Hon. Todd Russell Platts, Ranking Republican Member, Subcommittee on Healthy Families and Communities

Good morning. I'd like to welcome each one of you to this joint hearing entitled "Lost Educational Opportunities in Alternative Settings." I am pleased that the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security is able to join us today to hear about the educational opportunities available for youth outside of the traditional public school system.

The goal of most alternative settings is to provide youth who struggle in mainstream society another opportunity to succeed educationally. Often these settings also provide behavioral health treatment and additional support services.

The Juvenile Justice and Delinquency Prevention Act assists states and local governments in their efforts to reduce juvenile crime through the funding of prevention programs, efforts to combat juvenile crime, as well as rehabilitation and treatment programs. It is often in the rehabilitation and treatment settings that educational services are also provided.

The purpose of today's hearing is to better understand the types of educational opportunities that are presented to youth who often are referred to these alternative settings by their own school district or by a court order. I am especially interested to learn about the specific components that make a high quality alternative educational setting successful.

I am glad that we are holding this hearing today and look forward to hearing testimony from this expert panel. It is vitally important that all of our youth receive a challenging and rewarding educational experience regardless of the setting.

I yield back to Chairwoman McCarthy.

Mr. PLATTS. Both, Chairwoman McCarthy, you and Chairman Scott both presented very thoughtful statements, I think captured the importance of this issue and why we are here today.

I am especially pleased to thank each of our witnesses. Your expertise out on the frontlines of this issue is what this hearing is all about because through your knowledge that you share with us we can be better informed as policymakers and, as Chairman Scott said, hopefully get it right on the alternative education side so that we are not dealing with issues on his subcommittee's side, which is the criminal side.

And we are grateful for not just your presence here today but I know the effort that goes into being part of a hearing and preparing your testimony. I am sure it took some great effort and sacrifice in the past week, and we are grateful for that effort and look forward to your testimony and your wisdom being shared with us.

So thank you, Madam Chair. I yield back.

Chairwoman MCCARTHY. Thank you, Mr. Platts.

Now I am pleased to introduce Mr. Gohmert, who is also on the House Terrorism Subcommittee on Crime, Terrorism and Homeland Security.

Welcome to the committee, Mr. Gohmert.

Mr. GOHMERT. Okay, thank you, Chairwoman McCarthy, Ranking Member Platts, Chairman Scott. It is a pleasure to be with each of you and have the witnesses here today. Look forward to hearing from you.

Administering justice to juvenile offenders has largely been the domain of states, as you know. There is no federal juvenile justice system. In fact, when the federal government adjudicates a juvenile as a delinquent, that individual is housed in either private or state-run facilities because the Bureau of Prisons does not operate residential placement facilities for juveniles.

But when looking at the state systems, it is difficult to make an accurate count of the number of juveniles that are committed at any one time because juveniles transition in and out of the system frequently. One metric is the Census of Juveniles in Residential Placement or CJRP, which provides an annual 1-day snapshot count of all juvenile offenders in public or private residential facilities in the United States.

A review of recent CJRP data indicates that the number of juveniles in state, local and private correctional facilities has actually declined since 1999. The data shows that juvenile offenders in custody fell about 14 percent from nearly 109,000 offenders in 1999 to almost 93,000 in 2006, the last year for which we have such data.

Many of these juveniles are only in the correctional facilities for short periods. According to the CJRP, a closer look at the juveniles committed as part of a court-ordered disposition indicated 80 percent have been in facility at least 30 days, 68 percent for less than 60 days and 57 percent for at least 90 days. Only 12 percent of the committed offenders remained in the placement for over a year.

Creating and maintaining educational programs for juveniles that are often coming and going from facilities is quite challenging of course. However, many states have made valiant efforts to provide the best possible programming that they can.

In 2004, an article that tracked the history of juvenile correction education programs nationwide was published in the Journal of Correctional Education. The article found that, "Since 1997, a number of states have taken the lead in demonstrating the quality of their juvenile correctional education programs by responding with education standards movement." The article concluded that a number of states, including Georgia, Alabama and Ohio, improved their programs by aligning the juvenile correctional education programs with their state education standards. These states should be recognized for their efforts and other states should look to these policies to see if it makes sense to adopt them.

However, we should remain mindful of the fact that state and local juvenile justice facilities face systemic hurdles that are often beyond their control. A 2004 study of the juvenile justice system by the University of Maryland concluded that most youths enter correctional facilities with a range of intense educational, mental health, medical and social needs. A large number of juveniles in corrections are marginally literate and have experienced school failure and retention at the public school level. And all—minors in the criminal and juvenile justice system will face these sad realities.

Before I was elected to Congress, I served as a district judge and as chief justice of intermediate court of appeals. I also served on the county juvenile board. During my tenure on the bench, I sometimes oversaw cases involving juveniles facing charges so serious that they were prosecuted as adults. Time and time again, you had to wonder where these kids came from and how they got here.

Often the answer was that these kids came from broken homes without two parents and other positive role models. I also often discovered these kids had very poor levels of education, and most were high school dropouts by their own choice. As a judge, I took note for a 3-month period of exactly how many I was sentencing, day in, day out, who had never had a relationship with their father, and it was over 80 percent.

Educational opportunities for juveniles in alternative settings is a small facet of a larger problem. State issues that affect the nation include the breakdown of the family. Another state issue affecting the nation is the failure of the public schools. Another problem is a culture where uneducated, illiterate, foul-talking tough guys end up being role models.

We will not find solutions in only examining the symptoms. Again, one of the diseases may be the breakdown of the American home and family. But hopefully states will find information we glean from these hearings helpful and will appreciate this inquiry, with this issue of course being reserved to the states by the 10th Amendment. It does seem that with each decade for the last 50 years in which the federal government has usurped more of the state control of education, we have had greater and greater problems in the educational prominence of our students.

So I appreciate the witnesses being here. I think it is helpful for where we have the resources to make these inquiries and help give states guidance.

But one final anecdotal indication: In our juvenile justice facility, we kept getting restriction after restriction on what we had to do

to feed the juveniles in order to get the $1 of federal subsidy. After more and more restrictions were put on, more and more requirements, we finally had the director figure out what it would cost, number one, to do an inquiry with our juveniles, find out what they liked to eat better than what they were eating, and how we could have it even more nutritional. We provided more nutritional meal and it was meals they chose. We gave up the dollar of federal subsidy and we saved ourselves $2 a meal.

Thank you, I yield back.

Chairwoman MCCARTHY. And with that, I thank the gentleman.

I would also like to say that Mr. Buck McKeon, the ranking member on the full committee, is here with us. I thank him. I guess he left.

Pursuant to Committee Rule 12(a), any member may submit an opening statement in writing at this time, which will be made part of the permanent record. Without objection, all members will have 14 days to submit additional materials or questions for the hearing record.

Let me just explain the lighting system. You have 5 minutes each. You will have a green light when you start. There is a yellow light saying that you are getting down to about 4 minutes. And obviously when your red light goes on, I am not going to stop you in mid-sentence or mid-thought, but it would be time to wrap up and so this way everybody can have a full opportunity to ask their questions.

Our first witness, Dr. Thomas Blomberg is the dean and professor of criminology in the College of Criminology and Criminal Justice at Florida State University and the editor of Criminology and Public Policy. Dr. Blomberg's research in Florida and throughout the nation is internationally recognized. He will also touch on the practices and effectiveness of alternative education, schools for at-risk youth and developed educational behavior qualities assurance standards for these schools.

And welcome, Mr. Blomberg.

Our next witness is Mr. Leonard Dixon. Currently Mr. Dixon works for the Wayne County Juvenile Detention Facility, Department of Children and Family Services in Detroit as the executive director. With more than 29 years of juvenile justice experience, Mr. Dixon will give light to a holistic approach in serving youth in correctional and detention facilities and is recognized nationally and internationally on this topic.

Welcome, Mr. Dixon.

Sharing both her personal perspective and her expertise as an attorney advocate is Ms. Janeen Steel. As a former high school dropout with a learning disability who went down the path of addiction and homelessness, once her learning needs were finally diagnosed as an adult she was able to go to law school with the intention of representing at-risk youth and ensuring quality education. Ms. Steel founded the Learning Rights Law Center, Los Angeles, an educational-based legal advocacy organization, which works to prevent the systematic placement of foster youth in restrictive and, what Steel calls, substandard educational environments.

I now yield to Chairman Scott to introduce the next witness, Dr. Cynthia Cave.

Mr. SCOTT. Thank you, Madam Chairwoman.

It is my pleasure to introduce Dr. Cynthia Cave, director of Student Services in the division of Special Education and Student Services at the Virginia Department of Education. She has been part of the Department of Education for over 11 years.

Prior to coming to the Department of Education, she was assistant commissioner for field services for the Department of Rehabilitative Services and deputy commissioner for administration for the Department of Health. Before joining the state, she worked in various positions in local government, including executive director in intergovernmental relations for the City of Santa Ana, California.

She has also served as the adjunct professor for the doctoral program for the School of Education and master's program for the department of public administration at Virginia Commonwealth University. She holds a PhD in public administration from Syracuse, the Maxwell School; a master's of public administration from the University of Maine; and a bachelor of science from the College of William and Mary. And I am particularly pleased to see her because we did work together when I was in the Virginia General Assembly.

So it is good to see you.

Chairwoman MCCARTHY. Thank you, Bobby.

Next I will yield to my ranking member, Congressman Platts, to introduce our next witness, Dr. Whitmore.

Mr. PLATTS. Thank you, Chairwoman McCarthy.

I am delighted to welcome Dr. Robert Whitmore here as a witness. Dr. Whitmore has 36 years of professional experience working with at-risk youth in a variety of community settings. Dr. Whitmore is a cofounder and CEO of Manito, Inc., a private, nonprofit organization based in Pennsylvania. And for 30 years he has guided Manito in the development and delivery of comprehensive alternative education, juvenile justice and behavior health services to children, adolescents and their families. And I think important is he, I think will reference in his remarks, he began his career as a juvenile probation officer and has an important perspective that he brings to the table today.

Manito currently provides a number of comprehensive educational and behavior health services in 11 counties in Pennsylvania and West Virginia and serves over 700 children on a daily basis. I am proud to say that Manito operates eight programs in my congressional district and does so very well. Dr. Whitmore has focused his efforts on the development of services to at-risk youth who have been unsuccessful in traditional public school and community settings with an emphasis on creating supportive services to keep children in their families and communities.

And, Dr. Whitmore, again, thank you for being here with us today.

Chairwoman MCCARTHY. Thank you, Todd.

And next Congressman Gohmert to introduce the next witness, Linda Brooke.

Mr. GOHMERT. Thank you, and we do appreciate the witnesses. I know some of you probably came just because of how much money you get paid for being a witness here. [Laughter.]

But you know, I mean, you all know, there may be people listening that don't know you don't get paid for coming. I think it is a bipartisan shortcoming. We don't even pay airfare to get people up here. And maybe someday we can do something on a bipartisan basis to fix that, but it makes us all the more grateful that anybody is willing to come up here and talk to us.

But Linda Brooke, so glad to have her here. She is the director of Government Relations and Education Services for the Texas Juvenile Probation Commission. The TJPC is the state agency that establishes standards and provides funds, training and technical assistance for the 168 juvenile probation departments of Texas.

Ms. Brooke began her career in juvenile justice working in Montgomery County, Texas, where she has worked as a detention officer, probation officer and later as a supervisor in the administrative service division. The last 16 years of her career have been with the Texas Juvenile Probation Commission, where she has worked as a field services resource specialist and later as the director of Government Relations and Education Services.

Ms. Brooke was instrumental in the development of the juvenile justice education programs in the state and serves as a state resource for local juvenile probation departments, school districts, juvenile boards and the state legislature, including coming and helping my county of Smith and probably Judge Poe's county or counties as well.

But Ms. Brooke has a—I am sorry—she has provided numerous trainings on juvenile justice educational issues to groups and organizations such as the Juvenile Justice Association of Texas, Texas Probation Association, Safe Drug and Drug-Free Communities, Texas Juvenile Post-Legislative Conference. In addition, she testifies frequently in front of Texas legislative committees on juvenile justice-related matters and frequently is consulted on drafting legislation.

She graduated from Sam Houston State University in criminology and corrections. We are pleased to have her here.

Thank you so much.

Chairwoman MCCARTHY. Thank you.

And before we start with our first witness, when each of you speak, just make sure that you pull your microphone up close to you and push the button so that we can all hear you.

Dr. Blomberg, if you would begin.

STATEMENT OF THOMAS BLOMBERG, PROFESSOR OF CRIMINOLOGY, FLORIDA STATE UNIVERSITY

Mr. BLOMBERG. Okay, thank you very much.

I want to kind of cover—just try to summarize what I provided in my written outline, which deals with the problem of lost educational opportunities—what I feel are the opportunities with these students and then the benefits.

You know, earlier it was mentioned that our public schools are failing these students. I think that it is a little unrealistic for us to imagine that our public schools that serve approximately 50 million students annually, of which roughly 14 percent or well over 6 million are diagnosed with learning and behavior difficulties—it is sort of hard to imagine that they could really be satisfactorily serv-

ing all of those students. And that is where alternative education settings come in, and that is of course what I will try to focus on.

Now last year these alternative schools and juvenile justice facilities—and I was very glad to hear the acknowledgement that we don't even have good data on how many students, for example, are in juvenile justice schools. I have worked with that over a number of years, and that is certainly something we need to improve. But last year, approximately one million youth were in alternative schools or in juvenile justice schools, and these programs are woefully inadequate.

There are differences among these schools; some are better than others. But again, I think we have had a historical pattern which has been that this population has generally been viewed as disposable. That has been the history, even with the development of the juvenile court at the turn of the 20th century. We had rhetoric that called for education, but the reality, as all of you know, was those teachers that found themselves in these alternative settings tended to be those often who couldn't make it in the public school setting. So we have had this problem.

And so what results from all of this? Well, many of these one million or more students fall through the cracks, and they do become disproportionately involved in crime, in chemical abuse or unemployment. And it is estimated that for each youth that does fall into this pattern, that is going to cost this country $2.2 million—$2.2 million.

But the opportunity that I have seen in my last 11 years in Florida is primarily what I am here to tell you about. Florida had the Bobby M. consent decree and in the early 1990s established a very strong quality assurance and research system for its juvenile justice schools, and I have been a part of that for 11 years. And it has been one of the most amazing projects that I have ever been involved with in my entire 36 academic and research career.

The children in Florida's juvenile justice schools—there are approximately 200 schools—on any given day, 10,000 youth are incarcerated in those schools. These kids are anywhere from 3 to 6 years behind in their age-grade placement, chronic histories of suspension, expulsion and dropout. Disproportionately roughly 50 percent or more are formally designated with learning or behavior difficulties compared to about 10 to 12 percent in Florida's public schools.

So clearly a very high-risk population to deal with, but nonetheless, what we have done since 1998, we have developed standards, education standards for these schools. We have gone in annually; we have assessed those standards to make sure that the programs are fulfilling what it is they are supposed to be fulfilling. But it is not merely a gotcha. We also stop, take a breath, and then meet with the teachers, meet with the principals, meet with the custodial staff and say here are the steps that are needed to improve these schools. So it brings in kind of a moral authority involved in what we are doing, because the teachers really care and many of the teachers really thank us for what we are doing for them.

Furthermore, each year we pull all the key actors together throughout the state of Florida, and we assess where we are in juvenile justice—and each year we continuously raise the bar. We require more, not less, because this population needs more, not less.

We have two major longitudinal cohorts of 4,000 and 6,000. Some of these kids have been out 6 years. Those kids that academically achieve disproportionately return to school. And if they return to school, the likelihood of rearrest drops precipitously. This is something that works in changing the life course of these children. This program can work.

Now, in terms of the benefits, the benefits are numerous. Crime is estimated to cost this country $1 trillion a year—yes, $1 trillion. That is just more money than I can imagine. And what I have done in the handout, I have provided you some cost estimates, if you look at the benefits, that can be accrued with different proportions of these one million kids changing their life course. That is also in the billions of dollars.

But the bottom line is you can't simply mandate these three best practices that you have all heard before: qualified teachers, individualized curriculum and transition. These are the three best practices areas, but again, that is something that is going to have to be evaluated.

And I see I have already overdone my time, sorry.

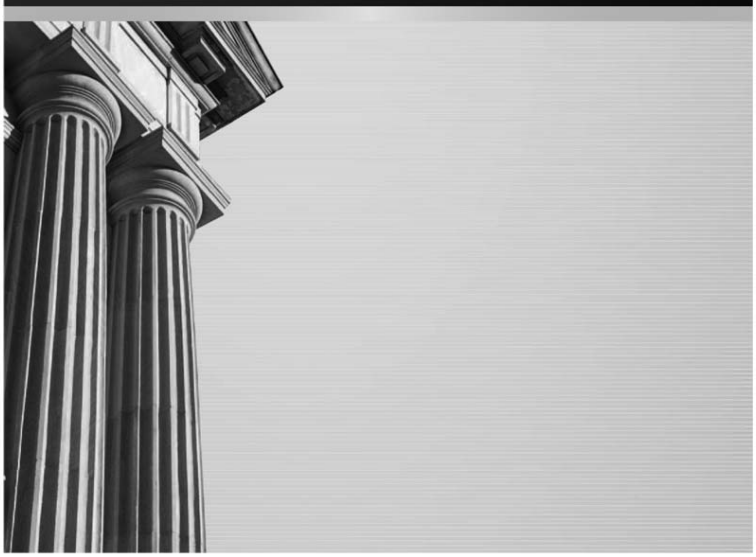
[The statement of Mr. Blomberg follows:]

March 12, 2009

Testimony before the U.S. House of Representatives Joint Hearing

Healthy Families and Communities Subcommittee
Crime Subcommittee on Lost Educational Opportunities for Kids in Juvenile and other Non-Traditional Settings

Thomas G. Blomberg
Dean and Sheldon L. Messinger Professor of Criminology



THE FLORIDA STATE UNIVERSITY
COLLEGE OF CRIMINOLOGY & CRIMINAL JUSTICE

Reducing crime
Changing the trajectory of troubled lives

THE PROBLEM
Lost education opportunities for youth in juvenile incarceration facilities and other non-traditional settings

THE OPPORTUNITY
Policies that support effective and accountable education for incarcerated and at-risk youth

THE BENEFITS
Tremendous cost savings to the public and the rescue of troubled youth

The problem: Lost education opportunities for youth in juvenile incarceration facilities and other non-traditional settings

- Our K-12 public schools face some of the biggest and most important challenges of contemporary society.
- They were charged with educating 49,298,948 students in 2006–2007. 6,247,443 of these students had learning and behavior disabilities.
- Public schools do not meet all the individual needs of their diverse student populations, particularly those with learning and behavior disabilities.
- Prior experience and research has demonstrated that for many troubled and at-risk students, alternative education settings are necessary.
- Education services and capacities of these alternative settings are insufficient for this population. This results in a pattern of lost education opportunities for these troubled and at-risk populations.
- Resulting uneducated youth create a substantial financial burden to society because of their common unemployment and involvement in crime.
- 612,900 at-risk students were enrolled in alternative education programs in 2002 (National Center for Education Statistics, 2002), and 210,390 incarcerated youth received education services in juvenile justice schools during 2006 (Sickmund, Sladky and Kang, 2008, U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention).
- Without education achievement and high school graduation, the life prospects for these incarcerated and at-risk youth are dismal and include an increased likelihood of criminal involvement and limited employment prospects.
- Previous studies document a positive relationship between education achievement and employment. Graduation from high school has been found to significantly decrease involvement in crime (Cernkovich and Giordan, 1992, Massey and Krohn, 1986, Bernberg and Krohn, 2003, and Thaxton and Agnew, 2004).
- Among the tangible economic consequences of our continued failure to effectively educate our at-risk and incarcerated youth is an estimated lifetime economic loss of $2.2 million for one student dropping out of high school and subsequently becoming involved in a life of crime and substance abuse (Cohen, 1998).
- Research reporting the value of improving education services for incarcerated youth can be generalized to at-risk youth in alternative education programs.

The opportunity: Policies that support effective and accountable education for incarcerated youth

Lessons from Florida and the National No Child Left Behind (NCLB) Collaboration Project

- Since 1998, the Florida State University (FSU) College of Criminology and Criminal Justice has performed annual quality assurance reviews, provided technical assistance, and conducted research on the education programs in the state's approximately 200 juvenile incarceration facilities as part of the Juvenile Justice Educational Enhancement Program (JJEEP).
- Each year the quality assurance standards for these education programs have been evaluated and elevated or revised to continuously improve education services for the more than half a million youth that have been served in Florida since 1998.
- JJEEP's longitudinal research shows that youth who experience higher academic achievement while incarcerated are more likely to return to school upon release and if they remain in school, their prospects for employment are increased and their likelihood of re-arrest drops significantly.
- Based on the success of the Florida JJEEP project, FSU's College of Criminology and Criminal Justice received federal funding in 2005 to assist other states in implementing NCLB requirements in juvenile justice schools. From the project's national surveys of states, conferences held with the states' key juvenile justice education personnel, and site visits to individual states, FSU found that NCLB requirements have improved the juvenile justice education services in many states. However, most states were only partially successful in implementing NCLB requirements. Organizational diversity, lack of consensus on education best practices and, very importantly, patterned difficulty in hiring qualified teachers and general financial scarcity, limited the states' ability fully implement NCLB.
- Most youth in juvenile justice incarceration facilities across the country remain "lost education opportunities." If these youth could receive quality and effective education services, the returns to society would be substantial.

Issues to consider

- Distance learning and video technologies in conjunction with skilled teachers could increase the quality of classroom instruction in small and medium sized populations where it is not financially feasible to employ multiple professionally certified teachers.
- Annual quality assurance reviews and student outcome assessments should be used to evaluate the strength of a program, consider improvements, and calculate funding.
- A national database to track specific program successes and failures could lead to a shared understanding of what the best teaching practices are for incarcerated and at-risk youth.
- Research has yielded three clear areas that have a significant effect on the quality of education:
  1. well-qualified teachers teaching in their areas of professional certification
  2. individualized curricula and instruction that is responsive to the documented needs of the student population served
  3. transition services that prepare youth as they reenter communities, return to schools, and enter the job market

The benefits: Tremendous cost savings to public and rescue of troubled youth

Conclusions

- Public schools throughout the nation have and continue to struggle in the attempt to meet the individual education needs of their diverse student populations.
- The end result is that currently the United States has millions of students in our K–12 public schools that are at risk of entering the School-to-Prison Pipeline.
- We cannot reasonably expect our public schools to meet all of the education challenges and individual needs of at-risk students that far too often fall through the cracks of our education system.
- Consideration must be given to strengthening and improving our alternative and juvenile justice schools currently serving more than one million students annually.
- There are multiple paths to education success for our diverse student population that can lower the likelihood of them becoming criminal offenders.
- The average annual cost to incarcerate a student is $23,876 in contrast to the annual cost of $8,701 for educating a K–12 student.
- Prior research has conclusively established that investments that improve academic achievement and high school graduation rates significantly reduce crime and increase economic competitiveness.

An illustration of estimated cost benefits

Effective education systems are a critical component of a successful and prosperous society. Education prepares leaders, inspires innovation, opens minds, and changes the trajectory of lives. It is a necessity for the success of a nation, and it is almost impossible to quantify. If we try to put numbers to it, we find that the cost savings of such a critical part of our culture is, as one would imagine, extraordinary.

If you take the number of juvenile offenders confined in custodial institutions in 2006–210,390–assume varying success rates of that population, and use a lifetime economic gain of $2.2 million (Cohen 1998) for each individual experiencing success, you will find the following cost benefits to the economy.

Estimates of total lifetime economic gain through education in juvenile facilities over 1-, 5-, and 10-year periods

Education success rate for 210,390 student population	Number of youth prevented from reoffending each year	Economic gain from preventing students from becoming career criminals For 1-year period	Economic gain from preventing students from becoming career criminals For 5-year period	Economic gain from preventing students from becoming career criminals For 10-year period
1%	2,104	$4,628,800,000	$23,144,000,000	$46,288,000,000
5%	10,519	$23,141,800,000	$115,709,000,000	$231,418,000,000
10%	21,039	$46,285,800,000	$231,429,000,000	$462,858,000,000
20%	42,078	$92,571,600,000	$462,858,000,000	$925,716,000,000
40%	84,156	$185,143,200,000	$925,716,000,000	$1,851,432,000,000
60%	126,234	$277,714,800,000	$1,388,574,000,000	$2,777,148,000,000

This table was developed by Thomas G. Blomberg (2009). The lifetime economic loss per student estimate of $2.2 million was drawn from Cohen (1998). The amount reflects 1997 dollars in a range from $1.7–$2.3 million. Cohen estimates the lifetime cost of a career criminal ($1.5–$1.8 million), heavy drug user ($483,000–$1,260,000), and high-school dropout ($469,000–$750,000). All of the costs are "social costs," not government costs. Examples of social cost would be lost wages as lost productivity to the society or medical expenses that use resources that could have been spent elsewhere in the economy.

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Chairwoman MCCARTHY. Not bad.

Our next witness, Ms. Brooke, and thank you for being here.

STATEMENT OF LINDA BROOKE, DIRECTOR, GOVERNMENT RELATIONS AND EDUCATION SERVICES, TEXAS JUVENILE PROBATION COMMISSION

Ms. BROOKE. Okay, okay, now I believe I am on, okay.

I am here today to talk about juvenile justice alternative education programs in Texas. We refer to them as JJAEPs. The Texas legislature created the concept of JJAEPs in 1995 during an extensive rewrite of our Texas education code.

The legislative intent was for the JJAEPs to provide a quality alternative education setting for expelled youth that would focus on discipline, behavior management and academic achievement. This legislation that created JJAEPs mandated a separate educational setting to ensure a safe and protective classroom through the removal of dangerous and disruptive students while addressing and resolving the issue of expelling youth receiving no educational services during the period of expulsions.

Local juvenile boards in counties with populations over 125,000 were required to implement and operate JJAEPs. This impacted 27 counties, encompassed 283 school districts. These counties accounted for approximately 76 percent of the state juvenile justice population.

Some of the requirements that these programs have to follow include enabling students to perform at grade level. They must operate 7 hours a day, 180 days a year. That is a regular school year in Texas. They must focus on the core curriculum of English language arts, mathematics, science and social studies and finally self-discipline. They must adhere to minimum standards set by my agency. They have to maintain instructional staff ratios, case worker-to-student ratios and supervision ratios.

They are required to be administered the statewide assessment instrument that is used in all public schools in Texas, and those scores are attributed back to their home campuses. And the importance of attributing those scores back to their students' home campuses was to maintain the interest of the school districts in what is occurring in those programs and their continued interest in the progress of their students. They also earn credits for the work that they complete while they are attending these programs.

These programs serve students between the ages of 10 and 21. We serve approximately 7,000 students in these programs annually. These students are primarily classified in three categories. They are mandatory expulsions, which are students who are required by our Texas education code to be expelled from public school for very serious felony-type offenses, primarily against person and felony drug offenses and of course weapons.

We also have discretionary expulsions, which is determined by the local school districts according to their student codes of conduct, and this would include things like misdemeanor drug and alcohol offenses and terroristic threat and unfortunately serious or persistent misconduct, which is defined by those local school districts.

We also have a category of other students who are students who can be ordered by the court into these programs.

The design and implementation of JJAEPs is determined locally primarily through the development of memorandums of understanding between the school districts and juvenile boards. They vary in size; their capacities vary from 27 per day to 442 per day. They may be operated solely by the juvenile probation department in collaboration with the local school district or with a private vendor. In addition to the core curriculum that I have spoken about, they also provide other services to students in the program: individual counseling, substance abuse, service learning projects, men-

tal health evaluations. They provide wraparound and family support services also.

We are also required to measure how these programs are performing. We use two primary academic measures. One is, again, the state assessment that is administered to all students in Texas. And then the second is a pre and post-test to see if they are showing some academic gain while they are in the JJAEP.

Another area that we analyze is their behavioral improvement. That is what got them into the programs was behavior, and we certainly need to address that. We look at programs' overall attendance, and we also look at once they complete the program and return to the public school system, behaviorally have their referrals for behavioral incidences declined.

We also look at re-contact rates to the juvenile justice system. And once they leave, we measure that for a 6-month period after they leave the program in a year.

The Texas legislature has made bold changes to the juvenile justice system and the Texas public education system by assuring that no child falls out of the educational system. The key to the successful implementation is local cooperation and a seamless system where students are not allowed to fall between the cracks. Ultimately, the juveniles served in these programs benefit by being served in this unique educational setting.

My time is up, and I will stop there. Thank you.

[The statement of Ms. Brooke follows:]

Prepared Statement of Linda Brooke, Director, Government Relations and Education Service, Juvenile Justice Alternative Education Programs

The Texas Legislature created the concept of juvenile justice alternative education programs (JJAEP) in 1995 during an extensive re-write of the Texas Education Code (TEC). This new educational placement was created to serve the educational needs of juvenile offenders and at-risk youth who are expelled from the regular classroom or the school district disciplinary alternative education program (DAEP). The legislative intent was for JJAEPs to provide a quality alternative educational setting for expelled youth that would focus on discipline, behavior management and academic achievement.

The 1995 legislation that created JJAEPs mandated a separate educational setting to ensure safe and productive classrooms through the removal of dangerous and/or disruptive students while addressing and resolving the issue of expelled youth receiving no educational services during the period of expulsion. Prior to the creation of JJAEPs, disruptive and dangerous students either remained in the classroom or were expelled to the street. Thus, the State of Texas had a critical interest in ensuring safe classrooms for teachers and students while providing educational services in an alternative setting for expelled students.

Local juvenile boards in counties with a population over 125,000, as determined by the 10 year census, were required by law to implement and operate JJAEPs. The twenty-seven JJAEP counties encompass 283 school districts. These counties accounted for approximately 76% of the State's juvenile age population. Texas has many fast growing counties and anticipates after the 2010 Census as many as six additional counties will be required to begin the operation of JJAEPs.

Funding

The funding mechanism for JJAEPs differs in part from the funding mechanism in place for the public schools in Texas. JJAEPs are funded primarily through county tax revenues that flow through school districts and county commissioner's courts along with state appropriations that flow through Texas Education Agency (TEA) and the Texas Juvenile Probation Commission (TJPC). Public schools are funded through county tax revenues, state general appropriation funds and federal funds.

TJPC provides funding to local juvenile boards on a per diem basis for students who are mandated by state law to be expelled and placed into the JJAEP. The juvenile board and the school districts in a county jointly enter into a memorandum of

understanding (MOU) regarding the cost of those students expelled at the discretion of the school districts and non-expelled (court ordered) students who may attend the JJAEP. Local school districts may provide funds and/or in-kind services to the JJAEP as agreed upon in the MOU.

In addition to those counties mandated to operate JJAEPs, Texas has a method by which other counties may voluntarily choose to establish a JJAEP. These programs may be funded through a combination of TJPC grants to local juvenile probation departments and through funding provided by local school districts.

Statutory Requirements

Section 37. 011 of the Texas Education Code (TEC) primarily governs the programmatic parameters of JJAEPs. The main academic and programmatic standards that must be followed by all JJAEPs are highlighted below.

- The statutorily established academic mission of the JJAEP is to enable students to perform at grade level pursuant to TEC Section 37.011(h);
- JJAEPs are required to operate seven hours a day for 180 days a year pursuant to TEC Section 37.011(f);
- JJAEPs must focus on English / language arts, mathematics, sciences, social studies and self-discipline but are not required to provide a course necessary to fulfill a student's high school graduation requirements pursuant to TEC Section 37.011(d);
- JJAEPs must adopt a student code of conduct pursuant to TEC Section 37.011(c);
- The juvenile board must develop a written JJAEP operating policy and submit it to TJPC for review and comment pursuant to TEC Section 37.011(g);
- JJAEPs must adhere to the minimum standards set by TJPC and found in Title 37, Texas Administrative Code (TAC) Chapter 348 pursuant to TEC Section 37.011(h) and Texas Human Resources Code (HRC) Section 141.042(6). JJAEPs are required by these standards to have one certified teacher per program and an overall instructional staff-to-student ratio of no more than 1 to 24. Additionally, the operational staff-to-student ratio is required to be no more than 1 to 12;
- The juvenile board or the board's designee shall regularly review a JJAEP student's academic progress. For high school students, the review shall include the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan per TEC Section 37.011(d); and
- All students enrolled at the JJAEP are also administered the statewide assessment instrument and those scores are attributed back to the student home campus as if the student were enrolled at the home campus. This provision was put into place to ensure school districts retained interest in their students and interest in the quality of the program.

JJAEP Student Population

As defined, JJAEP students are not in regular classrooms, but would otherwise be expelled to the street. Students served in JJAEPs have been expelled from their home school campus, have been placed into the program as a requirement of supervision by the juvenile court or have been placed by a local agreement. These programs serve students between the ages of 10 to 21. During the 2006-07 school year, approximately 7,000 individual students were served in these programs.

The student population served by JJAEPs fall into two basic categories: expelled students and non-expelled students who are referred to as other. Expelled students include those students who are required to be expelled under Texas Education Code (TEC) Section 37.007 and those who are expelled at the discretion of local school district policy.

A mandatory expulsion occurs when a student has been expelled pursuant to TEC Section 37.007(a), (d), or (e). The Code mandates school districts to expel students who engage in specific serious criminal offenses including violent offenses against persons, felony drug offenses and weapons offenses. To be designated as a mandatory expulsion, offenses must occur on school property or at a school-related function. The mandatory expulsion offenses are listed below.

- Felony Drug Offenses
- Weapons Offenses (includes expulsion for a non-illegal knife)
- Aggravated Assault
- Aggravated Sexual Assault and Sexual Assault
- Aggravated Robbery
- Arson
- Indecency with a Child

- Retaliation Against School Employee or Volunteer*
- Murder or Attempted Murder
- Manslaughter and Criminally Negligent Homicide
- Aggravated Kidnapping

A discretionary expulsion occurs when a school district chooses to expel a student for committing an offense or engaging in behavior as described in TEC Section 37.007(b), (c), and (f). Some discretionary expulsions may occur in a regular classroom, on a school campus or at a school related event while serious or persistent misbehavior may only occur in a school district's Disciplinary Alternative Education Program (DAEP). Unlike mandatory offenses, specific discretionary offenses are not required to have been committed on school property or at a school-related function.

Those offenses for which expulsion is discretionary are listed below.

- Serious or Persistent Misbehavior
- Any Mandatory Offense within 300 feet of school campus
- Aggravated Assault, Sexual Assault, Aggravated Robbery, Murder or Attempted Murder occurring off campus against another student
- Misdemeanor Drug and Alcohol Offenses
- Assault on a teacher or employee
- Felony Criminal Mischief
- Deadly Conduct
- Terroristic Threat
- Inhalants
- Title V felony offenses (Offenses Against Person) whether they occur on or off school property

Other students include non-expelled students who are ordered to attend the JJAEP by a juvenile court judge or who attend the JJAEP under an agreement with the local school district as authorized by TEC Section 37.011. Not all JJAEPs serve non-expelled students. JJAEPs that do serve other students include provisions in the local memorandum of understanding between the juvenile board and school district detailing which students may be served and how the placement will be funded.

Program Design

The design and implementation of JJAEPs is determined locally primarily through the development of a memorandum of understanding (MOU) between the school district and juvenile board. While the juvenile board is the entity ultimately responsible for operating the JJAEP, most programs have various levels of school district participation in programming.

JJAEPs are required by statute to teach the core curriculum of English/language arts, mathematics, science and social studies, as well as self-discipline. Attending students earn academic credits for coursework completed while attending the JJAEP. The length of time a student is assigned to a JJAEP is determined by the school district for expelled students and by the juvenile court for other placements. Once a student has completed the term of expulsion or their condition of probation, the student is transitioned back to his or her home school district.

Programmatic Elements

This section takes a comprehensive look at the programmatic components of the JJAEPs operating in Texas.

Capacity. JJAEPs vary in size according to the needs of the county and populations served by the program. The capacity of JJAEPs ranged from 27 to 442. JJAEPs must serve all juveniles expelled for a mandatory offense. Programs at capacity cannot refuse to accept a student expelled for a mandatory offense so most manage their population through adjustments to student length of stay and/or by limiting the number of discretionary and other students accepted into the program.

Program Operator. JJAEPs may be operated solely by the local probation department, or in collaborations with a local school district, or a private vendor. The county juvenile board, however, makes the official determination of how a JJAEP will be designed and operated. This decision is based on a variety of factors, most important of which is the memorandum of understanding with the school districts in the county. Other factors that may influence the choice of the program operator are available resources, programmatic components and needs of the local community and school districts. Regardless of who operates the program, JJAEPs must conform to all juvenile probation and educational standards set out in Title 37 Texas Administrative Code Chapter 348 and the Texas Education Code, Section 37.011.

Program Format. JJAEPs characterize their program format into one of three basic categories: therapeutic, traditional school or military-style. Therapeutic models

*Regardless of location.

place a heavy emphasis on counseling and behavior management, often using on a cognitive skills curriculum. Traditional school models are patterned after a regular, independent school district setting. A military-component includes one or more of the following components: drill instructors, physical training, and/or military-style discipline, drill and regiment.

In addition to the core courses all programs provide additional services to students which may include individual counseling, life skill training, drug/alcohol prevention/intervention, substance abuse counseling, group counseling, anger management programs, mental health evaluation, service learning projects, community service, tutoring or mentoring, parenting programs (for students' parents), physical training or exercise program, vocational training or job preparation, experiential training, wrap around and family support services.

Program Staffing. JJAEPs are staffed by a variety of professionals and paraprofessionals. Programs are required to maintain on instruction staff to student ratio of 1:16 preferred and 1:24 maximum; caseworker ratio of 1:44 maximum and an overall supervision ratio of 1:8 preferred and 1:12 maximum.

Program Measures and Performance

Academic Measures

The Texas Legislature requires TJPC to maintain a system of accountability for JJAEP performance.

Two academic areas are measured and three behavioral areas are measured.

Texas requires that all students enrolled in a JJAEP be administered the assessment instrument utilized in all public schools, the Texas Assessment of Knowledge and Skills (TAKS). The TAKS measures student achievement in reading in Grades 3-9; in writing at Grades 4 and 7; in English language arts in Grades 10 and 11; in mathematics in Grades 3-11; in science in Grades 5, 8, 10 and 11; and in social studies in Grades 8, 10 and 11. The Spanish TAKS is administered at Grades 3 through 6. Satisfactory performance on the TAKS at Grade 11 is a prerequisite to earning a high school diploma.

Analysis of TAKS results provides one assessment of overall JJAEP performance. Since the TAKS is administered annually it cannot measure student academic growth while in the JJAEP. During the 2006-07 school year student passage rates in the areas of reading and math increased over the previous school year, increased almost 20% in reading and by 19% in math.

The second academic measure used is the Iowa Test of Basic Skills (ITBS) and the Iowa Test of Educational Development (ITED). ITBS measures academic growth for students in grades three through eight while the ITED measures growth for students in the ninth through twelfth grades. The tests are a "norm-referenced achievement battery" and have been normed with various groups, including racial-ethnic representation, public and private school students and students in special groups.

The ITBS/ITED is administered to all students that are enrolled in the JJAEP for a period equal to or greater than 90 school days. Students are measured for performance levels in reading and mathematics at entry to and exit from the program. Students perform a reading comprehension and vocabulary evaluation which provides the program with a reading total. The mathematics total includes computation, concepts and problem solving. Results from the 2006-07 school year indicate that for students enrolled 90 school days or longer at the time of their exit from the program on average grade equivalency grow in math and reading was demonstrated, .39 and .51 respectively.

Behavior Analysis

In addition to academic performance, JJAEPs are also assessed on several behavioral measures. A goal of JJAEPs is to improve the behavior of students who attend the program.

Attendance rates for students in JJAEPs are used as one measure of program success. Maintaining high attendance rates for these programs is difficult, the population of youth served in these programs have a history of high absenteeism and because these are county-wide programs, students are being brought in from across the entire county.

School Disciplinary Referrals

Another measure of the behavioral impact of the program is the change in school disciplinary referrals for students in JJAEPs before and after program participation was analyzed. Students may receive a disciplinary referral at a school for a number of reasons.

A comparison of the average number of disciplinary referrals prior to entering the JJAEP and after exit from the program conducted. The "before" period consisted of

the two complete six-week periods prior to program entry. The "after" period consisted of the two complete six-week periods after program exit. During the 2006-07 school year, student disciplinary referrals declined by 48.4% after returning to their regular education program.

Re-contact Rates

The effectiveness of JJAEPs was also examined by exploring the rate of subsequent contact with the juvenile justice system for students who attended JJAEPs. Following their exit from the JJAEP, are students tracked in the juvenile probation system for two time periods, six months and one year. A re-contact is defined as any subsequent formal referral to the juvenile probation department regardless of the offense or disposition of the case. During 2006-07 school year, 71% of the students who returned to their home school upon exiting the JJAEP did not have a re-contact within 6 months of their exit, 56% did not have a re-contact within one year.

Summary

The 75th Texas Legislature made bold changes to the juvenile justice and to the public education system. Assuring that no child falls out of the educational system. The key to successful implementation is local cooperation and a seamless system where students are not allowed to fall between the cracks. Participants must appreciate each other's roles, set aside differences and foster communication and cooperation. Ultimately, the juveniles in these programs benefit by being served in this unique education setting.

Chairwoman MCCARTHY. Thank you.

Dr. Cave?

STATEMENT OF CYNTHIA CAVE, DIRECTOR, OFFICE OF STUDENT SERVICES, DEPARTMENT OF EDUCATION

Ms. CAVE. Good morning, Madam Chair, and also Chairman Scott. It is my pleasure to be here today to talk about what we are doing in Virginia to support children in alternative education and those that are at risk.

Beginning with the actions of the General Assembly, the General Assembly directed the Board of Education to develop regional alternative educational programs where two or more school divisions can come together and have a place for their last-chance kids to go. These are the kids that have violated student code of conduct, have been suspended and expelled. They have chronic disruptive behavior; they have instances of assault, of weapons, of drug and alcohol abuse. It is their place to go on a short-term basis to get intensive individualized instruction and support.

The General Assembly mandated that the instructional program within these alternative regional educational programs had to be extremely rigorous. And so they abide by the Virginia Board of Education's Standards of Learning, which are our standards of what every child should know, and the children are also tested while they are in these programs. In addition, these alternative education programs provide career counseling, support the kids. There is a low teacher-to-student ratio.

So that they are extremely structured, we follow up with the board reports on their success annually. And we have found that behavior improves, that weapons incidents and incidents of assault go down and of violence. The testing is not where we want it to be, but we have seen that over the period of several years, Standards of Learning testing has increased—for them the success rate has increased.

We also noted that in 2007-2008, 84 percent of these kids either stayed in the alternative program and graduated or they went back to their home schools and completed school. We do lose some; some drop out. But we feel as though we have a good completion rate and we continue to work.

Also in our detention programs, the state-operated programs are run through my office. We ensure that kids in detention still have an academic program that is rigorous and follows the Virginia Standards of Learning, and we ensure that we have highly qualified teachers.

Within the state of Virginia, the Department of Correctional Education is responsible for the programs for kids. We have nine juvenile schools. And voluntarily the Department of Correctional Education abides by the Virginia Board of Education's Standards of Learning. They abide by their accreditation standards, which means they test kids and they also have the appropriate staffing ratios and have to follow the regs, as Ms. Brooke was discussing.

Voluntarily, they have increased their Standards of Learning assessment success rate from 29 percent to 80 percent this year, and that is because they have individualized performance analysis for each one of their kids. They have highly qualified teachers. They have school improvement programs, and they have coaches for their kids. And they work in cooperation with us, very close relationship.

Of course, no matter how well you have you standards, you know that the transition from a school division to correctional facility or detention and back again is where we lose kids. And we found that in Virginia that we had tons of problems; we were losing kids. School divisions didn't know they were coming. They came back to school; they were lost.

I have the occasion to talk to kids in detention. And I talked to one and said, "What are you guys do when you come back to school?" And he said, "I don't know. There is nothing at school for me." And that is exactly the problem. There is no safety net. These kids have been in very structured programs. They come back, and they could be lost. There could be no academic program planned for them.

So we got our agencies together—Department of Juvenile Justice, Department of Correctional Education and Department of Education, court services, and we said—and parents and citizens and kids—and said, "What can we do?" And we came up—Virginia Board of Education promulgated reenrollment regulations because the General Assembly mandated that they should and because we knew that this was a problem.

And their key important elements of these reenrollment regs—primarily there has to be accountability in each agency for getting this job done. There is a transition team at the Department of Correctional Education. There is a point person who is the principal. At the school division level there is a reenrollment team appointed, responsible person, a reenrollment coordinator. There is specified timelines for when information must be passed between the different agencies. The academic record of the child must be maintained at all times. Before they return to a school division, there must be an academic program and a plan. When they come to the

reception and diagnostic center from the school division, their record has to come with them.

So because the board enacted these kinds of procedures, we have seen a great increase in success rates of kids coming back. And just one quick story, we had a 16-year-old who was in an alternative ed situation, came to detention because of behavioral problems. The detention center built a relationship with the home school, got a highly qualified teacher in chemistry to work individually with this child so they could maintain their credits toward graduation and be successful.

And what we found was that the kid coming back to school is not the kid that went into the detention center, into the correctional facility. They change and often they are successful. But if school divisions don't realize that, if they have no information, if there is no joint communication, if there is no relationship between these agencies, then you can't build for the success of the child.

And I see it is time for me to stop, but this is a good place to stop.

[The statement of Ms. Cave follows:]

Prepared Statement of Cynthia A. Cave, Ph.D., Director of the Office of Student Services, Virginia Department of Education

For the past several years the Commonwealth of Virginia legislative and executive branches have been working to establish a strong policy and programmatic framework to promote increased high school graduation rates, with an emphasis on support for students struggling academically and those that are at risk. It is my pleasure to talk with you today about these actions.

Alternative Education in Virginia

Over 1.2 million students are attending public schools in Virginia. This number includes 4,002 students who attended one of the 30 regional alternative education programs in the 2008 school year. It includes approximately 19,000 students who receive classroom instruction while serving detention, and students being served by local alternative education programs being administered by school divisions (a reported 15,502 students in the 2005/06 school year). Students serving in Juvenile Correctional Facilities and instructed by the Department of Correctional Education (DCE) number approximately 800.

Regional alternative education programs were established by the General Assembly through a directive to the Virginia Board of Education (the Board) to create educational options for students who have violated local school boards' policies, been expelled or suspended on a long-term basis, or have returned from juvenile correctional centers. Structured to meet individual student needs, they include an intensive instructional program with rigorous standards for academic achievement and student behavior, counseling, supportive social skills training, career counseling, individual student supports from teachers, and transition planning for regular school return. The Board reports annually on the activities and progress of these programs. Currently there are 29 operational programs, with 114 of 133 school divisions participating.

Education in Virginia's detention centers is also the responsibility of the Board of Education, administered through the Virginia Department of Education's (the Department's) State Operated Programs through agreements with school divisions. There are 24 educational programs staffed with highly qualified teachers who follow the Board of Education's regulations and standards for education.

Alternative and nontraditional educational programs are also developed and administered by school divisions for suspended or expelled students, or for those students who are not succeeding in regular instructional programs. A survey of school division programs for disciplined students, conducted by the General Assembly' s Commission on Youth in 2006, indicated that more than half of the 126 responding school divisions offered these students some educational services.

Each local school division with a regional or local jail in its jurisdiction is responsible for the provision of special education and related services to all eligible students incarcerated in the jail for more than ten days. Local school divisions are reimbursed for the instructional costs of providing required special education and re-

lated services to students with disabilities in regional or jails through the Virginia Appropriation Act adopted by the General Assembly.

Students in Juvenile Correctional Centers continue their education while incarcerated through the Department of Correctional Education, which functions as an independent school district with a separate board which works in cooperation with the Department of Corrections, the Department of Juvenile Justice, and the Department of Education. There are nine Juvenile Schools, which voluntarily follow the Board of Education's regulations for academic standards, accreditation, and educational programs.

Policies, Regulations, and Laws

Re-enrollment Regulations

The transitions from a school to a detention center or juvenile justice facility and back to a local school can result in lost academic progress, disengagement from school, and less resilience to risk factors. In 2006 the Board of Education enacted regulations to address re-enrollment of students into public schools after they had been in a detention or a juvenile justice correctional center. The General Assembly through the Code of Virginia required that the regulations be promulgated, with the cooperation of the Board of Correctional Education. The purpose of the regulations are to foster coordination and communication among court services units, school divisions, detention centers, juvenile correctional centers, the family, and the student in planning for the release of a student and his or her educational needs. The regulations address consistency in curricula, standards, and policies among the educational programs, timely transfer of information, and individual student plans.

The regulations were developed through the work of a 16 member task force, including parents and citizens, principals from general public, alternative, detention, and Department of Correctional Education schools, parole officers, a school division central office administrator, and representatives from the Departments of Education, Correctional Education, and Juvenile Justice. Their implementation was supported through statewide institutes, presentations, and training for all stakeholders and the appointment of a responsible coordinator for each state agency. A follow-up survey conducted in 2008 to assess the process indicates that the procedures put in place by the regulations are being followed with no major problems.

One noted result of the regulations has been the building of a deeper understanding of the released student by the receiving school division, and adequate time to prepare for his or her enrollment, educational program, and support. As one DCE principal has stated, "the student who left the home school is often not the same person who is returning." Because of enhanced communication between personnel in juvenile detention and correctional centers and school division staff, transitional plans for continuation of progress and success can be made, based on student need and with the student's participation.

Standards of Learning

Within the Virginia Board of Education's Comprehensive Plan are goals and objectives that focus on eliminating the achievement gap between groups of students, support accountability for all schools and school divisions, and adamantly proclaim that "all of Virginia's children—regardless of their personal circumstances—must have the school environment, the resources, and the teachers to help them be successful at school."

The Board has set curriculum standards for what every child should know in every grade through the adoption of rigorous Standards of Learning for Virginia Public Schools for academic subjects. Student achievement is measured through annual assessments based on these standards for elementary and middle school grades and high school courses. The assessments and the analysis of results are part of the state's accountability system for No Child Left Behind, as well as the Board's school accreditation standards.

Students take Standards of Learning assessments in regional programs, in detention educational programs, and in juvenile correctional facilities. Students who are enrolled in a school division and placed in a local alternative education program are required to take these tests. The alignment of what is taught in these settings with the Standards of Learning is a priority at the state level.

For example, the Department of Correctional Education recently made fundamental changes to their educational programs that include instructional coaches, comprehensive school improvement plans, and individual student academic performance analysis. The changes are credited with bringing the average Standards of Learning scores for the agency to close to 80 percent, from a beginning point several years ago of 29 percent.

Another illustration of the difference that adherence to standards makes in Virginia detention education programs involves a 16-year-old, referred for discipline reasons from an alternative education program. The center employed a highly qualified local chemistry teacher to work with the student individually for several hours per week in order for him to keep pace with his home school class and earn the credits necessary to count towards graduation.

Standards of Accreditation

The Code of Virginia also specifies that the Board of Education shall enact regulations for accrediting schools, which include requirements for instructional programs, course and credit requirements for graduation from high schools, and student outcome measures. The Standards of Accreditation were revised through an administrative process that was final in February of this year, and included the following: (1) the incorporation of a graduation and completion rate for individual schools into Virginia's accountability system; and (2) the requirement of an Academic and Career Plan for all students, beginning in middle school. With the new regulations, a Graduation and Completion index will be calculated for every school, based on the number and type of student school completions, and will become part of the accreditation process with a five-year phase in process. Consideration of the Academic Career Plan was requested from Governor Timothy M. Kaine through a letter to the Board of Education President Dr. Mark E. Emblidge. The requirement will become effective with seventh graders in 2010-2011. Both of these provisions reflect the Board's emphasis on a quality education for every child and youth in the state, regardless of placement.

Studies of Alternative Education, Dropout Prevention, and Truancy

For the past three years, the General Assembly's Commission on Youth has undertaken two major studies that impact students who have been long term suspended or expelled, those who are risk of dropping out, and those who consistently do not attend school. The studies have addressed the availability of alternative education, dropout prevention, and truancy. Undertaken with the participation of stakeholder advisory groups, the studies have resulted in recommendations for proposed legislation and suggested practices and technical assistance for school divisions.

A Guide to Local Alternative Education Options for Suspended and Expelled Students in the Commonwealth was completed by the Commission in 2008, based on a survey of school divisions conducted with the Virginia Department of Education. The 2009 legislative session resulted in the passage of a bill stemming from the Commission's work, which prohibits the suspension of students for instances of truancy only. It has been signed by the Governor.

Best Practices and Prevention

Implementation of policies, regulations, and laws through the provision of technical assistance to school divisions is a responsibility of the Virginia Department of Education. Under the leadership of the Superintendent of Public Instruction, Dr. Patricia I. Wright, the Department's goal is to strengthen school divisions by providing technical assistance through model programs, guidelines and strategies, and access to resources. As part of this responsibility, the Department provides ongoing assistance in areas such as school improvement, instruction, truancy prevention, student assistance programs, effective schoolwide discipline, and dropout prevention.

Currently 158 schools in 36 school divisions are working directly with the Department on a voluntary basis to implement effective schoolwide discipline. The Department receives applications from schools, reviews them for school readiness, and provides technical assistance to the schools to help them in planning and implementation.

Principals of these schools have testified to their success as measured by reduced disciplinary incidents, improved attendance, and improved school climate.

In October, 2008, the Department, in partnership with America's Promise, held a statewide dropout prevention summit for all sectors—business, nonprofit, service, state and local government, and public schools. The summit featured best practices in student and family engagement, policy development, community and business partnerships, and educational strategies for keeping at risk students in school. State and national models for nontraditional programs were featured, including those which focused on individualized assistance to students who fall behind in school due to student code of conduct infractions, behavioral problems, poor attendance, repeated grades, lack of academic success, and inability to recover necessary credits for graduation. A recurring theme was the use of indicators to capture "signals" that a middle school or high school student may be at high risk of dropping out and to intervene early with individual support.

A system of early identification and monitoring individual student progress over time requires an information system that provides data to track students. The Virginia Department of Education has developed the Educational Information Management System to provide unique identifiers to each Virginia public school student. Using this system, the department is developing and piloting a tool with four school divisions to identify students leaving the 8th grade who may be at risk for not graduating. Early identification opens the door for intervention for a student while he or she is still in the regular school classroom.

Conclusion

Thank you for this opportunity to provide information about the Commonwealth of Virginia's educational system. Actions by the Governor, the Virginia Board of Education, the Virginia General Assembly's Commission on Youth, and the Virginia Department of Education have resulted in policies and practices to promote academic excellence and achievement through prevention, early intervention, quality instruction, and individualized planning to address diverse learning needs of all students.

Chairwoman MCCARTHY. Thank you very much.

Dr. Whitmore?

STATEMENT OF ROBERT WHITMORE, CEO, MANITO, INC.

Mr. WHITMORE. I would like to thank Chairwoman McCarthy and ranking member, Mr. Platts, and Chairman Scott and ranking member, Mr. Gohmert, for holding this hearing and the opportunity to testify before you today.

I am the CEO of Manito, Inc., a private, non-profit organization based in Pennsylvania. I began my career as a juvenile probation officer in Pennsylvania, and I have worked with at-risk adolescents in alternative settings for 36 years.

Thirty years ago, a colleague and I wrote a federal grant and initiated a day treatment program for court adjudicated youth, with the hope of keeping them in the community and in their family settings. Today, Manito operates programs in 11 counties in Pennsylvania and West Virginia and on a daily basis serve over 600 students.

Most students placed in alternative education settings are failing in the traditional public school setting due to a complexity of behavioral, social and mental health issues. All the students who enter Manito alternative education centers have violated one of the defined offenses under Pennsylvania disruptive youth guidelines: violation of school policies, drug possession, weapon possession, disruptive behavior or defiance, and truancy.

The placement time is usually a short duration of 6 months to a year. Their presenting issues are multifaceted and complex. Many can be described as having difficult temperaments and are slow to read nonverbal social cues in others and struggle with interpersonal relationships. They are more sensitive to changes in their environment, are more volatile and are more at risk for impulsive reactions. These children have the greatest problems adjusting to public school, and they often become a frequent flyer in the juvenile justice system.

Specifically, they are the students who are experimenting with drugs and alcohol; students who have poorly developed social skills that frequently result in aggression, violence and irresponsible decision making; students who are experiencing mental health issues of being oppositionally defiant, attention deficits or conduct dis-

orders; and students who exhibit learning disabilities and are several years behind in grade level. They have lost all interest in attending school, complying with school rules or performing well academically.

Many of these are living—as students are living in poverty, living in communities plagued with violence on the streets, coming from families where family role models are or have been in prison and have parents who are addicted to drugs and alcohol. Students bring all these social and behavior issues with them into the alternative setting in which they are placed. These behavioral issues often act as an impediment to the student being able or even willing to learn.

Our first priority is to address the complicated and interwoven social and behavior issues by providing an array of services that include social skills development, life skills and career education, service learning projects, mental health counseling and academic instruction. Our education programs focus on basic reading, writing, math and credit recovery.

During my 30 years of professional experience working with at-risk youth, I have seen an erosion of respect for other individuals, a decline in acceptance of authority and organizational structures, a deterioration in the social bonds of communities and families and an increase in the severity of personal issues and needs. I have also seen a reluctance of the people responsible for solving these problems to develop solutions that are focused on saving our children. We continue to work within categorical silos that shift responsibility for funding our education and social services between agencies. Many times the needs of our children get ignored in this process.

The question placed before us is are at-risk youth missing out on educational opportunities while in foster care, juvenile justice facilities, alternative education settings and other environments. These students began missing out on educational opportunities in our traditional public schools due to their inability to deal with the issues that they experience. In reality, the public school system alone does not have the resources to address these issues.

Our children involved in alternative settings within the juvenile justice and foster care systems need alternative education environments that can provide consistency in services and address their needs. Our financial resources and our work efforts at the local level should be combined into one collaborative, seamless system that can deliver services to children.

Services can be delivered to students based on an assessment of their risk and protective factors and interventions provided based on the need level identified. These integrated services should be provided as part of a school-wide service system. By combining our resources and focus, our children, our schools and our communities will benefit.

Thank you.

[The statement of Mr. Whitmore follows:]

Prepared Statement of Robert C. Whitmore, D.Ed., CEO, Manito, Inc.

I would like to thank Chairwoman McCarthy and Ranking Member Mr. Platts of the Healthy Families and Communities Subcommittee and Chairman Scott and Ranking Member Mr. Gohmert of the Crime Terrorism, and Homeland Security

Subcommittee for holding this hearing and the opportunity to testify before you today.

My name is Bob Whitmore. I am the CEO of Manito Inc, a private non-profit organization based in Pennsylvania. I began my career as a Juvenile Probation Officer in Pennsylvania, and I have worked with at-risk adolescents in alternative settings for 36 years. Thirty years ago, a colleague and I wrote a federal grant and initiated a Day Treatment program for court adjudicated youth, and today we operate programs in 11 counties in Pennsylvania and West Virginia and serve over 600 students on a daily basis.

Most students placed in alternative education settings are failing in the traditional public school setting due to a complexity of behavioral, social and mental health issues. All of the students who enter Manito alternative education Centers have violated one of the defined offenses under Pennsylvania disruptive youth guidelines (violation of school policies, drug possession, weapon possession, disruptive behavior or defiance, truancy). The placements time is usually a short duration of six months to a year. Their presenting issues are multi-faceted and complex. Many can be described as having difficult temperaments and are slow to read nonverbal social cues in others and struggle with interpersonal relationships. They are more sensitive to changes in their environment, are more volatile, and are more at risk for impulsive reactions. These children have the greatest problems adjusting to school, and they often become a frequent flyer in the juvenile justice system.

Specifically, they are the students who are experimenting with drugs and alcohol; students who have poorly developed social skills that frequently result in aggression, violence, and irresponsible decision making; students who are experiencing mental health issues of being oppositional defiant, attention deficit, or conduct disorder; and students who exhibit learning disabilities and are several years behind in grade level. They have lost all interest in attending school, complying with school rules, or performing well academically. Many of these are living in poverty, living in communities plagued with violence on the streets, come from families where family role models are or have been in prison, and have parents who are addicted to drugs and alcohol. Students bring all of these social and behavioral issues with them into the alternative setting in which they are placed. These behavioral issues often act as an impediment to the student being able or willing to learn.

Our first priority is to address the complicated and interwoven social and behavioral issues by providing an array of services that include social skills development, life skills and career education, service learning projects, mental health counseling, and academic instruction. Our education programs focus on basic reading, writing, math, and credit recovery.

Successful alternative education settings share common characteristics.

1. Educational programs are diverse and based on student needs and interests;
2. The program has caring and demanding staff who create a nurturing family environment;
3. Creative instructional approaches are used that are based on assessments of student needs and connect with all learning styles;
4. There is a small staff to student ratio;
5. There are counseling and social services available to assist students and their families;
6. The program has clear rules that are fairly and consistently utilized and establishes high standards for behavior, attendance and performance.

During my more than 30 years of professional experience working with at-risk youth I have seen an erosion of respect for other individuals, a decline in acceptance of authority and organization structure, a deterioration in the social bonds of communities and families, and an increase in the severity of personal issues and needs. I have also seen a reluctance of the people responsible for solving these problems to develop solutions that are focused on saving our children. We continue to work within categorical silos that shift responsibility for funding our education and social services between agencies. Many times the needs of our children get ignored in this process.

The question placed before us is "are at-risk youth missing out on educational opportunities while in foster care, juvenile justice facilities, alternative education settings and other environments." These students began missing out on educational opportunities in our traditional public schools due to their inability to deal with the issues these children experience. In reality the public school system does not have the resources to address these issues. Our children involved in alternative settings within the juvenile justice and foster care systems need alternative education environments that can provide consistency in services and address their needs. Our financial resources and our work efforts should be combined into one system that can deliver educational, behavior health, public health and social services to children

through one integrated and seamless process. Services can be delivered to students based on an assessment of their risk and protective factors and interventions provided based on the need level identified. These integrated services should be provided as part of a school wide service system. By combining our resources and focus, our children, our schools and our communities will benefit.

Thank you.

Chairwoman MCCARTHY. Thank you, Dr. Whitmore.

Mr. Dixon?

STATEMENT OF LEONARD DIXON, EXECUTIVE DIRECTOR, WAYNE COUNTY JUVENILE DETENTION FACILITY

Mr. DIXON. Madam Chairman, thank you for allowing me to be here. I would like to also thank my county executive for paying for me to come here——

[Laughter.]

Which is a major piece.

One of the things that I want to do is—you have my record—is I have come from the bottom of the system to the top, which means that I started as a line worker to a state director, and I had an opportunity to see everything in between in these, you know, 29-plus years. And I have traveled across this country and had an opportunity to see the good, the bad and the ugly of what goes on in our system. And I find myself wondering how did we get here.

And the question to me is always if it was our children in these systems, what would we do to make things better for them. I worked in Florida, and I worked doing the Bobby M., you know, system, doing the Bobby M. time, and it was a good experience when someone else comes in and looked at your system. The issue really becomes, in my mind, do we have the political will to tackle a lot of the problems that we see with our young people and the cost that is attributed to that.

What we do in Wayne County, I think we have one of the best systems that I have been able to be associated with. And one of the reasons why that is, is because we look at kids from a holistic approach. We triage kids who come into the detention facility. Because what we have found is that we have kids who have mental health issues, medical issues and health issues. And if a kid is hungry, can't see and in pain, it is going to be very difficult to educate them.

And I think we have to look at those things that are going on in our communities. The statistics, again, it is in the testimony, and I won't go through that now. But our data has been very good on kids not returning into the system or either not moving up to the next level, because we know that the next level is going into the adult system. And when they go into the adult system, the question really becomes are we really concerned about how much we spend because we know it costs much more to house a person in the adult system after they have left the juvenile justice system.

And so the issue is what are we doing about the prevention measures. When kids are coming to school—we talk about zero tolerance, and what I have found is that zero tolerance is really, without being politically correct, a lazy person's way of not wanting to work with kids. And we have to understand that. We have to put a lot of effort into working with these children. And I am concerned

because of my own children and making sure that they have a place that is safe, because what happens with our kids and what we don't do affects everyone in this room—from my insurance rates to our school, our taxes and the whole nine yards. And I think we have to be concerned about that.

The reason I am passionate about this is that I have been able to see a lot. And one of the things that we have to do when we are talking about—we have the funding. No one wants to talk about funding these programs properly. And if you are going to do it, we are going to have to have programs funded to the point where we can look at the medical issues that are happening with kids.

I have kids that come into my institution that can't see. So how do we expect for them to learn if they can't see? I have kids who come into my institutions who have—those that have not seen a dentist in the time that they have been on this earth.

A quick story, we had a young man to come into our institution. He got into fights all the time. The kids used to have names for him. When we fixed his teeth, do you know that the kid never got into another fight after that? That is what we are talking about here, is really looking at the kids as we look at our own kids. And we would not look at what it was costing first when we are looking at our kids; we would look at what is the best system for our kids, then we would look at the other part of it.

And I think we have it backwards. We need to look at how are we going to spend our money, but is it good money being spent to turn these kids around and to reduce the recidivism rates and things that are happening, you know, in our systems. And I think that is one of the things that we have to do.

[The statement of Mr. Dixon follows:]

Prepared Statement of Leonard B. Dixon, Executive Director, Wayne County, MI, Juvenile Detention Facility

I am Leonard B. Dixon, Past President of the National Juvenile Detention Facility. I am also a member of the American Correctional Association and the Council of Juvenile Correctional Administration and the Executive Director of the Wayne County Juvenile Detention Facility in Detroit, Michigan. I want to thank Chairwoman McCarthy, Chairman Scott, and Ranking Members Representative Platts and Representative Gohmert for inviting me here today, and thank this body for the opportunity to testify before you today. My topic for this short discussion are my views on—"Lost Educational Opportunities in Alternative Settings." On behalf of Wayne County Executive Robert A. Ficano I would like to thank you again for this opportunity.

At the Wayne County Juvenile Detention Facility, upon admission into the facility, each juvenile is sent through a battery of tests. These tests are uses to assess the youth's mental and physical health, as well as other issues, like substance abuse. These assessments are made prior to the youth seeing a jurist or a magistrate. Critical to the successful outcome of their time in the detention facility and to success in their home, community or alternative setting is the identification of problems that contribute to a delinquent lifestyle. Juveniles receive medical and substance abuse assessments within the first 24 hours of admission and the findings of the evaluations are placed into the juvenile's court record. Referrals for needed services that are derived from the measurements are provided at the time of their entry into the system. Educational assessments are made by the charter school staff to support the development of individualized learning plans for each child remaining in detention after the first 48 hours of their admission to the facility.

Psychosocial and preliminary plans of services needed are prepared by social workers to support family involvement when it is the best interest of the juvenile. Additionally the family dynamics are evaluated to assess whether or not they are detrimental to the juvenile's well being. These services and the swiftness in which they are implemented are unprecedented in most of the other 3,257 short-term se-

cure juvenile detention and correctional facilities. In fact, they do not provide a holistic approach of care for detained youth.

With the increase in the arrest rate for females and young juvenile offenders, the composition of violent offenders in the juvenile system has changed. It is critical to the juvenile's future that these and other assessments are conducted expeditiously. The juvenile in a detention setting is in crisis and his or her needs must be addressed promptly, before a decision is made to return him or her to the community. These evaluations such as the ones previously mentioned also assist families in identifying community-based resources designed to service the identified needs of the juvenile and oftentimes of the family as a whole.

The Wayne County Juvenile Detention Facility, (WCJDF) is a multidisciplinary facility in that we service the needs of the whole child. In the area of education, we have an on-site charter school that is accredited by the State of Michigan. The school operates six and a half hours per day, five days a week and half-day sessions on Saturdays. All juveniles are assessed for their educational functioning in mathematics, reading and language arts. A self-assessment of the juvenile's learning style, interest levels, and personality characteristics is also administered. This assessment process also attempts to identify the special learning needs and/or services of youth who qualify for the Individuals with Disabilities Education Act (IDEA).

Qualified teaching staff implements all educational evaluations that are conducted in the Blanch Kelso Bruce Academy, charter school at the WCJDF. After school educational assistance is provided for youth functioning below their grade levels on Monday through Thursday, totaling eight hours per week, a general GED program is also made available for eligible students.

The core components of the educational services that are offered include courses in reading, mathematics, science, english, grammar and physical education/health. The school also has an on-site library for student use that is funded by Wayne County. Residents who reside in the facility for periods in excess of two weeks will have progress reports prepared and made available to parents, case workers/managers and school officials. Report cards are also prepared and made available to the home school of any juvenile that receives on-going educational services for a grading period of nine weeks in the facility. The most recent data for the school period from September 2007 to June 2008 that of the 294 juveniles admitted 237 who were in the facility more than 30 days showed measurable improvements of 1 to 2 grade levels in the areas of Math Computation and Application, English (Writing) and/or Reading.

After admission, any student who meets the criteria for IDEA is assigned to a teacher consultant under the direction of the special education director, to ensure continuity in services, between the school at the facility and the youth's home school. The process includes reviewing and addressing priority goals that are outlined in an Individual Education Plan of each student. This information is then used to provide access to appropriate educational services and/or resources. A complaint raised in many jurisdictions is the inability of the education program in the alternative placement (detention and correctional facilities) to obtain prior school records for youths. All though that is not a major problem in Wayne County, other programs around the country often wait months to receive school information or not receive it at all. School records are critical in assisting teachers and program staff in their decision-making. Youth enter these alternative placements with numerous impairments such as:

1. Cognitive impairments
2. Emotional impairments
3. Visual impairments
4. Learning disabilities such as speech and language impairments

These disabilities once identified are addressed by the institutions and assist in their ability to treat youth in their care. Without adequate information from local schools there is a risk of youth in detention returning to community schools and being adequately prepared for a successful re-entry and become involved in behaviors that are detrimental to themselves and the community.

The staff to youth ratio in the school is threefold: first, there is one instructor assigned to each classroom of fifteen students (1:15). A teacher's assistant may be assigned to an individual class to assist in the execution of instruction with individual students. In addition, there is one juvenile detention specialist assigned to each classroom to ensure adequate levels of safety and supervision. When necessary, there are teacher consultants assigned to specific classrooms at the discretion of the Curriculum Director to address the facility's special needs children, (IDEA) who attend general education classes.

Currently, a number of juvenile detention centers/facilities receive semi-annual allocations/appropriation of funds from the state that are consistent with student head

count on a single day/point in time. It is my belief that this is one cause for the loss of educational opportunities in alternative settings. Most centers and facilities have fixed bed capacities and the capacity is controlled and/or regulated by a judicial system or some other regulatory body. With one count being taken on a single day or point in time funding usually will not be enough to support the needs of the facility because the actual length of any stay in a facility varies.

Throughout the course of one year's funding, the actual number of youth that are served is very easily under-represented. This level of under-representation results in inadequate funding, especially for IDEA eligible youth.

WCJDF also has an on-site, 24 hour, seven day a week medical program. Juveniles are seen by a registered nurse prior to placement on a residential pod and receive a dental screen by a licensed dentist or a certified dental assistant within the first 24 to 48 hours after initial admission into the facility. Youth receive a full medical assessment (initial physical) by a licensed pediatrician during the same time frame. All juveniles are checked for the need for mental health services within the first 48 hours of admission or sooner if they have a history of psychiatric placements or a history of mental heath disease. Gynecological services are offered to all females upon admission including pregnancy testing and prior to the dispensing of any form of medication. Testing for sexually transmitted diseases (STD) is provided for both male and female youth.

Social work and clinical staff conducts numerous assessments with the juvenile and identified parent or legal guardian within the first week of admission including a psycho-social assessment, preliminary service plan and a level one mental health screening. From these tests, decisions are made regarding visitation, telephone contacts, identification and verification of parents and legal guardians. The tests also identify the need for referrals for ancillary services. When there are identified gaps in a juvenile's background or no identified plan for future services or placements, the facility will conduct what we like to call (I-Team) meeting, which is an Interdisciplinary Team Decision-Making meeting. All disciplines within the facility meet to present their findings on the juvenile and formulate a recommendation that can be presented to the juvenile's court-ordered case manager or parent/legal guardian. This all-encompassing, holistic approach to the housing of juvenile offenders offers the youths a greater chance to become a productive member of the society. Any alternative placements (detention or correction facilities) should have the following:

1. an appropriate classification process
2. adequate health and mental health services
3. access to the community and legal representation
4. a variety of programs
5. adequate training program for staff
6. a clean and esthetically pleasing environment
7. adequate restraint, punishment, due process for youth and appropriate grievance process
8. and a safe environment for youth to learn

Agencies that hold juveniles accountable for their actions and provide programming to assist in the development of social skills increase the likelihood of success upon their return to the community. Youth should be required to make restitution and/or perform community service for the damage caused by their delinquent acts such as the Balance and Restorative Model used at the WCJDF and the Wayne County Department of Children and Family Services Division of Juvenile Services , which are both considered national models. This model is used as a comprehensive approach for juvenile justice in Wayne County. As a result, it has increased interagency collaboration and family involvement and has helped to reduce the occurrences of juvenile delinquency.

As stated previously, most facilities in the country do not address the majority to juvenile's needs. This is due in part to inadequate funding and properly trained juvenile justice and educational professionals. This is evidenced by the number of juvenile systems that are working under consent decrees, memorandums of understandings with the courts, and other such judicial orders. Recidivism rates in Wayne County are easy to identify based on admission data maintained at the juvenile facility. The Wayne County Juvenile Detention Facility records show that only 30% of the youth released to the community have been readmitted. Creating and funding resources within the communities to service our kids after school can further reduce this number. There is an old Chinese proverb that says, "If you are planning for a year sow rice, if you are planning for a decade plant trees, if you are planning for a lifetime educate people."

Detention services generally do not include aftercare. What I have found in my 29 years of working with kids is that they want three things: a safe environment, caring adults in their lives and a way of sustaining themselves (i.e. employment).

Youth with access to these supportive resources and positive relationships are less likely to experience school failure, substance abuse and delinquency, according to Scales and Leffert (2004).

According to the Office of Juvenile Justice Department of Prevention, allowing one youth to leave school for a life of crime and or drug abuse cost society 1.7 to 2.3 million dollars annually. Based on a study done by the California's Nonpartisan Fiscal and Policy Advisor these costs are based on the following:

1. cost to government to operate the criminal justice system (police, prosecution, courts, probation, incarceration, parole)
2. medical costs to individuals and government because of injuries suffered due to crime
3. property stolen or damage resulting from crime
4. loss of productivity to society because of death, medical and mental disabilities resulting from crime
5. loss of work time by victims of crime and their families
6. loss of property values in neighborhoods with high rates of crime
7. pain and suffering of crime victims, their families, and friends, as well as communities plagued by crime
8. loss of productive "citizen" when a juvenile offender is not rehabilitated and continues to commit crimes

An example of what happens when youth have an adequate support system is as followings:

Eva (fictitious name) was a 16-year-old teen who was admitted to the WCJDF after being truant from her residential treatment program. While truant she engaged in prostitution in order to survive. Eva came from a neglectful family and was in the foster care system prior to her life on the streets. She had a distrust of the system from which she came, and all adults as she blamed them for her current life circumstances. While in the detention facility, she demonstrated her anger issues by being non-compliant about rules, and was disengaging towards the staff.

Eva was exposed to the services at the facility at the point of admission. This included, medical and dental care, psychosocial assessments, mental health services, and educational testing and tutorial support. Eva had no family support or involvement. The "system" (staff, social worker, teachers, community worker, etc) was her family at this point. Eva began the process of healing, by exploring the multiple "losses" she encountered over the years. She was able, through the assistance of staff/professionals, to make the connections between her "truancy behavior", (symbolic of "searching" behavior) and the losses in her life. She was supported, accepted, and encouraged to focus on herself.

Eva went on to a residential treatment program in the community to continue what she had begun within the detention facility. Today, Eva is currently in a local college pursuing a degree in Human Services. She has returned to where it began for her—the detention facility to begin an internship. She hopes to be able to impact other youths long term through working with high-risk teens. She also has a strong desire to become involved in public policy regarding the foster care system. Eva has taken her adversities and has proven that through guidance, support and encouragement anything is possible. Eva's story, which is true, is that success that will not be that burden or astronomical cost on the system I cited earlier. Adequate resources and good educational programs that help youth upfront save resources on the back end of the system.

In my opinion, there is a wide variance between inner city and suburban school districts in how they receive and utilize the role of law enforcement in the school setting. Suburban and out-county school districts continue to rely on programs such as DARE (Drug Abuse Resistance Education) and GREAT Programs (Gang Resistance Education And Training) that promote pro-social relationships in the community. In these communities the police are viewed as resource and support staff to the students. In the inner city safety is a critical issue for schools. Due to the lack of resources in the communities resource programs in schools for students are almost non-existent. In closing, John Adams would say, "Laws for the liberal education of youth, especially for the lower classes of people are so extremely wise and useful that to a humane and generous mind no expense for this purpose will be thought extravagant."

I thank you for your time and commitment to this effort and hope that we all understand the success we will have as a society when we take care the least of thee.

Chairwoman McCarthy. Thank you, Mr. Dixon.

Ms. Steel?

STATEMENT OF JANEEN STEEL, EXECUTIVE DIRECTOR, LEARNING RIGHTS LAW CENTER

Ms. STEEL. Thank you, Chairwoman McCarthy, Chairman Scott and members of the subcommittee. I want to thank you for this hearing on children who are really often forgotten.

I am here as a founder of the Learning Rights Law Center and as the executive director. And here in the audience is the co-founder, Ines Kuperschmit.

Our sole mission is equity in education for all students, including students that are in the foster care, juvenile justice system and children with disabilities. We are a community-based legal services organization, as in my testimony, and our programs are aimed at preventing students from crossing to foster care system into the juvenile justice system as well as any students entering the system because of a school failure. I am here also to tell you about myself, because when I talk about the children we serve, we are one and the same.

I was raised by a single mother in downtown Hollywood, California. My middle school experience was filled with the street, drugs and friends, because they were much more interesting than school. By high school, education was the last thing on my mind, because I knew I was bright but I just couldn't do the work. I didn't go to class, and I failed. No one ever asked why. So I quit high school and went into an alternative setting, at that time an adult school, to finish.

I lost my 20s to addiction, homelessness because I ended up living on friends' couches, and depression. Thankfully, I hit a bottom and attended a community college where they diagnosed my learning disability. My learning disability includes a reading disorder like dyslexia, a writing disorder and ADD. After my diagnosis, I learned about the law and my rights to get accommodations, and I learned to use my intellect and began to access education. After a tremendous amount of hard work, I graduated from UCLA law school in 1999 and have dedicated my entire life to helping others like myself and those less fortunate.

My life is not different from many of the youth we work with. They face far more segregation and isolation than I ever did. If I were placed in one of today's alternative schools, I wouldn't be here today. Our alternative schools are warehouses. They are where society sends children that they just don't want to educate. Warehouse is actually too neutral, too generous a term for the criminal effect on the individual.

Foster youth are a particular vulnerable population. One foster youth said, "They think I am crazy. They think I have a mental health issue. All I have is a broken heart." The education and social welfare are too quick to label foster youth as disturbed and needing isolation. Foster youth living in group homes are systematically placed into alternative settings without regard to their right to attend a least-restrictive public education.

I met Mary. Mary was a youth with a learning disability who lived in a group home, who attended a group home school that was located at the same place she lived. She wanted to be a singer; she wanted to be in a choir at the public school, but she couldn't because they required her and all the other children that lived there

to attend their school, the on-ground school. She was physically restrained over 20 times, once because of a hairbrush. She was thrown to the floor and restrained with a four-point restraint, meaning adults put her on the floor and held her down. She should have never been there. When we got involved as advocates, we got her out, and she graduated.

It is unacceptable. The cost to you, to us, was $30,000 for a private school paid by public funds. It is unacceptable. Mary is not an isolated case. It may sound like it, but it is not.

Learning Rights works with hundreds of youth that are in overly restrictive placements. We can't forget about other at-risk youth, like Kerry, who is in my testimony. He had an IEP; he has special education. He is actually required that he not get—he actually was able to walk away when he got into trouble. Instead, one time he tried to walk away and a security guard grabbed him. He was Tased several times, arrested and sent to an alternative school.

There should be definitely more oversight in alternative settings, but our priority should be prevent these at all costs, because they shouldn't be there. We shouldn't use public money to warehouse students. And in this economy, we should definitely think about education and not incarceration. The cost far—it is so much different. It is $8,000 to educate, and in California, it is upwards of $70,000 when we look at detaining youth in the juvenile justice system.

Thank you.

[The statement of Ms. Steel follows:]

Prepared Statement of Janeen Steel, Executive Director, Learning Rights Law Center

Committee Chairman Miller, Subcommittee Chairwoman McCarthy, Subcommittee Chairman Scott and members of the sub committees: I want to thank you for this hearing on "Lost Educational Opportunities in Alternative Settings." Students who are involved in, or are at-risk of involvement in, the juvenile justice or foster care system are entitled to an education that is meaningful, challenging and integrated with youth not involved in the court system. But this is not occurring.

Today I sit in front of you as a graduate of UCLA Law School and Executive Director of Learning Rights Law Center in Los Angeles, California. Learning Rights Law Center's sole mission is to ensure education equity and I have represented hundreds of youth who have been denied the public education to which they are entitled.

When I was in middle and high school in Hollywood, California, the street, drugs and friends were much more interesting than school. An education was the last thing I was interested in because I could not seem to be able to do the work. I knew I was bright, but it appeared by brain would not work. I ultimately quit high school and went to adult school. I was able to get meaningless credits to get my diploma. After high school I spent years struggling with addiction, homelessness (living with friends) and depression. It was not until I attempted community college that my learning disability was finally diagnosed and I realized that something wasn't wrong with me, but that I had a learning disability. My story is not different from many of the youth we work with; in fact, they face far more segregation and isolation than I did. If I were placed in one of the alternative schools for my truancy and school failures I would not be here today. I was lucky.

Alternative Education Settings

My discussions will focus on foster youth and at-risk youth who are placed in the following alternative school settings:

1. Continuation schools for youth who are behind in credits;
2. Community day schools for youth who have disciplinary or behavior issues that could include expulsions;
3. Independent study programs; and
4. Non-public special education schools.

The alternative school settings I described are plagued with a variety of problems including:

1. Lack of oversight by the local school boards and state education agencies;
2. Lack of special education services and qualified special education teachers for youth with disabilities;
3. High turnover of teachers and absenteeism; and
4. Punitive behavior management rather than counseling and interventions.

When we talk about students who are attending alternative school, we need understand that the majority are students of color. In California, 71% of student in alternative settings are students of color and in Los Angeles these rates are higher ("Alternative Education Options in California: A view from counties and districts," McLaughlin, Stanford University, March 2008).

The students who are placed in these school settings are often involved in, or at-risk of involvement in, the juvenile justice system, and who have not been properly serviced by the public school system. We know that 11% of the school population is eligible for special education, yet 35% of the youth in juvenile halls is eligible for special education. Research states that "as many as 70% of incarcerated youth suffer from some sort of a disability while approximately 90% of youth in corrections meet the diagnostic criteria for one or more disabling mental health disorders" (*http://www.edjj.org/Publications/NCSETIssueBrief—4.1.pdf*).

Since a high percentage of youth in these settings may have disabilities, schools should ensure that:

1. To the maximum extent appropriate, individuals with exceptional needs, including children in public or private institutions or other care facilities, are educated with children who are nondisabled. 20 U.S.C. §1412(5) (A); Cal. Educ. Code §56040.1(a).
2. Be provided with special classes, separate schooling, or other removal of individuals with exceptional needs from the regular educational environment occurs only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 20 U.S.C. §1412(5) (A); Cal. Educ. Code §56040.1(b).

When working with youth placed in any alternative setting, urgency drives us to get them out as soon as possible. Priority one: These "alternative" schools are really just warehouses for youth that society has not cared enough to invest in educating. "Warehouse" is too neutral, too generous for the criminal effect on the individual youth. We have witnessed time after time, youth taking life-changing hits as their already challenging life is set back to impossible odds with this much greater risk to ending up incarcerated and/or homeless. This has grave implications for society and severe a financial impact on our government.

Educational Equity for Foster Youth

Foster youth are a vulnerable population. Not only have their parents abused or neglected them, they also face a system that cares little for their educational well being. As a society we are mandated to take care of youth who do not have families to take care of them. We need to ensure that their experience is equal to youth who go home to a family.

In California the law requires that all youth in foster care shall have the following rights: "* * * [t]o attend school and participate in extracurricular, cultural and personal enrichment activities, consistent with the child's age and developmental level." Cal. Welf. & Inst. §16001.9(a)(13). Unfortunately this is not occurring; instead, foster youth living in group homes are systematically placed into alternative education settings without regard to their right to be in the least restrictive placement in their local community school.

In 2008, an investigation was conducted about the effects of group home placements and whether they are associated with a significantly higher risk of delinquency as compared with community foster home placements. The investigation found: "The potential for problems associated with group home placements seems to increase as ties are severed between group home youth and other more positive role models. Group homes often cut juveniles off from their non delinquent and pro social peers and keep youth with others that are often delinquent and/or have emotional and behavioral problems including conduct disorders and ADHD" (Osgood & Briddle, 2006, as quoted in Ryan, J. P., et al., "Juvenile delinquency in child welfare: Investigating group home effects, Children and Youth Services Review" (2008), doi:10.1016/j.childyouth.2008.02.004).

In 2001, a study by the American Institute for Research (AIR) found 46 percent of foster youth living in group homes eligible for special education are warehoused in non-public schools (NPS), which are special education schools separate from the public school. This is an obvious segregation since only 4 percent of special edu-

cation students who are not in foster care or group homes have NPS placements [see Thomas Parrish, Education of Foster Group Home Children, Whose Responsibility Is It? (2001)].

Another important fact is that foster youth transfer schools an average of 9 times and the loss of credits results in frustration and increased risk of school drop-out. The system must address this by allowing students to receive partial credit for courses they completed and provide transportation to continue their education in their home school. Laws are in place to ensure this but are not enforced. Foster youth are removed from their families because of abuse and neglect, not because of any educational disability. Foster youth should have a traditional education experience, not ad-hoc "credit recovery" programs that provide little educational benefit.

1. Mary's Story

I met Mary in 2002 when she was a 15 year-old foster youth with a learning disability living in a group home that used to be an orphanage. Mary wanted to be a singer and to be in the choir, but she could not be in the school choir. She was attending a special education, non-public school that was located on the grounds of her group home. She attended classes with the same girls she lived with. Mary was physically restrained over twenty times for fighting with other residents during school. One fight was over a hair brush, and resulted in a restraint in which she was pushed to the ground by three adults who held her arms and legs. Mary was not allowed to attend the local community school, because all the youth living at the group home were required to attend the group home school. She lost one year of dances, football games, field trips and socializing with non-disabled, non-foster youth. After our involvement, Mary started attending a community high school where she graduated with honors in 2005. Mary never should have attended the segregated school.

2. Jocelyn B., Amanda B., Andrew B. and Christopher B.

In 2004 I began representing four foster youth, all siblings, who were all illegally placed in a non-public special education school located on the grounds of their group home. The siblings did not have a parent to assist in their education, and they depended on the school to appoint a surrogate to help them. The district failed to do so and as a result each of the siblings spent years in the illegal educational placement. Jocelyn, the poet, was the oldest. Amanda was a bright young woman who eloquently described the loss of attending the public school as disgraceful. The two brothers, Andrew and Christopher, had learning disabilities which were ignored even when they were in a special education school.

In 2004 I filed a compliance complaint with the California Department of Education and in 2006 Learning Rights Law Center along with others filed a civil rights lawsuit on behalf of the four youth that was settled in 2008 in a confidential settlement.

When foster youth are placed in group homes with non-public schools located on the grounds it simulates a restrictive, almost locked, setting.

Alternative Education Settings for At-Risk Youth

Now I am going to focus on at-risk and youth in the juvenile justice system. Each day throughout Los Angeles youth are not admitted into their neighborhood/community public school or are told not to return. The excuses provided to force students out of the community schools typically include:

- We do not have the services to help you;
- You lost your chance to attend this school;
- You have been suspended to many times;
- This school is not safe for you;
- You were in juvenile hall and you must attend a probation program.

In the past year Learning Rights Law Center has worked with numerous parents who have come into our education clinics who have been denied enrollment in their neighborhood schools. I have also spoken with over a hundred probation officers about education rights. Over and over again I hear that they try, but cannot get students to attend school. As a result of the frustration among probation officers, the families, and youth, the student is placed in an alternative school to expedite enrollment.

1. What are the underlying reasons we are investing in the alternative schools rather than in the public schools?

I suggest that each of you go visit an alternative school attended by expelled youth or in the juvenile justice system. If we are hoping to assist students in rehabilitation and returning to the comprehensive public school, these schools are not the answer.

a. Fear

Youth on probation face discrimination and misperception. Some youth are placed by the juvenile court system into a group home when a court determines that they cannot go home to their parents. The reasons for this placement may or may not be because of their delinquency.

For example, a community program in California providing services and small family style group homes to probation youth faced obstacles when they tried to enroll their clients in the public school. The enrollment process was taking up to four months. The public school was refusing to enroll the youth and was requiring all their clients to attend alternative or non-public special education schools. On behalf of the community program, we filed a complaint and asked the California Department of Education (CDE) to investigate. What they found was quite troubling: the district had an actual written policy regarding all youth living in group homes in their district, requiring youth with disabilities living in group homes to attend either a non-public special education school or a county alternative program. This constituted a violation of the federal statutes for providing students with disabilities an education in the least restrictive environment; as such, the CDE ordered a change of policy.

b. Kerry's story

Kerry is an eighteen year-old young man who experienced a very traumatic event at his community high school. At sixteen, Kerry, who has an auditory process disorder and behavior management issues, was attending a community school. As outlined in Kerry's IEP, he was to walk away when he was frustrated rather than get into a fight. Also, staff were not to put their hands on him and must let him walk away. Kerry had suffered years of restraints and abuse. One day at school he decided to walk off campus to remove himself from a confrontation, but a security guard grabbed him. Kerry was tazed, handcuffed and arrested. As a result of the incident he was placed in an "Interim Alternative Placement," even though the IEP team determined that the behavior was a manifestation of his disability. He was still removed to a school that did not have the services to address his learning disability and had little supervision. Kerry was eventually moved to a group home in another city, and while he struggled to make up the credits lost, he did finally graduate from high school. He struggles today with self-esteem issues and trusting people.

c. Ruth's Story

Ruth is a fifteen year-old girl with a learning disability and severe depression, who was placed in a non-public special education school because of her behavior issues and fighting in the community school. Ruth wants to be able to be treated and respected for who she is. She struggles with acceptance with her family because of her sexual orientation and has been hospitalized for suicide on one occasion. Ruth worked this past year and received all A's at the non public school hoping to return to the community school. But the principal said no. Ruth frustrated with the answer threw a book at a car and broke its windshield. If Ruth were here she would tell you that all she wants to do is attend a public school and be with regular kids in a regular school.

What do you think Ruth needs? A segregated school to further isolate her? But, that is exactly what happened? Who really failed her? We are working with her now to get her what she is entitled.

What Can Be Done?

1. Mandate educational interventions instead of suspensions and removals.

Education should not merely be an option for students, but rather a fundamental right. School districts should provide mandatory, quality educational programs in the least restrictive environment rather than suspending or removing students for behavior that can be through an educational intervention. The use of suspensions and removals is not an adequate remedy to address student behavioral difficulties.

2. Implement and enforce school-wide behavior management structures.

There must be researched based structures in schools to address behavior and that address the individual youth. A student who is struggling academically, socially and emotionally may display behavior that could be addressed. Each student should have a behavior management plan if needed to address their social and emotional needs, address their academic needs, and assist them with actually being successful students. There is nothing in the law that supports this. We currently have laws that are punitive in nature, and there is no guidance for schools to be supportive of students' needs. Currently, for students with special needs, there are legally man-

dated requirements to address behavior BUT these requirements are currently not enforced.

3. Support teachers to prevent turnover and absences to ensure consistency in educational programs.

There must be some accountability structure in place to address the incredible turnover and absenteeism in high poverty schools. We must find out how to keep teachers and support them.

4. Expand school counseling and social work services in comprehensive campuses.

Currently, school counselors are overwhelmed with their responsibilities. The national average for high schools is 229 students per counselor, while in the K-8 system has an alarming 882:1 ratio. We should increase the capacity of school counselors at school sites to not only address students' ability to function in the school setting, but also to provide the safety net for students. Students turn to counselors to engage in confidential conversations with them to discuss issues that they may have no where else to turn.

Moreover, the increased presence of social workers on school campuses can benefit students. Social workers can work on the development of community resources to help the family. They can also bring community resources to the schools.

5. Increase partnerships with community-based organizations.

Schools should work more closely with community-based organizations serving youth. Structurally, states should provide more funding opportunities for community based organizations to work with schools.

Every school should know the community-based organizations in their community. There are resources in the community, but they're under-utilized and they're working in silos.

6. Implement evidence-based education therapies for students with learning disabilities.

Students with learning disabilities must be provided with research-based services, accommodations, and technology support.

7. Assess educational services prior to transfer or removal.

There should be a written plan for every student prior to any transfer or removal. Currently, this is not happening. We need to strengthen the laws regarding preventive measures that need to be taken before transfer or removal.

8. Institute performance-based educational programs with regular evaluations and reviews.

Implement review processes for accountability to supplement current legal standards. Evaluate what has occurred prior the placement at the alternative school. All youth currently in alternative schools should have their prior educational records reviewed and evaluated to understand their individual educational needs.

9. Improve interagency communication and collaboration among educational, delinquency, and dependency systems.

Increase partnerships with universities, which can provide research, best practices, expertise, and data analysis support. Coordinate with hospitals, mental health programs, and other service agencies.

10. Embrace deliberate plans to address racial disparities.

We know that the harmful effects of school exclusion policies are not evenly distributed among the student population; students of color are more likely to be suspended or removed. Schools must work on deliberate plans to go beyond data analysis of racial disparities to take actual steps to decrease the number of minority youth at risk of being placed in alternative educational settings.

If schools implement a school wide behavior management system and structure that educates based on individual needs, they can likely prevent both individual exclusion and the overrepresentation of youth of color who are systematically diagnosed as emotionally disturbed.

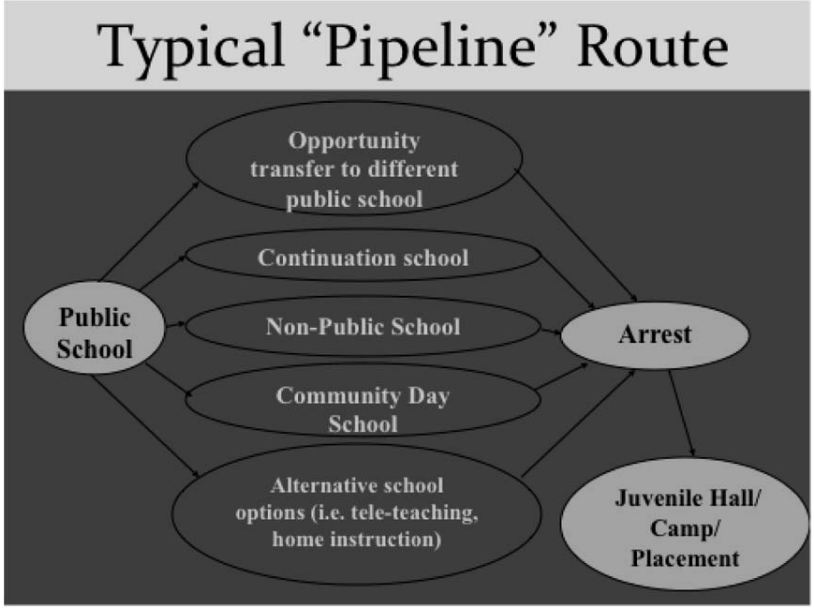
Improving partnerships with organizations rooted in the communities of youth can also help to decrease racial disparities.

Conclusion

While there certainly must be more oversight to alternative education settings, our priority should be to prevent the placement of students in harmful alternative school settings.

We should not use public money to warehouse foster or at-risk youth with disabilities in non-public school settings.

In a depressed economy, we should reconsider the high costs of not educating our youth. For example, in California, incarcerating a youth over a one-year period costs over $70,000, as compared to $8,000 to educate the same youth.



Chairwoman MCCARTHY. I want to thank everybody for their testimony. It is amazing how from Dr. Blomberg all the way down to Ms. Steel, we were hearing the same message, and that is basically how do we get to these kids at an early age.

When I first started on this committee 13 years ago, we had an attorney general come to testify in front of our committee, the full committee. And at that time, the attorney general had said if we invested an extra 25 cents per child, we would save so much money because that child wouldn't go into the juvenile justice system. I am sure the money is a little bit more today.

But it comes down to we are facing a different culture out there. You know, the kids are watching too much T.V. They are on the Internet too much. They are not getting out and playing in the fresh air. And, well, let us face it, some parents don't want their kids to go out and play because they are afraid of what is going out on the streets.

So where are we? It does come back to me, as far as I am concerned—pre-kindergarten, preschool and stay with it, and hopefully one day we will see this country really invest in education the way we see some of our other nations, mainly because they know it is a security and economical threat if we don't do that to this nation.

But my question will be because—and I will be honest with you. I guess my question could be for all of you because you are actually, you know, going through this same testimony just about, that, you know, getting to the kids, giving them the holistic care that they need and the services all in one place just about.

My curiosity would be, and it was touched on a little bit, that when the kids got back into the school, those that were followed up with that particular guidance that they needed—obviously if

you got a 10-year-old, you have a longer period of time to follow them; if you have got a 16 or a 17-year-old, you don't have a longer period of time.

So I am just wondering what happens to those older children, only because I know the way our laws are across the nation, they hit that—across the nation—that 18 to 21-year-old group, they usually end up in jail. And all my correctional guards keep telling me, "Give us teachers. Get these kids out of here. All they need to do is to be educated. They had some problems, but where they were was not helping them."

So I guess my question I will go back to: How do we follow those kids? How do we get better data so that we can show everybody that this is going on and hopefully can make a difference in these children's lives—a lot of kids nowadays but hopefully the future of these children?

Dr. Cave?

Ms. CAVE. Two answers to your question: One is that the state of Virginia has been able to develop an educational information management system because we realized if we don't know who these kids are and we can't monitor them and keep track of them through their school system, we don't know what happens to them. So we actually have an identifier for every student, and it is a testing identifier, and we are able now to calculate a true and accurate dropout rate because we actually know what happens to kids and we follow them.

We have just really started with this system in 2005-2006, but we are now experimenting with flagging different characteristics. We have a pilot program for children in the eighth grade. And we know from research that there are early indicators of probability of not completing school or being at risk. We know there are behavior problems, we know that they are attendance is—it is a dominant issue.

And we have, through our pilot program through our School Improvement Office, indicators that we can mark—not mark, that is not the right word—but indicators that we can track for kids. How often do they miss school? Are their grades declining? Do they have discipline issues? And through that we can try to identify them in the eighth grade, intervene early and begin to follow whether our interventions are doing any good or not.

With the reenrollment regs, we require that the child coming back, the youth coming back, has weekly counseling for as long as the school division determines is necessary. And we also require that they follow that child so that they just don't come back and get lost.

So those are two things that are helpful, if you can identify kids early, if you have a way—you have to have a mechanism with data to track them.

Chairwoman MCCARTHY. It seems we are always coming back to data. Kim and I love to do data. That is our big thing.

Anybody else? Dr. Blomberg?

Mr. BLOMBERG. Yes, I think one of the key things is to track the youth, particularly coming out of juvenile facilities, that return to school, stay in school and whether or not they get a high school diploma. All the research establishes that the receipt of a high school

diploma then disproportionately predisposes those youth to a conventional life career.

And what is really—and I think in terms of tracking all of these kids, generally about 90 percent of the kids coming out are really optimum to return to school and that necessarily is not the public school, maybe an alternative school. And we haven't talked much about alternative schools, but they do need to be part of your equation with lost opportunities.

The alternative schools typically around America operate—we have got about 100 of them in Florida. They operate as an alternative to suspension or expulsion. But also they operate as a transition for kids coming out of institutions and perhaps are not ready to transition right back into their public school.

What we found in Florida—we don't have the resources for these alternative schools. Many of these children make it in alternative schools. They love the structure, they love the smaller classes, and they succeed, and they don't want to go back to the public school, but the issue is, "Got to go back, you have got your 65 days."

So again I think high school diploma—return to school, high school diploma is very important. But also getting the schools—and this is where I come back to accountability. It is not enough to mandate best practices; you must have accountability. There has got to be follow up with these programs, and quite frankly our experiences in Florida as well as our national work with other states implementing No Child Left Behind in juvenile justice schools has indicated they like knowing just what you want to know.

Look, you are sitting here, you are legislators, you want to make responsible decisions, but you don't have good data. You can't even describe the problem very well because of these different issues, so it is a challenge.

Chairwoman McCarthy. I agree with you on the alternative schools because I know a couple of kids that have gone through the system with the alternative schools, did go back into their regular high school, and within 2 weeks they intentionally made an infraction on their probation or whatever so they were back in the alternative school because they like the structure. Now I come from the old way; I don't see why all our schools don't have that structure for everybody to be very honest with you.

Mr. Scott?

Mr. Scott. Thank you, Madam Chairwoman.

We have heard a lot about the need to pay for some of these services and the challenges of coming up with the money. The fact of the matter is we are already paying. The charts incarceration show that at least 10 states have an African American incarceration rate of over 4,000 per 100,000. International average is about 100. The United States is number one in the world at 700.

And if you look at what we are paying per child in that excess incarceration, if you do the arithmetic, it is somewhere in the $3,000 per child per year. And if you target that to those that are at-risk, you could easily spend $10,000 per child per year if you have effective intervention programs.

So I guess my first question is whether or not you have risk assessments to really show which ones are at risk.

Anybody?

Mr. DIXON. Could you repeat that again?

Mr. SCOTT. Do you have risk assessments that can really show which children are at risk?

I think Mr. Blomberg?

Mr. BLOMBERG. There are a lot of—as a matter of fact, we are just in my journal, Criminology and Public Policy, we are publishing a series of policy debates about risk assessments—a lot of debate about risk assessments and just how accurate they are. What we do know in criminology unequivocally is the best predictor of future behavior is past behavior.

With the children that we are talking about in terms of lost education opportunities, we have been doing—again, I mentioned earlier our cohort studies. And again, most of these children are particularly those that have—are beyond the three—that include 4, 5 and 6 years behind their age-grade level; their likelihood of returning to public school is just about nil, very difficult, and so we have assessed that.

But additionally, a thing that you mentioned—disproportionate African American involvement. Of our high education achievers that are incarcerated where we control for race, for example, and we look at African American youth who have experienced above-average academic achievement while incarcerated, compare them with white youth who have also experienced higher academic achievement, African American youth are almost double in the likelihood to return to school upon release.

Now that is something that we have really been trying to explain because it suggests to us that African American youth have been subject to probably a lot of negative labeling in the public school, disproportionate negative labeling we assume. And when they get into the juvenile justice schools and experience success, this success is pretty profound. They are able to apparently deal with that success and were able to deflect the negative cues a little bit better in the public school than were their white counterparts. And that is called labeling theory.

But this finding, we think, is very hopeful about what we would be doing, because if you look at risk assessment, they would say African American youth are much less likely to return to school. But if they academically achieve, they are showing almost double the likelihood to return to school.

Mr. SCOTT. Well, if you have a risk assessment to show those that are at risk, are there things you can do to change the trajectory that are cost-effective?

Mr. BLOMBERG. If I can answer that, I will say, again, as a criminologist who has studied crime for 36 years, yes. Yes, if you can get children to academically achieve disproportionately that despite all the risk factors that say they are on a trajectory, because the best thing we know in criminology is persistence over the life course.

Small kids become adolescent delinquents and young adult criminals, but when they experience that adolescent turning point with academic achievement, they begin to bond with school, with conventional society. They become less helpless and hopeless and just like any of us, they see light.

Mr. SCOTT. Have you shown rigorous studies that show that those programs work and save more money than they cost?

Mr. BLOMBERG. We, oh, it would be easy to show the long-term costs. Our program is getting excellent teachers and working. The amount of money—I heard one of my fellow testimonies here make the comment—the amount of money is small. Have I done the explicit study that you are asking for? No, but it certainly could be done.

Mr. WHITMORE. If I could address that question, there are a number of programs that have initiated studies of risk factors and protective factors. And then if you can identify the risk factors and protective factors, that is what you focus your interventions on.

The community is a care model out of the state of Washington, and it is used on a national basis. It has been adopted extensively by the state of Pennsylvania and integrated into communities where they have built programs around those risk and protective factors.

The Search Institute out of Minnesota has also done extensive research over years on identifying the same 40 risk—a different set but a same—of 40 risk and the protective factors. And we are now working with a gentleman from North Carolina who has done research on bringing resiliency research and has developed a assessment tool to identify the same factors and how do we integrate that into our intervention programs.

Mr. SCOTT. Thank you.

Dr. Cave?

Ms. CAVE. Dr. Whitmore stole my thunder a little bit, except I wanted to say that Johns Hopkins has been studying early indicators of dropout—dropout provisions for the city of Philadelphia—and as early as fourth grade, you can tell that a child is on a trajectory. If they have lost academic—if they can't achieve academically, if they miss school, and then as you go through the middle schools, you see that if their grades fail that is a good predictor.

So as early as elementary school, we can start to identify these kids, and we want to do is intervene educationally and also we want to intervene with the individualized support. When you look at the risk and resiliency factors, teacher engagement is one of the highest resiliency factors that are available, so then training our staffs to understand that they could influence a child, that connection, that engagement.

We were able to holdout a dropout prevention summit last October for all sectors, and we had some model programs, speakers from model programs in the state and also in the nation come and speak with us. And we saw that we could have nontraditional programs—in Virginia, the Commission on Youth has studied alternative education, the General Assembly. They are starting to use the term nontraditional programs instead of alternative education just to get away from the stigma of alternative ed.

But we have some nontraditional programs in Virginia that are focused specifically on over-age kids, that they are together and so they get the individual assistance that they need, and they get flexible schedules so they can work. They can meet other family obligations and still be in school. We have nontraditional programs

for kids that have been in trouble, and this is part of the school division, it is not something that the state is doing.

Mr. SCOTT. We had others that wanted to respond, but my time——

Chairwoman MCCARTHY. Go ahead.

Mr. DIXON. I think one of the issues—I know in Wayne County one of the things when we look at, you know, the data, when I keep talking about holistic approach, we tend not to look at the kids who are also in special education. And that becomes a very significant, you know, group of kids.

And what we found was that when we—said earlier—when our teachers engage these kids along with staff, then we find out that they become more successful. One of the problems that we find is that these kids have not had anyone who has been able to really sit down and engage them and look at them differently. And when you look at it differently when you are dealing with them, then the kids pick those kinds of things up.

You know, those are things that you can't put data on; you can't. But they are human things that we know that affect kids and how they respond to things. And when we do those kinds of things, we see success.

When you look at our charts, you can see where kids who we only have for 30 days go up—their grade levels increase, you know, one or two grade points. That is because someone has really taken the time—and a lot of these kids cannot function in a large environment, and so you have to place them in smaller environments so that they can be successful.

And we have to take—and I keep saying the political will to say do we want to take these kids. And when you place kids in smaller environments, yes, it is going to cost you more. We know that. But the issue is the long-term effect of it is it costs you less.

And so those are the kind of things that you can't put—you know, I think one of the problems—and I will be very brief—I think one of the problems is that we want to—data—I use data for a lot of stuff. But I think one of the things that we have to be concerned about, that you can't use data when you are talking about the human factor in things sometimes, because there is always—in my years, I have found out that the human factor overrides a lot of the stuff that we are talking about. We can test; we can do all those things. But we really have to understand how do you engage these kids, and when we engage these kids, then what I have found is that they become successful.

Chairwoman MCCARTHY. We are actually going to be able to come for another round.

Mr. Platts?

Mr. PLATTS. Thank you, Madam Chair.

First, I want to echo, you know, where you started and really it goes to Mr. Dixon, your statement of how we look at the needs of these children if they were our own children and how I have got a 9-year-old, a 12-year-old and, you know, what is their need, and then how do I try to meet that need as opposed to not what is it going to cost and, you know, I mean, that is certainly a part of that decision-making process.

And I think it is the political will of us as a nation, especially at the early stages and where we are failing so many kids by the time they get to this whole, you know, system of alternative ed is zero to five and the chairwoman mentioned, you know, pre-K issues, head start, early head start.

There are so many data—the Ypsilanti, Michigan, study, it shows now over 40 years. You know, if we do right in, you know, in childcare and preschool, the savings is like 16 times back to the taxpayers by that investment up front.

Danny Davis, my Democratic colleague from Illinois, and I have legislation, Education Begins at Home, about how to teach, you know, especially low-income, single teen moms how to be a parent. And so that foundation is established early on.

And yes, it is going to cost money, and Nurse-Family Partnership in Pennsylvania is a great example of this effort. But the long-term return is dramatically more than what it is going to cost, and that is the difficulty for us as a government is willingness to make the up-front cost, knowing that the return is going to be much greater. It may be 20 years down the road—but it is going to be much greater.

And I think you captured that in how we approach our own children, how we do that in a broader sense. And I hope—actually President Obama both in his State of the Union and his speech to Hispanic Chamber of Commerce this week talked about Education Begins at Home. And so we are hoping that is a push for legislation that we think will pay great dividends in the long term.

I want to, Dr. Whitmore, in the chairwoman's first question about tracking your students—and I think you were going to follow up on or wanted to answer or address that. I wanted to ask you specifically to your students at Manito, how they typically arrive at your door and how does a student arrive in your program, how long they typically are with you, and then what ability do you have once they return to a home district or out of your program to track their long-term success.

Mr. WHITMORE. Students come to us on many different reasons because we offer various options for them. The typical students for us are just assigned there either by the juvenile court or by the school district.

This is one of those interesting shifts that I have seen in the systems, is that we used to take exclusively juvenile court commitments. And when Pennsylvania initiated the Disruptive Youth Act and schools started taking more responsibility, our population has shifted to today maybe 3 percent of our students are assigned to us by juvenile court; the rest are all by the school districts.

However, 50 percent of our students are on probation. What we do and how the students get to us and the students that we see have remained the same. It has just been a shifting of the cost burden to the public schools, which they are having a hard time to endure.

Students stay with us anywhere from a minimum of 45 days and we have had students for 5 years. The typical range is 6 months to a year. Typically, the students are expelled for a school year because of violating one of the designated expulsion offenses, and so they come with us for that school year, remainder of the school

year or the next school year and then they will return to the public school. And we try to track them as much as we can afterwards. Frankly, we don't have the resources to spend a lot of time tracking, and also we deal with a very mobile population. It is hard to keep track with them.

If I could address one of Chairwoman McCarthy's comments about the students that are older. We do run an alternative high school for students 16 to 21 who want to drop out, are bored with school or have dropped out and want to come back because many of them are single parents, they are working, they are living independently. And we have been doing that program for a little over 10 years, and we just had our—I think it is 1,085th student who has graduated with a high school diploma.

And we recently had a young man who had dropped out of school just simply bored, came back, received his diploma through our program and graduated with a dual major from Drexel University in architecture and civil engineering. So they are students who are extremely capable; they just do not fit into the traditional setting, and so we need to offer programs that just address students that are bored and want an education but not the traditional one and those that are experiencing, as Mr. Dixon said, that holistic approach of behavior and the social issues.

Mr. DIXON. To add to that, Dr. Kunjufu, out of Illinois, has done an enormous amount of studies on African American boys. And one of the issues really has to do with what we call the fourth grade syndrome, where African American boys really started having problems, they started acting out and they start doing all those kinds of things. And once you go in and you start addressing those issues when they are in the fourth grade—because they are more active, they have more activity going on, they actually are larger, and so the teachers have a harder time trying to distinguish how they work with those kids.

And I know that for a fact because if I had not read the book—when my son was in the fourth grade in Miami, the teachers called to say that he was acting out. I went to the school, met with the teachers and talked to them. They were saying, "Well, your son, when he finishes his work, he starts acting out in the classroom." My issue to them was, "Okay, I will deal with the acting out part, but why don't you give him more work? Maybe he won't act out."

And so what happens is, when we get to that fourth grade piece, kids—nobody wants to deal with them. That is when we talk about zero tolerance and all those kinds of things—well, kick them out, do all of this. Well, the real problem is, is that we need to understand that these kids are very active and we have to look at their activities and how do—like the chairwoman said, how often are they going outside? How often are they engaged and not just sitting?

Like you said earlier, those are some very significant things. They get bored. And when they get bored—we know what kids do when they get bored.

Another quick, you know, story. We had a governor—which I won't, you know, call names—we had a governor who was talking about not placing kids in alternative programs—well, that is a waste of money, you know, you lock them up and all that. It was

interesting. When I talk about political will—when his son got in trouble, his son was going around with another kid putting firecrackers in mailboxes. When his son got in trouble, he actually became a proponent of alternatives, because his child got in trouble. That is when I go back to when it is our children, we find the political will to do what we need to do.

Mr. PLATTS. Thank you, Madam Chair, and I look forward to a second round, Ms. Steel, and all of you have great issues and look forward to additional questions, thank you.

Chairwoman MCCARTHY. Mr. Gohmert?

Mr. GOHMERT. Thank you, Madam Chair.

And appreciated all the testimony. It seems like one of the problems with the—what I was hearing is when you are putting kids in temporary situations in school, we haven't had the seamlessness that we should be. That seemed to be a more common thing in what I was hearing.

And a little disclosure here, my wife taught school in an alternative school called Pace in our own town for a number of years, and she just loved it because she said, you know, these are kids, the light comes on and it is so exciting. But they were computer programs, and they all had instructors and whatnot.

But I am wondering—I haven't heard anybody address this but, you know, some of us were brought up with the Socratic method, and it was good for us to have to stand up, like in a law school, and recite—but getting that growing up. But I have wondered, you know, when we talk about that positive reaction, Dr. Blomberg? Okay.

It seems like they get that from computer programs, and it seems like most kids now if they are embarrassed to say they can't read, they like doing it at their own pace. What do you see as the future of education in the—for computer programs that is self-paced where they get that encouragement sometimes vs. the Socratic?

Ms. Steel?

Ms. STEEL. I am familiar with the Socratic method, so——

[Laughter.]

And so there are a couple of things. I mean, I think one of them is that when we think of—when you are looking at alternative schools, there are a range of them. There are——

Mr. GOHMERT. Right.

Ms. STEEL [continuing]. Continuations, there are—we see in accounts—I am talking about independent study. I mean, there is a far range, which is why I am a proponent of, like, how can we keep kids in their community schools and make sure that they have the opportunities all the other students—and if it is reorganizing them to look at them in small settings, granted——

When it comes to computers, I have just got to tell a quick story. I read with books on tape, because when I visually read, I only see the words in the center of the page, and I only get what is—I call it black and white, whereas when I read with books on tape, it is color; it is like a movie.

So technology is the gateway. It really will change children's lives. Every kid—needs their books on tape, right? And it may be different, but I think it is—if you can imagine, we—this is a popu-

lation we serve. So we are adamant because what we see is pretty dire and that we have to fight to get books on tape. I went through law school and do you know what it is like for me to say, "Oh, by the way, we need books—oh, no, they have to learn to do it on their own."

Mr. GOHMERT. Right.

Ms. STEEL. Why do we require that? Why aren't we looking at alternative ways of learning? Because you know what? If that student could learn an alternative way using technology, they may actually be able to be more successful in their lives.

Mr. GOHMERT. And some things would work better——

Ms. STEEL. Yes.

Mr. GOHMERT [continuing]. For different children.

Ms. STEEL. Because they are pretty good at MySpace——

Mr. GOHMERT. And I do enjoy books on tape or CD, in fact, but my wife doesn't. And she said, "Well, you are oral." I said, "Is that better than being anal?" I am not sure, but anyway—any other comments?

Yes, Dr. Blomberg?

Mr. BLOMBERG. One thing, and it is actually in my outline in my testimony, but we all talk about the critical importance of highly qualified teachers. But the reality is, is that many of these programs, these alternative education programs that we are talking about, have very small populations. And when we talk about highly qualified teachers, we typically mean highly qualified teachers teaching in their area of professional certification. That is not possible realistically across the nation with all the various juvenile justice schools and alternative schools.

And I think that is where video—a national curriculum, I think, video-assisted instruction, individualized module instruction—the technology has so many capabilities. And then we get some of these wonderfully accomplished teachers, these highly qualified teachers that are very much involved in video presentation and so on. So I think the technology is essential if we are to move this whole area forward.

Mr. GOHMERT. But then you bring up one of my pet concerns. We had a governor who came in with the head of education in Texas and showed some improvements in Texas. So when they came to Washington, they decided to ram it down everybody else's throat as well, and I had real concerns that we didn't need the national model rammed down everybody else's throat. Connecticut may not want to have to teach like Texas did.

And then another thing, it seems like the more federal control you get—and I was really hoping with the Democratic majority and a Democratic president we would get away from some of this cram-down in education because I was not a fan and am not a fan of No Child Left Behind because I saw us losing music programs, art programs, physical education, seeing, you know, everybody having to fit in this mold as it was expected, and I hate to get away from that state control.

And, Dr. Cave, when you talk about somebody saying, "There is nothing in school for me," I am sure all of us have heard kids say that. And you wonder, well, why have we gotten away—we used to have automotive shop, we had construction, we had welding, we

had ag shop. And not everybody had to go to college, but they got that positive feedback from what they were doing.

And, you know, a welder making $80,000, you know, may seem poor or rich depending on—but that is a good living in East Texas, and people wouldn't have to go to college. But they are not getting that option now as a part of their education.

So I really wish we did a better job of assessing individually on a local basis without being crammed down from the federal government. And you have pointed out, and I think a number of people up here, you know, the federal government has resources a lot of local and states don't have, but then as we have seen in this mess with the financial sector, if you are going to get federal money, then eventually, if you are going to commit first, you are going to get federal dictation, and so that gets back to my concern.

So I know this is just a short time. We have 5 minutes to speak, and then we get 5 minutes, but it doesn't mean that if you have other things that you think of that you don't get to say—that those are welcome if you would submit them. And I know Madam Chair would agree. We would welcome that being submitted after the hearing as you think about these things, things that get generated. And we hope that you won't come away with a negative affirmation from your testimony here, because it is appreciated.

Ms. BROOKE. Judge, may I respond?

Mr. GOHMERT. Yes, please.

Ms. BROOKE. First, the programs that we have in Texas begin at age 10. And I think it is important——

Mr. GOHMERT. You are talking about the alternative program.

Ms. BROOKE. JJAEPs as we refer to them.

Mr. GOHMERT. Yes, right, right.

Ms. BROOKE. I think it is important that people understand when students are being expelled from public school that one of the first things that needs to be done with these students is a complete assessment needs to be done to see what is going on. Why is this student acting out?

Mr. GOHMERT. Going back to Mr. Dixon's point.

Ms. BROOKE. Yes, but it needs to be more than an academic assessment. It needs to be a mental health, it needs to be a behavioral health assessment——

Mr. GOHMERT. Maybe they need teeth.

Ms. BROOKE. A health period assessment, that is right, so that we can see what is going on. And once we do a complete assessment, I think we will find out a lot of these kids aren't learning because there are barriers for that student, and oftentimes barriers for his entire family, and that it is important when we do these assessments and begin working with the students that we embrace the whole family, because what is going on with this one student is often going on with his peers—or his siblings, I should say—with his siblings. And it is important that we work with the family by sometimes bringing in very intensive work, multiple—I can't talk—MST, multiple—golly—systemic therapy, thank you.

Chairwoman MCCARTHY. Now you know how it feels——

Ms. BROOKE [continuing]. Oh my gosh.

Chairwoman MCCARTHY [continuing]. Dyslexia.

Ms. BROOKE. Well, I am from Texas and I talk really slow but because you guys are limiting time, I get tongue-tied.

So those are very important resources that any kind of alternative school——

Chairwoman MCCARTHY [continuing]. Good point.

Ms. BROOKE [continuing]. Really needs to have. And that is one of the advantages that Texas has in putting these programs in the juvenile justice system because we can treat the whole family. And school districts don't have the tools sometimes to entice the family to participate as the courts may have.

You mentioned the computerized curriculums. There is a good place for those curriculums in schools, but many of our students learn very differently. And each child has to be treated individually, and their education plans need to address specific needs with those students. They come in at all different levels, and programs have to be equipped to address those.

And you can't expect them to sit in front of a computer 7 hours a day and be successful. Some kids can, some kids can't. We are also looking at bringing in virtual school programs into these alternative schools so that higher achieving students can engage in those virtual campuses, which is also a great tool for us, especially when we don't have the highly qualified teachers that were being spoken to earlier.

And one final comment that I have is related to the data. You asked about whether we were able to track these students. And there is a point where it stops, and that is when they become adults. Crossing systems and removing those barriers between systems—the education folks can certainly tell you who drops out, but getting them to match the data with the—in Texas it would be our Department of Public Safety—to see if there has been arrests and incarcerations, is where we are limited. And maybe that is an area that this committee can help take away some of the barriers so that that sharing of data and matching of data can be done so better tracking is achievable.

Chairwoman MCCARTHY. First, let me say I am all for, you know, computers, and I am all for all the high tech. I mean, if someone had told me 10 years ago I would be a whiz at computers and my BlackBerry and every other contraption they have got on my body to keep in touch, I—I understand that, you know, it is important.

What I was talking about is that too many kids are playing games, some of them extremely violent. We know the younger that they start playing these violent games, they think this is real. They think they can shoot someone and it is not real; that person is going to get up and walk away. Or they think that, you know, they are more powerful than they are. I am just saying we have nothing to do with that. Parents to me should be overseeing that. But as you said, there are many of these kids don't have—it has become the new babysitter to be very honest with you.

Ms. Sheila Jackson Lee, who is also on the House Judiciary Subcommittee on Crime, Terrorism, Homeland Security, welcome—and a fellow Texan.

Ms. JACKSON LEE. Thank you very much, Madam Chair, and thank you for joining with the Judiciary Committee and Chairman Scott for what is a vital, very vital hearing. And I always want to

take an opportunity to thank you, of course, for your leadership as it relates to sanity in gun regulation in this country. I think it is very important.

The reason why I say that is that I was delayed because we were in a hearing dealing with the enormity of the drug-trafficking issues on the border and the violence with guns. So not to say I was reminded of you, but I thank you for your leadership on those issues. And we are finding that our juveniles are also being exposed to proliferation of guns in America.

But let me thank all the witnesses for their presence here today. And I chair and have cofounded the Congressional Children's Caucus. Over the years, we have looked at mentoring, intervention, bullying, just a lot of issues that would hopefully focus on making our children's lives better.

Let me say that I believe in alternative education, but I believe in it when it is not a way station, when it is not a place for people to, if you will, tread water and sometimes drown.

So let me try to ask some pointed questions. And I am going to go to Mr. Dixon first, if he would single out for me what he thinks would be the most redeeming teaching tool that he has in Wayne County. What have you found to be most effective in the course of dealing with youngsters that have been steered in your direction?

Mr. DIXON. Well, we have what we call—we have one of the tools that we use. We call it a JIF, a juvenile—maybe I am being dyslexic also—the juvenile——

Ms. JACKSON LEE. Influence something.

Mr. DIXON [continuing]. Influence something—yes, it is JIF.

Ms. JACKSON LEE. That is all right.

Mr. DIXON. And it looks at eight categories. It looks at, you know, the education; looks at his, you know, mental health; looks at his home life; looks at, you know, those type of issues. And we are able to take that and identify some specific problems that the kid has, you know, if it is in school, if it is health, if it is just those kind—if it is family——

Ms. JACKSON LEE. So you do an analysis.

Mr. DIXON. We do an analysis.

Ms. JACKSON LEE. And then you can treat him—he or she——

Mr. DIXON. Right.

Ms. JACKSON LEE [continuing]. Individually as opposed to like automation.

Mr. DIXON. Right, the issue is in the individual.

Ms. JACKSON LEE. Right.

Mr. DIXON. And my biggest issue is that we don't bring kids to warehouse them. And when we look at kids on an individual basis—we were talking about the computers and all those things. All that stuff, you know, is great.

Ms. JACKSON LEE. And I am not going to cut you off, but I have a lot of questions, so I want to just get—I think the point I am getting is individual analysis. And you are attempting to get the children out of the system, is that correct?

Mr. DIXON. Correct.

Ms. JACKSON LEE. Not to stay in the system. Do you think your state, then—we are not here to embarrass states. I am going to ask

this question. Do you think there is enough funding for programs like this?

Mr. DIXON. Oh, no.

Ms. JACKSON LEE. And so, you know, someone would ask, there is a 10th Amendment—leave what is not left to the federal government to the states. Is this hearing vital and does the federal government need to become a real partner in saving our children?

Mr. DIXON. Oh, I think the federal government, the local government—and I talked earlier about the political will. One of the things that I am comfortable about in our community, which is Detroit, Wayne County, is that the county executive has said, "Look, we have to look down the road with our children."

Ms. JACKSON LEE. So a legislative initiative that may be combined out of these two committees—interesting enough, I am on the Crime Subcommittee—that can look at intervention, stopgap measures, you think is a vital approach to take?

Mr. DIXON. Is extremely vital.

Ms. JACKSON LEE. Have you seen, when you lock up a child and in essence throw away the key, are we advancing ourselves in any way?

Mr. DIXON. No, we are actually paying for it down the road because the kids are going into the adult system, which is costing us—well, let me say, I—you weren't here earlier, and I said politically correct, a hell of a lot more. And we keep doing the same thing and think that we are going to get, you know, some different results. It is not working. And so if it is not working, it is time for us to change the way we do things.

Ms. JACKSON LEE. I think that is key.

Ms. Brooke, thank you for being here, and let me compliment all of the valiant workers that you have. And just help educate me for a moment because, you know, once you hear my question you know the approach that I am getting ready to take, so I am going to have to give an apology for a little chastising. But how are you related to the Texas juvenile detention centers across the state? How is the Probation——

Ms. BROOKE. Commission——

Ms. JACKSON LEE. Yes, is this the oversight body over the juvenile detention centers?

Ms. BROOKE. We are over the county-operated juvenile facilities but not the state facilities.

Ms. JACKSON LEE. All right, and you understand my angst—so now I am finishing my question—but you understand my angst with the state system and the incidences that we have had both being way stations, violence, sexual predatory acts against youngsters. Can you just, not from your firsthand knowledge—would you just tell me that the state is working diligently to correct all those infractions?

Ms. BROOKE. I can tell you that the governor has appointed a permanent executive director for the Texas Youth Commission, and I believe they——

Ms. JACKSON LEE. That is correct, thank you.

Ms. BROOKE. Sherry Townsend is the name of the executive director that has been appointed, and she began, I believe it was October 1st, and I can tell you she is working diligently to make

changes and reform the state school system in Texas. Like I said, she has been there since October 1st. My agency has had more dialogue with that agency than we have ever had in the past.

And she has put together a plan. As you know, we are in a legislative session now in Texas, and the legislators are working hard themselves to make sure plans are put in place to protect the youth and to progress their rehabilitation.

Ms. JACKSON LEE. Thank you, I will just finish on this note if the rest could answer. My big issue is the mental health component. I don't think we could invest too much money. And that is part of education, part of crime intervention.

And so if you all will respond to the idea of institutionalizing the mental health component as part of analysis, as part of treatment, both in the alternative schools and how much money we need to put in it or if there is ever enough money to put in to ensure that we look at the mental health of that youngster.

Dr. Blomberg?

Mr. BLOMBERG. No, I could not give you a dollar amount. It is the mental health circumstances of most of these youth. We have mentioned that 50 percent of all those that are incarcerated—delinquent youth that are incarcerated—are suffering from various behavioral or learning disorders compared to roughly 10 to 12 percent in our public schools. So it is a disproportionate percentage.

All of us know, all of you know, that these youth do face some very severe emotional and mental health difficulties that is related to their educational capacities. But again, the wonderful thing about these teachers—and I have watched it in Florida now for 11 years.

There are teachers that can—and I don't know how they do it—but they connect with the specific needs of their students, and they do some wonderful things despite all the different histories that that class brings to bear. And these are teachers that are not mental health specialists, but rather many of them are students with disabilities specialists, and they simply have that ability to provide individualized instruction.

But it is a prevalent problem. It continues. Incarcerating the mentally ill has always been an issue. And it exacerbates problems; it doesn't cure them. But unfortunately, we don't have any swift cures about what causes these various mental health problems.

We do know that education achievement, despite mental health and various other problems—when these children are experiencing academic achievement, their lives begin to turn around and a lot of their emotional and other difficulties subside. That is what our longitudinal research in Florida now over the last 11 years has demonstrated.

So I am very hopeful, but you do bring up a very real problem, and it needs to be addressed.

Chairwoman MCCARTHY. The gentlewoman's time is up.

Ms. JACKSON LEE. Will Mr. Dixon answer? Or I will be happy to yield back to the chairwoman.

Chairwoman MCCARTHY. Well, you have actually—you are 4 minutes over.

Ms. JACKSON LEE. Okay.

Chairwoman MCCARTHY. Ms. Clarke?

Ms. CLARKE. Madam Chair, I will just yield a moment so that Mr. Dixon and I think Ms. Steel wanted to respond to that.

Mr. DIXON. Yes, Congresswoman, it does cost a lot of money to run a mental health program. We have a mental health program in our institution, and it is a full mental health program with psychiatrists, psychologists, social work—I mean the entire—and it costs us about $2 million a year to run that program. The benefit of it is, is that we identify a lot of these issues that these kids have so we can address them.

On the other part, one of the things that we are not looking at, though, when kids come in is the health issue that contributes to some of their mental health issues. And when you find kids who have a multitude of asthma—when they come in, you find kids who—we have kids who have degenerative heart problems when they are coming to our institutions. That is serious.

And we ask the question: Why can't these kids function in the school setting? All of those things, when I talk about holistic approach—it is the mental health, it is the medical, it is the education. And I am telling folks that when I go into institutions, what I find is that a lot of our institutions in this country don't have any of those kinds of things.

Ms. CLARKE. Thank you, Mr. Dixon.

Ms. Steel, would you quickly?

Ms. STEEL. Yes, one of just the overriding thoughts—I agree. But I don't think it should take getting to an alternative juvenile hall setting to get these services. We know in L.A. there is a—that looks at resiliency and risk factors and says that we know that if we don't use the right interventions, once they are in juvenile hall that it is going to go the wrong way. Why are we waiting till then?

We also know that there is no—absolutely no reason those students with learning disabilities should be in a detention facility. There is absolutely no reason. Because if you are providing adequate special education, guess what is included in that? Mental health services, behavior intervention.

So those students aren't predisposed to criminal behavior. Many times we see kids—we have the opportunity of luckily looking through hundreds of youths' education history as part of our advocacy, and overriding they have not been diagnosed, they have not been served, they have not gotten the services, and as a result—if we can look at the front end, because we are not even—we are missing all the kids that haven't been expelled that are kind of trapped hoping they will get served there, and we really believe that it is just tracking them the wrong way.

Ms. CLARKE. Well, thank you, thank you for sharing that with us.

I wanted to thank Chairman McCarthy and Chairman Scott, Ranking Member Platts for holding this very significant hearing. With our president's emphasis and priority on our children's education, this is an area that deserves more scrutiny and emphasis, that our communities can salvage the lives of this subset of our youth.

I am particularly concerned about it because I have a juvenile facility in my district in Brooklyn, New York, and I am concerned about exactly what we are manufacturing in these types of facili-

ties. You know, the formerly incarcerated adults experience a variety of challenges upon reentry into their communities. Likewise, many students released from our juvenile justice setting state difficulties when transitioning back into their communities.

Among other issues, these youth are often shunned by their principals, teachers and other students when transitioning back into traditional public school settings. They are also more likely than their classmates to have academic deficiencies, when can further isolate them from their peers.

I have a two-part question. First, what are your school systems doing to assist these students in their reentry back into their communities? And second, what can Congress do to assist our nation's school systems in addressing reentry issues experienced by these students? And this question is directed to Dr. Cave, Ms. Brooke and Mr. Dixon.

Ms. CAVE. Congresswoman, I am happy to talk to you about the reenrollment regulations that the Virginia Board of Education passed at the direction of the General Assembly and also in cooperation with the Department of Correctional Education and the Department of Juvenile Justice.

We recognize that children coming back into the school systems, although they may have been successful in a very structured environment and a good alternative education program, that when they come back there is the capacity for them to be lost if there is no planning for them, if there is no planning for their academic achievement, if they can't have a continuity of instruction, if you can't come from being in Department of Correctional Educational program and continue in your studies with success, if you have had special education support—you need to know what those have been. You need to know what an individual education plan is, and the receiving school division needs to understand that and plan for it. The receiving school divisions need to know what that child needs, what their progress has been, what their success has been, have they been receiving counseling, in order that you can combine the right professionals.

And this goes right back to what Mr. Dixon is saying. You need a holistic approach to these kids. You have to look at their family. You look at their social supports required. You need to look at the counseling. You need to look at their behavior. And at the school level, you need to pull the specialists together who can share their expertise to look at the whole child and say, "When they come back, this is what we are going to do for them. This is what they need."

So in Virginia, the regulations that have been passed specified time periods for notification and planning so that a school child that has been released can be back in school in 2 days. That is the goal.

Mr. DIXON. One of the issues is actually record transfer. How do we transfer records, you know, back to the school districts in which that kid is coming from? Based on my experience, I would recommend if the Congress wants to do something, look at the OJJDP act, authorize that, because it has a lot of good information in it.

And what I have found is creating a good case management system so that you can track that kid—and what I mean by a good

case management system is one individual who is working with that kid, who is brokering the services for that child. And that means that from the time that child comes into the system until the time they leave out that you have someone that has identified, that is tracking that kid. It is like a surrogate parent.

Those are the kind of things—then you don't lose—and what is happening in our systems that nobody likes to talk about is that there is a total disconnect, and we are losing information. We are losing all kinds of things because there is no line from one end of the system to the other.

And when we do case management from a structured standpoint, then we find out that we can track kids and we know exactly what is going on, because we are losing kids in the community and nobody can tell you where they are. That is the hidden secret that nobody wants to talk about. Nobody knows where the kids are because there is not enough funding to have a good case management system.

And then when they fall through the cracks and something occurs, then everyone says, "Well, we got to figure out someone that we can blame," instead of trying to figure out how do we track that kid. Just like our kids—we would track our kids to the doctor, to the mental health professional because we would do that. That is the same system that we need to create in this country.

Ms. BROOKE. I am going to speak to your question as it relates to our juvenile justice alternative education programs, which are not residential programs but they are day programs. When a student comes into the JJAEPs and they have developed a plan for their stay while they are in the program, they also begin from that point developing their transition plans out so that they can begin working with that student and his family on what to expect when it is time for the child to depart and go back to his regular public school setting.

About 30 days out from the time—or 30 days prior to their leaving, they call in the school district where the student is going back to, they call in the parents, and they meet. And they talk about the successes that the student has had. They talk about the supports that the student will need when he goes back to school, and they create the transition plan. And all the parties agree and sign off and the student goes back.

There is a probation officer typically involved, and that probation officer—juvenile probation officers do everything. They hold the kid's hand, they are a friend, they are a counselor, they are an enforcer, you know, they do everything. And so they go to the school with the student and they try to find a mentor at the school to link the student with so that when they go back—because it is very difficult to go back. These are big schools; they are a number, unfortunately, again, and they are used to the individualized attention that they are getting in our school.

So transitioning is extremely important for them. So we try to link them with an adult that will take the time when they are in school and if they are having a problem that that student can go to and say, "Hey, I need some help," or just someone to come up to the student and say, "Are you having a good day?" That is very

important for these kids. So that is what we are doing to help achieve their success.

Ms. CLARKE. Thank you, Ms. Brooke. My time is expired.

Thank you, Madam Chair.

Chairwoman MCCARTHY. Thank you.

Mr. Scott, you have a question?

Mr. SCOTT. I would ask another question. I had asked the question to begin with, and I think Ms. Steel didn't have an opportunity to respond—that is are there cost-effective initiatives. I think she has talked around that. I wanted to know if you had had an opportunity to address that question, whether or not if you find people, these young people, with risk factors, whether or not there are cost-effective ways to intervene?

Ms. STEEL. There are a lot of cost-effective ways to intervene. We are actually working with two juvenile court systems. And we work with, you know, community-based, you know, counselors and social workers, as well as with probation. And we look at all of the variety of factors. We look at their education, we look at social and emotional issues, and we come up with a plan of action and talk to the court about how to help them do better in school.

But it really takes a team approach and looking at collaboration with the agencies that you are working with to help them integrate back into a public school. Because many times what we see is kids ending up being pushed into alternative schools because many—hundreds of probation officers will tell me, "We can't get them back into their community schools." And so rather than having a kid linger around for 30 days—I don't know what is happening in other states—then they just put them in alternative schools.

And I think we have to address sort of a plan of action. We are looking at the holistic approach with having—to make sure that kids are getting the services in the public school. And so that is the way to do it.

Let us look at the public school, enforcing—getting special ed teachers that are qualified. We talked about not having qualified teachers. The laws are really clear. We have to have qualified teachers. And we have to have special ed teachers, and we have to. And that is the part to invest in—is to make sure that all those services are being placed to prevent those kids getting pushed into other——

Mr. SCOTT. A lot has been said about a holistic approach. We are dealing with, as chairman of the Crime Subcommittee, how to deal with youth violence and essentially two theories. One is to wait for them to join a gang, mess up, get caught and then get into a bidding war as to how much time they are going to serve. Or the bill I have introduced, the Youth PROMISE Act, which takes the holistic approach, requires a community to come together, to have all the players come together that have anything to do with children at risk, that would be of course law enforcement, education, foster care, mental health, the boys and girls clubs, faith-based community, everybody around the table to find out first what the problem is and then what your resources are and then what you can do about it.

What the problem is—that calculation will calculate how much money you are spending on incarceration and preventable welfare.

Put that number in the middle of the table as you have your discussion. That number for Los Angeles County would be about somewhere in the vicinity of $5 billion a year.

In many cities of 100,000—100 to 200,000—you will have 20, 30, 40, $50 million a year on incarceration alone. Kind of put that number on the table so as you discuss what your strategy is to reduce crime 50 percent, if you can save 20 or $30 million, you ought not limit your imagination to programs that cost $250,000. That coupled with the fact that we are spending for targeted, at-risk children today in many communities $10,000 a year per child in future incarceration that you could eliminate; that seems to be consistent with what you are saying.

That approach was used—the gentleman from Pennsylvania may know—it was used in Pennsylvania where they did this approach and funded about $60 million worth of programs. And within a couple of years, they had identified over $300 million that they had saved with those investments. So it is cost-effective, it works, and it, you know, saves much more money than they spend.

And we ought to be doing that before we start loading up on more incarceration. I mean, what kind of people are we that would not spend the $60 million but would rather spend in a few years $300 million cleaning up the pathology and ravages of preventable crime.

Ms. STEEL. And one quick thing is what—as for us, just in our population, we have 60 kids we worked with in preventing foster youth from crossing from dependency into delinquency. And we also have another program, which is a school-to-pipeline reversal project. And just alone in those projects where we are in the collaborative approach, we are able to identify not only what these individuals need but the systemic issues.

And I think as you are working in a collaborative approach is to be willing to look at those systemic issues, to be able to identify, "Wow, which school districts are having trouble getting special ed teachers, and how do we look at that as a community at large to make those changes?" And so by working in the collaborative, you are actually able to address much larger-scope issues.

Mr. SCOTT. Thank you.

Chairwoman MCCARTHY. Mr. Platts?

Mr. PLATTS. Thank you, Madam Chair. As we were talking about lots of student programs, I want to reference a guest I have here today. This is my 15th year as a mentor in what is called the Future Leaders of York program for high school students. And I am honored to have a junior from Northeastern High School in my district, Michael Chocat back here, participating in that program and an example of a positive program where we are reaching out to students in a positive way.

Each of you have given us great knowledge in your written testimonies and in your statements here today. And in looking at them, I am trying to pull out a couple things that were, you know, highly recommended.

And Dr. Whitmore and Ms. Steel, you both touched on an issue that I think is critically important, and that is school counseling, counseling services as well as social services that kind of wraparound with the student and the family.

I know, Ms. Steel, in your testimony, you talk about the need for more school guidance counselors. And I openly tell you that but for Mrs. Jewel, my seventh grade guidance counselor, I don't know if I would have made it through the seventh grade at York Suburban junior high, let alone had the chance to go on to college and law school, actually at Pepperdine in the L.A. area, and know personally how important school guidance counselors are.

You tie that in to the issue of social workers. And at home, I have seen just the great benefit of this connection of schools and social work through a family member. A lot of my family are in the education field. My youngest sister has a social work background, worked in domestic relations and things over the years and has a teaching background. And she now works for one of my local school districts, where she is in the school and connecting the school to all the social service agencies in our community and dealing with, you know, students who have a record of truancy or other delinquency issues and working with the parents in how to connect them to both the social agency programs and the school programs.

One of the benefits she has as being part of the school system, she has some leverage under our law regarding truancy that can help engage that family, the parents, to take more responsibility and be engaged in their child's life and schooling and opportunities. But that connection seems so important. And how we can try to replicate that, that we have a more seamless—and a number of you have mentioned the importance of a seamless program of services. That word, you know, that holistic approach, I think, is how you said it, Mr. Dixon, is so important.

So, you know, that kind of best practices that you have shared is very important to us, again, as policymakers, as we look how to funnel what is always going to be limited resources and the issues where we put those resources and how to get the biggest return and the cost benefit, that Chairman Scott referenced, that we can be effective in intervening appropriately.

I do want to, on the specific issue of parental involvement, Dr. Whitmore, you mention in your list of successful alternative ed programs a number of issues, one of which is the counseling and social services including with families. And I was wondering if you could expand on what level of parental involvement you see with your students.

Is there any mandatory parental involvement with your students? And then, if you are able to, maybe not in an exact statement, but the connection between greater parental involvement and the outcomes that you are able to achieve with the student.

Mr. WHITMORE. I wish we knew how to do mandatory parental involvement. Our families are very much involved in all of our problems, as much as we can. They come in at intake and there are constant communications. We hold family meetings. We try to do parenting classes. We invite them to participate.

I have had families that are court ordered for family therapy because we have people trained in structured family therapy, and they still won't come. So as much as—you know, we have a family-based mental health program that is available, because we do offer a full-range of mental health services also, that, you know, we can

work with the student and their family and fund it through medical assistance or fund it through insurance companies.

So we encourage and try to do everything we can, but even when it is forced a lot of times it doesn't even happen. But we all know that that is the breakdown of the whole scenario of this is what is going on with the child. And when their family walks in the door, you can see almost whether you are going to be successful or not going to be successful because of that family support system.

Mr. DIXON. Let me give you a program that nobody really ever looks at. What we have in Wayne County, we call it the intergenerational program, where we bring in senior citizens, ex-school teachers—seniors, and they are matched up with kids.

And one of the things that I have found is that they really engage those seniors. It is like those grandmothers that they never had. And they really sit down. And when we are doing our educational pieces with them, the seniors are sitting in the classroom and on the unit with those kids.

And I think that is a resource that we tend not to look at. And we went to Catholic Services, and we feed them; we do all of those things. And they are so grateful because a lot of seniors are just sitting and not doing anything.

Mr. PLATTS. Mr. Dixon, you are preaching to the choir here because the chairwoman and I are pushing reauthorization of the national service legislation, including the foster grandparent program, which exactly—you know, I was just at a program probably 2 months back where we honored the seniors in our community who are part of that foster grandparent. And the outcomes we see from the students, you know, in their—how they benefit and the benefit to the seniors is tremendous. So you have got us on your side on that one.

Mr. DIXON. Okay.

Mr. PLATTS. We clearly—and wanted to advocate and expand that opportunity to every community we can.

And Dr. Cave?

Ms. CAVE. I want to go to the policy level, the state policy level, and say that our governor, Timothy Kaine, recommended to the Board of Education that they adopt in their school accreditation criteria that every child at seventh grade have an individual academic and career plan, every child, and that part of that development of that plan involves the family. And accountability is built in with signatures of the parents and of the school officials and of the principal—so as far as you can mandate parent participation.

This is a beginning to say, "We are going to look at what your child needs, and we are trying to find a plan for their goals and their interests throughout their educational program in school." And you have to come back, and you have to reexamine it at ninth grade and then before 11th grade. And each time, you have to have your parent there to sign.

And in our reenrollment regs, the reenrollment regs mandate that the student be a participant and the parent be present. So as much as you can put into your policies that—and some accountability statement for that is expected would help some.

Mr. PLATTS. And I know I reference my sister's position within the public school system. What she finds is the threat of a fine that she is able to, under truancy laws——

Ms. CAVE. Yes.

Mr. PLATTS [continuing]. Is what gives her some of the leverage of ensuring a parent participates. Ultimately they hope they then get engaged, but, you know, that leverage she has is probably different than on the private side, you know, in different settings.

So, Ms. Steel, did you want to respond as well?

Ms. STEEL. Yes, just we also have to always keep in mind there are children that don't have parents.

Mr. PLATTS. Yes.

Ms. STEEL. And so we always have to think about how are we going to engage them, make sure that who is responsible for them—I mean, that is a whole other committee meeting of the crisis——

Mr. PLATTS. Yes.

Ms. STEEL [continuing]. With surrogate parents—that we have a huge crisis and that is why a lot of foster youth are getting—and also we have got counselors, and that will assist in that, either having more counselors—they are the first cut. And they are replaced with security guards and probation officers on the general school side.

So, and I think, you know, getting more counselors there to really look at, you know, larger issues, the same with social workers, and looking at how you—we had social workers, psychiatric social workers, in L.A. for a while and it was amazing. They changed some kids' lives; they turned them completely around. And they are the first to go; when the cuts hit, they are the first to go. They are considered dispensable. And I don't understand that. And so——

Mr. PLATTS. Thank you.

Thank you, Madam Chair.

Chairwoman MCCARTHY. Thank you, and I thank certainly Bobby Scott, who is here representing his subcommittee.

We have taken in a lot of information, and I appreciate each and every one of you. If you notice that I am usually more than generous with time on having answers, if we had the full committee here, it wouldn't happen because it would take too long. But most of us here have very inquisitive minds, and we have a lot of questions that we do like to ask.

I think what I will take away from, you know, this hearing is that, you know, I have lived in Mineola—I have lived in my own home for 62 years or so, and so my community still has a small school from the grade school. It still has a small middle school, and it has a small high school. And I have to tell you, the teachers know every single kid.

And as you were saying earlier, though, you know, we see our states coming under budget crunches. What are the first things to go? Basically all the youth services programs, all the programs for our young people that need mental health help, and it just goes on and on and on, and it is a shame because it goes from the youngest to the oldest.

But with that being said, I am hoping that we will be able to work on legislation to make certainly better choices and to help

every child. Most of us here are great believers that you can change a child's life, given the right services and given the right opportunities, but there are also many of us here that feel very strongly if we get that child early enough and work with the parents we wouldn't be dealing with some of the issues that we are dealing with.

So with that, as previously ordered, members will have 14 days to submit additional materials for the hearing record. Any member who wishes to submit follow-up questions in writing to the witnesses should coordinate with the majority staff within the requested time.

Without objection, this hearing is adjourned, thank you.

[Questions for the record and their responses follow:]

U.S. CONGRESS,
[VIA FACSIMILE],
Washington, DC, March 17, 2009.

Dr. THOMAS BLOMBERG, *Professor of Criminology,*
Florida State University, Tallahassee, FL.

DEAR DR. BLOMBERG: Thank you for testifying at the March 12, 2009 Healthy Families and Communities Subcommittee and Judiciary Subcommittee on Crime, Terrorism and Homeland Security joint committee hearing on "Lost Education Opportunities in alternative settings."

Representative Carolyn McCarthy (D-NY), Chairwoman of the Healthy Families and Communities Subcommittee, has asked that you respond in writing to the following questions:

1. Throughout the hearing, we continuously heard that there is little to no comprehensive data on youth in alternate settings and their educational outcomes. What kind of data is needed to best address the needs of youth in alternate settings and their lost educational opportunities?

2. What systems need to be involved in addressing issues for youth in alternate settings? How might they work together to better serve the educational needs of this population?

Please send an electronic version of your written response to the questions to the Committee staff by close of business on Tuesday, March 24, 2009—the date on which the hearing record will close. If you have any questions, please do not hesitate to contact the Committee.

Sincerely,

GEORGE MILLER, *Chairman.*

Mr. Blomberg's Responses to Questions for the Record

Here are my answers to your two questions:

What kind of data is needed to best address the needs of youth in alternative settings and their lost educational opportunities?

In order to address the needs of students in alternative settings, I recommend the following data elements:

1. Data on how many youth are receiving educational services in alternative education and juvenile justice schools on an annual basis. Currently, we must rely on census data reflecting the number of students in alternative or juvenile justice schools on a given day rather than the total served on an annual basis.

2. Data on the characteristics of the student populations, i.e., age-grade level, race, gender, learning or behavioral disabilities, histories of prior school performance, dropout, suspension, and expulsion.

3. Data on the educational experiences and achievement gains made by the students while in these alternative educational settings.

4. Data on outcomes after students leave these alternative educational settings, i.e., return to school, GED, drop-out, etc.

What systems need to be involved in addressing issues/needs for youth in alternative settings?

It is imperative to mandate data collection in order to describe and explain the inputs-activities-results-outcomes of what is now occurring in these alternative educational settings. From these data-based descriptions and explanations can come specific and informed policy recommendations. However, it is essential that our pub-

lic schools and alternative education and juvenile justice schools develop protocol and agreements for the placement and return of students between these two educational systems.

I would be pleased to talk more or provide more specifics if you would like. Please feel free to contact me.

U.S. CONGRESS,
[VIA FACSIMILE],
Washington, DC, March 17, 2009.

LINDA BROOKE, *Director of Government Relations and Education Services, Texas Juvenile Probation Commission, Austin, TX.*

DEAR MS. BROOKE: Thank you for testifying at the March 12, 2009 Healthy Families and Communities Subcommittee and Judiciary Subcommittee on Crime, Terrorism and Homeland Security joint committee hearing on "Lost Education Opportunities in alternative settings."

Representative Carolyn McCarthy (D-NY), Chairwoman of the Healthy Families and Communities Subcommittee, has asked that you respond in writing to the following questions:

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Sincerely,

GEORGE MILLER, *Chairman.*

U.S. CONGRESS,
[VIA FACSIMILE],
Washington, DC, March 17, 2009.

Dr. CYNTHIA CAVE, *Director, Office of Student Services, Department of Education, Richmond, VA.*

DEAR DR. CAVE: Thank you for testifying at the March 12, 2009 Healthy Families and Communities Subcommittee and Judiciary Subcommittee on Crime, Terrorism and Homeland Security joint committee hearing on "Lost Education Opportunities in alternative settings."

Representative Carolyn McCarthy (D-NY), Chairwoman of the Healthy Families and Communities Subcommittee, has asked that you respond in writing to the following questions:

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Please send an electronic version of your written response to the questions to the Committee staff by close of business on Tuesday, March 24, 2009—the date on which the hearing record will close. If you have any questions, please do not hesitate to contact the Committee.

Sincerely,

GEORGE MILLER, *Chairman.*

Dr. Cave's Responses to Questions for the Record

1. Throughout the hearing, we continuously heard that there is little to no comprehensive data on youth in alternate settings and their educational outcomes. What kind of data is needed to best address the needs of youth in alternate settings and their lost educational opportunities?

Every youth in an alternative educational setting should be able to be "counted" through a data management system. In Virginia, the development of a student data system, known as the Educational information Management System (EIMS), has made this possible. As school divisions enter data in the system, every student is assigned a unique, randomly selected number known as a "state testing identifier" that stays with the student through his or her career in the commonwealth's public schools. The identifier allows the Virginia Department of Education (VDOE) to follow students as they move from school to school, and as they transfer in and/or out of the Virginia public school system.

The academic record of each student can be linked to the identifier, as can student demographic data, and school indicators, such as attendance, discipline, and educational plans, programs, and placements. Such a system enables not only individual student monitoring that enables early identification of at risk children, interventions, and transition support, but also disaggregated analysis of educational outcomes by student subgroups and categories.

For example, state assessment results and graduation and dropout rates can be disaggregated by students who have experienced alternative education settings. Information can be further disaggregated by gender, ethnicity/race, and other characteristics of students, such as having disabilities, being economically disadvantaged, or being limited English Proficient, migrant, or homeless. Disaggregated data analysis provides the information necessary for supporting at risk children and youth through identification of priority areas of need and strategic and coordinated use of resources.

A student placed in an alternative educational setting should arrive with a complete academic record and education history, which indicates courses, grade level, assessment results, individualized special education plan if appropriate, and educational and career goals and interests. In addition, the information provided to those educating and supporting the student in the alternative setting should include student supports being provided and those needed. These could include health related supports, counseling, and any mental health, substance abuse, or other therapeutic treatment. All of this information should be maintained while the student is in the alternative setting, in order that it may be provided to a receiving school upon release from the alternative setting, or upon transition to a "step down" alternative placement. The purpose of the development of a plan and record that follows the student and includes this information is to ensure the timely provision of appropriate educational programs and other supports to students, whether they are being placed in, or returning from, a juvenile correctional facility, a detention center, or a public or private alternative school.

2. What systems need to be involved in addressing issues for youth in alternate settings? How might they work together to better serve the educational needs of this population?

In the broadest sense, youth in alternative settings should be in the center of what should be interlocking systems that affect them at national, state, and local levels, including education, law enforcement, courts, juvenile justice and detention, social, economic, and health and mental health supports, and government. At the state level, development of re-enrollment regulations by the Virginia Board of Education and of post release mental health service transition regulations by the Virginia Board of Juvenile Justice illustrate the collaboration and alignment of systems necessary to ensure effective planning for the academic success and continuing improvement of incarcerated youth, or those in post dispositional detention programs.

The purpose of the re-enrollment regulations are to foster coordination and communication among court services units, school divisions, detention centers, juvenile correctional centers, the family, and the student in planning for the educational needs of students in transition to long term detention or incarceration and when released back into the community. They were developed through the work of a 16 member task force, including representatives of parents, citizens, and youth advocates, principals from general public, alternative, detention, and Department of Correctional Education schools, parole officers, a school division central office administrator, and representatives from the Departments of Education, Correctional Education, and Juvenile Justice. The committee met for over a year to develop the regulations for the Virginia Board of Education's consideration, identifying barriers and issues and the procedures necessary to overcome them. The implementation of the regulations was supported through statewide institutes, presentations, and training for all stakeholders. Continuing technical support and follow up is necessary to ensure that the regulations are being followed and used as planned. Continuing communication among the state agencies and among representatives of school divisions and detention and correctional education programs is also a necessary component

to ensure ongoing effectiveness. The regulations have provided a structure for promoting and requiring that communication.

The state regulations governing mental health, substance abuse, and therapeutic treatment services plans for incarcerated youth were also developed by a task force representing stage and local agencies. Members of the task force included the state Departments of Correctional Education, Education, Medical Assistance Services, Rehabilitative Services, Social Services, and Corrections. Other members included representatives from local community service boards, post-dispositional detention coordinators, local government, youth advocates, the General Assembly, and attorneys specializing in mental disabilities law. The group met for over a year, and asked for the advice and participation of community agency representatives to develop the regulations. The regulations also provide structure for an integrated approach to service transition, including requirements for local interagency memoranda of understanding, eligibility reviews, transition planning meetings, timelines, and the development of a mental health transition plan for the student.

The structure of the alternative educational program itself should reflect an alignment and integration of systems, from instruction and academic strategies to student supports, to the application of policies, to organizational management. A rigorous academic program that reflects state standards and includes analysis of data to provide individualized assistance and planning is one of the several overlapping systems. Learning cannot take place if barriers exist, and the counseling, behavioral management instruction, mentoring, health and mental health, and transition supports provided to students and families comprise the necessary student support system. Policies enacted within the educational program's administration, including expectations for behavior and hours of instruction, affect student outcomes. Organizational structure, including staffing ratios, training and professional development, information management systems, and culture and climate, provides the umbrella that can hinder or help student success. None of these "systems" should be considered in a vacuum, but should be aligned with a common goal of enabling student achievement.

U.S. CONGRESS,
[VIA FACSIMILE],
Washington, DC, March 17, 2009.

LEONARD DIXON, M.S., *Executive Director,*
Wayne County Juvenile Detention Facility, Detroit, MI.

DEAR MR. DIXON: Thank you for testifying at the March 12, 2009 Healthy Families and Communities Subcommittee and Judiciary Subcommittee on Crime, Terrorism and Homeland Security joint committee hearing on "Lost Education Opportunities in alternative settings."

Representative Carolyn McCarthy (D-NY), Chairwoman of the Healthy Families and Communities Subcommittee, has asked that you respond in writing to the following questions:

1. Throughout the hearing, we continuously heard that there is little to no comprehensive data on youth in alternate settings and their educational outcomes. What kind of data is needed to best address the needs of youth in alternate settings and their lost educational opportunities?

2. What systems need to be involved in addressing issues for youth in alternate settings? How might they work together to better serve the educational needs of this population?

Please send an electronic version of your written response to the questions to the Committee staff by close of business on Tuesday, March 24, 2009—the date on which the hearing record will close. If you have any questions, please do not hesitate to contact the Committee.

Sincerely,

GEORGE MILLER, *Chairman.*

U.S. CONGRESS,
[VIA FACSIMILE],
Washington, DC, March 17, 2009.

JANEEN STEEL, ESQ., *Executive Director,*
Learning Rights Law Center, Los Angeles, CA.

DEAR MS. STEEL: Thank you for testifying at the March 12, 2009 Healthy Families and Communities Subcommittee and Judiciary Subcommittee on Crime, Ter-

rorism and Homeland Security joint committee hearing on "Lost Education Opportunities in alternative settings."

Representative Carolyn McCarthy (D-NY), Chairwoman of the Healthy Families and Communities Subcommittee, has asked that you respond in writing to the following questions:

1. Throughout the hearing, we continuously heard that there is little to no comprehensive data on youth in alternate settings and their educational outcomes. What kind of data is needed to best address the needs of youth in alternate settings and their lost educational opportunities?

2. What systems need to be involved in addressing issues for youth in alternate settings? How might they work together to better serve the educational needs of this population?

Please send an electronic version of your written response to the questions to the Committee staff by close of business on Tuesday, March 24, 2009—the date on which the hearing record will close. If you have any questions, please do not hesitate to contact the Committee.

Sincerely,

GEORGE MILLER, *Chairman.*

Ms. Steel's Responses to Questions for the Record

Thank you again for allowing us to testify at the House Education and Labor Subcommittee Hearing on March 12, 2009, entitled Lost Education Opportunities in Alternative Settings.

Below are our responses to the additional questions posed to us, which were as follows: 1) What kind of data is needed to best address the needs of youth in alternative settings and their lost educational opportunities; and 2) What systems need to be involved in addressing the educational needs of this population? How might they work together to better serve the educational needs of this population?

As a component to answering these questions Learning Rights Law Center has also made specific recommendations to help prevent youth from ending up in alternative schools and ultimately preventing involvement in the juvenile justice system. Prevention is the best policy to pursue when addressing the lost educational opportunities that are a reality of alternative educational settings.

We are attaching several abstracts of reports that discuss the issues facing youth in alternative settings as well as articles about the expulsion rates facing pre-school children. (See Attachment A). These articles are not only informative, but provide the Committee with numerous resources of organizations working on behalf of youth. This information will hopefully be of use as the Committee analyzes its next steps.

Question #1: What kind of data is needed to best address the needs of youth in alternative settings and their lost educational opportunities?

At the hearing there was much testimony about why alternative educational settings are good and what it would take to make them better. Too often there is a working assumption that alternative education settings are necessary and that all students who attend them deserve to be there. As a threshold issue, we want to ensure that the Committee and all legislators first consider whether or not alternative education settings should exist in their current form, and if so, what narrow range of students should attend them and under what specific circumstances.

a. Are we all talking about the same schools/settings?

Not all states define alternate education schools the same way. This may partially explain the problem of data collection for alternative education settings. The term "alternative setting" can describe Charter and Magnet schools, but the "lost educational opportunities" are not happening in these alternative schools. When we are discussing "lost educational opportunities" we are discussing schools designed for: 1) expelled students; 2) students in detention facilities; 3) students transitioning back into community from juvenile hall, boot camps, or other detention settings; 4) students wrestling with truancy and other at-risk behavior; 5) pregnant and parenting students; 6) older students or those who need credit recovery; 7) students wanting independent study; and 7) special education eligible youth who are segregated because of their foster care status, delinquency status or because the public school will not provide the proper services (typically private and private non-profit schools).

As the Committee considers future action we urge you to keep in mind what kind of alternative school is being described or lauded by those who testify at hearings, lobby, who write articles. Following is an example. While there was testimony offered at the subcommittee hearing about the rigorous requirements of Juvenile Jus-

tice Alternative Education Programs (JJAEP) in Texas, the Committee did not have the opportunity to hear about the Disciplinary Alternative Education Program (DAEP) in Texas. DAEP run schools are also "alternative schools." In stark contrast to the JJAEP schools, whose structure and standard's based curriculum were discussed, DAEP schools have less structure and a shortened academic day. Therefore, the specific type of alternative school is relevant to any analysis or policy goal.

The alternative school settings I described are plagued with a variety of problems including:

1. Lack of oversight by the local school boards and state education agencies;
2. Lack of special education services and qualified special education teachers for youth with disabilities;
3. High turnover of teachers and absenteeism by school staff; and
4. Punitive behavior management rather than counseling and interventions that prevent and control negative behavior.

In regards to the alternative schools that are private/nonprofit, special education students are moved into these restrictive (and expensive) schools because sufficient mental health support is not available on comprehensive public school campuses. As a result, we recommend an increase in mental health (e.g. counseling) services on public school campuses and a relaxing of any restriction on federal mental health dollars that would impede funds going to school-based mental health.

b. What Data Is Needed?

Data is needed to determine the breakdown in the systems described in the next section. Data is needed for the following purposes: 1) To understand why push out occurs by looking at past practices by local education agencies with regard to alternative education students, including what preventative interventions were attempted (if any), and what rates of what types of students (race, age, disability, foster youth status, etc.) are being referred to alternative schools ; 2) To understand who is pushing these students out and for what reason through the collection of data on "feeder schools" to alternative educational settings; and 3) To understand the make-up of alternative schools by tracking what classes of students are pushed out into alternative settings (including the overrepresentation of youth of color).

There are three people who the Committee may be interested in speaking with in regards to data collection. First is Professor Denise Herz at Cal. State L.A. She is at the forefront of research on foster youth crossing over into the delinquency system. In her past investigations she has gathered information on risk and resiliency factors for increased delinquency, including how education fits in. Professor Herz is also familiar with evidenced based mental health services and can discuss what interventions have been proven to reduce at-risk and generally disruptive behavior.

Second, is Jackie Wong of the California Department of Education, Foster Youth Services. Ms. Wong is not only familiar with issues of foster youth and alternative schools, but she is also deeply involved in California's efforts to track students by assigning them a unique identifier. These measures all part of California's desires to obtain better data and Ms. Wong may be familiar with this state's successes and failures, which should guide any federal efforts to do the same.

For qualitative rather than quantitative data, the Committee may benefit from hearing the voices of youth who have been in alternative school settings. Kim McGillicudy "McGill" is one of the Directors at Youth Justice Coalition, a community-based group for at-risk youth. Ms. McGill works with many youth who have been in or are currently in alternative schools and she is often the voice for these youth. Additionally, Ms. McGill helps run a charter school that was started because of the failings of other alternative schools in the Los Angeles area.

1. Why Push Out Occurs—Review of Past Practices

Students who are in the foster care or juvenile justice system have usually faced a loss of school services, removals, discrimination and/or denial or lack of special education services. In addition, some foster youth have been denied services and supports by the controlling child welfare agency. These students should not be punished because of failures of the systems/agencies required to assist them.

To assist in understanding this issue there should be a federally mandated education review processes to increase accountability and to supplement the current legal standards. This review should include an evaluation of what has occurred prior to a student's placement at the alternative school. The review should also track transfers from one school to another (sometime called "Opportunity Transfers"), expulsions and placements in segregated special education program.

Also, youth currently in alternative schools should have their prior educational records reviewed and evaluated to understand their individual educational needs and determine past failures. To address this need, we suggest that each youth who has had contact with the juvenile justice system receive a full review of their past

educational history. This would require the system/agency to ensure that youth are not being punished for behaviors that were supposed to be addressed by the public school. This review would provide information regarding any failures by the school system and other agencies to identify undiagnosed disabilities.

Who Would Be Responsible for the Review?

School districts would be responsible for this review prior to expulsion, removals or placement in alternative settings including segregated settings for foster youth.

Probation departments would be responsible for review prior to recommending detention of any kind for first time offenders.

Social workers would have to review records to prevent youth crossing from the foster care system to the juvenile justice system.

In California the Rules of Court and the Welfare and Institutions Code Sections 241.1 do require some review, but it is not sufficient and these protections are not nationwide. (See Attachment B)

See Attachment C for Learning Rights Law Center description of projects that use a multidisciplinary approach to stop youth from being pushed into alternative settings or into the juvenile justice system: Crossover Youth Project and School to Prison Reversal Project

2. Who is Pushing Students Out and for What Reason—Data on "Feeder Schools"

Data is needed to determine the public schools that "feed" into alternative schools. Too often schools push out students willy nilly and in violation of their own local education agency's policies because there is little disincentive to get rid of youth labeled as "problem students". Neither local schools nor the local education agency can account for how many students were referred out, for what reason, what types of students this includes (e.g. race, age, disability) and perhaps most importantly, whether or not these students actually enrolled in an alternative school or simply fell between the cracks and are now truant.

3. Make-up of Students in Alternative Settings.

The data regarding the make-up of students in alternative settings is not tracked effectively. It is difficult to gauge why students entered the school and from what home school they arrived. Defining characteristics, like foster care or disability status, are also at times elusive. Also, statistics indicate that overwhelmingly youth of color are ending up in alternative education schools. As a result, data should be kept on these traits, as well as other suspect classes to monitor whether or not education laws (and federal education dollars) are being used to discriminate.

Question #2: What systems need to be involved in addressing the educational needs of this population? How might they work together to better serve the educational needs of this population?

Preventing placement in alternative schools should be our first plan of action. This requires collaboration with the multiple systems that work with youth who are in or at-risk of involvement in the juvenile justice system or in the foster care system. First, we need to define the systems involved and discuss how they can collaborate. Because we are most familiar with California we are listing the agencies/systems in California and how they can work better with the other systems.

1. Public School System

Public schools should utilize their university partners to enhance their ability to evaluate their programs to determine their effectiveness. Schools should work more closely with community-based organizations serving youth. Structurally, states should provide more funding opportunities for community-based organizations to work with schools.

Every school should know the community-based organizations in their community. There are resources in the community, but they are under-utilized by public schools, who often work in silos. Also, improving partnerships with organizations rooted in the community can also help to decrease racial disparities and discrimination.

Students with learning disabilities must be provided with research-based services, accommodations, and technology support. Laws must be changed or enhanced to reiterate the requirement that federal dollars be used on research-based services (which exist presently), and that those programs must be implemented with fidelity.

We know that the harmful effects of school exclusion policies are not evenly distributed among the student population; students of color are more likely to be suspended or removed. Schools must work on deliberate plans to go beyond data analysis of racial disparities to take actual steps to decrease the number of minority youth at risk of being placed in alternative educational settings.

If schools implement a school-wide behavior management system and structure that educates based on individual needs, they can likely prevent both individual ex-

clusion and the overrepresentation of youth of color who are systematically diagnosed as emotionally disturbed.

2. Community-Based Organizations

In addition to Learning Rights Law Center there are numerous agencies that work with at-risk youth. Each community should investigate the community organizations that work with at-risk youth.

3. Probation System

The department of probation works with youth involved in the juvenile justice system. In Los Angeles, the Los Angeles County Probation Department provides supervision both in schools, in the community and in detention facilities. Probation should work with both community based organizations and schools to prevent the entry into the system.

4. Mental Health Systems

Mental health systems include services provided in the community through publicly funded insurance programs (e.g. Medic-Aid and Medi-Cal) special education and non-profit agencies. More dollars should be freed up for community-based mental health services (which have been proven to be more effective and save dollars). Federal laws and regulations should state a preference or requirement for community-based programs that are evidence-based. Mental health services on-site at public schools should be increased to prevent the need for alternative educational settings.

5. Child Welfare Agencies—Department of Children and Family Services (DCFS)

Social workers provide services and support to children who have been removed from their parents for abuse and/or neglect. If services are withheld or the incorrect support/intervention is implemented, behavior can escalate (Note, Denise Herz, mentioned above is the expert on this topic). As a result the Child Welfare system must be required to use evidence-based interventions in order to prevent the need for costly alternative schools, especially special education schools for emotionally disturbed youth (which are filled with under-served foster youth). Child welfare agencies must better coordinate with the public schools to ensure quick enrollment and school stability. Both of these are currently guaranteed by federal law (McKinney Vento Act) but rarely enforced.

6. Universities

At Loyola Law School in Los Angeles and at the UCLA School of Law, there are juvenile justice programs to address the needs of court involved youth. Learning Rights is the partner organization with UCLA. These partnerships multiply the efficacy of resources. As a result there should be an increase in partnerships with universities, which can provide research, best practices, expertise, and data analysis support. Universities should coordinate with hospitals, mental health programs, and other service agencies. Any federal funding limitations that constrain this exchange should be lifted.

#3 LEARNING RIGHTS LAW CENTER RECOMMENDATIONS TO PREVENT THE NEED FOR ALTERNATIVE EDUCATION SCHOOLS

Based on our experience and expertise of working with court-involved youth for nine years we are making the following recommendations to ensure youth are getting the education services in the public school and prevent further placement in alternative settings.

a. Recommendations for legislative change:

i. Amend the Individuals with Disabilities Education Improvement Act (IDEIA) to list specific related services in the area of mental health that are evidence based (e.g. wraparound, multi-systemic therapy, therapeutic behavior services). See 34 CFR 300.34.

ii. Amend No Child Left Behind (NCLB), Part D, "Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk" to give more "teeth" to requirements for behavior services to assist at-risk youth.

Part D requires that states participating must require that the Local Education Agencies (LEA) must remain financially responsible for the education of youth, even if they are expelled and transferred to an alternative school.

iii. Mandate educational interventions instead of suspensions and removals.

Education should not merely be an option for students, but rather a fundamental right. School districts should provide mandatory, quality educational programs in the least restrictive environment rather than suspending or removing students for

behavior that can be through an educational intervention. The use of suspensions and removals is not an adequate remedy to address student behavioral difficulties.

iv. Implement and enforce school-wide behavior management structures.

There must be researched based structures in schools to address behavior and that address the individual youth. A student who is struggling academically, socially and emotionally may display behavior that could be addressed. Each student should have a behavior management plan if needed to address their social and emotional needs, address their academic needs, and assist them with actually being successful students. There is nothing in the law that supports this. We currently have laws that are punitive in nature, and there is no guidance for schools to be supportive of students' needs. Currently, for students with special needs, there are legally mandated requirements to address behavior BUT these requirements are currently not enforced.

v. Support teachers to prevent turnover and absences to ensure consistency in educational programs.

There must be some accountability structure in place to address the incredible turnover and absenteeism in high poverty schools. We must find out how to keep teachers and support them.

vi. Expand school counseling and social work services in comprehensive campuses.

Currently, school counselors are overwhelmed with their responsibilities. The national average for high schools is 229 students per counselor, while in the K-8 system has an alarming 882:1 ratio. We should increase the capacity of school counselors at school sites to not only address students' ability to function in the school setting, but also to provide the safety net for students. Students turn to counselors to engage in confidential conversations with them to discuss issues that they may have nowhere else to turn.

Moreover, the increased presence of social workers on school campuses can benefit students. Social workers can work on the development of community resources to help the family. They can also bring community resources to the schools.

vii. Assess educational services prior to transfer or removal.

There should be a written plan for every student prior to any transfer or removal. Currently, this is not happening. We need to strengthen the laws regarding preventive measures that need to be taken before transfer or removal.

Thank you again for the opportunity to provide information to the Committee. We are happy to provide any additional information you may need.

U.S. CONGRESS,
[VIA FACSIMILE],
Washington, DC, March 17, 2009.

Dr. ROBERT WHITMORE, *Chief Executive Officer,*
Manito, Inc., Chambersburg, PA.

DEAR DR. WHITMORE: Thank you for testifying at the March 12, 2009 Healthy Families and Communities Subcommittee and Judiciary Subcommittee on Crime, Terrorism and Homeland Security joint committee hearing on "Lost Education Opportunities in alternative settings."

Representative Carolyn McCarthy (D-NY), Chairwoman of the Healthy Families and Communities Subcommittee, has asked that you respond in writing to the following questions:

1. Throughout the hearing, we continuously heard that there is little to no comprehensive data on youth in alternate settings and their educational outcomes. What kind of data is needed to best address the needs of youth in alternate settings and their lost educational opportunities?

2. What systems need to be involved in addressing issues for youth in alternate settings? How might they work together to better serve the educational needs of this population?

Please send an electronic version of your written response to the questions to the Committee staff by close of business on Tuesday, March 24, 2009—the date on which the hearing record will close. If you have any questions, please do not hesitate to contact the Committee.

Sincerely,

GEORGE MILLER, *Chairman.*

Dr. Whitmore's Responses to Questions for the Record

Question 1: "Throughout the hearing, we continuously heard that there is little to no comprehensive data on youth in alternative settings and their educational out-

comes. What kind of data is needed to best address the needs of youth in alternate settings and their lost educational opportunities?

It has been my experience that youth placed in alternative settings are usually placed for very short periods of time. This time period can be from a few days to usually not more than six months. The focus of this placement is usually for behavior or treatment reasons and addressing these issues is more important to what is occurring with the child than how she/he is progressing academically. These placements are already tracked and outcomes measured through the juvenile justice or mental health systems.

Most students, when they enter alternative placements, are behind academically. Often a student has also been in multiple alternative placements and there is a lack of educational records of the student's progress. School records are often incomplete and have been shifted between placement settings. The responsibility of the alternative placement setting should be to compile an accurate academic record and academic achievement level for the student. Once this is completed the educational focus should be on improving the reading, writing, and math proficiency levels of the student. When the child leaves the alternative placement they should have an up to date academic transcript and educational plan, and be able to show improvement in reading and math scores on a standardized assessment tool.

Question 2: What systems need to be involved in addressing issues for youth in alternate settings? How might they work together to better serve the educational needs of this population?

Every aspect of the whole child should be addressed when the child is placed in an alternate setting. The systems that may impact these children include the educational system, mental health system, juvenile justice system, children and youth social service system, and public health system. The needs presented by these children are complex and interconnected. The total needs of the whole child should be our focus and this can not be addressed by categorical systems.

We need to develop a plan to deliver seamless holistic services to children at risk. A child's presenting problem(s) should be addressed regardless of labels, diagnosis, what system a child falls into, or funding. As a provider of services to these lost children, I see a consistent shifting of responsibility for children's care between competing systems and competing funding streams. Many times children do not receive services because a particular system does not want to pay for the services. This does not help the child and the problems continue to escalate.

The best way to deliver holistic and seamless services to children is to re-design the way we deliver services. Categorical systems should operate at the federal level to provide vision, research, and the development of promising practices and evidence based programs for addressing specific needs of children. At the state and local level categorical systems should be eliminated. At the state level a Department of Children could be established that provides a comprehensive, seamless and holistic approach to children. This Department would integrate all of the research and promising practices developed for children and provide resources and guidance to the local providers of services.

At the local level services are delivered to children and their families. The school should be the central location and depository of all services to children. Each school district should have a comprehensive array of services that can be available for children. This continuum of services should include education services, mental health services, family counseling, drug and alcohol counseling, public health services, and housing and poverty assistance. Children can be assessed to determine risk and protective factors that are prevalent within their lives. An intervention plan of supported services can be developed for the child that addresses the identified risk factors and reinforces protective factors. These services will be available within the school environment and supported with non-categorical funding.

These thoughts are not presented with an accompanying request for allocating more money at the federal level. Our existing services are inefficient and ineffective in the delivery of educational and supportive services to children in alternate placements. We are spending excessive money and children are getting lost because they are bounced between systems and constant discussion about who is going to take responsibility for their care. Creating a seamless integrated and comprehensive network of services for children that are needs focused and delivered from the school system will create a wonderful support for children and prevent them from becoming lost. This seamless system would also be more cost effective, more efficient, and allow us to do more prevention work with younger children.

Thank you for this opportunity to comment.

[Additional submissions of Ms. Steel follow:]

ABSTRACTS OF ARTICLES

Article	Article Abstract/Key Facts
1	GAO., Child Welfare & Juvenile Justice: Federal Agencies Could Play a stronger Role in Helping States Reduce the Number of Children Placed Solely to Obtain Mental Health Services. Findings: • In 2001 (in 19 states, 30 counties) parents placed over 12,700 children into the child welfare or juvenile justice systems so that these children could receive mental health services. (placement) • Nationwide number likely higher • Child welfare or JJ system not designed to serve children who have not been abused or neglected or who have not committed a delinquent act. • Poor health insurance, inadequate supplies of mental health (MH) services, limited availability of services through MH agencies and schools, & difficulties meeting eligibility rules—influenced such placement. • Practices that might reduce such placements: reduce cost of or fund M services, improving access to MH services, and expanding array of available services. Recommendations: • Health & Human Serv. (HHS) & Dept. of Justice (DOJ) should consider feasibility of tracking children in such placements. • HHS, DOJ & Dept. of Ed should develop an interagency working group to identify causes of misunderstandings by Officials & create action plan. • These agencies should also continue to encourage states to evaluate the programs that they fund & determine effective means of disseminating the results of this and other studies. Quotes: • In some cases, parents must choose to keep their children at home without receiving the MH or supportive services they need or to remove them from their home and seek alternative living arrangements by placing them in the child welfare or JJ system to obtain MH services. • More likely to be adolescent boys between the age of 13 and 18.
2	Truman Joseph., Disability & Delinquency: How Failures to Identify, Accommodate and Serve Youth with Education-Related Disabilities Lead to Their Disproportionate Representation in the Delinquency System Quotes: • The Delinquency System disproportionately attracts children with education-related disabilities both because those children are more likely to engage in delinquent conduct than their non-disabled peers & because the adults responsible for educational & delinquency systems are more likely to label and treat children with educational-related disabilities as delinquent. • Of the 100k children who are arrested & incarcerated each year as many as 50% suffer from mental or emotional disturbance. (4) • Jails unprepared to deal with these kids. Medication not given or monitored and guards do not know how to respond to these kids. • Failure of some schools system personnel to find, evaluate and serve children with disabilities fuels the over-representation of disabled children in the JJ system.
3	Dignity in Schools Campaign., The Right to Education in the Juvenile and Criminal Justice Systems in the US. Introduction • Education is a fundamental human right • Nearly every state constitution recognizes the right of education. • US commitment to education incarcerated persons has varied through history. • Under Human rights law U.S has made international commitments. School to Prison Pipelin • School system has become a key entry point into the JJ system. • Suspensions & expulsions are shown to increase the likelihood of school dropout incarceration and police presence in school has criminalized an array of juvenile behavior resulting in arrest that would previously be handled by administrators. • Mental health issues are addressed through punishment rather than treatment. Incarceration rates. • Of the 100,000 children who are arrested 50% have some mental or emotional issue.

ABSTRACTS OF ARTICLES—Continued

Article	Article Abstract/Key Facts
4	Ryan, Joseph., Marshall, Jane Marie., Herz, Denise., Hernandez, Pedro.,Juvenile Delinquency in Child Welfare: Investigating Group Home Effects The study investigates the relationship between group home placements in child welfare and the risk of delinquency. The results indicate that the relative risk of delinquency is approximately two and one half times greater for adolescents with at least one group home placement as compared with youth in foster care settings. This finding raises serious questions about the use of group homes for victims of physical abuse and neglect.
5	Ed Source., California's Continuation Schools • More than 10% of California's Public H.S students attend some kind of ''alternative'' program • Often identified as ''struggling'' within a regular HS and in danger of not graduating on time or dropping out. • Four Main Types: Continuation Schools; Community Day Schools, County run community schools; independent study programs • Continuation school students more likely to drop out • Students of these schools more likely to be minorities. • Students more likely to be in foster care or living with relative other than parent • Regulatory framework ambiguous and fragmented.
6	Gilliam., Pre-Kindergarteners Left Behind: Expulsion Rates in State Pre-K Programs • Pre-k students are expelled at a rate more than three times that of their older peers in the k-12 grades • Although rates of expulsion vary widely among the 40 states funding pre-k, state expulsions rates for pre-k exceed those in k-12 classes in all but three states. • Pre-k expulsion rates vary by classroom setting. Expulsion lowest in classrooms located in public schools and Head Start and highest in faith-affiliated centers and for-profit child care. • The likelihood of expulsion decreases significantly with access to classroom-based behavioral consultation.
7	Ramsey., Analysis of Preschool Expulsion Intoduction • K-12 compulsory • California children not required to go to pre-k • Pre-K students do not have the same sort of legal protections as K-12 California's Pre-School Framework • The variety of programs available means that different laws and regulations apply to each. Such as staff-child ratios, definitions of preschool child age, staff qualifications and program contact. • State funded pre-schools can expel children for both ''behavioral and non-behavioral reasons''—Behavior that endanger the health and safety of other children or staff or Late pick ups or excessive unexcused absences.

California Rules of Court and Welfare and Institutions Code 241.1

1. 2009 California Rules of Court to Ensure Education Issues Are Addressed by the Juvenile Court

Rule 5.651. Educational rights of children before the juvenile court (a) Applicability (§§ 213.5, 319, 358, 358.1, 364, 366.21, 366.22, 366.23, 366.26, 366.28, 366.3, 727.2, 11404.1; Gov. Code, § 7579.1; 20 U.S.C. § 1400 et seq.; 29 U.S.C. § 794; 42 U.S.C. § 12101 et seq.) This rule has the following applicability and incorporates the rights established by the following laws: (1) The rule applies to all children for whom petitions have been filed under section 300, 601, or 602; (2) The rule applies to every hearing before the court affecting or related to the child's education, including detention, jurisdiction, disposition, and all regularly scheduled review hearings; and (3) The rule incorporates the rights established by the following laws: the Individuals With Disabilities Education Act (20 U.S.C. § 1400 et seq.), the Americans With Disabilities Act (42 U.S.C. § 12101 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), and the education rights of foster children as provided in Assembly Bill 490 (Stats. 2003, ch. 862) and Assembly Bill 1858 (Stats. 2004, ch. 914).

(b) Conduct of hearings related to, or that may affect, a child's education (1) To the extent the information is available, at the initial or detention hearing the court must consider: (A) Who holds educational rights; (B) If the child was enrolled in, and is attending, the child's school of origin as defined in Education Code section 48853.5(e); (C) If the child is no longer attending the school of origin, whether; (i) In accordance with the child's best interest, the educational liaison, as defined in Education Code section 48853.5(b), in consultation with, and with the agreement of,

the child and the parent or guardian or other educational representative, recommends that the child's right to attend the school of origin be waived; (ii) Prior to making any recommendation to move a foster child from his or her school of origin, the educational liaison provided the child and the person holding the right to make educational decisions for the child with a written explanation stating the basis for the recommendation and how this recommendation serves the foster child's best interest as provided in Education Code section 48853.5(d)(3); (iii) Without obtaining a waiver, the child was not afforded his or her right to attend his or her school of origin under Education Code section 48853.5(d)(1); and (iv) The child was immediately enrolled in the new school as provided in Education Code section 48853.5(d)(4). (D) Whether the parent's or guardian's educational rights should be temporarily limited; and (E) Taking into account other statutory considerations regarding placement, whether the out-of-home placement: (i) Is the environment best suited to meet the unique needs of children with disabilities and to serve the child's best interest if he or she has a disability; and (ii) Promotes educational stability through proximity to the child's school.

(2) At the disposition hearing and at all subsequent hearings provided for in (a), the juvenile court must address and determine the child's general and special education needs, identify a plan for meeting those needs, and provide a clear, written statement using Findings and Orders Limiting Right to Make Educational Decisions for the Child, Appointing Educational Representative, and Determining Child's Educational Needs (form JV-535), specifying the person who holds the educational rights for the child. The court's findings and orders must address the following:

(A) Whether the child's educational, physical, mental health, and developmental needs are being met; (B) Any services, assessments, or evaluations, including those for special education and related services, that the child may need; (C) Who is directed to take the necessary steps for the child to begin receiving any necessary assessments, evaluations, or services; (D) If the child's educational placement changed during the reporting period, whether (i) The child's educational records, including any evaluations of a child with a disability, were transferred to the new educational placement within two business days of the request for the child's enrollment in the new educational placement; and (ii) The child is enrolled in and attending school; and (E) Whether the parent's or guardian's educational rights should be limited; (i) If the court finds the parent's or guardian's educational rights should not be limited, the court must direct the parent to his or her rights and responsibilities in regard to the child's education as provided in rule 5.650(e) and (f); or (ii) If the court finds the parent's or guardian's educational rights should be limited, the court must determine who will hold the child's educational rights. The court must explain to the parent or guardian why the court is limiting his or her educational rights and must direct the parent or guardian to the rights and responsibilities of the education representative as provided in rule 5.650(e) and (f).

(c) Reports for hearings related to, or that may affect, a child's education This subdivision applies at all hearings, including disposition and joint assessment hearings. The court must ensure that, to the extent the information was available, the social worker and the probation officer provided the following information in the report for the hearing: (1) The child's age, behavior, educational and developmental achievement, and any discrepancies in achievement in education and in cognitive, physical, and emotional development; (2) Identification of the child's educational, physical, mental health, or developmental needs; (3) Whether the child is participating in developmentally appropriate extracurricular and social activities; (4) Whether the child is attending a comprehensive, regular, public or private school; (5) Whether the child may have physical, mental, or learning-related disabilities or other special education needs and is in need of or is already receiving special education and related services as provided by the laws incorporated in rule 5.651(a)(3); (6) If the child is 0 to 3 years old, whether the child may be eligible for or is already receiving services available under the California Early Intervention Services Act (Gov. Code, § 95000 et seq.), and whether those services are appropriate; (7) If the child is between 3 and 5 years and is or may be eligible for special education services, whether the child is receiving the early educational opportunities provided by Education Code section 56001; (8) Whether the child is receiving appropriate services through a current individualized education program; (9) Whether the child is or may be eligible for regional center services or is already receiving regional center services. Copies of the current individual family plan as defined in section 1436 under title 20 of the United States Code and the current life quality assessments as defined in Welfare and Institutions Code section 4570 should be attached to the report; (10) Whether the parent's or guardian's educational rights have been or should be limited; (11) If the social worker or probation officer recommends limiting the parent's or guardian's right to make educational decisions, the reasons those

rights should be limited and the actions that the parent or guardian may take to restore those rights if they are limited; (12) If the parent's or guardian's educational rights have been limited, who holds the child's educational rights; (13) Recommendations and case plan goals to meet the child's identified educational, physical, mental health, and developmental needs; (14) Whether any orders to direct an appropriate person to take the necessary steps for the child to begin receiving assessments, evaluations, or services, including those for special education and related services, are requested; and; (15) In the case of joint assessments, a separate statement by each of the two departments regarding whether the respective social worker and probation officer believe that the child may have a disability and whether the child is in need of special education and related services or requires evaluation as required by title 20 United States Code section 1412(a)(3), Education Code section 56425, or section 504 of the Rehabilitation Act of 1973.

(d) Continuances or stay of jurisdiction If any continuance provided for in rules 5.686 and 5.782 or stay of jurisdiction provided for in rule 5.645 is granted, the child must continue to receive all services or accommodations required by the laws incorporated in rule 5.651(a)(3).

(e) Change of placement affecting the child's right to attend the school of origin This subdivision applies to all changes of placement including the initial placement and all subsequent changes of placement. (1) At any hearing that relates to or may affect the child's education and that follows a removal of the child from the school of origin the court must find that: (A) The social worker or probation officer notified the court, the child's attorney, and the educational representative or surrogate parent that the proposed placement or change of placement would result in a removal of the child from the child's school of origin. The court must find that the notice was provided within 24 hours, excluding nonjudicial days, of the social worker's or probation officer's determination that the proposed change of placement would result in removal of the child from the school of origin. (B) If the child had a disability and an active individualized education program prior to removal, the social worker or probation officer, at least 10 days before the change of placement, notified in writing the local educational agency that provided a special education program for the child prior to removal and the receiving special education local plan area, as defined in Government Code section 7579.1, of the impending change of placement. (2) After receipt of the notice in (1): (A) The child's attorney must, as appropriate, discuss the proposed move from the school of origin with the child and the person who holds educational rights. The child's attorney may request a hearing by filing Request for Hearing Regarding Child's Education (form JV-539). If requesting a hearing, the child's attorney must: (i) File form JV-539 no later than two court days after receipt of the notice in (1); and (ii) Provide notice of the court date, which will be no later than seven calendar days after the form was filed, to the parents or guardians, unless otherwise indicated on form JV-535; the social worker; the probation officer; the educational representative or surrogate parent; the foster youth liaison, as defined in Education Code section 48853.5; the Court Appointed Special Advocate (CASA) volunteer; and all other persons required by section 293. (B) The person who holds educational rights may request a hearing by filing form JV-539 no later than two court days after receipt of the notice in (1). After receipt of the form, the clerk must notify the persons in (e)(2)(A)(ii) of the hearing date. (C) The court on its own motion may direct the clerk to set a hearing. (3) If removal from the school of origin is disputed, the child must be allowed to remain in the school of origin pending this hearing and pending any disagreement between the child, parent, guardian, or educational representative and the school district. (4) If the court, the child's attorney, or the person who holds educational rights requests a hearing, at the hearing the court must find that the social worker or probation officer provided a report no later than two court days after form JV-539 was filed and that the report included the information required by (b)(1)(C)(i) and (ii) and: (A) Whether the foster child has been allowed to continue his or her education in the school of origin for the duration of the academic school year; (B) Whether a dispute exists regarding the request of a foster child to remain in the school of origin and whether the foster child has been afforded the right to remain in the school of origin pending resolution of the dispute; (C) Information addressing whether the information sharing and other requirements in section 16501.1(c)(2) and Education Code section 49069.5 have been followed; (D) Information addressing how the proposed change serves the best interest of the child; (E) responses to the proposed change of placement from the child if over 10 years old, the child's attorney, the parent or guardian, the foster youth liaison, as defined in Education Code section 48853.5, and the child's CASA volunteer, specifying whether each person agrees or disagrees with the proposed change and, if any person disagrees, stating why; (F) A statement from the person holding educational rights regarding whether the proposed change of

placement is in the child's best interest and what efforts have been made to keep the child in the school of origin; and (G) A statement from the social worker or probation officer confirming that the child has not been segregated in a separate school, or in a separate program within a school, based on the child's status as a child in foster care.

(f) Court review of proposed change of placement affecting the child's right to attend the school of origin (1) At the hearing set under (e)(2), the court must: (A) Determine whether the proposed placement meets the requirements of this rule and Education Code sections 48853.5 and 49069.5 and whether the proposed plan is based on the best interest of the child; (B) Determine what actions are necessary to ensure the child's educational and disability rights; and (C) Make the necessary findings and orders to enforce these rights, which may include an order to set a hearing under section 362 to join the necessary agencies regarding provision of services, including the provision of transportation services, so that the child may remain in his or her school of origin. (2) When considering whether it is in the child's best interest to remain in the school of origin, the court must consider the following: (A) Whether the parent, guardian, or other educational representative believes that remaining in the school of origin is in the child's best interest; (B) How the proposed change of placement will affect the stability of the child's school placement and the child's access to academic resources, services, and extracurricular and enrichment activities; (C) Whether the proposed school placement would allow the child to be placed in the least restrictive educational program; and (D) Whether the child has the educational supports necessary, including those for special education and related services, to meet state academic achievement standards. (3) The court may make its findings and orders on Findings and Orders Regarding Transfer From School of Origin (form JV-538). Rule 5.651 adopted effective January 1, 2008.

Advisory Committee Comment

This rule incorporates the requirement of, and rights established by, Assembly Bill 490 (Steinberg; Stats. 2003, ch. 862), Assembly Bill 1858 (Steinberg; Stats. 2004, ch. 914), the Individuals With Disabilities Education Act (IDEA), the Americans With Disabilities Act (ADA), and section 504 of the Rehabilitation Act of 1973. This rule does not limit these requirements or rights. To the extent necessary, this rule establishes procedures to make these laws meaningful to children in foster care.

With the passage of Assembly Bill 490, a child in, or at risk of entering, foster care has a statutory right to a meaningful opportunity to meet the state's academic achievement standards to which all students are held. To afford the child this right, the juvenile court, advocates, placing agencies, care providers, and educators must work together to maintain stable school placements and ensure that the child is placed in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to other students. This rule, sections 362 and 727, and rule 5.575 provide procedures for ensuring that the child's educational needs are met.

Congress has found that improving the educational performance of children with disabilities is an essential prerequisite to ensuring their equality of opportunity, full participation in education, and economic self-sufficiency. Children in foster care are disproportionately represented in the population of children with disabilities and inherently face systemic challenges to attaining self-sufficiency. Children in foster care have rights arising out of the IDEA, the ADA, and section 504 of the Rehabilitation Act of 1973. To comply with federal requirements regarding the identification of children with disabilities and the provision of services to those children who qualify, the court, parent or guardian, placing agency, attorneys, CASA volunteer, local education agencies, and educational representatives must affirmatively address the child's educational needs. The court must continually inquire about the education of the child and the progress being made to enforce any rights the child has under these laws.

2. Protections for Foster Youth At-Risk of Crossing Over Into the Delinquency System

California Welfare and Institutions Code Sec 241.1.

(a) Whenever a minor appears to come within the description of both Section 300 and Section 601 or 602, the county probation department and the child welfare services department shall, pursuant to a jointly developed written protocol described in subdivision (b), initially determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court with the petition that is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. Any other juvenile court having jurisdiction over the minor shall receive notice from the

court, within five calendar days, of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented.

(b) The probation department and the child welfare services department in each county shall jointly develop a written protocol to ensure appropriate local coordination in the assessment of a minor described in subdivision (a), and the development of recommendations by these departments for consideration by the juvenile court. These protocols shall require, which requirements shall not be limited to, consideration of the nature of the referral, the age of the minor, the prior record of the minor's parents for child abuse, the prior record of the minor for out-of-control or delinquent behavior, the parents' cooperation with the minor's school, the minor's functioning at school, the nature of the minor's home environment, and the records of other agencies which have been involved with the minor and his or her family. The protocols also shall contain provisions for resolution of disagreements between the probation and child welfare services departments regarding the need for dependency or ward status and provisions for determining the circumstances under which a new petition should be filed to change the minor's status.

(d) Except as provided in subdivision (e), nothing in this section shall be construed to authorize the filing of a petition or petitions, or the entry of an order by the juvenile court, to make a minor simultaneously both a dependent child and a ward of the court.

(e) Notwithstanding the provisions of subdivision (d), the probation department and the child welfare services department, in consultation with the presiding judge of the juvenile court, in any county may create a jointly written protocol to allow the county probation department and the child welfare services department to jointly assess and produce a recommendation that the child be designated as a dual status child, allowing the child to be simultaneously a dependent child and a ward of the court. This protocol shall be signed by the chief probation officer, the director of the county social services agency, and the presiding judge of the juvenile court prior to its implementation. No juvenile court may order that a child is simultaneously a dependent child and a ward of the court pursuant to this subdivision unless and until the required protocol has been created and entered into. This protocol shall include: (1) A description of the process to be used to determine whether the child is eligible to be designated as a dual status child. (2) A description of the procedure by which the probation department and the child welfare services department will assess the necessity for dual status for specified children and the process to make joint recommendations for the court's consideration prior to making a determination under this section. These recommendations shall ensure a seamless transition from wardship to dependency jurisdiction, as appropriate, so that services to the child are not disrupted upon termination of the wardship. (3) A provision for ensuring communication between the judges who hear petitions concerning children for whom dependency jurisdiction has been suspended while they are within the jurisdiction of the juvenile court pursuant to Section 601 or 602. A judge may communicate by providing a copy of any reports filed pursuant to Section 727.2 concerning a ward to a court that has jurisdiction over dependency proceedings concerning the child. (4) A plan to collect data in order to evaluate the protocol pursuant to Section 241.2.

Foster Care Education Advocacy—Crossover Youth Project

Foster youth face unending obstacles to obtaining consistent education services and are many times segregated into special education schools rather than education in the public education system with their peers. As a result, LRLC provides direct education advocacy to ensure foster youth are not segregated into special education schools and also provides support with the Crossover Youth Project, which is outlined below.

Crossover Youth Project

Learning Rights Crossover Youth Project was created when LRLC was asked to participate in the AB129 pilot program sponsored by the Los Angeles County Juvenile Court system. The goal of the pilot is to prevent "at-risk youth" in the foster care system from "crossing over" to the delinquency system by offering a multidisciplinary approach to evaluating their needs. A multidisciplinary team ("MDT") including representatives from the Los Angeles County Department of Child and Family Services ("DCFS"), the Probation Department, and the Department of Mental Health, a placement specialist from the Los Angeles County Department of Child and Family Services, and an educational specialist from LRLC was established to

evaluate the needs of youth referred to the program, make recommendations regarding placement and services deemed appropriate for the youth, and monitor the implementation of the recommendations.

As a member of the MDT, LRLC evaluates the educational history of youth referred to the program and creates a report detailing the youth's education history, suspected educational needs, and potential concerns regarding the youth's current educational placement and services. Learning Rights then makes recommendations for improvement and monitors implementation of the recommendations by providing technical assistance to social workers, probation officers, and education consultants hired by DCFS.

The AB129 pilot program began accepting referrals in May of 2007. Since then some preliminary statistics have been gathered for 25 youth receiving services from the MDT and a control group of 25 youth not receiving services from the MDT. This data suggests that basic educational facts necessary to ensure a youth is receiving appropriate educational services are not being gathered for at-risk foster youth not involved in the pilot program. 80% of the control group youth did not have an education rights holder identified. When a youth's parents are not involved in their life, an education rights holder must be identified to make educational decisions for the youth. These decisions include requesting and consenting to educational assessments and changes in placement. Only 10% of youth involved in the pilot did not have an education rights holder identified.

Additionally, over 60% of the youth involved in the pilot were identified as having irregular school changes. This includes changes that occur at irregular times during the school year for either behavior concerns or placement transfers. This does not include changes that occur at the end of the school year for reasons such as graduating from middle or elementary school. Despite the age and background similarities of the control group and the youth involved in the pilot, only 25% of the control group youth were identified as having irregular school changes. This suggests not that they actually had fewer irregular school changes, but that fewer changes were identified for them, meaning their educational history was not evaluated as thoroughly.

Finally, while nearly 50% of the youth involved in the pilot were identified as eligible for special education services, only 30% of youth not involved in the pilot were identified as eligible for special education services. Again, this tends to suggest not that fewer youth were actually eligible for special education, but that fewer youth were identified by the foster care system as eligible, meaning, again, that their educational history was not evaluated as thoroughly.

These statistics show that without the presence of Learning Rights on the MDT, the educational needs of this population would continue to be overlooked.

Although data from the pilot program is still being collected, to date, no youth involved in the pilot program have "crossed-over" from the dependency system to the delinquency system.

Education Not Incarceration—School to Prison Pipeline Reversal Project

LRLC provides direct advocacy to youth involved in the juvenile justice system. As part of our advocacy we have investigated the schools in the juvenile halls and camps throughout Los Angeles. We participate in the Education Reform Committee with the Probation Department. We advocate for youth who are detained to have appropriate education services. Two programs which service youth in the juvenile justice system will be outlined below:

UCLA Juvenile Justice Partnership Project

LRLC is a community partner of UCLA. Through the Juvenile Justice Project, UCLA School of Law Professor Jyoti Nanda jointly supervises law students with LRLC staff members to address the needs of youth involved in the juvenile justice system.

Los Angeles County has one of the highest youth incarceration rates in the country. Up to 90% of the county's juvenile justice youth are Latino or African American, and up to 70% of incarcerated youth nationally are said to have some kind of disability. In recent reports, the Department of Justice (DOJ) has highlighted the need for community based partnership programs as a viable option to lower incarceration and recidivism rates. In response to this need, the Los Angeles Probation Commission, acting under the Board of Supervisors, is affirmatively committed to implementing community-based measures that focus on prevention and avert entrance into the juvenile justice system rather than on punitive strategies. The purpose of the Juvenile Justice Project (JJP) is to prevent entry into the juvenile justice system. Utilizing the resources of UCLA Law School, the JJP will alleviate demand for critical services and create diverse career options for UC-LAW graduates.

The JJP will provide law students with critical practical experience in an area of unprecedented need. Students will research the juvenile justice system in order to examine pertinent civil rights issues and to publish effective advocacy tools for parents of at-risk youth. Students will also engage in educational advocacy for disadvantaged, low-income, special needs children. The JJP will culminate with student research presentations at forums such as the UCLA Critical Race Symposium to promote cross-disciplinary community dialogue about civil rights issues relevant to the delinquency system and to train educational advocates.

The School to Prison Reversal Project

The School-to-Prison Pipeline Reversal Project ("Reversal Project") is a pilot project being launched at Barry J. Nidorf Juvenile Hall and Sylmar Juvenile Court. The project aims to address the staggering numbers of youth with undiagnosed or untreated mental health concerns and/or learning disabilities entering the juvenile justice system. The project utilizes a collaborative multi-disciplinary approach, bringing together the expertise of Child and Family Guidance Center, a well-established San Fernando Valley based mental health provider, and LRLC to assess and identify the unique socio-emotional, mental health and educational needs of San Fernando Valley youth charged with "low risk" crimes.

Eligibility Criteria

The Reversal project is limited to youth residing in the San Fernando Valley Area who are considered low risk offenders (i.e non 707(b) felony offenses), are currently not detained (i.e released on Community Detention Program) and are at the predisposition stage of the court process.

The Process and the Product

Once a youth is referred to the Reversal Project, either by Probation, a juvenile judge, a local Community Based Organization (CBO) or by a child's attorney, a Reversal Project representative will make contact with the parent to determine whether he/she qualifies and is interested in participating in the project. Once we have parental consent, an Education Advocate will gather education records and conduct a document review. Meanwhile, a therapist from Child and Family Guidance Center will work with the youth and their family to conduct a comprehensive mental health assessment. The information gathered from the education review and the mental health assessment will be used to create a Multi-Disciplinary Report and Recommendations ("Report").

The Report will be prepared by LRLC Education Advocate Shantel Vachani, JD/MSW, in collaboration with Child and Family Guidance Center. The Report will be submitted to the court and copies will be made available to all relevant parties prior to the adjudicatory hearing. The information in the Report is meant to provide all relevant parties with a more complete and holistic understanding of the youth's needs, and in doing so, take the first step toward ensuring that these needs are considered in the adjudication, disposition and post-disposition process.

[Whereupon, at 12:20 p.m., the subcommittees were adjourned.]

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