

**HOUSE CHILDREN AND YOUTH COMMITTEE HEARING
DELINQUENCY PREVENTION AND ALTERNATIVES TO DETENTION**

June 10, 2010

Good morning members of the House Children and Youth Committee. I am Robert Listenbee, Chief of the Juvenile Unit of the Defender Association of Philadelphia. Thank you for inviting us to appear before you today to discuss delinquency prevention and alternatives to detention with my colleagues, Assistant Defender Rhonda McKitten and Deputy District Attorney of Family Court, George Mosee.

As Mr. Mosee has indicated the juvenile justice system in Philadelphia has fostered the development of several initiatives designed to prevent delinquency and provide alternatives to detention. These initiatives have been characterized by extensive cross systems collaboration between major stakeholders, strong leadership from Defender Association, the District Attorney's Office, the Department of Human Services, Family Court and other key stakeholders in the City. Most of the initiatives involved the willingness on the part of the leadership to try new ideas and the provision of modest amounts of financial support.

As you review the promising approaches and best practices presented to you here today, I would like to encourage you give due consideration to these four factors as being key to developing initiatives and reforming systems within the Pennsylvania juvenile justice system. Once again, **cross systems collaboration, strong leadership, open mindedness and a willingness to take risks** along with **modest amounts of financial support** are the key ingredients necessary to prevent delinquency and create alternatives to detention.

The Defender Association has been a strong advocate for the development of a transition program for youth returning to their homes and schools from residential placement since Dr. Vivian Price of the School District of Philadelphia created the **Reti-Wrap** concept in 2001. Mr. Mosee and I currently meet with the children returning from placement and discuss the serious consequences of further involvement in delinquent conduct and encourage hope by informing the youth about a **free program to expunge their juvenile records** provided by the Defender Association for all children returning to Philadelphia. Last year our office filed over 700 expungement motions. For many youth who meet the requirements, obtaining a clean record is a critical step toward securing long term employment and opportunities for higher education.

We also pursued an **early case review process at pretrial**, assisted in the development of the **Juvenile Treatment Court**, the **Delinquency/Dependency Crossover Court**, the **Reintegration Initiative**, the **Graduated Sanctions Court**. Each of these initiatives took several years to develop and the four key ingredients of success described above.

We believe that each of them is a **promising approach** for either preventing delinquency or providing alternatives to detention. Our preliminary evaluations have supported these conclusions. However, with several of these initiatives we have not had the resources to undertake comprehensive evaluations to establish that these are **blue print programs** that can be easily replicated in other jurisdictions.

As Mr. Mosee indicated the **Philadelphia Working Group** was formed in July 2003 by the Disproportionate Minority Contact (DMC) Committee of the Pennsylvania Commission on Crime and Delinquency (PCCD chaired by Mr. Daniel Elby. Its mission is to “identify and develop concrete, viable and measurable strategies that will improve relationships between minority youth and members of law enforcement. We believe that improving this relationship will lead to less volatile interactions and the cultivation of a spirit of mutual cooperation that will benefit minority youth, law enforcement and our entire community”.

The Philadelphia Working Group has developed a **Youth/Law Enforcement Curriculum** for training cadets and youth at the Philadelphia police academy. The curriculum has been developed in conjunction with professional curriculum developers and the Center for Children’s Law and Policy. Most of the support for the creation of the curriculum was provided voluntarily by members of the Philadelphia Working Group. The financial support for the development and publication of the curriculum has been provided by the DMC Committee of the Pennsylvania Commission on Crime and Delinquency and the MacArthur Foundation over a period of three years.

We are in the process of preparing to conduct the formal evaluation of the curriculum in the hopes of transitioning it from a **promising approach** to a **best practice** or **blue print program**. The funding for the formal evaluation of the curriculum has been generously provided by the MacArthur Foundation.

There are two very unique aspects of the Philadelphia Working Group which I would like to bring to your attention. The first is **its composition**. The group is composed of 18 organizations, most of which have been involved since its inception in 2003. You will find a list of the organizations on the fourth page of the materials that we submitted and on the inside cover of the last page of each the five books that make up the curriculum.

The Defender Association of Philadelphia and the District Attorney’s Office have played major leadership roles in the development of the Philadelphia Working Group. I serve as Chair of the organization and I work closely with my colleague, George Mosee, George chaired the committee that developed the curriculum.

Also, of great importance, the organization has been consistently supported by youth participation and the five major law enforcement agencies that are involved with youth in Philadelphia: the Philadelphia Police Department, the Office of the Sheriff, the Philadelphia Housing Authority Police, the School District of Philadelphia Office of School Climate and Safety and the Southeastern Public Transit Authority Transit Police.

A second unique aspect of the organization is **its longevity**. We have worked on the same set of goals for the last seven years. Thanks to assistance from Jim Anderson, Executive Director of the Juvenile Court Judges' Commission, we have been given an opportunity to share our curriculum with the committee that advises the U.S. Congress and the White House on juvenile justice issues. In addition, Deputy Chief David Scott from SEPTA and Ms. McKitten shared the curriculum with the Governor's Advisory Committee in Kansas.

The curriculum was piloted at the Southeastern Pennsylvania Transit Authority (SEPTA) with 30 officers and it has been used twice at the Philadelphia Police Academy with a total of 260 cadets. It was officially published in April 2010. We have provided three complete copies to this committee. In addition, we have provided a detailed summary of the curriculum for each member of this committee.

My colleague Rhonda McKitten will discuss the curriculum. Before going to her testimony, I would like to add that the Defender Association has played a key role in the development of the **Juvenile Defenders Association of Pennsylvania (JDAP)** a state wide organization that speaks on behalf of juvenile defenders and the children we represent across the Commonwealth.

In our efforts to improve the representation of these children we have endeavored to improve access to counsel and the quality of representation by developing training programs for the last five years, including five special programs in Luzerne County within the last five months. We have also developed and published the **Performance Guidelines for Quality and Effective Juvenile Delinquency Representation** which was commended by the Interbranch Commission on Juvenile Justice. We have also published the **Pennsylvania Juvenile Collateral Consequences Checklist**. Both publications are in your materials. They were prepared with the financial support of the MacArthur Foundation.

Thank you for this opportunity to discuss our programs. I would now like to turn to Ms McKitten for a discussion of the curriculum.

Interbranch Commission on Juvenile Justice

Summary of Recommendations

May 2010

The full Report and recommendations of the Interbranch Commission on Juvenile Justice are available on the Web site of Pennsylvania's Unified Judicial System at:

www.pacourts.us/Links/Public/InterbranchCommissionJuvenileJustice.htm

Recommendations:

Regarding Crime Victims

(Report, Page 41)

- * The creation of a statewide office of Juvenile Justice Victim Advocate.
- * The restoration of funding for the Victims of Juvenile Offenders (VOJO) program to 2005 levels.
- * The creation of a Luzerne County Victims of Juvenile Crime Restitution Fund.

Regarding Judicial Ethics

(Report, Page 42)

- * That the Supreme Court re-examine the Code of Judicial Conduct to ensure ethical provisions and reporting requirements are adequate.

Regarding Judicial Discipline

(Report, Page 43)

Short term recommendations:

- * Review and revise recently adopted Judicial Conduct Board (JCB) Internal Operating Procedures.
- * Review the role and independence of JCB staff vis-à-vis the JCB members.
- * Revise and enhance the JCB annual reports.
- * Revise and enhance the JCB Web site.

Short term recommendations continued:

- * Ensure that judges and lawyers are aware of their ethical responsibility to report misconduct, and develop educational materials so the general public is aware of how to report judicial misconduct.

Long term recommendations:

- * Review the Pennsylvania constitutional provisions regarding judicial discipline to ensure the JCB is accountable.

Regarding Attorney Discipline

(Report, Page 45)

- * Create educational programming to ensure the bar and the general public understand what constitutes attorney misconduct.
- * Revise and enhance the attorney disciplinary board Web site.
- * Increase and enhance attorney Continuing Legal Education (CLE) ethics requirements.

Regarding Continuing Education

(Report, Page 46)

- * The commission endorses the training standards adopted by the Pennsylvania District Attorney' s Association (PDAA) and the Juvenile Defenders Association of Pennsylvania (JDA of PA).
- * The PDAA and JDA of PA should develop and present Continuing Legal Education courses for prosecutors and defense counsel.
- * Continuing Legal Education should be mandatory for judges, masters and hearing officers who handle juvenile cases.
- * Emphasis should be placed on the importance of working in the field of juvenile justice.

Regarding Juvenile Prosecutors

(Report, Page 47)

- * The PDAA standards for prosecutors in juvenile courts should be implemented and resources needed to achieve them should be adequately funded.

Regarding Juvenile Defense Lawyers

(Report, Page 48)

- * Creation of a state-based funding stream for indigent juvenile defense.
- * Creation of a Center for Juvenile Defense Excellence.
- * Ensuring access to defense counsel by deeming all juveniles indigent for purposes of appointing counsel; also by restricting the right of a juvenile to waive counsel, and by requiring stand-by counsel if the juvenile waives counsel.

Regarding Ethics for Juvenile Probation Officers

(Report, Page 51)

- * The Chief Juvenile Probation Officer's association and all county probation departments should adopt standards of conduct, as well as rules prohibiting partisan political activities for all employees.

Regarding Court Hiring Practices

(Report, Page 52)

- * The Court Administrator of Pennsylvania should undertake a national review to determine best practices for court hiring policies and present the findings of that study to the Supreme Court for review.

Regarding Continuing Supreme Court Oversight

(Report, Page 52)

- * Continued oversight of the Luzerne County juvenile justice system.

Regarding the Use of Data and Statistics

(Report, Page 53)

- * Ensure that adequate resources are available for the Juvenile Court Judge's Commission (JCJC) to collect appropriate juvenile justice data and conduct additional data analysis.
- * Enhanced data collection and data sharing among various entities that collect data regarding the juvenile justice system.

Regarding Stating Dispositional Reasoning on the Record (Report, Page 53)

- * Revise statutes and Rules of Court to require judges to state on the record how a juvenile disposition furthers the goals of the Juvenile Act.

Reduce or Eliminate the Practice of Shackling (Report, Page 54)

- * The Juvenile Justice Delinquency Prevention Committee of the Pennsylvania Commission on Crime and Delinquency should study and recommend ways to reduce or eliminate shackling in juvenile courtrooms.

Regarding Juvenile Placement Decisions (Report, Page 54)

- * Implement the Juvenile Detention Alternatives Initiative (JDAI) model as a detention assessment instrument.
- * The commission endorses the modification of the JCJC Standards Governing the Use of Secure Detention.

Regarding Youth Level of Services Initiative (Report, Page 54)

- * Expand as a pilot program the Youth Level of Service / Case Management Inventory (YLS/CMI) risks/needs instrument and the employment of valid research and other evidence-based risk assessment instruments.

Regarding Appellate Rights (Report, Page 55)

- * Develop a form advising juveniles of their right to appeal and seek other post dispositional relief.
- * Develop internet-based resources explaining how the post dispositional process works and how parents and children can get assistance.

Regarding Appellate Review

(Report, Page 55)

- * Expedited appellate review.
- * Creation of a statewide office to provide assistance in appeals under the Juvenile Act.

Regarding *Nunc Pro Tunc* Relief

(Report, Page 57)

- * Enhanced allowance of *nunc pro tunc* (now for then) relief.

Regarding County Commissioners

(Report, Page 57)

- * Encourage county commissioners to attend the County Commissioner's Association of Pennsylvania (CCAP) Academy for Excellence in County Government
- * Enhanced understanding of the respective roles and obligations of county-level court officials and county executive officials.

Regarding the Department of Education

(Report, Page 58)

- * Zero-tolerance policies should be discontinued.
- * Enhanced understanding of the roles and obligations among educational, law enforcement and juvenile justice stakeholders.
- * Enhanced cooperation among educational, law enforcement and juvenile justice stakeholders to maintain safety and security in schools.
- * Keep the juvenile justice status of students confidential.
- * Review educational curriculum for children in placement.

Not Recommended

While the Interbranch Commission on Juvenile Justice considered many recommendations, the following highly publicized measures were considered, but ultimately not endorsed:

- * To make all juvenile delinquency proceedings presumptively open to the public.
- * To create an office of Ombudsman to serve as a watchdog and/or public advocate investigating grievances regarding governmental abuse of power in the juvenile justice system.