



JANET NAPOLITANO
GOVERNOR

STATE OF ARIZONA

Irene Jacobs
EXECUTIVE DIRECTOR

GOVERNOR'S OFFICE FOR CHILDREN, YOUTH AND FAMILIES

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Committee on Education and Labor
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, DC, 20515

Dear Chairman Miller and Chairwoman McCarthy:

Thank you for the opportunity to testify before the U.S. House of Representatives Education and Labor Committee, Subcommittee on Healthy Families and Communities. Below are my answers to the additional questions posed by Representatives Scott, Grijalva and Yarmuth. I have attached supporting documents where appropriate. Please let me know if I can be of any further assistance.

The following five responses address Representative Scott's questions.

Question: What consequences result from imprisoning juveniles with adults?

Imprisoning juveniles with adults does not improve public safety, nor does incarceration with adults help youth make an appropriate transition to adulthood. A 2000 publication from the U.S. Department of Justice, Bureau of Justice Assistance titled *Juveniles in Adult Prisons and Jails* reported that youth held in adult jails are five times more likely to be the victims of sexual attacks and eight times more likely to commit suicide than youth held in juvenile institutions.

While I served as the Executive Director of Tumbleweed, a community-based, non-profit agency serving runaway, homeless, abused and delinquent youth and their families, I participated as a member of the Juvenile Justice Advisory Committee in October 2001 convened by the Children's Action Alliance (CAA). The Committee examined issues surrounding the transfer of juveniles to adult court and explored options for system improvement. The purpose of the Committee was to identify key issues surrounding the treatment of juvenile offenders as adults and help CAA set priorities for future juvenile justice advocacy efforts that could be initiated to promote positive changes. CAA ultimately produced a report, *Prosecuting Juveniles in the Adult Criminal Justice System*

that includes the data from interviews and site visits to county jail facilities in Maricopa and Pima counties. The findings from that report include:

- Services for youth prosecuted as adults are extremely limited at the national and state levels – largely because facilities and agencies designed to serve adults do not have the capacity to address the unique needs of adolescents. For example, even though Pima County Adult Probation Department estimated that at least 80% of juveniles had diagnosed mental disorders, counseling services were extremely limited.
- Adult jails in Arizona are not equipped to respond to the special needs of juveniles. There were many reasons for this, including the extra costs associated with providing age-appropriate or developmentally-appropriate services. At the Madison Street Maricopa County jail, education programs were limited to 3 hours per day and did not provide an option for obtaining a diploma.
- There is extremely limited training for jail personnel related to juvenile issues and needs. Some law enforcement and jail personnel were reluctant to accommodate the needs of youth in jails because they believed that harsher conditions would lead to more deterrence. However, in my experience, and as the recent adolescent development research confirms, adolescents do not rationally consider the consequences of their actions before acting. Rather, harsh environments contribute to youth problems.

A national publication produced by the Bureau of Justice Assistance entitled *Juveniles in Adult Prisons and Jails: A National Assessment*, released in 2000. The major findings of that report are: 1) approximately 107,000 youth under age 18 are incarcerated on any given day. Of these approximately 14,500 are housed in adult facilities; 2) the actual number of youth who experience incarceration in an adult prison is much higher than the 1-day count, with an estimated 13,876 juvenile state prison admissions in 1997; and 3) few states operate programs specifically designed to meet the needs of youthful offenders. The key recommendations of that report are for states to develop specialized programs that will be responsive to meet the developmental needs of youthful offenders, and to enhance the expertise and training for staff working with youth. I would propose that these activities are best accomplished by keeping youth in the juvenile justice system with strong training and support for staff in that system to provide developmentally appropriate services that enhance positive outcomes for youth and for the community.

Question: What consequences result from imprisoning juveniles convicted of status offenses?

The Arizona State Three-Year Plan for addressing JJDP priorities includes an emphasis on the use of home and community-based care for status offenders and bolstering overall use of alternatives to detention. We see school success and family engagement as paramount in improving the life circumstances of vulnerable and at risk youth. Out of home placement or use of detention disrupts a children's sense of well being as well as his/her educational progress. Sadly, too, youth of color are more often detained than their white counterparts.

Detention in general, and particularly for status offenders, has been widely shown to be destructive rather than productive. Nearly 70% of detained youth are held in facilities operating above capacity, nationwide. Under such conditions, discipline can become unduly harsh; education and medical and mental health treatment are often meager. Among youth in crowded detention facilities, there are a high number of reports of suicidal behavior, as well as stress-related and psychiatric illness. The Annie E. Casey Foundation's review of research on the effects of detention on youth has found that rather than being a deterrent to delinquency, multiple confinements in detention is a powerful predictor of future delinquency with more predictive certainty than weapons charges, gang membership or poor parenting.

Here in Arizona we have turned to evidenced-based models, such as the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) which provides states and communities—including ours—with tools to reduce reliance on secure confinement and to provide appropriate detention alternatives for status offenders. There are now approximately 75 JDAI sites in 19 states and the District of Columbia.

In Arizona, Pima County (Tucson area) is a participating JDAI site and has been highly successful in lowering the numbers of youth in detention without negatively impacting recidivism or failure to attend court hearings. Between 2003 and 2007 Pima County Juvenile Court has lowered the average daily population in detention from 173 to 127. They have revised their intake screening tool to assure that the instrument is objective and focused on the youths risk to the community. They have created strong partnerships with the mental health and child welfare system so that youth are not detained due to unaddressed mental health or dependency issues. They have, in partnership with community providers, opened a range of community alternatives including an Evening Reporting Center for youth on Intensive Probation, and a diversion program for youth referred on minor domestic disturbance charges. The Pima County site and other sites around the country can act as models for other jurisdictions in the country on reforming our system so that detention is used only to assure public safety and assure youth appear at court hearings, its original and legitimate purposes.

New York-based Vera Institute of Justice's Center on Youth Justice has also made inroads in addressing status offenses by increasing objective decision-making in status offense processes. In 2002, New York State contracted with Vera Institute to improve systems and services for status offenders and their families in 23 counties. Several counties have now taken steps to refine their intake processes to incorporate more immediate crisis intervention, develop programmatic alternatives to non-secure

detention and foster care placement, and provide more supportive services to status offenders and their families—especially truants—in lieu of court intervention. Momentum generated from these local reforms prompted the state to pass amendments to New York’s Family Court Act in 2005 that enhance diversion requirements for status offenders and narrow the circumstances under which status offenders may lawfully be detained, see www.verainstitute.org.

Question: Effective ways to decrease proportion of minorities in the juvenile justice system?

Youth of color have been found to be overrepresented at nearly every point of contact with the juvenile justice system—and the finding is disturbingly persistent over time. The disparities are most pronounced at the arrest stage but the effects tend to accumulate through each subsequent processing stage, subtly amplifying the original differences, so that the racial and ethnic make-up of a “deep-end” commitment facility (juvenile corrections institution or adult prison) at the end of the line is often grossly disproportionate to that of the youth population at large. Whether these stark inequalities are the result of biases in decision-making, social or economic differences that are merely correlated with race and ethnicity, or more complex structural factors—such as the availability of resources, services, and alternatives in some communities and not others—they are unacceptable in a democratic society.

The W. Haywood Burns Institute is currently working in multiple jurisdictions across the country including Pima County, Arizona is a leader in addressing issues related to Disproportionate Minority Confinement. In May 2004, Pima County Juvenile Court and community stakeholders began a collaborative effort to eliminate disparate treatment and improve outcomes for minority youth involved in the juvenile justice system in conjunction with their Juvenile Detention Alternative Initiative. Essential to the success of their initiative, has been their development and implementation of a strategic plan that included five goals, specific objectives to achieve those goals, concrete action steps, and clear timeframes for action. Pima Counties Plan and recent accomplishments can be viewed on their website at <http://www.pcjcc.pima.gov/jdai/jdai.htm>.

The Building Blocks for Youth Initiative for Youth 2005 Publication *No Turning Back* (Executive Summary Attached) enumerates some of the promising approaches to addressing DMC including:

- Advocates should intentionally focus on racial and ethnic disparities.
- Solid research and relevant data are powerful tools for reform.
- Effective reform usually requires multiple strategies.
- Media advocacy can be a powerful tool to level the playing field
- Success can be measured in multiple ways including the central goal of eliminating disparity but also including reduction in overall rates of incarceration so that result in fewer youth of color being detained, changing allocation of funding to better address DMC, and amending laws the disparately effect youth of color.

Attached is a report from JDAI explaining the process for addressing racial disparities, *Pathway 8: Reducing Racial Disparities in Detention*.

Question: What are the most effective ways to decrease the proportion of individuals with mental illness in the juvenile justice system?

The National Center for Mental Health and Juvenile Justice recently released, *Blueprint for Change: A Comprehensive Model for the Identification and Treatment of Youth with Mental Health Needs in Contact with the Juvenile Justice System (attached)*. The Blueprint is the first ever systematic review of the juvenile justice system in its entirety—from intake to re-entry—to identify ways in which mental health service delivery strategies can be strengthened. The bottom line presented in the report is not complicated:

- Stronger partnerships are needed between the juvenile justice and mental health systems.
- Improved and systematic strategies are needed for early screening and assessment of youth coming into contact with the system so that mental health issues are accurately identified.
- Enhanced diversion opportunities are needed so youth with mental health needs can be treated in the community; and
- Juvenile justice agencies need increased access to effective mental health treatment.

The report also sets forth nine principles that could be adopted in the JJDPAs as guiding principles for jurisdictions addressing mental health issues in juvenile justice. These principles include:

1. Youth should not have to enter the juvenile justice system solely in order to access mental health services or because of their mental illness.
2. Whenever possible and when matters of public safety allow, youth with mental health needs should be diverted into evidence-based treatment in a community setting.
3. If diversion out of the juvenile justice system is not possible, youth should be placed in the least restrictive setting possible, with access to evidence-based treatment.
4. Information collected as part of a pre-adjudicatory mental health screen should not be used in any way that might jeopardize the legal interests of youth as defendants.

5. All mental health services provided to youth in contact with the juvenile justice system should respond to issues of gender, ethnicity, race, age, sexual orientation, socio-economic status, and faith.
6. Mental health services should meet the developmental realities of youth.
7. Whenever possible, families and/or caregivers should be partners in the development of treatment decisions and plans made for their children.
8. Multiple systems bear responsibility for these youth. While at different times, a single agency may have primary responsibility, these youth are the community's responsibility and all responses developed for these youth should be collaborative in nature, reflecting the input and involvement of the mental health, juvenile justice and other systems.
9. Services and strategies aimed at improving the identification and treatment of youth with mental health needs in the juvenile justice system should be routinely evaluated to determine their effectiveness in meeting desired goals and outcomes.

Question: Are there any conditions of confinement issues, particularly regarding availability of education that must be addressed in the JJDPa reauthorization?

In reauthorizing the JJDPa, Congress has the opportunity to raise awareness of the importance that conditions of confinement have in maintaining the safety and wellbeing of youth. Arizona has very personal experience in this regard having been investigated by the US Department of Justice under the Civil Rights of Institutionalized Persons Act (CRIPA) in June 2002 as a result of inadequate attention to the conditions of 3 of our juvenile institutions. Evidence of abuse was found as well as inadequate facilities, educational programming, and mental health services.

Once the conditions were brought to light, however, Arizona cooperated with the Justice Department to make substantial improvements such that on September 21, 2007, the U.S. Department of Justice dismissed the case against us. Although Arizona is no longer under investigation, we will remain vigilant and ensure that conditions do not deteriorate. JJDPa can provide leadership in raising the awareness of proper conditions of confinement, so that states are more aware of the dangers that lurk in their institutions and vigilant about protecting the rights of some of their most vulnerable youth. If the JJDPa included specific recommendations for proper conditions, such as those included in the *JDAI Self-Assessment Practice Guide*, I believe youth incarcerated in institutions across America would benefit. Alternatively, the JJDPa could offer states incentives to create independent monitoring offices to identify harmful conditions in their juvenile facilities. The establishment of independent state monitoring authorities with sufficient power to require changes where harmful practices are found could ensure that youth are not housed in unsafe and detrimental environments.

Beyond protecting youth from dangerous situations it is important that we provide quality education, mental health and skill building services to youth during their period of confinement so that the potential for successful reintegration is enhanced. It has been established that detention and incarceration interrupts normal development and distance youth from the positive institutions in the community. It is crucial that we do not further disadvantage youth by allowing them to lag further behind in educational achievement and allowing mental health issues to go unaddressed.

The following response addresses Representative Grijalva's question.

Question: I am developing legislation to authorize a reentry formula grant program to states to support pre-release planning and reentry services targeted to youth offenders. Would such funds be helpful to your state?

Yes, funds to support pre-release planning and reentry services would be very helpful to Arizona.

National research indicates that the recidivism rate for juvenile parolees ranges from 55 to 75 percent. An Arizona Department of Juvenile Corrections study found that 44% of youth released from a department facility in 1999 had re-entered an Arizona state facility (returned to Juvenile Corrections or entered Adult Corrections) within 36 months of release.

With approximately 100,000 youth with significant mental health, substance abuse, educational and behavioral needs as well as normal developmental needs, returning to the community from residential placement each year successful reintegration is a challenge for across the country. Unfortunately, most of the resources have been focused on the period of time that youth incarcerated in a facility with inadequate attention to the pre-release planning and reentry to the community.

A review of The MacArthur Foundation Models for Change Pennsylvania site publication on Aftercare and the National Center for Mental Health and Juvenile Justice Publication *Critical Intervention Point: Re-entry* indicates a consistent set of principles and priorities necessary for successful reintegration of youth into the community including:

- Strong collaboration at the state and county levels to align institutional treatment planning and programming with reintegration and programs and services
- Timely, accurate information exchange
- Enhanced training for institutional staff and community providers in content areas crucial to healthy youth development and successful post-institutional adjustment including the need for a graduated system of responsibility and freedom
- Training and other support to help system, community and family players advocate effectively for aftercare and planning services

- Continuous and consistent access to services
- Coordination of efforts to re-enroll young offenders in school
- Support for more uniform monitoring of aftercare planning and service provision

The importance of each of these principles has been borne out in my 20 years of experience in the community and should be considered for inclusion in legislation. When the above principles are applied and youth succeed in complete a basic education program, develop basic job skills and develop sustained positive relationships with caring adults the potential for success increases exponentially.

After three years of intensive work to improve conditions in the institutions under the Department of Justice, Civil Rights of Incarcerated Persons agreement, Arizona is committed to maintaining the gains accomplished in our facilities but also to turning attention to building stronger reintegration services. Support in the form of a formula grant would assist us in comprehensively addressing this issue.

The following six responses address Representative Yarmuth's questions. *Note: Question 7 is a repeat of question 2 on Representative Yarmuth's list.*

Question: In your written testimony you discuss the fact that it is clear that children of color are overrepresented in the child welfare system and the juvenile justice system. You continue on to discuss the deep end of the JJ system. Can you elaborate on what you mean by deep end in the JJ system and discuss the correlation?

Multiple national research studies have found that children of color are over-represented in both the child welfare and the juvenile justice system. This over-representation escalates as the level of intervention intensifies.

Youth of color are increasingly over-represented in the juvenile justice system as the intensity of intervention increases. *And Justice for Some*, a publication (attached) of the ***Building Blocks for Youth Initiative***, documents that while representing just 34% of the United States population in 1997, minority youth represented 62% of the youth in detention, 67% of youth committed to juvenile corrections facilities and 75% of youth admitted to adult prisons (the deepest end of the system). Over-representation has consistently been documented when controlling for a wide range of factors including severity of offense and prior offenses.

In the child welfare system children of color are more likely to be the subject of reports of abuse, more likely to be assigned for investigation and when abuse is substantiated more likely to be placed in out-of-home care. The gap is largest between African-American and Caucasian children with the United States Children Bureau reporting that in 1997 56% of African American children receiving child welfare services were in out-of-home settings such as foster homes while 72% of Caucasian children received services in home. This over-representation of children in out-of-home care in the child

welfare system is significant to the juvenile justice system because, as the National Council for Juvenile Justice Study of Arizona youth found, youth in out-of-home care were more likely to become involved in the juvenile justice system and more likely to penetrate more deeply into that system.

Question: Can you go into detail on some of the barriers experienced by AZ as it attempts to integrate the child welfare and JJ systems, and what role, if any, the Federal government can play in helping states break down these barriers?

The juvenile justice, child welfare, mental health and education systems are all discrete systems in Arizona with separate missions, visions and goals. The juvenile justice system is further bifurcated into the County Court and Probation system and the Arizona Department of Juvenile Corrections (ADJC) with youth committed to the state for institutionalization and treatment when problems escalate.

Some of the separation of duties and responsibilities is necessary to accomplish the complex set of responsibilities we have for our children. However, when children, youth and families are involved in multiple systems, it is also important for individuals to various systems to communicate and coordinate so that services of non-duplicative, non-contradictory and comprehensive but manageable. When systems do not work together it is common for children and their families to have conflicting case plans, conflicting appointments, overwhelming schedules of expectations and to consequently become discouraged and overwhelmed.

The Federal government can assist in breaking down barriers by:

- Providing direction to states on what information can be shared and with whom
- Relaxing restrictions on funding so that some funds can be pooled together to address complex cases in a comprehensive manner
- Re-examine funding rules that reward the placement of dependent children and youth in out of home care settings and provide disincentives for in-home services and relative placements despite current research that consistently shows children and youth have better outcomes when families can be kept intact or, when this is not possible relatives are utilized as an alternative placement.
- Including in the JJDPA specific expectations that state systems develop information sharing policies and institute policies regarding the coordination of cases across systems
- Restore and increase funding for JJDPA authorized programs so that states have adequate resources to develop, implement and evaluate coordination and integration initiatives.

Question: In your written testimony you presented statistics from the Arizona Dual Jurisdiction study which you believe has shown that children who suffer

from dependency issues are more likely to have negative juvenile justice outcomes than non-dependent youth.

- **Do you believe enough is currently being done to treat dependency issues among the juvenile population either in detention or in probation?**

No. Outcomes for youth with dependency issues who are involved in the juvenile justice system are consistently worse than for youth without dependency issues. Increased special attention is necessary to address the special needs of this population.

- **What more could be done at the federal level to deal with dependency issues in the juvenile justice system?**
 1. Emphasize early, comprehensive assessment for children and youth consistent across systems so that the needs of the child and family are fully understood.
 2. Support family involvement and home-based services in accordance with effective practice
 3. Support expanded substance abuse treatment for parents and for youth to prevent family disruption and/or minimize the length of separation
 4. Support the development of model information sharing guides (such as the King County Guide attached) that set out the parameters for sharing information under federal law and provide a blueprint for incorporating state guidelines.

2. Question: In your written testimony, you mention the need for interagency collaboration between the child welfare and juvenile justice communities.

- **Are there any privacy issues involved in these kinds of collaborations?**
- **Under what circumstances should juvenile justice practitioners have access to child welfare case-files that include medical histories?**

Yes, privacy issues must be considered when engaging in collaborative efforts. However, laws concerning confidentiality allow for sharing of information between professionals when doing so is in the best interest of the child. This, along with protecting a child's right to due process should be the guidelines by which we decide when juvenile justice professionals have access to files including medical information. We are finding that

often, the failure to share information is due to a lack of understanding of the parameters of confidentiality. An important part of the collaborative process is to develop and publish and train staff on clear guidelines for information sharing across systems. Arizona is currently developing such a document modeled after the King County, Washington Information Sharing Guidebook (attached).

Question: How can the Federal government help to address the decentralized systems that engage multiple entities in the care of children with diverse goals and procedures, if possible?

- Examine federal funding streams to eliminate disincentives and create incentives for sharing resources across systems
- Establish expectations and incentives for collaboration and integration across systems
- Support research and technical assistance to states and localities to accomplish system re-structuring and re-training of the workforce

Question: In your written testimony, you list 7 items that lead to improved outcomes for children in both the child welfare and JJ systems. I'd be interested in learning if you feel that the Committee should explore including such activities in JJDPA, and if so which ones and how might we do so?

I believe you are referring to the steps articulated in the Child Welfare League of America Framework for Coordination and Integration listed on page 7 of my original testimony. If this is correct, I would suggest that the ideas behind these steps be incorporated into the JJDPA but that a requirement to utilize this model exclusively would be too restrictive to state and local entities addressing this issue. Inclusion of expectations that states address multi-system data collection, information sharing, coordination of funding resources, cross-system screening and assessment and integrated case planning and management along with appropriate resources and support to accomplish these tasks should be included in the JJDPA.

Sincerely,

Janet Garcia
Deputy Director GOCYF
Director Division for Children

CC: Representative Scott
Representative Grijalva
Representative Yarmuth

Attachments:

Children's Action Alliance, *Prosecuting Juveniles in the Adult Criminal Justice System.*

Bureau of Justice Assistance, *Juveniles in Adult Prisons and Jails: A National Assessment.*

Juvenile Detention Alternatives Initiative, *Pathway 8: Reducing Racial Disparities in Detention.*

National Center for Mental Health and Juvenile Justice, *Blueprint for Change*

Juvenile Detention Alternatives Initiative, *Detention Facility Self Assessment*

King County, Washington *Information Sharing Guide*

Building Blocks for Youth Initiative, *No Turning Back: Summary*

Building Blocks for Youth Initiative, *And Justice for Some*