

**Healthy Families and Communities Subcommittee,
U.S. House of Representatives Education and Labor Committee
joint hearing with the
Crime, Terrorism and Homeland Security Subcommittee
U.S. House of Representatives Judiciary Committee**

**The Juvenile Justice and Delinquency Prevention Act:
Overview and Perspectives
2175 Rayburn H.O.B.
July 12, 2007, 2:00 pm**

Testimony by the Honorable Paul Lawrence
Goffstown District Court
New Hampshire State Juvenile Justice Advisory Group
Goffstown, New Hampshire

Good afternoon. It is my distinct honor to have been asked by Chairwoman McCarthy to speak on behalf of the Juvenile Justice and Delinquency Prevention Act (JJDP Act).

I am Paul Lawrence, the Presiding Justice of the Goffstown District Court in Goffstown, New Hampshire where I hear, among other things, juvenile delinquency, CHINS, and neglect and abuse cases. I am also Immediate Past Chair of the Coalition for Juvenile Justice (CJJ), the national leadership association of State Advisory Groups under the JJDP Act. I am Co-Chair of the New Hampshire Juvenile Detention Alternatives Initiative, past Chair of the state's the Committee to Study the Establishment of Dispositional Guidelines in Juvenile Delinquency Cases and a member of the New Hampshire Supreme Court's Judicial Education Services Committee. Also of relevance to today's hearing is my membership in the National Council of Juvenile and Family Court Judges.

I began hearing juvenile cases in 1979 with a belief that the greatest cure for delinquency is maturation. At that time, before technology provided images of the brain that allow us to see its gradual development extending well into the mid-20s, it was clear to me that the needs, thoughts, motivations and behavior of youth differ greatly from those of fully mature adults. Now, advancements in neuro-imagery, such as Functional Magnetic

Resonance Imaging (fMRI), coupled with targeted research, enable us to take a look at the actual physical development and transformation of the brain at all stages of life. During adolescence, several areas of the brain go through their final developmental stages and develop greater complexity, which in turn affects thinking, behavior and potential for learning and rehabilitation.¹

Judges on the juvenile bench possess considerable power over the life pathways of young people and their families—particularly those that are vulnerable, troubled and fragile. Given this power what judges do may prove productive and helpful, or regrettably, cause unintended harm. Every time a judge shepherd's a young person through the juvenile justice system, he/she must be certain that all steps have been taken to enhance the youth's competencies before imposition of predominantly retributive measures. In fact, if judges—as well as congressional and federal decision makers—are to do what is best for children and youth involved in the courts we would make a primary commitment in juvenile justice much like the Hippocratic Oath: *first, do no harm*. Included in such a commitment would be the following precepts, all of which are part of the original thinking that underlies the JJDP Act:

We should strive to keep children and youth out of the court system and out of institutional settings—particularly lockups; and whenever possible at home or close to home, school and community;

We should do everything possible to ensure that any and all court involvement by youth and families is appropriately limited in scope and effective in producing healthy outcomes for the involved youth;

We must ensure age-appropriate sanctions and supports and court services, as well as systems that treat children and youth in ways that are based on the best of what we know about adolescent development, brain science and principles of youth development.

On June 11, 2007, I heard Dr. Laurence Steinberg of Temple University and Director of the MacArthur Research Network on Adolescent Development and Juvenile Justice, speak at the Coalition for Juvenile Justice Summit on the JJDP Act. He cited several implications of his Network's research which are worthy of consideration in the reauthorization of the JJDP Act.

First, different brain capacities mature along different timetables:

Competence-related abilities mature by age 16;

Yet, capacities relevant to decisions about criminal culpability are still maturing into young adulthood.

Second, adolescents are responsible for their behavior, but not *as* responsible as adults:

Self-control is still developing and easily disrupted by emotionally or socially arousing situations;

And, adolescents need support, structure and adult supervision.

Third, adolescents are still works in progress:

Most will mature out of reckless and impetuous behavior by their early 20s without any intervention;

So, it is vitally important that involvement with juvenile justice system not derail their transition into productive adulthood.ⁱⁱ

Adolescent brain development science underscores the mission of the court, as a helping hand for youth and families designed to help them heal and build their strengths and means to contribute to society. It highlights how critical the core protections of the JJDP Act indeed are in keeping status offending and non-criminal youth out of lock-ups and placing clear restrictions on placing children and youth in adult jails, as well as ensuring that we do not needlessly sweep children of color into the juvenile justice system because of systemic and societal racism.

Furthermore, the JJDP Act can be improved based on the best of what we now know, by directing Title II (State Formula Funds) and Title V (State and Local Prevention Funds) to programs that prevent repeated system involvement and show excellent results in

restoring young people to productive home and community life, such as alternatives to pre-adjudication detention, restorative justice and graduated sanctions.

Alternatives to Detention

Nationwide, the youth confined in pre-trial/pre-adjudicative detention include an alarmingly high census of fragile youth with serious emotional, behavioral and substance abuse issues, and youth of color.ⁱⁱⁱ The number of youth who reside in detention centers on an average day is estimated to be more than 27,000, and has grown 72 percent since the early 1990s—despite declines in juvenile offending. It is estimated that as many as 600,000 children and teens cycle through secure detention each year.^{iv}

My colleague, Bart Lubow, who directs the Juvenile Detention Alternatives Initiative for the Annie E. Casey Foundation, reports, “When you talk to judges, prosecutors, or other juvenile justice professionals, many of them say things like, ‘We locked him up for his own good.’ Or, ‘We locked him up because his parents weren’t available.’ Or, ‘We locked him up to get a mental health assessment.’ But none of these reasons are reflected in statute or professional standards.”

Detention reform efforts, on the other hand, are evidenced-based efforts to reverse the unnecessary and harmful flow of youth into locked detention who could be more effectively served at home or in a community-based setting. In communities as diverse as New York City and Pima County (AZ) and the states of North Dakota and New Hampshire juvenile justice practitioners have found that keeping youth out of secure detention accrues many benefits for youth and families—including better mental health assessment and treatment, greater and stronger connections with school, family and community, and a reduction of racial/ethnic disparities by guarding against more punitive treatment of youth of color as compared with their white counterparts.^v

Restorative Justice

Drawing upon international models from New Zealand, Australia and Native Canada, a new way of thinking about and addressing juvenile offending emerged in the mid-to-late 1990s, known variously as balanced and restorative justice, victim-offender mediation and family group conferencing. The essential idea of balanced and restorative justice is that repairing harm, as it relates to juvenile wrongdoing and offending, is pursued within a three-point balance of the needs of 1) victims, 2) offenders and 3) communities.

Active participation of victims, victims' families, offenders and offenders' families and community members make the process work. Agents of the court and other child- and family-serving advocates and professionals facilitate, support and enforce reparative agreements.^{vi} Studies from the United States and other countries cite significant benefits to both offenders in terms of reducing recidivism and to victims and survivors in terms of enhancing their sense of well being and healing.^{vii}

Graduated Sanctions

Graduated sanctions programs utilize a continuum of disposition options for delinquency reduction. The term “graduated sanctions” implies that the penalties for delinquent activity should move from those that are limited in their scope and intrusion into the lives of youth to those that are highly restrictive, in keeping with the severity and nature of the offense committed. In other words, youth who commit serious and violent offenses should receive more restrictive sentences than youth who commit less serious and nonviolent offenses. However, for graduated sanctions programs to fulfill their promise of delinquency reduction, they must ensure that the right juveniles are connected to the right programs at the right time. Types of sanctions typically include:

- Immediate sanctions, targeted toward less serious non-chronic offenders;
- Intermediate sanctions, appropriate for juveniles who continue to offend following immediate interventions; youth who have committed more serious

- felony offenses; and some violent offenders who can benefit from supervision, structure, and monitoring but not necessarily incarceration;
- Secure care, appropriate for serious violent, chronic offenders; and
 - After care, appropriate for offenders transitioning back into the community following secure care.

An OJJDP-funded study of existing graduated sanctions systems found them to be more effective and less costly than juvenile incarceration.^{viii} According to researchers at the University of Virginia, “The graduated sanctions approach has many proven benefits: reduced cost, increased accountability by the juvenile and the community; and enhanced responsiveness to a juvenile's treatment needs.”^{ix} Moreover, graduated sanctions are seen as a useful tool in the pursuit of “restorative justice,” supporting the process of reconciliation that holds offenders accountable through making amends.^x

Funding Under the JJDP Act

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

In addition, when crafting State Three-Year Plans for delinquency prevention, the State Advisory Groups are in an ideal position to recommend the use of JJDP Act funds for programs and practices that emphasize due process, positive youth development and adolescent brain development research, and restoration of an offender’s relationship to society. In the current iteration of the JJDP Act too many “core purpose areas” are listed as possible uses for federal funding in Section 223 describing the requirements for State Plans. Regrettably, some “core purposes” have little to do with effective support for compliance with the core requirements or the promotion of best practices. Please consider ways to trim back the current laundry list of divergent possibilities so as to

emphasize and elevate compliance with the core requirements and initiatives that strive to limit a young person's court involvement, out-of-home placement or any sort of confinement while ensuring community safety.

Conclusion

In closing, I wish to leave with you copies of three publications from the Coalition for Juvenile Justice: two addressing adolescent brain development and implications for juvenile justice and the JJDP Act, as well as the Coalition's report on detention reform, supported by the Annie E. Casey Foundation. I was proud to serve as an expert advisor on all of these publications. I also wish to avail myself to you should you have any further questions. Many thanks for the opportunity to speak before you today.

ⁱ Beatrice Luna, "Brain and Cognitive Processes Underlying Cognitive Control of Behavior in Adolescence," University of Pittsburgh, Oct. 2005.

ⁱⁱ See www.juvjustice.org/conferences_4.html and "[Findings from the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice.](#)"

ⁱⁱⁱ Coalition for Juvenile Justice, "Unlocking the Future: Detention Reform in the Juvenile Justice System, 2003.

^{iv} Ibid.

^v Coalition for Juvenile Justice, "Unlocking the Future: Detention Reform in the Juvenile Justice System, 2003.

^{vi} Bazemore, G., and M Umbreit and OJJDP. "Conference, Circles, Boards and Mediations: Restorative Justice and Citizen Involvement in the Response to Youth Crime," 1999.

^{vii} Ibid.

^{viii} Wilson, J.J., and J.C. Howell. "Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. Program Summary." Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, 1993.

^{ix} Redding, R.E. (2000). "Graduated and community-based sanctions for juvenile offenders." *Juvenile Justice Fact Sheet*. Charlottesville, VA: Institute of Law, Psychiatry, & Public Policy, University of Virginia, 2000.

^x National Council of Juvenile and Family Court Judges, Juvenile Sanctions Center Training and Technical Assistance Center, "First Monday," June 2005, <http://www.ncjfcj.org/images/stories/delinquency/june%202005.pdf>.

^{xi} Mendel, Richard A. and American Youth Policy Forum, "Less Hype, More Help: Reducing Juvenile Crime, What Works—and What Doesn't," 2000 and "Less Cost, More Safety: Guiding Lights for Reform in Juvenile Justice," 2001.