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INTERBRANCH COMMISSION ON JUVENILE JUSTICE
PUBLIC HEARING

BEFORE: HONORABLE JOHN M. CLELAND, CHAIRMAN
TOD C. ALLEN, MEMBER
VALERIE BENDER, MEMBER
HONORABLE JAMES A. GIBBONS, MEMBER
KENNETH J. HOROHO, ESQUIRE, MEMBER
JASON J. LEGG, ESQUIRE, MEMBER
ROBERT L. LISTENBEE, ESQUIRE, MEMBER
GEORGE D. MOSEE, JR., ESQUIRE, MEMBER
HONORABLE JOHN C. UHLER, MEMBER
RONALD P. WILLIAMS, MEMBER
HONORABLE DWAYNE D. WOODRUFF, MEMBER

DATE: JANUARY 22, 2010, 8:58 A.M.

PLACE: PENNSYLVANIA JUDICIAL CENTER
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HARRISBURG, PENNSYLVANIA

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1 CHAIRMAN CLELAND: Good morning. I'm John Cleland.
2 I'm a senior judge of the Superior Court of Pennsylvania and
3 Chairman of the Interbranch Commission on Juvenile Justice.
4 We begin today our 7th day of hearings into the juvenile
5 justice scandal in Luzerne County hoping to address
6 suggestions and recommendations that will address those
7 issues by the Supreme Court, the Pennsylvania legislature,
8 and the Governor, the three entities which formed the
9 Interbranch Commission.

10 We are scheduled for further hearings February 1st
11 and 2nd here in Harrisburg, that's a week from Monday and
12 Tuesday, and then again on February 25th in Wilkes-Barre.
13 Transcripts of this hearing as well as all of the other
14 hearings of the Commission are posted on the Court's website
15 at www.pacourts.us. Click on the For The Public tab, and
16 then look for the Interbranch Commission on Juvenile
17 Justice.

18 Today we continue our consideration of suggestions
19 and recommendations to address the issues which have been
20 identified in our previous days of hearings. And scheduled
21 today are Robert Stanzione and Robert Williams of the
22 Council of Chief Juvenile Probation Officers; followed by
23 Dr. Ronald Sharp of the Juvenile Justice and Delinquency
24 Prevention Committee of the Pennsylvania Commission on Crime
25 and Delinquency; then Dr. Melissa Sickmund, Chief of Systems

1 Research of the National Center For Juvenile Justice; and
2 then after lunch this afternoon, Wendy Luckenbill, the Child
3 Policy Coordinator of the Mental Health Association of
4 Pennsylvania.

5 We appreciate very much the time and effort that
6 these witnesses have put in in their presentations and
7 recommendations and suggestions to us. With that we will
8 begin our testimony this morning.

9 And Mr. Stanzione and Mr.
10 Williams, I ask you to please stand and take the oath.

11

12 ROBERT STANZIONE, called as a witness, being duly
13 sworn, testified as follows:

14

15 MR. STANZIONE: I do.

16

17 ROBERT WILLIAMS, called as a witness, being duly
18 sworn, testified as follows:

19

20 MR. WILLIAMS: I do.

21

22 CHAIRMAN CLELAND: Thank you, and be seated. Mr.
23 Stanzione is a long time probation officer in Pennsylvania,
24 and is currently the Chief Juvenile Probation Officer in
25 Berks County and president of the Council of Chief Probation

1 Officers of Pennsylvania.

2 And Mr. Williams is also an experienced probation
3 officer in Pennsylvania, and -- and I think a former officer
4 of that association, correct?

5 MR. WILLIAMS: The Chief's Association at present,
6 yes.

7 CHAIRMAN CLELAND: Okay. Mr. Stanzione.

8 MR. STANZIONE: Good morning, Chairman Cleland. I
9 wanted to just take a minute to introduce myself very
10 briefly. And rather than read through this entire document
11 that I prepared, just kind of hit on some of the highlights
12 and give you my basis for the recommendations.

13 I appreciate the opportunity to appear before this
14 distinguished panel to have some input into the juvenile
15 justice system. I thank you for the invitation.

16 As Judge Cleland mentioned, I've been around for a
17 long time and worked in various capacities throughout --
18 throughout my career, including residential programs,
19 probation, and so on. Worked with Juvenile Court Judges'
20 Commission for a couple years as well.

21 The whole focus of my presentation really, and the
22 beliefs of my recommendations, come on -- you can see on
23 page three in the bolded list is that I have a underlying
24 belief that the -- the juvenile justice system is
25 fundamentally sound; and that we, as an agency, the Chief's

1 Association, and in our work with Juvenile Court Judges'
2 Commission, promote best practices.

3 I also believe that, if followed, the Juvenile Act
4 provides adequate constitutional protections for kids that
5 come before the court in spite of the fact that obviously in
6 this case it didn't happen; that court operation protocols
7 and practices ensure due process rights. And we have a lot
8 of information out there, including Juvenile Delinquency
9 Bench Book, Rules of Juvenile Court Procedures; that this
10 particular incident had a lot to do with silencing the
11 watchdogs that would traditionally report that, that being
12 the defense bar. And there appears to be no formal review
13 mechanism at this point at the state level to catch such
14 aberrations.

15 Now, that being said, overall I broke my
16 recommendation into two areas, what I would consider
17 statewide recommendations versus recommendations specific to
18 Luzerne County.

19 My first bullet point on page four I ask for a --
20 an anonymous reporting system to the Judicial Conduct Board.
21 And rather than get into the details of each, I'll just hit
22 my bullet points, and then I'll open it up to questions.

23 I would ask that we look at re-assessing the
24 juvenile court and juvenile probation reporting requirements
25 to both AOPC and the Juvenile Court Judges' Commission. We

1 look at, in some way, mandating funding of defense counsel
2 for all juveniles in the state; that we restrict or
3 eliminate the juvenile's ability to waive counsel, and
4 especially in cases where it could result in placement; that
5 we develop practice standards and training for all attorneys
6 that handle juvenile delinquency cases so it doesn't end up
7 being the juvenile court is a training house and people move
8 on; develop ethical standards for court employees, including
9 judges in all court. Even though I know they exist there
10 doesn't seem to be -- doesn't filter at times down to the
11 local level.

12 Specific to Luzerne County I would suggest that
13 they develop and implement an ethics policy for all court
14 employees in that county; develop practice -- training and
15 practice standards for judges that handle juvenile
16 delinquency cases. The same would apply to attorneys
17 handling Luzerne County delinquency matters, that there's a
18 consistent way of how they're going to deal with the
19 juvenile offenders and a good understanding of the law.

20 That because of what has occurred, the Juvenile
21 Probation Department needs to be supported in a way that we
22 start from the beginning, that they -- we make sure that all
23 probation officers and staff understand what the Juvenile
24 Act is about, what the rules are, we're starting from a
25 level playing field; and that operational definitions are

1 defined for that organization so that they can be followed.

2 Mandate presence of defense counsel in all their
3 proceedings and somehow help them with the funding for that
4 if that's a problem.

5 Next bullet point is risk/needs assessment. I know
6 Luzerne County is participating in that project -- the YLS
7 implementation project. In order to support the Probation
8 Department and their recommendations it's important that
9 they have back up for the recommendations.

10 Obviously they've gone through some credibility
11 gap. The YLS and that case load management tool will allow
12 them support. It will support their recommendation by
13 providing an objective, statistically sound means of
14 justifying their recommendation based on the risk of the
15 juvenile offender and also will help them identify and
16 justify the use of services because it's related to the
17 risk.

18 The idea is if you lower the needs, you lower the
19 kid's risk to re-offend. So you're linking risk to the
20 kid's needs to the supervision standards in the community so
21 there's an objective measure that will help support the
22 probation officers.

23 Next I would recommend consideration be given to
24 developing a court work group. We have this going on in
25 Bucks County, and I find it to be very helpful. This court

1 work group involves juvenile court judges, defense counsel,
2 public defenders, the District Attorney's Office, and one or
3 two staff from the Probation Department. And we literally
4 meet monthly or every other month and discuss matters,
5 updates, rule changes, process that occurs, how we want to
6 handle certain matters, documents.

7 And it really makes for a good understanding on
8 everyone's part of how the court will operate. And defense
9 counsel and the District Attorney's Office are given the
10 opportunity to present their concerns as well. It makes a
11 good communication tool that all parties are involved.

12 And, finally, I would encourage the participation
13 of Luzerne County in statewide trainings in organizations.
14 Primarily because after an incident like this my fear would
15 be that they would be isolated and have to kind of work
16 internally and not be exposed to all of the initiatives that
17 are going on around the state.

18 And it -- over the last -- if you look at page two,
19 over the last two or three years, at the bottom paragraph,
20 there are a lot of initiatives that the Juvenile Court
21 Judges' Commission, the Chief's Association, some of the
22 private providers organizations are probably -- Models For
23 Change, Case Management Essentials, and just to name a few.
24 There's PACCT Alliance.

25 We're working with providers to do a transition

1 from their residential programs into educational systems,
2 working with the Department of Education. There's a lot
3 going on that would be beneficial to that -- to that staff
4 to know and understand.

5 As the chair -- cochair of the Chief's Providers
6 Committee, about a year or so we implemented and asked the
7 providers to adopt the Chief's Ethics Code, and it was in
8 response to concerns over all the trinkets and the handouts
9 and T shirts and the appearance of impropriety that comes
10 from that.

11 So we wanted to engage the providers in more of a
12 partnership to develop better services rather than being
13 attracted to use a particular vendor or other by these
14 trainings.

15 So the idea is that we want to support Luzerne
16 County as much as we can and provide them with access to
17 other information and trends.

18 And that would be my basis for my recommendations.

19 CHAIRMAN CLELAND: Why don't we take about 15
20 minutes with Mr. Stanzione, and then we'll turn it over to
21 Mr. Williams, and then have questions all across the Board.
22 So go ahead, Judge Uhler.

23 BY JUDGE UHLER:

24 Q Mr. Stanzione, what is the Chief's Association?

25 A The Pennsylvania Council of Chief Juvenile

1 Probation Officers started over 40 years ago, 40 plus years
2 ago, by around 18 or 20 counties in an effort to discuss
3 best practice over concerns over funding, direction of the
4 way the system was going.

5 And currently we have over -- we have 64 counties
6 represented at the present time, and over 100 plus private
7 providers that are part of this organization.

8 Q Do I gather it's a group formed to exchange dialog
9 with one another and develop best practices and
10 recommendations to juvenile court and JCJC?

11 A Correct. We work closely with JCJC, and they are
12 cochairs on some of our committees as well.

13 Q Is there any organization above yours to whom you
14 report?

15 A No, other than our individual judges.

16 Q Okay.

17 A At the county level.

18 Q Now, you referenced that there were 64 counties
19 that are participants in this organization. Was Luzerne
20 indeed an active member of the Chief's Association?

21 A They were up until right at the beginning of this
22 incident, and they withdrew.

23 Q Well, I gather then that Sandra Brulo was an active
24 member of the Chief's Association?

25 A Yes.

1 Q And do I also gather that notwithstanding her
2 participation, there was not any indicators from the Chief's
3 Association that something was going astray in Luzerne
4 County?

5 A No, there was not.

6 Q Now, with regard to the recommendations that you've
7 offered, you referenced a recommendation of an anonymous
8 reporting system to the Judicial Conduct Board and the PA
9 Court Administrator's Offices. Why do you suggest that this
10 is a important recommendation that we consider?

11 A If there's an expectation that a judge's behavior
12 would be reported, you have to take into consideration that
13 many of the employees of the court are told very clearly
14 that you work at the pleasure of the court. And that is a
15 very powerful statement.

16 That is a very -- and in a situation where the most
17 powerful people in the county are telling you this is the
18 way we're going to do business, what is a person expected to
19 do? Who do you report it to? You know, if the President
20 Judge is involved in a situation like this, who do you go
21 to? The -- who should you trust?

22 And that becomes a very difficult problem for a
23 probation officer, public defender, DA to step outside of
24 that system and report an individual who is essentially your
25 boss.

1 Q Prior to Luzerne were you aware to whom you would
2 report if you encountered such a wrongdoing?

3 A No, because I never would have expected having to
4 do something like that based on the judges that I work with.
5 I never thought that that would be an obligation on my part
6 at that point.

7 Q Had that been a discussion topic in any one of your
8 Chief's meetings prior to this time?

9 A Yes. We've discussed like the Judicial Conduct and
10 -- Board, and -- but it always seemed as though it would be
11 some -- it would come from the defense bar or from -- from
12 the Bar Association to report it. We were not really part
13 of that.

14 I've heard discussions at the local level about how
15 the local bar discusses some of these issues. But as
16 probation officers we were never considered part of that
17 discussion.

18 Q So I gather then that dilemma -- the posture that
19 the POs have vis a vis the court became an impediment from
20 the standpoint of willingness to report from your vantage
21 point?

22 A Correct.

23 Q The -- the issue of the reassessing the reporting
24 requirements and establishing review protocols, what do you
25 mean by that specifically?

1 A We report -- we report to the AOPC information that
2 essentially measures judicial workload, and to the Juvenile
3 Court Judges' Commission information that measures the
4 number of kids and what happened to them and the type of
5 charges.

6 From the probation side that information at the
7 county level is not very practical or useful to either of
8 us. It's easy to report. We certainly report it. But what
9 is not reported is this information does not move over into
10 practice.

11 There is no measure of information that would
12 reflect good practice, bad practice. There is no analysis
13 that occurs as far as I understand that would say look at
14 these numbers. How come these things are shifting? Here's
15 what the averages are.

16 And I'm not sure that the resources are there for
17 either the AOPC or the Juvenile Court Judges' Commission to
18 do that because it takes a lot of time. And in addition,
19 there -- one of the things that the Chief's Association has
20 -- that I've initiated is the -- the notion that we need to
21 really enhance our capacity to conduct research, part of
22 which would involve a larger look at this data from a
23 statewide perspective.

24 We have a long way to go as a system because we
25 don't have good data fields to find. We don't have

1 protocols in place for access to data or what it means.

2 What are the expectations of people who want to review it?

3 There -- I've discussed this with members of the
4 Bar Association, with the Juvenile Court Judges' Commission,
5 with the Pennsylvania Commission on Crime and Delinquency
6 that the State of Pennsylvania needs to come up with and
7 needs to analyze what we're doing.

8 We have -- as of right now I believe we have 64
9 counties on a -- the juvenile case management estimate which
10 was operated and developed out of the Center For Juvenile
11 Justice Training and Research that with the -- shortly
12 within a year we'll have 66 counties up.

13 The only county that will not be a part of it at
14 this point would be Chester. So we essentially have a
15 statewide information system from which we can pull this
16 data. The analysis of -- and making sure that the data is
17 accurate, that it means what we're looking at would allow us
18 to really look into what it is we're doing. And that's my
19 suggestion.

20 Q It's my recollection that JCJC, at least on an
21 annual basis, has a visit -- a county visit with the
22 respective probation departments as a form of monitoring as
23 to whether or not the best practices are being followed
24 within the county surrounding victimization issues and so on
25 down the line.

1 What -- what generally does that cover, and does it
2 cover enough?

3 A Generally the funding we get from JCJC for
4 specialized probation services and in our grant requires us
5 to follow standards of how we monitor cases, standards on
6 how we perform our functions and the -- they are -- when
7 they come down. Because of the JCMS system they are able
8 to look to see whether or not we're making the proper
9 contacts, that we have a supervision schedule and standard
10 in place.

11 There is also a meeting with the judges as well.
12 And it is a good means at the county level for us to
13 prepare. We're going to be reviewed. We have to get our
14 cases in order to make sure that everything is up to par.
15 So it's very helpful in that regard.

16 There's also the discussions on where the system
17 should be going in terms of the -- from the judges and the
18 juvenile court judges representative. It could be more
19 extensive, and it may be more helpful if some of the
20 practices were looked at as well.

21 JUDGE UHLER: Very well. That concludes my initial
22 questioning. I'd like to get back in on ethics later on,
23 but Judge Cleland.

24 CHAIRMAN CLELAND: Mr. Williams.

25 MR. WILLIAMS: Thank you, Judge Cleland. Members

1 of the Commission, I thank you for this opportunity to
2 address issues of mutual concern today. What I wanted to do
3 today was give you a flavor for some of the things happening
4 on a county level.

5 By way of introduction, I was -- I've been a
6 probation officer in the County of Berks since 1981. In
7 December of 2005 I inherited a well-oiled machine from Bruce
8 Grim, the former chief when I was named chief. And I
9 believe two of the things that were on my initial agenda are
10 germane to some of the issues being discussed today.

11 One of the first things I wanted to do was address
12 ethics and professionalism with our probation officers. And
13 I did this not because of any particular issue, rather I
14 wanted to raise the bar with respect to professionalism.

15 Too often ethics and professionalism are relegated
16 to the back of the closet. Only when a problem arises does
17 the door get flung open and the light shine bright enough to
18 bring it back into focus.

19 My decision to address ethics and professionalism
20 was recognition, especially with our younger probation
21 officers, that we face ethical decisions every day. What I
22 wanted to do, and quite frankly I'm still working towards
23 doing this, is set an ethical and professional climate in
24 the Department.

25 After all, the culture of an organization, I

1 believe, goes a long way in reinforcing the values of the
2 organization. My approach began by reinstating the
3 swearing in of probation officers by our administrative
4 judge.

5 We had gotten away from that somewhat over the
6 years, and I wanted to reinstitutionalize it. I saw it as
7 somewhat ceremonial in nature. I believe it to be a good
8 way to stress the importance of the court-appointed
9 position, and by inviting the entire staff to attend, make
10 it a welcome and celebration as well.

11 Hand in hand with the swearing in ceremony was the
12 development of a Code of Ethics for our probation officers
13 in Berks County. While I wanted the code to provide
14 sufficient direction, I also wanted it to reflect our
15 mission and set expectations for behavior.

16 What is evident is that merely providing a Code of
17 Ethics is not enough. A climate of ethical, professional
18 excellence needs to be set, and officers need to be able to
19 think their way through some of the tougher decisions they
20 may face.

21 One of the other things that we did was take a
22 fairly hard line against accepting any gift, gratuity, or
23 promotional item from providers. In my opinion you should
24 just say no. The bottom line is the gifts are a marketing
25 tool designed to influence behavior. And really the

1 monetary value of the gift is not the issue.

2 Research with respect to the pharmaceutical
3 industry has shown that even gifts of nominal value can have
4 an influence on the recipient. I know Mr. Anderson spoke a
5 little bit about this yesterday in his testimony.

6 When a gift or gesture of any size is bestowed, it
7 imposes on the recipient a sense of indebtedness. Whether
8 or not the recipient realizes it, the obligation to directly
9 reciprocate tends to influence behavior.

10 The practice of these pharmaceutical reps providing
11 meals is another powerful tool when combined with friendship
12 and flattery. The act of doing this helps to foster cozier
13 working relationships and breakdown professional barriers.
14 So as I said, we took a hard line with respect to accepting
15 any gift or gratuity from providers.

16 We are fortunate in Pennsylvania to have a unique
17 and diverse provider network available to meet the needs of
18 the children and families that we serve. I believe we must
19 do everything we can to have an above-board relationship
20 that is beyond reproach and focus solely on those that we
21 serve.

22 Our relationship with providers must be
23 transparent. In Berks it is our intention to include
24 language in our future provider contracts that will limit
25 their marketing efforts. What we have conveyed to our

1 providers is that we welcome your brochures, your program
2 descriptions, and your outcome measures. What we don't want
3 or need are your pens, your coffee mugs, your free meals, et
4 cetera.

5 Finally, and perhaps most important of all in our
6 effort to readdress ethics and professionalism, we developed
7 a series of round table discussions with our new probation
8 officers utilizing senior officers and one administrator as
9 facilitators. We saw this as a vehicle early on to set the
10 forms and expectations for the Department.

11 The discussions centered on the legal and ethical
12 standards of conduct and delved into some of the gray areas
13 of decision making probation officers may face. I hope to
14 expand on these discussions by giving our staff a framework
15 or a model for ethical decision making.

16 One of my other first initiatives that I believe
17 has some applicability to the issues in Luzerne County is
18 the implementation of a structured assessment device to
19 guide our detention decisions.

20 Our goal was to make less subjective, more
21 structured and consistent decisions. In short, we wanted to
22 ensure fundamental fairness when we made a decision to
23 detain an offender.

24 Our detention risk assessment instrument, which we
25 began using in July, 2006, is used whenever we contemplate a

1 decision to detain an offender. The instrument uniformly
2 weighs risk factors to reoffend or fail to appear in court
3 and guides us to a more structured decision.

4 Through our participation with the MacArthur
5 Foundation's Models For Change Disproportionate Minority
6 Contact Initiative we were fortunate to have a national
7 expert in detention assessment instruments validate and
8 refine our instrument.

9 One of the keys to making the device work has been
10 the development of alternatives to secure detention. In
11 December of 2008 -- in 2008, and again with the assistance
12 of the MacArthur Foundation, we were able to open the first
13 evening reporting center in the Commonwealth as an
14 alternative to secure detention.

15 While I feel good about how our detention decisions
16 are made today, an additional benefit has been a decrease in
17 the number of detentions for offenders in Berks County. I
18 believe without compromising community safety.

19 In addition to some of the things that we've done
20 on a county level, it's been my honor to serve as the chair
21 of the Chief Council's Ethics committee since last spring.
22 The mission of our Committee is to promote ethical and
23 professional best practices within the Juvenile Probation
24 Departments across the Commonwealth.

25 Our Committee has expanded our existing ethics

1 policy and has worked to educate our peers on a variety of
2 ethical issues. It is our intention to keep ethics and
3 professionalism in the forefront through training and
4 education.

5 Ideally we would like to develop a training
6 curriculum for probation chiefs and departments. We plan to
7 provide a model Code of Ethics for use in other Juvenile
8 Probation Departments. We are also networking with our
9 peers in the child welfare system asking for their support
10 in adding language in provider contracts that will limit the
11 amount of marketing that can be done.

12 Ultimately we intend to form a small group from our
13 Committee that will be available to serve as a sounding
14 board for chiefs when ethical issues arise in their county.

15 I thank you again for making -- allowing me to make
16 these comments. And I don't really want to come across as
17 preachy right now, but what I've been telling my peers, my
18 other chiefs, is that ultimately I think we need to remind
19 ourselves that from time to time that we are public
20 servants.

21 I don't need to tell you that the goal or mission
22 of public service is literally to serve. While private
23 agencies should obey ethical principles, they are really
24 only held to the legal standards relative to labor and
25 antitrust laws. There is no doubt that the expectations are

1 higher for public employees.

2 Suffice it to say, public services carries with it
3 a special ethical demand. It is not surprising that studies
4 have shown that public employees typically value money less
5 and social improvement more than do private employees. One
6 would assume that those choosing public service come into
7 employment already strongly influenced by ethical values.

8 As a system, however, I believe we need to
9 rededicate ourselves to those principles in order to regain
10 the public trust.

11 JUDGE UHLER: May I ask to either Mr. Williams or
12 Mr. Stanzione, in your focus and development of ethical best
13 practices for juvenile probation officers, were there any
14 national models that you were able to tap into focused on
15 the concerns that we've highlighted in Pennsylvania with the
16 private provider issues as well as the ethical concerns
17 about reporting requirements, et cetera?

18 MR. WILLIAMS: Judge, from my research I did not
19 see a lot of models, codes, that touched on the provider
20 relationship. We did write that into ours, and I think it's
21 a special case in Pennsylvania because we have this unique
22 system with a mix of state and private providers.

23 JUDGE UHLER: So the -- the journey that you're
24 undertaking is one that's -- one that's of a first occasion
25 in this instance?

1 MR. WILLIAMS: We're breaking new ground, I
2 believe, yes.

3 JUDGE UHLER: Would you agree with that, Mr.
4 Stanzione.

5 MR. STANZIONE: Absolutely. And we have a great
6 guy at the helm to lead that journey, Bob.

7 CHAIRMAN CLELAND: Other questions? Judge Gibbons.

8 BY JUDGE GIBBONS:

9 Q Good morning. Thank you both for coming. I'm
10 wondering do either of you, either in the -- your
11 organizational group with the chiefs or in your respective
12 jurisdictions, do you have any suggested minimum standards
13 for background or educational requirements in hiring
14 juvenile probation officers?

15 You know, one of the issues that's come to light
16 here in our investigation is that, you know, there are
17 suggestions that people are just presented to the Chief
18 Juvenile Probation Officer as a friend or a relative of
19 someone of importance and say find a place for them. And
20 that, of course, is very disturbing. So are there standards
21 out there?

22 MR. STANZIONE: Judge, there are. And I can speak
23 for what we do in Bucks County. I -- we -- in the job
24 description we will not hire anyone with less than a year's
25 experience in the field. In practice I generally won't hire

1 anyone with less than three to five years experience in the
2 field in working in related areas in the juvenile justice
3 field, and they've demonstrated to be very competent in
4 those areas.

5 My last three hires, I believe, all had Master's
6 Degrees. So -- and five to six years of hiring. I know
7 that the salary scale with Luzerne County pays very similar
8 to what we're paying. So there is the opportunity to hire
9 qualified people.

10 We make sure that they go through internal training
11 as well with us. And that could be as long as eight weeks
12 long. There's expectations overtop of that that over the
13 course of the first six months we have a period by which if
14 you don't perform satisfactorily, we can just let them go.

15 Beyond that it's over a two year period of time
16 that we expect them to get to the point where they can be
17 fully operational as a probation officer and have had enough
18 experience to handle the majority of the situations that
19 come through. So there are -- there are practices.

20 JCJC has the 40 hour training requirement. What we
21 try to do as well is put training -- not just to go out to
22 the party. It is a organized progression of training to
23 develop skills. And we look at the skill levels and
24 continue to add on to that with training.

25 So there is -- there is a way to do that. We --

1 our judges also protect us from the idea, well, here comes
2 somebody from, you know, a friend of a friend of a friend so
3 please bring them on. Unless they've demonstrated their
4 ability to work well with kids in the system, they don't
5 have a shot at making the cut.

6 MR. GIBBONS: Thank you.

7 CHAIRMAN CLELAND: Mr. Listenbee.

8 BY MR. LISTENBEE:

9 Q Yes. Mr. Stanzione, in Luzerne County we were
10 informed by the probation officers who were there that they
11 were the parties engaged with discussions with the youth for
12 waiver of the right to counsel.

13 We were also informed that during the period that
14 we examined from 2003 to 2008 there were -- approximately 54
15 percent of the children who entered the juvenile justice
16 system in Luzerne waived the right to counsel.

17 Do your ethical standards cover the conduct of
18 probation officers as they engage in the process of asking
19 children to waive the right to counsel?

20 A Yes. Our probation officers are not permitted to
21 even ask a juvenile to waive rights. The -- the -- we
22 provide attorneys for every juvenile that comes through our
23 court, either through the Public Defender's Office, the
24 conflict counsel that the county has, and the courts have.

25 We had, I think in 2007, one juvenile waive his

1 right to counsel and -- of over 4,000 court proceedings, and
2 this one juvenile was 18. He was being released. It was a
3 successful release. And his attorney just couldn't make it
4 to the court in time. So he waived his right knowingly, and
5 he was being released under his own, and he was fine. So we
6 will not permit that to occur.

7 Q Do the Chief's Council's rules permit that to
8 occur? In other words, Ms. Brulo was working -- she's
9 obviously a member of the Chief's Council, and it was her
10 probation department that was doing this. Was she in
11 violation of rules or regulations that had been promulgated
12 by the Chief's Council between the period of 2003, 2008?

13 A See, the rule -- I don't believe that the Chief's
14 Council have formal rules on that requirement. We dealt
15 with Gault and that decision 40 years ago. So that was a
16 given.

17 I mean, it was generally thought that every kid had
18 an attorney. So I don't know that we looked back to -- to
19 have an expectation that what do you mean you're not
20 providing attorneys?

21 Q Should you have rules governing that?

22 A That certainly would be a great standard that we
23 should adopt. I mean, I feel very strongly as a chief that
24 no kid should go in a courtroom without an attorney.

25 Q The probation officers were also asking children --

1 reading them the Miranda Rights. Is that something that is
2 authorized by the Chief's Council or by probation officers
3 in the Commonwealth of Pennsylvania on a regular basis?

4 A There may also be something in the JCJC standards
5 as well, but I know that we do that as well. We will advise
6 -- we look at juveniles --

7 CHAIRMAN CLELAND: I think the question is
8 statewide practice, not so much what happens in Bucks
9 County. That's our concern.

10 MR. STANZIONE: Okay. Statewide? I'm not sure how
11 that practice works statewide.

12 CHAIRMAN CLELAND: Ms. Bender.

13 BY MS. BENDER:

14 Q Hello. Thank you for being here. Mr. Stanzione,
15 you mentioned in your specific recommendations for Luzerne
16 County that there should be training in the Juvenile Act and
17 the Juvenile Court Rules of Procedure for the probation
18 officers.

19 It just seems odd that juvenile probation officers
20 wouldn't have that training. Is there currently something
21 available for them to receive that training, all probation
22 officers?

23 A There's an expectation that new probation officers
24 go -- have to complete the training that is offered by the
25 Juvenile Court Judges' Commission. And that -- it's a

1 two-part series on that -- on both the Juvenile Act and then
2 the other rules that govern.

3 My recommendation in this particular case was to
4 make sure that since you're starting over, that everybody
5 was on the same level. That's all. And not that none of
6 them understand it, just start clean. Make sure everybody
7 -- you're essentially redesigning the organization.
8 Let's make sure everything -- everybody's starting on a
9 level playing field, and we'll move forward.

10 Q Thank you. And as far as the Ethics Committee
11 goes, are you considering at this point in time addressing
12 the probation officers' responsibility to report unethical
13 behavior? Because you talked about how hard that is for a
14 probation officer to do.

15 MR. WILLIAMS: I think that's something that we do
16 want to discuss. I don't know if that's going to be
17 something that will be done on a statewide level or an
18 individual county level.

19 Mr. Listenbee's question about rules in terms of
20 counsel for kids, I think a lot of that's probably covered
21 in individual county's local rules of juvenile court. But I
22 do feel it's something that our council needs to push with
23 respect to reporting what we perceive to be ethical
24 violations.

25 MS. BENDER: Thank you.

1 CHAIRMAN CLELAND: Mr. Mosee.

2 BY MR. MOSEE:

3 Q Just a follow up on Mr. Listenbee's question. I
4 think what he's really getting at is whether or not there's
5 any prohibition in writing against probation officers
6 engaging in what might be considered the practice of law,
7 giving legal advice, whether it's with regard to waiving
8 counsel, the possible consequences of a delinquent
9 adjudication, things like that?

10 A I think where you would find that is in each
11 county's individual operating manual, procedure manual, or
12 the local rules of juvenile court. But there's nothing that
13 I know of statewide.

14 Q Do you think that may be necessary?

15 A I think that's a good idea. I know in our local
16 juvenile court rules every child gets counsel. We do not
17 have probation officers giving legal advice. Prior to
18 interviewing a child we do read them their Miranda Rights.
19 That's in our operating procedures.

20 Q It's my understanding that in some counties, for
21 example, probation officers will actually assist the
22 juvenile in completing not just a waiver colloquy with
23 regard to the waiver of counsel, but an admission to the
24 delinquent act. Are you familiar with that happening?

25 A No, I'm not, sir.

1 Q Okay. And that would be a problem if it was?

2 A In my county, certainly.

3 MR. MOSEE: Thank you.

4 BY CHAIRMAN CLELAND:

5 Q Just a couple follow-up questions. The model Code
6 of Ethics that you're working on, do you have some time line
7 as to when that might be completed?

8 A Well, the revised Chief's Council Code of Ethics I
9 would hope would be adopted by March. And that one was
10 somewhat difficult to do because our Council does accept
11 providers as members. So we kind of had to write it what's
12 good for the goose is good for the gander. So if you're
13 going to join our organization, they're going to have to
14 abide by our Code of Ethics.

15 But we also want to put out a sample Code of
16 Ethics, a more in-depth Code of Ethics, for probation
17 departments to utilize if they want, which does address
18 norms and expectation -- sets expectations for behavior and
19 includes balanced and restorative language in it.

20 Q Is that anything you could share with us at this
21 point?

22 A I could provide the Committee with a copy of our
23 Code of Ethics, certainly.

24 Q Okay. Great. And then you expect that's going to
25 be adopted sometime in the spring?

1 A I would hope so by our council, yes.

2 Q One of our mandates is to determine if there's
3 other misconduct going on in other parts of the state. You
4 two are long time probation officers. You're connected.
5 You've got connections all over the state. You talk to your
6 colleagues. Without naming particular counties, do you have
7 any concerns that you could report to us today that there
8 are things like this going on like we discovered in Luzerne
9 County anywhere else in the state?

10 MR. STANZIONE: Specifically, no. I know there's
11 variations in how the process works. And some of the larger
12 counties take more of a procedural or step by step process,
13 while other counties may look to coordinate things or make
14 them quicker.

15 It goes to the volume, or they don't have enough of
16 the support. But specifically, no. I do not have any
17 indicators that bad practice -- that illegal activity is
18 going on.

19 Q Well, either illegal or wholesale disregard of
20 either the juvenile rules or constitutional rights on a --
21 certainly case by case there's going to be an occasional
22 case where that happens.

23 A Right.

24 Q But I'm talking about a matter of policy, wholesale
25 rights. Do you have any indication that that's happening?

1 A Given the number of our members and the interaction
2 that we have from the chiefs around the state and what they
3 report to us in discussions, my answer is no.

4 MR. WILLIAMS: I would concur with that, yes.

5 BY CHAIRMAN CLELAND:

6 Q And then, finally, I've heard probation officers
7 talk for a lot of years about the increasing professionalism
8 of which your organization's certainly been on the forefront
9 in increasing the level of professionalism of probation
10 officers.

11 And one of the concerns that has been repeatedly
12 expressed is the high turnover that -- that makes it
13 difficult for people to become professionals when they can
14 hire under agencies and organizations. And consequently for
15 years and years we heard probation officers aren't paid
16 enough to make a career of it.

17 I didn't hear any of that in your testimony today.
18 Is -- I'm sure that problem is not solved, but is that
19 something we need to be concerned about as we talk about the
20 sophistication of the system?

21 MR. STANZIONE: I think that, again, varies from
22 county to county. You could ask our Commissioners. I mean,
23 unfortunately they would like to see some more turnover.
24 We have not had POs leaving. They're lining up to get in.

25 BY CHAIRMAN CLELAND:

1 Q But as an association that's not on the forefront
2 of your issues as it has been previously?

3 A I think that was probably an issue 15, 20 years
4 ago. I don't think that's the same issue today.

5 Q I'm sure there's lots of people that are
6 dissatisfied with their salary. I'm not suggesting that.
7 But as a systemic issue that doesn't seem to be so much of a
8 problem?

9 MR. STANZIONE: I don't think so.

10 CHAIRMAN CLELAND: Mr. Horoho.

11 BY MR. HOROHO:

12 Q Mr. Stanzone, you were just telling Judge Cleland
13 about the contacts you've had which are very much in-depth
14 across the state. Didn't you have these same contacts in
15 place during the period '03 to '06, '07?

16 A I was not in a position that I was at the time. I
17 was functioning in a capacity, I believe at that time, as
18 the treasurer. So I did not have the far reach that I'm --
19 the last couple years have provided me with. But, yeah,
20 we've had pretty extensive contacts.

21 Q And you said that there were no red flags that your
22 organization received or concerns that were raised in
23 Luzerne County during that same period of time.

24 So what additional information do you now have,
25 data that you have now, that you can tell the Commission

1 that nothing like what happened in Luzerne County is
2 happening in 60 -- the other 66 counties?

3 A It's all anecdotal. Part of my recommendation is
4 for the development of that capacity through all the
5 information we have in our database systems. But I -- and
6 everything else would be discussions that we've had with
7 people. But we -- no one's likely to come to a meeting and
8 say, hey, guess what we're doing. We've got this new way of
9 skipping over -- so we don't have that -- there's no
10 indicators that we see that would show that. We're not a
11 regulatory body in that sense.

12 Q You would agree with me though out of all the
13 groups, individuals that touch the lives of these juveniles
14 when they're in the system, prosecutors, defense counsel,
15 judges, probation officers have the most contact with these
16 kids?

17 A Absolutely.

18 Q Then how is it that in '03 to '08 when Ms. Brulo
19 was an active member of your group that nobody within your
20 group received any information about what was happening to
21 these kids that would raise a concern? What do you think
22 happened there from your group side?

23 A Ms. Brulo did a lot of work for us with the -- as
24 far as -- back then in the Mental Health Committee and
25 provided us with mental health information and how the

1 mental health system functioned. But prior to that the
2 juvenile system really didn't have a lot of contacts in the
3 mental health area.

4 So it was more input from her regarding that as
5 opposed to us really looking into what it was Ms. Brulo did
6 back in her county. There was no indicators that I was
7 personally aware of that -- of what was going on in these
8 waivers.

9 You know, I -- I know she came down to Bucks at one
10 point and looked at a detention center and model plans and
11 kind of built -- got involved in that. But we don't really
12 regulate probation departments. We suggest.

13 Q And what would have happened if maybe an underling
14 of Ms. Brulo would have come to you and said, boy, some
15 things are happening right in Luzerne County with the
16 waivers? What would you have done at that point?

17 A Personally I would have addressed it directly with
18 Ms. Brulo. I mean, if someone were to come to me and say
19 hey, look, there's something really bad going on in Berks
20 county, I would certainly go to Bob and say, you know,
21 what's going on?

22 I think members of our Executive Committee have
23 that kind of a rapport to say that. But I couldn't -- I
24 don't have any authority to go into Berks County and say,
25 look, we're -- let me take a look at what you're really

1 doing.

2 Q One more question. In your report on page five you
3 say most defense counsel and prosecutors do not have a good
4 working understanding of the JJS, its laws, and regulations.
5 Is that in most cases or just the difficult ones that
6 prosecutors and defense counsel don't understand what's the
7 laws and regulations?

8 A Historically, and I think this is probably true
9 across the state, kind of a -- my summation of this from
10 discussions with other chiefs. Juvenile court is a testing
11 ground or training ground for prosecutors and public
12 defenders who move on into other careers with the exception
13 of larger municipalities like in Philadelphia, Allegheny
14 County where they have special prosecution units, special
15 Public Defender's Office who get acquainted with the issues,
16 who get to know the ins and outs of the juvenile law, how to
17 defend a kid, how to defend, you know, understanding of the
18 other consequences of the juvenile scenarios like the Adam
19 walsh act and so on.

20 My conversations with Mr. Listenbee and some of the
21 efforts that he's undergoing, I feel very strongly that
22 those pass-through attorneys don't get a full grasp on --
23 the same way that a probation officer really isn't a full --
24 fully functional aberrational probation officer in my
25 opinion until he's been there a couple of years, until he

1 really gets an understanding of the nuances that go along
2 with defending a kid.

3 Q So that's more the rule than the exception?

4 A Pardon me?

5 Q Do you think that's more the rule than the
6 exception, at least as it relates to the smaller counties?

7 A That would be my -- my belief, yes, that it's more
8 of a rule. They move on.

9 MR. HOROHO: That's all.

10 CHAIRMAN CLELAND: Mr. Legg.

11 BY MR. LEGG:

12 Q If I could follow up on some of those questions a
13 little bit. Does your group feel that juvenile probation
14 officers have sufficient independence from the court itself?
15 Obviously you're supervised.

16 You're part of the court system. But is there a
17 sensor? Is there a concern that there's not enough
18 independence in terms of your professional judgement or
19 things of that nature? Is that something that you talk
20 about?

21 How do we make sure that although we're supervising
22 under the court itself that we are still independent of the
23 court in terms of advocating or looking out for our clients
24 or the kids? How does that dichotomy work in terms of a
25 good probation officer?

1 A Well, for a good probation department my suggestion
2 would be -- that's my recommendation for the court work
3 group, because that's where those discussions occur. That's
4 where those standards and that interaction between the
5 judges, DA, PD, and probation department can occur, as long
6 as they're frank and everything.

7 We've had some pretty good discussions in there
8 about why a probation department or probation officer needs
9 to do it this way. In other words, all these other
10 ramifications to make the feds or the public -- or the DA,
11 and a lot of times the judge and court administration,
12 understand the rationale.

13 So there has to be the communication that occurs
14 and the ability to not be afraid to say what you need to say
15 in that type of environment. As long as there's open dialog
16 like that, a lot of those issues and concerns go away.

17 Q Well, let me give you a concrete example. We had
18 testimony from Ms. Brulo, and she identified an exhibit that
19 in February of 2003, after the opening of PA Child Care,
20 they received a memo from their juvenile judge, Judge
21 Ciavarella, that the probation department would implement a
22 zero tolerance policy for violations.

23 Any violation will result in a placement. In other
24 words, you're late for an employment, placement. Hot urine,
25 placement. Missed school, placement. Any violation. How

1 as a chief probation department, when you get something like
2 that from your judge, how do you handle that even if you
3 call a colleague in another county?

4 What is the answer in that situation when you've
5 been told, despite all of your professional training,
6 despite all of your care and your concern for children,
7 you've just been told by the person who supervises you, this
8 is our policy now?

9 As somebody who's a chief and oversees the chiefs
10 and the rest of the counties in this Commonwealth, how would
11 a chief in that situation address that?

12 A First step obviously is to meet with the judge and
13 discuss this. I mean, you'd have to. Then try to provide
14 support for why you wouldn't want to do it this way.
15 Because there are -- there are other telltale signs that
16 should be popping up somewhere, 148 funding, our needs-based
17 funding source on the volume, on abuse of a kid.

18 I mean, there are other ways that that could be
19 identified. So that practice could come to light sooner.
20 Now, to say I had enough, I'm going down the street and
21 calling the FBI, I mean, there's not a real policy board to
22 go to.

23 I mean, I -- I would have to -- personally I would
24 have to try to hash it out with my judge and try to resolve
25 that because of the practice. It's going to come to light

1 somewhere. What's the reason for detention? We have
2 certain codes we have to fill out. There are a lot of other
3 pointers that could be -- show an inappropriate use of
4 detention just to fill beds.

5 But that's part of my recommendation for the
6 research component is that we need to pull these indicators
7 together and provide that opportunity to just be able to
8 review it. And that eliminates, or at least makes it much
9 more difficult, for those kind of things to occur.

10 Q That's a bad situation to be in though, you agree?

11 A Oh, absolutely.

12 Q Your judge is telling you something, and --

13 A Absolutely.

14 Q I mean, it's -- has your association talked about
15 that in terms of either the ethical rules or how do we
16 address a situation where you have a rogue judge and you're
17 under the rogue judge, right?

18 A Right.

19 Q And to some degree you serve at the discretion of
20 the judge unless you're a unionized employee or something to
21 that affect. I mean, Sandra Brulo gets this memo and
22 distributes it to your her probation officers. None of them
23 agree with it, but to a degree they're stuck with it, right?

24 A Correct.

25 MR. LEGG: That's all I have.

1 CHAIRMAN CLELAND: Thank you, gentleman, very much.
2 We appreciate your participation here today and your advice
3 and suggestions you've given us and look forward to
4 receiving your draft of the model code. Thank you, very
5 much.

6 MR. STANZIONE: Thank you, very much. Thank you,
7 panel.

8 MR. WILLIAMS: Thank you.

9 CHAIRMAN CLELAND: We'll turn now to Dr. Sharp. I
10 think we'll just eliminate our break.

11

12 RONALD SHARP, called as a witness, being duly
13 sworn, testified as follows:

14

15 DR. SHARP: Good morning, Mr. Chairman, members of
16 the Commission. I'd like to begin my remarks by thanking
17 this Commission for the opportunity to testify, as Judge
18 Cleland stated in his letter of invitation, concerning what
19 went wrong in Luzerne County and what recommendations the
20 Commission should consider to improve the juvenile justice
21 system in Luzerne County and throughout this Commonwealth.

22 Let me begin my testimony by thanking Mr. Michael
23 Pennington, the Director of the Office of Juvenile Justice
24 and Delinquency Prevention for his assistance in the
25 preparation of this testimony.

1 The Juvenile Justice and Delinquency Prevention
2 Committee, also known as the JJDPC, is charged with the
3 responsibility of informing the work of the Pennsylvania
4 Commission on Crime and Delinquency in all areas that impact
5 the workings of the juvenile justice system in this
6 Commonwealth.

7 Every two years we prepare a report to the Governor
8 on the state of the Pennsylvania juvenile justice system,
9 and we make specific recommendations on how our system can
10 be improved. We also provide recommendations to the PCCD
11 concerning the expenditure of state and federal dollars
12 designed to prevent, treat, and reduce juvenile delinquency.

13 The membership of the JJDPC represents all parts of
14 the juvenile justice system from arrest to supervision and
15 from home-based services to intensive secure custody.

16 Ms. Bender, Mr. Listenbee, and Mr. Mosee of this
17 Commission, and Mr. Anderson and Mr. Schwartz who testified
18 yesterday, are all members of the JJDPC. Judge Art Grim
19 who's well known to this Commission is also a member of the
20 JJDPC.

21 From its creation in 1977 the Committee has
22 functioned under the philosophy now supported by substantial
23 research that there's a significant difference between
24 children and adults, and that this difference requires a
25 juvenile justice system to responds to illegal behavior in a

1 manner that is much different from the criminal justice
2 system.

3 More recent research has also shown us that females
4 in the juvenile justice system have unique needs that must
5 be understood and addressed. We also recognize that the
6 standards for the quality of care, whether community-based
7 services or residential treatment for the children under the
8 jurisdiction of the juvenile justice system, should be no
9 less than what we would want for our own children.

10 We believe in a juvenile justice system that serves
11 as an arbiter of decisions that are constitutionally sound,
12 socially responsible, and fundamentally fair to all of the
13 young people and crime victims that we serve.

14 In 1968 President Johnson's Task Force on the
15 Challenge of Crime in a Free Society issued its report on
16 juvenile justice. The most compelling line in that report,
17 which remains true today, was this, whether a child
18 subjected to the truly awesome power of the juvenile court
19 is dealt with on the basis of fairness and understanding is
20 determined by one thing, his place of birth.

21 As to what went wrong in Luzerne County this
22 Commission has already received extensive testimony about
23 this question. In the more than 1,400 pages of testimony,
24 it is clear that the Commission has learned a great deal
25 about what went wrong.

1 Judge Art Grim summarized this issue very well in
2 the May, 2009 meeting of our Committee when he said what
3 happens in Luzerne County was pure evil. And his testimony
4 before this Commission has demonstrated Edmond Burke was
5 correct when he said all that is essential for evil to exist
6 is that good men do nothing.

7 While the evil in Luzerne County has done terrible
8 things to many people, as you know from the testimony that
9 you received, it's also true, as Martin Luther King, Jr.
10 Stated, unarmed truth and unconditional love will have the
11 final word in reality. That is why right temporarily
12 defeated a stronger and evil triumphant.

13 The JJDPDC believes that the work of this Commission
14 is one critical step in discovering the truth and
15 identifying the right so that our juvenile justice system
16 may prove stronger than the evil that existed in Luzerne
17 County.

18 And now to the specific recommendations we are
19 asking the Interbranch Commission to consider.

20 1, all juvenile probation departments should be
21 required to use validated risks, needs, and strengths
22 assessment instrument for every youth.

23 We believe that every youth entering the juvenile
24 justice system should be assessed for risk, need, and
25 strength using validated and evidence-based instruments.

1 The Youth Level of Service Case Management Inventory, as
2 noted yesterday by Mr. Anderson in his testimony, is such an
3 instrument.

4 It's important to understand that intervening in
5 the life of the child and his or her family is a major
6 decision that has lasting and profound impact. Using an
7 evidenced-based or risk, needs, strength assessment will
8 assist in providing consistent decision making within each
9 county and across the Commonwealth.

10 Had Luzerne County been using such an instrument,
11 the abuse of power that occurred could have been identified
12 more clearly and perhaps curtailed. While the uniqueness of
13 each child and the circumstances of every situation require
14 individual decision making, the framework for this decision
15 making can and should be built on highly structured
16 evidence-based practices.

17 Along with standardized risk, needs, and strengths
18 assessments the JJDC fully supports the testimony of James
19 Anderson who testified yesterday concerning the role of the
20 juvenile court judge. We are in complete agreement with his
21 testimony which read, we must ensure that we do not
22 undermine the fundamental or foundational principles of our
23 juvenile justice system, the most important of which is the
24 statutory responsibility of the juvenile court judge to
25 craft a disposition in every delinquency case that is

1 consistent with the protection of the public interest, best
2 suited to the child's treatment, supervision,
3 rehabilitation, and welfare, and which provides balanced
4 attention to the protection of the community, the imposition
5 of accountability for offenses committed, and the
6 development of competencies to enable the child to become a
7 responsible and productive member of his or her community.

8 Recommendation 2. Detention screening instruments
9 should be used as part of every secure detention admission.
10 Placing a youth in a detention center is a major decision
11 that has a substantial impact on the youth, his or her
12 family, and the juvenile justice system.

13 As a personal note, my work in residential care has
14 helped me to gain a much better understanding of how
15 stressful or traumatic it can be for a young man or young
16 woman to be taken away from his or her family, peers,
17 school, and community.

18 The accompanying fear, guilt, shame, sadness, and
19 anxiety that often happens is clear evidence of how
20 important this decision is in the life of a child. Because
21 of the magnitude of this decision, it's essential that we
22 use evidence-based instruments that allow for an assessment
23 of risk, a determination of the level care that is needed,
24 and the creation of the resources necessary to provide the
25 required level of care. Had Luzerne county been using such

1 an instrument, many youth who were detained would not have
2 entered the detention center.

3 Recommendation 3. Juvenile justice prevention and
4 intervention policies and programs should be evidence-based.
5 When Judge Grim testified before this Commission on November
6 9th he talked about a delinquency prevention, treatment
7 program that was built on the use of dirt bikes.

8 Judge Grim noted that a probation officer he knew
9 had great enthusiasm for this program. He also noted that
10 there was no evidence to suggest a program, no matter how
11 well-intentioned or operated, was effective in either
12 reducing or treating delinquent behavior.

13 In like manner when I was a juvenile probation
14 officer in Cambria County I went to a training seminar that
15 taught a group counseling program to be used with delinquent
16 youth. With great enthusiasm I returned to Johnstown and
17 began running such groups.

18 Years later, after research on the program had been
19 conducted, we learned that such groups were not helpful, and
20 on occasion were harmful to the youth who were involved. We
21 all know the scared straight program does not work and can
22 be harmful.

23 In 2010 we have considerable research identifying
24 those practices that are effective in preventing and
25 addressing delinquent behavior. We now have programs that

1 have proven their effectiveness in preventing and reducing
2 delinquent behavior. We also know that a number of programs
3 appear to offer great promise, but today the members of the
4 JJDPDC have the mentality often associated with the people
5 from Missouri, show me.

6 To illustrate our commitment to evidence-based
7 practice I would like to mention the PCCD Resource Center
8 for Evidence-Based Prevention and Intervention Programs and
9 Practices, funded through the JJDPDC. This center began on
10 July 1st, 2008 and was created to expand the use of quality
11 prevention and intervention programs.

12 These programs are aimed at promoting positive
13 youth development, preventing violence, delinquency,
14 substance abuse, and other problem behaviors in children and
15 adolescents.

16 The Resource Center has three components. The
17 first, to support the implementation of established
18 evidence-based program models. For years the JJDPDC, and
19 more recently the Department of Public Welfare, has provided
20 significant financial support to counties in support of
21 evidence-based intervention programs.

22 Blueprint programs, such as Multisystemic Therapy,
23 Functional Family Therapy, and Multidimensional Therapy
24 Foster Care have been proven to reduce or prevent
25 delinquency. These programs have undergone a rigorous

1 research and have been replicated throughout the country.

2 Second, support for improving the quality of local
3 juvenile justice programs. Currently the JJDPC is working
4 on a juvenile justice system quality improvement initiative
5 in which the National Center for Juvenile Justice is
6 establishing best practice standards for juvenile justice
7 intervention programs.

8 The goal of this initiative is to improve the
9 overall quality of programming in Pennsylvania. The
10 National Center is working to have these standards
11 recognized and adopted by juvenile probation departments and
12 service providers.

13 And third, support for community planning to
14 implement evidence-based prevention program models. Through
15 the work of the JJDPC and PCCD Pennsylvania had developed a
16 delinquency prevention model that is recognized nationally.

17 Studies have shown that these programs are
18 producing positive outcomes for youth and families and
19 dealing a significant return on investment to the
20 Commonwealth.

21 Recommendation 4. Funding for indigent defense
22 should be provided by the Commonwealth of Pennsylvania. As
23 previous testimony has indicated, Pennsylvania is only one
24 of two states that does not provide state funding for
25 indigent defense.

1 Leaving this responsibility to individual counties
2 creates significant differences in the quality of the
3 service it is provided. Standardizing this service to the
4 provision of state funding would improve the overall quality
5 of defense representation in the Commonwealth.

6 Therefore, the JJDC supports the testimony
7 presented yesterday by Mr. Schwartz which reads, the
8 Commission should recommend that the General Assembly
9 establish a dedicated funding stream for indigent defense by
10 declaring in the Juvenile Act that the right to
11 court-appointed counsel shall not depend on parents' income.

12 I would like to mention that for the last six years
13 the JJDC has been providing the annual training grant to
14 both the PA District Attorney's Institute and the
15 Philadelphia Defender's Association. These grants support
16 training for prosecution and defense attorneys working in
17 county juvenile justice systems to better meet the
18 challenges of serving youth who are charged with delinquent
19 behavior.

20 Beginning in 2006 the Defender's Association has
21 offered training specifically on the Rules of Juvenile Court
22 Procedure, and has subsequently offered and delivered
23 training updates on case law, legislation, and the Rules of
24 Procedure.

25 This year we will be providing additional funding

1 to help improve access to counsel and the quality of
2 representation for children charged with delinquent
3 offenses. We will be working with the Juvenile Defender's
4 Association on a process to help support the development of
5 model juvenile units that work effectively in large urban
6 and suburban counties as well as small rural counties.

7 The Pennsylvania District Attorney's Institute has
8 also offered trainings on the Rules of Juvenile Court
9 Procedures and will be offering this training again in 2010.

10 The JJDCPC concurs with all those who testified as
11 to the need for expanding training for both defense counsel
12 and prosecutors who work in the juvenile justice system.
13 This training is essential in our efforts to improve the
14 quality of care that is provided.

15 Recommendation 5. Community-based diversion
16 programs need to be developed and utilized. There is
17 unanimous agreement within our juvenile justice system that
18 many youth can be diverted to community-based programs if
19 such services are available.

20 The use of family group conferences and youth aid
21 panels are only two examples of programs that have been very
22 successful in diverting youth from the juvenile justice
23 system. The Dauphin County Family Group Conferencing
24 Program reports that 76 percent of the youth who complete
25 this diversion program do not return to the juvenile justice

1 system. Implementing a statewide risk, needs, and strength
2 assessment instrument will assist in identifying programs
3 that need to be developed.

4 Recommendation 6. Counties should develop adequate
5 community-based services to prevent and treat youth who are
6 engaged in delinquent behavior.

7 Every child who commits a delinquent act or enters
8 the juvenile justice system should have similar
9 opportunities to receive intervention services that are able
10 to meet his or her needs while protecting the community.

11 Again, the JJDPC would emphasize the importance of
12 building these services on evidence-based practices. As I
13 noted above, we prepare on a regular basis recommendations
14 to the Governor concerning improvements for the Pennsylvania
15 juvenile justice system.

16 In each of our reports we have made recommendations
17 concerning the need to expand and strengthen the role and
18 resources of the Juvenile Court Judges' Commission.

19 Therefore, we enthusiastically support the
20 testimony of Mr. Schwartz that reads, last year was the 50th
21 anniversary of the JCJC's creation as an advisory body that
22 sets standards, collects and publishes data, and administers
23 a small grant-in-aid program. JCJC has a tiny staff.
24 It is severely underfunded, but it has enormous influence
25 because of its knowledge, integrity, and skills.

1 JCJC clearly should have more capacity and power to
2 analyze and publish more data like that that helped the
3 Juvenile Law Center uncover the Luzerne County scandal.

4 At this point I would like to take a moment, if I
5 may, and make a personal observation about the JCJC, its
6 knowledge, integrity, and skills. Having worked as a
7 juvenile probation officer, juvenile court consultant with
8 the JCJC, and as Executive Director of the agency, I have an
9 intimate knowledge of its ability to help shape the practice
10 of juvenile justice in this Commonwealth.

11 I can state without reservation that juvenile court
12 judges, juvenile probation officers, and providers all look
13 to the Juvenile Court Judges' Commission for leadership. As
14 the only such body of its kind in the country, the JCJC is
15 unique in its structure and responsibilities.

16 Given the necessary resources, the JCJC can play a
17 vital role in implementing the recommendations of this
18 Commission. To that end I would suggest that the Commission
19 look to the JCJC as an essential partner in implementing
20 their recommendations that you make.

21 Recommendation 7. Juvenile justice policies and
22 programs must reflect unique physical, social, emotional
23 needs of females and should be based on the principles of
24 trauma informed care.

25 Until recently the juvenile justice system did not

1 understand unique needs of girls. This lack of
2 understanding resulted in our treating boys and girls as if
3 they are the same and that their needs are identical. We
4 now know that despite the many commonalties, there are
5 unique needs for girls.

6 These include, 1, access to female-focused physical
7 healthcare services; 2, access to environments that are
8 supportive of the unique needs of girls and sensitive to
9 trauma-related issues; and 3, access to behavioral
10 healthcare services.

11 The JJDPDC asks that this Commission in its
12 deliberations be mindful of the needs of girls who are
13 served by the juvenile justice system.

14 Recommendation 8, the Commonwealth of Pennsylvania
15 should fund the administration of the lower courts. In the
16 Pennsylvania Supreme Court case County of Allegheny versus
17 Commonwealth of Pennsylvania, the court ruled that a lower
18 court system funded by 67 counties with disparit fiscal
19 capabilities created an inherently unequal system of
20 justice.

21 To correct this the court ruled that the
22 Commonwealth must take over funding and administration of
23 the lower courts. This decision was rendered in 1987 and
24 has yet to be fully implemented.

25 Having presented the eight recommendations endorsed

1 by the JJDPC, I would like to take a minute to talk about
2 how the work of this Commission is already shaping the
3 workings of our juvenile justice system.

4 In reading the stories told to this Commission by
5 the young people whose lives have been forever marred by
6 their experience in Luzerne County, it's become apparent
7 that the JJDPC could take immediate action to address one
8 small part of this terrible event.

9 Therefore, the JJDPC will be asked at its February
10 11th meeting to commit funding for the creation of a
11 juvenile justice system victim advocate. With the approval
12 of the JJDPC and the PCCD it would be possible to create and
13 fund this position and have it operational by July 1st of
14 2010.

15 The JJDPC will be asked to continue this commitment
16 on an annual basis in the hope that the Commonwealth will
17 create such a position and provide ongoing funding.

18 Initially this victim advocate could do extensive
19 work in Luzerne County. His work would be coordinated with
20 the Luzerne County Victim Services Program and Carol Lavery,
21 who's the Pennsylvania Victim Advocate, and who supports
22 this initiative.

23 An element of this work would include helping local
24 victims service programs in their service to the young
25 people who have testified that they now fear life and have

1 lost trust in their fellow citizens. Implementing this one
2 small program may help to combat the evil that existed in
3 Luzerne County.

4 Finally, my work with traumatized youth has helped
5 me to gain a very deep understanding of how the simple act
6 of sharing what happened can reduce anger, shame, stress,
7 guilt, fear, and grief. As you continue to listen to the
8 stories of those whose lives have been damaged, I would
9 suggest that the simple act of listening has a great
10 therapeutic value to the victims and our juvenile justice
11 system.

12 Once again, thank you for the opportunity to be
13 here this morning to testify on behalf of the Juvenile
14 Justice and Delinquency Prevention Committee.

15 BY CHAIRMAN CLELAND:

16 Q Dr. Sharp, thank you for being here. Before I turn
17 over questioning by fellow Commissioners I want to follow up
18 on a line of questioning we had with the -- with the
19 juvenile chiefs. And that is whether or not through your
20 contacts of the PCCD and your work, either for that
21 organization and your own private practice, do you have any
22 sense that these kind of things that have -- that are evil,
23 as you described it, that went on in Luzerne County is
24 happening other places in the Commonwealth?

25 My concern is that in shining the light on Luzerne

1 County we may have reflected on other counties negatively,
2 and maybe fairly or perhaps unfairly. Do you have any sense
3 that there is this kind of wholesale violation of rights in
4 the Juvenile Act other places going on?

5 A No, I do not.

6 Q Do you have any incite for us on why this went on
7 in Luzerne County and it wasn't picked up?

8 A Oh, I -- in reading the testimony I cannot believe
9 -- I just cannot believe that the people in that courtroom
10 saw that going on for that length of time and did not
11 understand in their heart of hearts that it was wrong, that
12 it was evil, but they chose to do nothing about it. I mean,
13 that -- I mean, that -- I should offer something perhaps
14 more sophisticated, but I believe that to be the facts.

15 Q Has the PCCD or any other organization that you're
16 aware of changed anything that was in place during that time
17 period that would now enable them to pick up or be sensitive
18 or maybe catch those kind of things that are going on?

19 A I don't think we put anything in place. I think
20 two comments I would make. I would not have anticipated the
21 level of bad things that happened in a courtroom. I just --
22 in 42 years of experience I've just never had that kind of
23 experience.

24 But clearly now it exists, so I sleep with one eye
25 open. And I think that's a very important thing to

1 understand from my point of view. And I tend to see things
2 very simply.

3 In my view JCJC could be given the authority and
4 the resources to do quarterly runs on all the data with the
5 key variables within the juvenile justice system. And if a
6 judge -- if Judge Uhler in York County has a behavior that's
7 a standard deviation of whatever you want to call it beyond
8 the mean for third class counties, then I would want one of
9 the juvenile court consultants with the JCJC out there
10 talking with him.

11 Because it's that -- to me these things happened in
12 secret. Nobody was willing to talk about what was
13 happening. And that would not take a lot of money to do
14 quarterly runs of that data, find aberrations, and talk to
15 find out what was going on.

16 To me that's a very straightforward and simple way
17 of identifying the problem. Not necessarily solving it, but
18 certainly identifying it. But those systems were not in
19 existence because I don't believe those of us who've worked
20 in the system -- I'm shocked that that happened in Luzerne
21 County.

22 I'm as shocked today as I was when I heard about
23 it. I just can't believe that people behaved that way. I
24 know they do now obviously. So that's not a very
25 sophisticated answer, but an honest one, I think.

1 CHAIRMAN CLELAND: Mr. Mosee.

2 BY MR. MOSEE:

3 Q Good morning, Dr. Sharp.

4 A Good morning, Mr. Mosee.

5 Q I'm going to commit the cardinal sin for an
6 attorney, and I'm going to ask a question that I don't know
7 the answer to. Are you a clinical psychologist?

8 A Yeah. I'm a licensed psychologist here in the
9 state and a certified school psychologist, yeah.

10 Q Do you evaluate juveniles, or have you ever done
11 that in your career?

12 A I do that routinely on my work now at ARC.

13 Q Are there standards governing the way that those
14 evaluations are to be conducted and completed and what they
15 ultimately should include?

16 A Yes. The Pennsylvania Psychological Association
17 and the American Psychological Association has standards for
18 conducting psychological assessments. It would identify
19 certain instruments as -- as valid and reliable, which moves
20 us away from the subjective interpretation or personal
21 preferences from an individual psychologist.

22 Q Would it be possible for you to provide the
23 Commission with a copy of those standards?

24 A Certainly.

25 Q You may or may not be aware that in Luzerne County

1 evaluations were conducted, and there's certainly a question
2 about the credibility, the reliability of those evaluations.

3 A In reading the testimony it was clear that you
4 heard testimony that psychologists used cookie cutter
5 approaches, that it's all the same. That is -- that is not
6 -- that has not been my experience as a psychologist.
7 That's not how we practice in my agency or the other
8 psychologists that I know.

9 MR. MOSEE: If you could provide those standards,
10 that would be very helpful. Thank you, Dr. Sharp.

11 CHAIRMAN CLELAND: Mr. Allen.

12 BY MR. ALLEN:

13 Q A couple questions for you. First of all, in
14 Luzerne County it appears that there was what was called the
15 placement probation officer, and his job was to place -- to
16 get the recommendations and to look for a placement that he
17 would recommend to the judge.

18 And then, of course, then whenever the judge -- in
19 a lot of cases the judge would -- if placement wasn't even
20 recommended would still go ahead and place. What do you
21 think about a team of probation officers, perhaps victim
22 advocates, and other type of professionals who might be on a
23 team that will look at the assessments that the
24 psychologists do and look at the -- at the juvenile's needs
25 and go together as a team and make recommendations to the

1 judge? Do you think that's an appropriate approach perhaps
2 to maybe prevent the judge from going off in left field
3 somewhere with a decision and in looking at their
4 recommendations a lot harder?

5 A Yes. I think something like that is doable.
6 Getting certainly input, feedback from victim services, from
7 the clinical people who have been working, as well as the
8 probation staff.

9 My experience has been that in the vast majority of
10 cases it's the probation staff working with all of those
11 people who make the recommendation to the judges about
12 possible dispositions, not the judge telling probation how
13 it works. That has not been my experience.

14 Q I also have another question. You had some
15 recommendations about -- that are going to cost some money.
16 And, of course, in this fiscal time where money is very lean
17 do you have any ideas, and I'm sure Mr. Listenbee probably
18 has some ideas because he works with indigent defense folks
19 a lot in that Committee, do you have any suggestions on how
20 to fund the indigent defense fund so that the legislature
21 and the Governor would be willing to provide that?

22 A Well, again, I guess my sense would be that this
23 Commission's going to have a very receptive audience given
24 the travesty of what happened in Luzerne County. And I
25 guess I would use that influence to identify substantial

1 pull of money to be used in this endeavor.

2 I mean, I don't have figures, but I -- I guess I
3 would not underestimate the power that you will have in
4 making recommendations to -- to think about the needs that
5 exist and be able to provide for that.

6 Q As well as your recommendation for funding the
7 lower courts completely, is that also your answer to that
8 one?

9 A Yeah. That would also -- yes, that would also be
10 part of that answer, yes. Thank you.

11 Q Is your Commission -- have they considered
12 providing periodic training grants for the -- for police
13 officers, to the Municipal Police Training Commission, as
14 well as to the State Police?

15 A Actually the PCCD does funding of police, both at
16 the state and local level. Not our Subcommittee within the
17 PCCD, but the Commission itself does provide that kind of
18 funding.

19 Q And for training have you considered providing
20 grants, and I know Municipal Police Training Commission has
21 training grants they give to police departments to provide
22 money to them for juvenile specific training because that --
23 if you talk to police officers, that seems to be an area
24 that although in the -- when they're a cadet there is a very
25 large portion that is dedicated to juvenile justice.

1 After they become officers, particularly small
2 police departments where you don't have specialization, they
3 deal with juvenile issues on a day-to-day basis, and they
4 might need some kind of training updates periodically
5 through their in-service trainings. Do you think that would
6 be an appropriate place to provide or to consider providing
7 funding?

8 A I do. And I think this Commission can make a
9 recommendation to PCCD and consider the possibility of that
10 kind of funding on an ongoing basis. I think that would
11 certainly be an appropriate recommendation.

12 Q Now, let's talk a little bit about your suggestions
13 on community-based services. I'm from Erie County. Our
14 county is fairly well provided for with community-based
15 services. We have excellent services.

16 But just down the road we have three fairly small
17 counties, Warren County, Crawford County, Forrest County
18 come to mind. And then right over a little further is where
19 Judge Cleland is from, McKean County. These counties don't
20 seem to have a lot of capability for resources.

21 So what do you suggest that they do to create the
22 community-based resources you're talking about if they don't
23 have them?

24 A One of the things they could do would be seek
25 funding from this Pennsylvania Commission on Crime and

1 Delinquency for what we call Communities That Care model,
2 which really allows people in the county who have an
3 interest in doing something in the area of juvenile justice
4 to convene. And they would have the resources to bring in a
5 planner, part-time, full-time, to do a needs assessment,
6 identify exactly what it is that they need.

7 One of the problems that we often have in asking
8 people to support, either financially or through their work,
9 through their own time, is a lack of a clear understanding
10 of exactly what it is that we're looking for.

11 For instance, the example I would use is the dirt
12 bike example that Judge Grim used. Sounds like a very kind
13 of inspiring program, but there's no evidence that that
14 works. So those counties really could come to PCCD, to the
15 Pennsylvania Commission on Crime and Delinquency to seek
16 funding for a Communities That Care grant that allow them to
17 identify exactly what it is they need to best meet the needs
18 of the kids that are in that county.

19 That would give some impetus and direction. And
20 then ultimately what you need is leadership. You need
21 someone in that county to step forward and say we're going
22 to develop this service, whatever this service is.

23 MR. ALLEN: Thank you, Dr. Sharp. Mr. Chairman,
24 that's all I have.

25 CHAIRMAN CLELAND: Mr. Williams.

1 BY MR. WILLIAMS:

2 Q Yes. Dr. Sharp, I like your idea of the juvenile
3 justice system victim advocate. Would that advocate be
4 answerable to the Luzerne County Victim Service Program?

5 A My thinking, and this would have to be discussed at
6 our February 11th meeting, but my thinking would be the most
7 expedient way to create the position would be to locate it
8 with the Chief Juvenile Probation Officer's Association and
9 then let this Commission determine more long term the
10 structure and functioning of that office. So it would work
11 in conjunction with the Luzerne County Victim Services
12 Advocate, but would not really be subordinate to it. That's
13 my thinking at this point.

14 Q And what happened to Luzerne County, most of the
15 witnesses that we have talked to in probation and in the
16 court offices expressed fear, intimidation, and nowhere to
17 turn. They didn't know where to go to expose these two
18 judges. Do you have any thoughts on that?

19 A Yeah. I find that very difficult to believe. I
20 mean, I -- I just -- you can certainly talk -- for instance,
21 if I was in that situation, I would be talking to my peers,
22 to other probation officers because I'm interacting with
23 them.

24 If I was the chief, I would certainly be talking to
25 other chiefs. I would be talking certainly, I think as Mr.

1 Stanzione testified, directly to the judge that I was
2 working for. I mean, this is the President Judge. If I
3 can't speak to him because it's wrong, I got to do something
4 about it. I mean, that's my sense.

5 I would certainly be calling JCJC talking to Jim
6 Anderson. And I -- and I absolutely believe that in that
7 kind of a situation some sort of strategy would come up. I
8 don't guarantee that the strategy would have changed that
9 system overnight. But there was -- just from my point of
10 view in reading the testimony that I saw there just was no
11 impetus or motivation to do anything about it.

12 Q It appeared that as they had the fear and the
13 intimidation that they also had, well, this is part of our
14 culture?

15 A Oh, I think that's clearly the case. That's
16 clearly the case.

17 MR. WILLIAMS: Okay.

18 CHAIRMAN CLELAND: Judge Uhler.

19 BY JUDGE UHLER:

20 Q One brief question in follow up to Mr. Mosee's
21 inquiry. With regard to the standards of psychologists that
22 you referenced, is it formative behavior for a
23 court-appointed psychological evaluator to then undertake
24 the treatment of the client that was evaluated?

25 A No, no, it is not.

1 Q Would that be not in keeping with the standards?

2 A That -- that would present problems. If that
3 particular psychologist were providing the service, that
4 would present problems.

5 JUDGE UHLER: Thank you.

6 CHAIRMAN CLELAND: Mr. Legg.

7 BY MR. LEGG:

8 Q Dr. Sharp, could you explain -- could you explain
9 to me this report that you prepare every two years? It
10 indicates it gives the Governor the state of the
11 Pennsylvania juvenile justice system in making
12 recommendations of how the system can be improved. That's
13 done every two years?

14 A That's done every two years.

15 Q And where would the data, the information that goes
16 into that report, come from?

17 A It would come -- it would be prepared by our staff
18 for the Office of Juvenile Justice in consultation with
19 state agencies, Juvenile Court Judges' Commission,
20 Department of Public Welfare, Department of Health, Labor &
21 Industry.

22 Q So, in essence, your body is compiling all the
23 different data from different entities that interact with
24 the juvenile justice system?

25 A Yes.

1 Q Okay. And how long has that report been -- how
2 long have you been doing that report as an agency or as a
3 Commission?

4 A I think we've issued four -- I think four reports
5 at this point.

6 Q So roughly 2002?

7 A Right.

8 Q Okay. And PA Child Care opened, I believe, in
9 February of 2003?

10 A Um-hum.

11 Q Can you explain how it is that we have JCJC doing
12 annual reports and JJDPC doing a report every two years and
13 other agencies compiling data, how all of -- all of this
14 data that's out there, how this was missed? I mean, if
15 these agencies -- if this is what they're created to do and,
16 in fact, you're doing a report on the state of the juvenile
17 justice system, what is it that this Commission can do to
18 assure that some new agency or some further directive will
19 be sufficient to uncover something that all these agencies
20 were missing to begin with?

21 A I don't think -- our report does not examine the
22 basic statistical reporting done by counties to the state.
23 Again, my solution to this, rather simply, would be
24 quarterly runs of all the data being submitted by county
25 juvenile probation officers, identify any practice or

1 behavior that's outside the pale, beyond the mean, and then
2 having discussions with the court involved in terms of what
3 does this behavior signify, the cause of this behavior? I
4 don't think that's complicated. I really do not.

5 Q So there was nothing in terms of when the JJDPC,
6 your Commission -- or Committee, there was nothing that you
7 saw in any of the data that had already been prepared that
8 indicated any potential problems in Luzerne County?

9 A We were not looking at that data. That's not part
10 of what we do in our report to the Governor. We have not to
11 this point.

12 Q Was the data there?

13 A The data was available, yes.

14 MR. LEGG: Okay. That's all I have.

15 BY MR. LISTENBEE:

16 Q Just one question, Your Honor. Mr. Sharp, in your
17 first recommendation you support the notion of a strong
18 judge system. That was pretty much what Mr. Anderson
19 supported yesterday. Mr. Schwartz also supported the idea.
20 We have identified the JJDPC, which is the Governor's
21 Advisory Committee, the Juvenile Law center, the JCJC, and
22 also the Chief's Council all pretty much have said that even
23 if they knew there was a problem in a particular county,
24 that nobody could really go to the county and tell the judge
25 that the judge should stop actually behaving in a certain

1 way. Nobody has the power or authority.

2 There's the power to influence, not the power to
3 actually tell somebody to stop doing something. Is there
4 another institution that's needed in this type of an
5 environment to actually address a problem if it were to come
6 up today? How do we as a Commission looking at this
7 actually ensure that it doesn't happen again?
8 Is there something else needed to look into that?

9 A I don't know that we need a new institution. Peter
10 Drucker says staff respects what the boss inspects and not
11 what he expects. So setting up a mechanism that will allow
12 for the review of the data, the critical data -- we know
13 that seven or eight critical points of the juvenile justice
14 decision making are really essential to the practice of this
15 system.

16 We can identify those points, analyze them on a
17 quarterly basis, find out if there's deviation from the
18 mean, I mean something substantial, and identify why. I
19 mean -- and I think that's the exposure. I think that's the
20 open air kind of thing that could be really helpful to the
21 system. We certainly need a mechanism. I don't know if we
22 need a new institution.

23 MR. LISTENBEE: Thank you.

24 BY JUDGE GIBBONS:

25 Q Mr. Chair. Deputy Secretary Gold said yesterday,

1 you know, he looked at the data and said that Luzerne County
2 was out of sync and brought it to the attention of the judge
3 and then he got reprimanded. I mean, so is there something
4 else, or some -- some other mechanism?

5 A I guess I would go back to my experience at JCJC.
6 My sense is that if -- if the Commission, that the nine
7 judges know that there's something aberrant, that they would
8 do something about that issue. I mean, I don't know what
9 that mechanism is. And clearly this Commission has to
10 wrestle with that. But I just don't think -- I just don't
11 understand walking away from it. I just don't understand
12 that.

13 BY CHAIRMAN CLELAND:

14 Q As we wrestle with this problem -- and there's been
15 some reference to conservative judges and liberal judges and
16 judges putting kids in detention that don't deserve to be
17 there. But on the other hand I know from my own experience
18 that on occasion I have overruled a recommendation that a
19 kid be put in detention. So it works both ways.

20 A Um-hum.

21 Q But what we're trying to do in Pennsylvania as a
22 matter of public policy is have balanced and restorative
23 justice, as you very well know, child competency and
24 community protection and accountability.

25 Is it your testimony that we could create data

1 points that would tell us in any given county or any
2 particular judge whether that system is out of balance?

3 A Certainly, yes.

4 Q And you would -- you said that you thought there
5 were like eight data points that would tell us that?

6 A Waiver of counsel. If we did quarterly runs on
7 waiver of counsel, we would know -- we would have known in
8 2003, 2004 over half the kids in Luzerne County are waiving
9 counsel. I mean, that -- people would have said, hey,
10 what's going on here?

11 I mean, I think this Commission could identify the
12 other points. Placement decisions. I think you heard
13 testimony yesterday about the court elucidating the reason
14 for placement decisions. If you have 200 referrals in a six
15 class counties, all six class counties are averaging 200
16 referrals throughout the state, and on average they're
17 placing five youth and one is placing 65, somebody ought to
18 be looking at that.

19 And I -- my sense is that's the role of the JCJC.
20 That's my sense of it.

21 Q And then it becomes an educational issue for -- for
22 the judge, the probation officers, the County Commissioners,
23 systemic problem versus the appeal of any individual case?

24 A Yeah.

25 CHAIRMAN CLELAND: Okay. Doctor, thank you, very

1 much. I appreciate your testimony and your work in this
2 area.

3 DR. SHARP: Thank you, very much.

4 CHAIRMAN CLELAND: We'll be in recess until 11:00
5 then resume with Dr. Sickmund, who will pick up on the data
6 analysis for us.

7 (Recess taken from 10:37 to 11:04.)

8 CHAIRMAN CLELAND: Good morning again. We're ready
9 to resume this morning's testimony. Our next witness is Dr.
10 Melissa Sickmund of the National Center for Juvenile Justice
11 in Pittsburgh, who is a nationally recognized expert on
12 juvenile justice statistics and data analysis.

13 And, Dr. Sickmund, we welcome you here today and
14 appreciate your participation and the advice and information
15 you're about to provide us. So Dr. Sickmund, go ahead.

16 DR. SICKMUND: Thank you.

17 CHAIRMAN CLELAND: I'm sorry. Before I do that I
18 have to swear you in.

19 DR. SICKMUND: Oh, the formal part, yeah.

20
21 MELISSA SICKMUND, called as a witness, being duly
22 sworn, testified as follows:

23

24 DR. SICKMUND: I do. Thank you, very much for
25 inviting me to speak with you today. Before I get to the

1 prepared remarks I wanted to just tell you a little bit
2 about the National Center for Juvenile Justice and our
3 parent organization, the National Council of Juvenile and
4 Family Court Judges.

5 The National Council of Juvenile and Family Court
6 Judges, some of you may be members of that organization.
7 It's a judicial membership organization. And I just wanted
8 to mention that given Dr. Sharp's testimony and the earlier
9 testimony, the Council does a lot of judicial training.
10 Because a lot of juvenile court judges come to the bench
11 knowing nothing about kids, nothing -- little about juvenile
12 law.

13 If it were my -- my fantasy would be to have a
14 little bit of juvenile justice education take place in law
15 schools, but that doesn't tend to happen much.

16 The National Center for Juvenile Justice, I just
17 want to tell you a little bit about some of the projects
18 that I work on. Dr. Sharp had mentioned the work that we're
19 doing in Pennsylvania with the Resource Center.

20 The projects that I work on are mostly sort of
21 nationally focused, but we've become very aware of states
22 and counties. I'm the project director for the National
23 Juvenile Court Data Archive, which is a project that dates
24 back to the 1920s.

25 A group of judges around the country thought that

1 it would be a good idea to know what was going on in the
2 then very young juvenile courts in this country. The data
3 system has, of course, evolved as technology has advanced.
4 And today we get juvenile court data from states and
5 counties representing about 80 percent of the youth
6 population in this country.

7 We don't have a standardized data collection. We
8 take whatever data are collected locally because we don't
9 want to put a burden on the states and counties. We take on
10 that burden ourselves.

11 But in doing that we learn a whole lot about all
12 the data collection that's going on around the country. And
13 it's useful education for a lot of other work that we do.

14 The other project that I direct is the National
15 Juvenile Justice Data Analysis Project. We sort of are on
16 retainer to the Federal Office of Juvenile Justice and
17 Delinquency Prevention to provide statistical analysis and
18 some data dissemination work for them.

19 Through that work we put online what we call the
20 statistical briefing book. In the handouts that I have I
21 gave a link to it. That is a place where we present data
22 from a lot of the national data collection efforts that we
23 do that other folks do in the federal government to make
24 data available to anybody.

25 A lot of tax dollars get spent in this country

1 collecting information, and it shouldn't go into a black
2 hole where only the agencies and maybe some researchers get
3 hold of it.

4 We make the data available to the public, to other
5 researchers who might want to have access, and we do it in a
6 way that is very simple and easy. We used to joke that we
7 wanted to make it so simple that even the judges could do
8 it. Because we realize that most -- not everybody are, you
9 know, researchers or analysts. You know, sort of if my mom
10 can understand it, then it's good for everybody.

11 I will tell you the truth that last week I spoke to
12 high school students on the phone showing them some of the
13 tools, and they thought it was pretty cool. I've had
14 reporters call and be very confused by it, but after a
15 little explanation usually people go away pretty content.

16 The data that we put online may not answer every
17 question that someone thinks they have in their head when
18 they start, but often it's close. You know, it's not --
19 maybe not the exact thing that you wanted to know, but it's
20 pretty -- good enough.

21 Often looking at those data you have a question,
22 you get an answer, and that leads to more questions. One of
23 my professors was fond of saying the more you know, the more
24 you know you don't know. So that is a way of introduction
25 there.

1 Since the first reports of the events in Luzerne
2 surfaced one question has been repeated again and again.
3 How could this have happened for so long and nobody noticed?
4 More than one person has wondered how, with all the data
5 collected, did no one realize that something bad was going
6 on in Luzerne County? And why didn't they do something
7 about it?

8 I wish that it was that simple, that data was the
9 answer. Having all the data in the world is not going to
10 prevent all bad things from happening. That's really
11 important to remember.

12 In fact, it's possible to have too much data. Too
13 much data, but not enough information. A prominent
14 management scholar explained it this way. A database, no
15 matter how copious, is not information. For raw material to
16 become information it must be organized for a task, directed
17 toward specific performance, applied to a decision.

18 Raw material cannot do that itself. Computer
19 people are concerned with greater speed and bigger memories.
20 But the challenges increasingly are not technical, but to
21 convert the data into usable information that is actually
22 being used. Drucker was the person who said that.

23 It was quoted in a book that our organization
24 published. It was put together by Don Gottfredson, who we
25 lovingly refer to as the father of criminology. Not only

1 because he was one of the early researchers, but also
2 because he has many children who became criminologists.

3 Don Gottfredson spent much of his career as a
4 criminologist working to improve justice system decision
5 making. He worked with the National Center for Juvenile
6 Justice, NCJJ I might refer to it as, to improve the use of
7 data, information, to support juvenile justice decision
8 making.

9 He described justice system decisions as having
10 three components, goals and objectives, alternatives, the
11 choices, and information. A rational decision is the
12 selection of the alternative that is most likely to achieve
13 the goal or goals.

14 In his view the word information is reserved for
15 those data that are relevant to the particular goals and
16 objectives sought. Much of the work of improving
17 information systems involves the difficult task of turning
18 data into information.

19 I don't claim to know all the ins and outs of the
20 Luzerne County situation, and the staff at the Center for
21 Juvenile Justice Training and Research know a lot more about
22 the data collected in Pennsylvania than I do. But from my
23 work with the juvenile court data archive that we do I would
24 say Pennsylvania has a pretty good statewide juvenile court
25 and probation data collection system.

1 As for data on juveniles in placement, I know much
2 less about what is routinely collected in Pennsylvania about
3 the kids in the Department of Public Welfare facilities or
4 in private facilities.

5 I would say that Pennsylvania though is leaps and
6 bounds ahead of many other states in their juvenile court
7 information system development because the juvenile justice
8 goals in this state are well defined under balanced and
9 restorative justice.

10 Data are being collected with those goals in mind,
11 and the problem is unfortunately I think Pennsylvania has
12 not had the best system in place for turning the data into
13 the useful information and presenting it -- that information
14 to the decision makers and to the public.

15 In Pennsylvania and elsewhere there is a natural
16 evolution of justice information systems. State agencies
17 generally start out with reporting systems, the state has
18 reporting requirements, aggregate data are tallied just to
19 meet those reporting requirements. The state produces an
20 annual statistical report maybe, but the data aren't really
21 used much at either the state level or the local level.

22 Eventually at the local level the data collected
23 for the reporting system tend to evolve into an information
24 system designed to keep track of individual youth for cases.
25 After some time there is a realization of a need for data to

1 answer management questions.

2 The next stage is when data are used to answer
3 research and evaluation questions, to test the relationships
4 among variables, determine what works and why. Ultimately
5 the information system evolves to produce data to answer
6 policy questions, to figure out what changes are needed in
7 the system.

8 The best information systems are those that local
9 agencies live off of every day, and they also support those
10 higher level information needs.

11 Now, Pennsylvania's Juvenile Court Management
12 Information System, JCMS, evolved from earlier reporting and
13 information systems. JCMS data are used in counties to keep
14 track of their cases and support case management.

15 Detention screening data, risk assessment, and needs
16 assessment data are used to ensure that juveniles are placed
17 appropriately before and after adjudication, or at least
18 they're used in some counties.

19 Case outcome data are used not only to show how
20 individual youth are doing relative to their conditions of
21 probation, but also can be used to show how entire probation
22 departments are doing relative to their BARJ goals.

23 JCMS is fully capable of supporting research,
24 evaluation and policy questions, but is currently underused
25 in this regard. The CJJT & R, their IT division staff, has

1 spent the last several years designing and implementing the
2 JCMS system and conducting JCMS training around the state,
3 but they do not have the staff to take full advantage of
4 JCMS as a research and policy information resource.

5 They produce reports for the counties, provide case
6 outcome information to the Pennsylvania State Police for
7 inclusion in the central repository. They produce an annual
8 statistical report. They do not though have the personnel
9 to conduct research studies on a regular basis or to publish
10 many additional reports.

11 I should add that they also spend a lot of time
12 answering information calls that come to them when
13 situations like this arise. Pennsylvania has one of the
14 better statewide juvenile court probation information
15 systems in the country, but having all those data doesn't do
16 much good if analysts don't transform the data into
17 information.

18 JCMS data are occasionally used by outside
19 researchers to conduct studies from time to time, but I
20 believe that states should have a research capability to
21 meet their own information needs. Many states do this by
22 creating and staffing an internal research center.

23 A group of researchers who know the state juvenile
24 justice system and also know the data system can conduct
25 analyses and publish a series of statistical reports to

1 provide key information on a regular basis. Other states
2 contract with one or more universities or other research
3 organizations.

4 JJC and PCCD may want to figure out ways to
5 encourage outside researchers to analyze the data files they
6 have to inexpensively answer questions of importance to
7 Pennsylvania agencies. As funding becomes tight agencies in
8 other states have found it especially useful to collaborate
9 with Land Grant universities on research projects.

10 Land Grant universities have an obligation to
11 support their communities and are often willing to do work
12 like that at low cost. Farming all research out to
13 academics often though has the undesirable result of
14 producing lots of journal articles, but not producing
15 research findings that are useful to practitioners or to
16 policy makers.

17 Many states and the Federal Department of Juvenile
18 Justice have both created an internal research capacity and
19 also contract out with the outside research community. And
20 this is sort of what Pennsylvania does, but I think that
21 their internal capacity could be made stronger.

22 Currently PCCD produces few very basic juvenile
23 justice statistical bulletins, and they contract with
24 outside researchers such as our organization, NCJJ, to
25 analysis data.

1 Between CJJT & R and PCCD the bare minimum data
2 analysis capacity exists in-house. For comparison though
3 our Systems Division at NCJJ, and we are fairly small, is
4 staffed by 14 people. Three are part time. Eight are
5 researchers. Five are programmers. Three are Ph.Ds. Four
6 have Master's Degrees. One is an attorney. And one is an
7 administrative assistant.

8 This group is responsible for a large amount of
9 work, the Statistical Briefing Book, the Pennsylvania
10 Electronic Juvenile Justice Data Book, the National Juvenile
11 Court Data Archive, and serves as on call researchers for
12 the Federal Office of Juvenile Justice and Delinquency
13 Prevention.

14 Adding a group this size to the JCJC's CJJT & R's
15 pool would be terrific, but probably too costly. However, I
16 think adding a few positions to compliment both CJJT & R and
17 PCCD's staffs would be very productive.

18 The Pennsylvania Commission on Crime and
19 Delinquency used to fund NCJJ to prepare occasional
20 statistical reports and bulletins for them. And I just want
21 to break here from my prepared remarks.

22 We actually did a study looking at detention in the
23 state, use of a detention -- detention admissions. And when
24 all this came up and I was asked to come speak I went back
25 and looked at that report which had data for up to 2003 to

1 see could I see Luzerne County looking really weird?

2 I would say maybe if I'd been suspicious about it,
3 I would have, you know, raised my eyebrows. Luzerne County
4 shows up on the list maybe 14, 15th, 16th in terms of
5 population size. But in terms of detention admissions they
6 were more like 7th, 6th, something like that.

7 So it looked like they were detaining above their
8 numbers. If we had, you know, done it again later, maybe it
9 would have stood out more if it was, you know, over the
10 years. We used to do those reports, not regularly, but
11 occasionally, but our grant has a different focus now.

12 We do, however, still maintain the online
13 Pennsylvania Electronic Juvenile Justice Data Book that,
14 like the Federal Statistical Briefing Book that we do,
15 allows users to access numerous data displays at the state
16 or county level.

17 I want to direct your attention to the handouts
18 that I had. I think you all have them. The Pennsylvania
19 Electronic Juvenile Justice Data Book, the web address is
20 there, and it looks like this. And you can see down the
21 side there's a number of different topics.

22 We originally put this together years ago to make a
23 standard set of data tables available to support the
24 Communities That Care projects. We kept getting phone calls
25 from people who wanted to start a Communities That Care

1 project, or they kept asking us for slightly different
2 things.

3 We went to PCCD and said, you know, how about we
4 just do one set of tables so they quit bothering us? And so
5 they gave us money to do that. If you look on the second
6 page, there's an example of a state map that shows the
7 delinquency dispositions and how they vary across the state.
8 This is natural. Things tend to vary.

9 And then I also printed out a page showing the
10 Luzerne County case dispositions. I don't know -- you know,
11 I don't know Luzerne County well enough to know whether that
12 would make you be shocked, but you certainly do see an
13 increase in the placement numbers started in 2002 actually,
14 and it goes back down.

15 Find my place again. At the time we also produced
16 a Pennsylvania version of our popular data analysis tool
17 called Easy Access to Juvenile Court Statistics that we had
18 developed for the Federal Office of Juvenile Justice and
19 Delinquency Prevention.

20 Our Easy Access data dissemination tool enables
21 users to conduct simple analyses of large and sometimes
22 complex data sets with extremely user-friendly tools. The
23 Pennsylvania Easy Access Tool, however, was never widely
24 disseminated, and it was never updated or maintained.

25 I know it was presented to the judges, and there

1 was some concern that because sometimes there's only one or
2 two judges in the county that you could kind of identify
3 what a judge was doing. I don't think that was the reason
4 that it wasn't pursued, but it was a concern.

5 Recently though CJJT & R approached NCJJ and asked
6 us to once again develop a data analysis and dissemination
7 tool for JCMS data that could be made available to the
8 public online. It will be similar to the online tools we
9 have developed for the federal government to give users easy
10 access to large national data sets. This tool will let
11 anyone run simple analyses from JCMS.

12 The next slide I just had was the Federal
13 Statistical Briefing Book. So you have the URL for that.
14 You can see the range of information that's there. Then the
15 presentation. We reminded -- sort of the outline of the
16 presentation. We reminded them that we had done this
17 before, and we talked through the selection screen, which
18 was how users would sort of enter the system and pick what
19 variables they want to look at.

20 If you turn to the first one, this is what the old
21 one looked like. It wasn't online actually. It was
22 diskettes that we passed around. And you could click to see
23 the state and county cross tabs. And then you saw a screen
24 that looked like this where you could pick what variables
25 you want to look at and get simple tables.

1 And the next one is an example of one of the tables
2 that was produced. Now, it doesn't look like much here, but
3 the fact that it's simple to do, so you could compare
4 counties if you wanted to. You can look at offense detail.
5 You can look at race detail. And it's very, very quick. If
6 you do the wrong table, you don't break anything. You just
7 go back and do another one.

8 We then went to -- and the screens that look like
9 this are what we're sort of proposing for the new system to
10 look like, at least initially. We have added in there a
11 variable regarding legal representation.

12 The state now has maybe better ethnicity data. So
13 we have that as a separate variable. It has information on
14 secure detention, the type of hearing, whether the juvenile
15 was, in fact, adjudicated delinquent, what the charges were,
16 with some level of detail what the disposition was and what
17 type of placement they ended up with.

18 Some other variables can be added to this, and I
19 know that CJJT & R has an interest to have the data online
20 updated quarterly. Right now our national stuff we think of
21 it as, you know, sort of calendar year events. So we have
22 to figure out how the partial year things would be
23 displayed. That's sort of in the technical -- technical
24 details.

25 In order to keep it simple only a handful of key

1 variables will be included. These variables will
2 nevertheless enable users to answer the most commonly asked
3 questions on their own without burdening CJJT & R's IT
4 staff.

5 By making these data available to the public, of
6 course you could look at them too, Pennsylvania's juvenile
7 justice system will gain a degree of transparency that is
8 not possible in most states.

9 I want to emphasize that making these data
10 available to the public, to system practitioners, to
11 everyone, does not mean that information on individual youth
12 will be made public. The data will be aggregated at the
13 county level, and the protections will be put in place where
14 small numbers might make identification of an individual
15 likely.

16 In developing easy access online data analysis
17 tools NCJJ follows federal rules regarding protection of
18 human subjects. The common rule for the Justice Department
19 is in Title 28, Part 46 of the Code of Federal Regulations.
20 And it protects human research subjects and establishes the
21 essential rules that all juvenile justice professionals must
22 follow when conducting federal funded research activities.

23 Federal regulations address protection of privacy
24 and the assurance of confidentiality. In addition to this
25 online tool, I also think it would be very useful for the

1 matrices that are developed to meet the federal reporting
2 requirements regarding disproportionate minority contact be
3 made public. The matrices compare different groups at
4 different stages of case processing and tell if one group is
5 more likely than the other to penetrate the system further.

6 So one might discover, for instance, that black
7 youth are twice as likely as white youth to be detained.
8 Pennsylvania data are robust enough to expand on the
9 required reporting, to compare not only race and ethnicity
10 groups, but gender and offense groups. And of course, these
11 groups can also be compared from county to county. Thus,
12 the data might show that black girls charged with aggravated
13 assault were twice as likely as their white counterparts to
14 be detained in one county, but not in another.

15 NCJJ prepares the basic race matrices for PCCD to
16 report to the Justice Department and could prepare the
17 additional matrices without much trouble. In fact, I think
18 we already do it. They just don't use it much.

19 In addition, once the online data analysis tool is
20 launched that we're going to be working on with CJJT & R
21 staff, they will no doubt find it useful for conducting
22 their own quick and dirty analyses. So that when reporters
23 call or legislature or whatever, they may, I would hope, not
24 have to spend so much time doing that work themselves.

25 However, a set of short two-page fact sheets or

1 data briefs could be prepared based on these analyses. It
2 would serve multiple purposes. It will allow staff to test
3 the new tool to ensure that the data are being handled
4 properly. It will demonstrate the wealth of information
5 made accessible by the tool. It will create a set of
6 templates for analyses and publications that can be easily
7 reproduced. And it will be a relatively inexpensive way to
8 develop and disseminate a lot of information.

9 It's important though to remember that even with
10 the best data, a top notch research staff conducting
11 excellent research, up to the moment statistical
12 information, even with all that, bad things can still
13 happen.

14 Florida is a good example of that. Florida's
15 Department of Juvenile Justice has been developing its data
16 system and information resources for several decades. The
17 CJJT & R staff that attend our archive meetings annually,
18 Linda Benner, she used to be very jealous of Florida's data
19 system. They have an excellent information system, a
20 well-staffed research and planning department. They produce
21 a lot of quality information on a regular basis.

22 They have a well-established quality assurance
23 process. They make their delinquency profile available
24 online. It's sort of like our Easy Access tools. They
25 generate reoffending rates for every program for juvenile

1 offenders. They also combine those reoffending rates with
2 program cost information.

3 Those programs that are very effective, but very
4 costly perhaps could be encouraged to reduce costs.
5 Programs that are less effective and costly are encouraged
6 to learn from those that are either less expensive and also
7 perform better. And even with all that information that
8 Florida has, as we all know, Florida has had its share of
9 scandals. Data are not going to solve all the problems.

10 But I just sort of wanted to end with a story that
11 Don Gottfredson liked to tell in talking with folks about
12 information system development. It's a story about a
13 Chinese emperor many centuries ago who wandered into the
14 woods and found a beautiful, strong, gigantic oak tree.

15 Returning to the palace he gathered his advisors
16 and told them of the tree and explained that he wanted a
17 giant oak tree like the one he had seen, and he wanted it
18 right in the middle of the palace courtyard.

19 His advisors looked at him in disbelief. One said,
20 but emperor, it takes centuries to grow a tree like that.
21 The emperor thought for a moment, then replied, then we
22 better get the seed planted right away.

23 Pennsylvania has planted the JCMS seed, and it's
24 grown quite well. But for it to flourish and bare the
25 information fruit that is needed now, it could use some

1 additional nourishment.

2 My recommendations, to sort of summarize,
3 Pennsylvania, I think, needs to improve its capacity to turn
4 juvenile justice system data into information that guides
5 decision making at the individual case level, at the
6 department and agency level, and at the policy level.

7 Decision makers at all levels of the juvenile
8 justice system should be asked to identify their information
9 needs. Once identified, these needs should be -- should
10 guide future information system development and enhancement
11 and data dissemination activities. There should be an
12 ongoing mechanism to do that, to identify information needs.

13 Additional in-house research positions should be
14 funded and should be supplemented by grants, contracts, and
15 cooperative agreements with outside researchers.

16 The juvenile justice system needs to be more
17 transparent. Information, not necessarily data, should be
18 readily available outside the agencies that produce those
19 particular data. A good deal of information can and should
20 be made available to the public. There should also be
21 better information sharing.

22 And although the juvenile justice system should be
23 transparent, the confidentiality of individual juveniles
24 within the system should be protected.

25 That's the end of my remarks. I don't know if you

1 have questions. We have lots of them.

2 BY CHAIRMAN CLELAND:

3 Q I'm sure we do. Let me start. I'm aware in the
4 area of court administration that there are some courts that
5 -- where the President Judge collects from each department
6 under supervision critical measures so that they're -- I
7 guess that -- I don't know if that's a term that's in common
8 use, but it's the four or five measures that the President
9 Judge can look at to determine the general effectiveness of
10 that department for the month.

11 And then if one of those four or five measures is
12 out of whack, then it could go and look at the supporting
13 data and figure out what the problem is.

14 A Um-hum.

15 Q Expanding that same principle then, Dr. Sharp a few
16 minutes ago talked about being able to tell whether our
17 system of balanced and restorative justice is out of whack
18 by looking at eight possible indicators.

19 Do you think that that is -- that would be a way to
20 transfer data, the information?

21 A Yeah.

22 Q Do you think that that is possible?

23 A It's my understanding that CJJT & R does provide
24 counties back -- you know, probation departments with sort
25 of their own data back. I don't know if they also see

1 everybody else's data, but maybe they should. If everybody
2 sees everybody else's information, it's a basis for
3 comparison. And many businesses, that's -- that's how, you
4 know, weekly or monthly reports your stuff might be
5 highlighted, but you see where you stand relative to the
6 group.

7 Q But the -- the higher up you go in the
8 organizational hierarchy, the less data needs to be
9 presented?

10 A Yes.

11 Q Right, okay. So at some point the data gets
12 focused to where there's a relatively small number of
13 numbers that the managers have to look at?

14 A Um-hum.

15 Q I mean, I think we've all agreed that there's
16 plenty of data there about Luzerne County, but it didn't get
17 picked up because there was so much information. There was
18 so much data, as you said, but didn't provide information?

19 A Right.

20 Q Can we identify eight, ten, six, fifteen numbers
21 that would tell us whether our system is out of balance in
22 any given county?

23 A I think that for -- I mean, there is sort of
24 standards, statistical presentations, that don't have to be
25 very complicated that can show you certain things. Other

1 things are going to be more complicated.

2 So, yes, to have -- I mean, the state does produce
3 the report card with the case outcome data showing, you
4 know, what percent of kids were reoffending while they were
5 on probation. Are we doing a good job or not? What percent
6 of kids, you know, completed what proportion of their
7 community service or paid the restitution that was owed?
8 The things that are driven by those -- the BARJ goals.

9 I think Pennsylvania could perhaps do a better --
10 or could develop the capacity to -- you know, recidivism is
11 not the end all to everything in terms of system
12 effectiveness, but it certainly is a useful tool. And some
13 of the other -- let me see if I can find them here more
14 easily.

15 The last couple of things at the bottom of the
16 stack here are things from reports that Florida does. And
17 they produced this annually for the public. I have to think
18 that they maybe are looking at it a little bit more often
19 themselves.

20 But they -- you know, for program by program how
21 successful -- you know, how many successful completions were
22 there, and for each program what percent of the population
23 reoffended or did not reoffend.

24 They tend to turn it around into a success rate.
25 They have a lot of detail then so that you can really see,

1 you know, are we -- are we -- is it working? Is it working?
2 Without having recidivism information available at your
3 fingertips, you know, you can't do that.

4 Q I'm not talking about analyzing placement options.
5 I'm talking about accountability and --

6 A Yeah. I think that there's, you know -- I think
7 people in the -- in the system itself, like I said, I think
8 that the decision makers can come up with those things that
9 would help them know whether they're doing their stuff
10 right. And it's going to be different for probation perhaps
11 than for the judges.

12 In many, many other states the reports that they
13 produce regularly for courts are processing times. How long
14 did it take and how many filings are still pending? That
15 kind of thing. I'm guessing that you're thinking something
16 a little more meaty than that.

17 CHAIRMAN CLELAND: Yes, okay. All right. Ms.
18 Bender.

19 BY MS. BENDER:

20 Q Thank you, Dr. Sickmund, for being here today. You
21 talked about the PA Easy A and that it's in the development
22 process. As I'm looking at it there is a lot of information
23 there.

24 Could you give us an example of a report that could
25 be run from Easy A?

1 A Yes. If you look at the screens, I mean, we could
2 certainly -- one of the issues that came up with -- in
3 Luzerne County was the issue of representation by counsel.
4 You could do a county comparison to see what percent of
5 cases had what kind of representation, whether they had a
6 court-appointed public defender, waived, or whether data
7 were not reported, which may also be an issue.

8 You can do that then in increasing details. You
9 could look at it by race. You could look at it by offense
10 type, by whether the kid ended up getting detained or not,
11 whether they ended up in placement at the outset.

12 Q What would it take to finish developing the Easy A,
13 get it up and running, and then maintain it?

14 A Initially we had told them -- we spoke with them in
15 May, and I think we were talking about starting in late
16 June. And we said that we hoped to have it done by the end
17 of 2009.

18 The money didn't appear then. And this is a
19 relatively inexpensive project that we're estimating about
20 maybe six to eight, nine months to -- to do it, test it, and
21 make sure that it's working properly.

22 Q So by the end of the year you could have it up?

23 A Assuming that the funding comes through. The
24 discussions right now are for the funding to come from the
25 MacArthur Foundation. And in part of the design, while we

1 maintain these things and do these things on an ongoing
2 basis with the grant from the federal government to do the
3 Easy Access tools for them, Pennsylvania specifically wanted
4 to be able to do it themselves. They don't want to have to
5 have us update it every quarter. That's ridiculous.

6 So that was part of the design, to develop a data
7 extracting process that would enable them to pull data from
8 their system when they wanted to update.

9 Q You had mentioned the ability for agencies to look
10 at each other's information. Are there advantages to a
11 protocol for information sharing or research collaboration?

12 A Most definitely. There are a handful of states
13 around the country that have statewide data warehouses,
14 which is, you know, a useful concept. Sort of that's a seed
15 that would need to be planted now and developed for the
16 future.

17 Those warehouses hold information from many
18 different agencies that deal with similar populations so
19 that they might have mental health data, child welfare data,
20 education data, justice system data, law enforcement justice
21 system data, you know, everything sort of in one big
22 warehouse. And depending on user's access rates they would
23 get to be able to pull information from it.

24 Because these kids cross these systems all the
25 time. They're -- you know, it's not that they're justice

1 system kids. They're also justice system kids, welfare
2 kids, mental health kids. So that we could learn a lot more
3 about how to make all of our systems more effective if there
4 was information sharing.

5 But I think there can be information sharing on a
6 less technically sophisticated level. Just to have more
7 sort of cooperation and collaboration among different
8 agencies.

9 As you know, Valerie, I'm on the Female Services
10 Subcommittee. We have -- let's see, that Committee started,
11 I think, in 1990. And one of the first things that we
12 thought would be kind of useful would be to get a list of
13 all of the facilities programs where kids get placed so that
14 we could see what placement alternatives there were
15 available for girls so we could perhaps survey these
16 facilities.

17 And to this day we still do not have a useful
18 database listing of these facilities. We thought it would
19 be a wonderful idea if folks all around the state could
20 perhaps go to a website and say, I have a kid that's like
21 this. What kind of placements are there? Because I think
22 people tend to send kids to the same places they always do.

23 And those -- you know, it's not so much what
24 programs work. It's what programs work for what type of
25 kid. So just because you send a kid -- you like program X,

1 Y, Z, doesn't mean that this child is best suited to that
2 program. So that's an example. And it's just been very
3 difficult to get information from DPW in a way that, you
4 know, would be useful to us, so that kind of information
5 sharing and even just sharing -- having a better way of just
6 sharing what gets learned through routine statistical
7 reports with those in other agencies.

8 I mean, there is occasional conferences that take
9 place, but not everybody from the other -- you know, from
10 outside organizations attends those things. So more of a
11 even newsletter sharing kind of thing that might be done.

12 And at the policy level, certainly if there was a
13 report that came out that was very important, you know, I
14 would expect that folks at the top would share that with
15 their counterparts and other agencies.

16 Q Last week you and I had occasion to sit and look at
17 some research, and we were questioning the conclusions that
18 were drawn through that research due to the fact that the
19 methodology wasn't necessarily sound.

20 As we begin to use research more and more in
21 juvenile justice what would you suggest would be the best
22 way to help educate the field on recognizing quality
23 research?

24 A That's a good question. I think that -- I mean, in
25 general, I think our -- just the general population most

1 people don't really know how to tell whether a research
2 study is good. They rely -- they don't read the journals.
3 The journals have their own peer reviewing process. But
4 even then you may get things that are, you know, published
5 by one person and then someone else comes with another
6 article arguing why that one was wrong.

7 It -- it's -- I don't expect the field to do that.
8 I think though that if there is established within -- within
9 the state agencies the capacity to produce statistics,
10 numbers that the field can rely on, and I think that there
11 can be that capacity because we're not talking about
12 complicated research designs most of the time. We're just
13 talking about simple tables that show what's going on. Some
14 counts, some rates.

15 But there could be some education within those
16 publications if there's print publications, and even with
17 the things that we do online. If this Easy Access tool, as
18 it initially will go out will have -- you know, you can pull
19 up case counts. You know, we have population data. We can
20 turn those things when it's county specific stuff into case
21 rates so that you can compare one county to another county
22 for the variations in population.

23 One of the things that tends to happen in some of
24 the statistical reports in Pennsylvania, because
25 Philadelphia and Allegheny, Dauphin County, Erie, they --

1 they're so big, and they look so different that you tend to
2 not pay attention to all the little counties. They get
3 slumped together in one big pile.

4 So we can educate people on just the beauty of a
5 rate statistic, and then it's not really that complicated to
6 figure out. I think people think that they hate statistics
7 and it's boring and complicated. I've always argued that
8 it's only boring if the person producing it lets it be
9 boring.

10 You know, we have an obligation as folks producing
11 this information to make it more pertinent. But, you know,
12 I talk to reporters all the time, and they'll say, oh, I
13 don't understand statistics at all. And when they're men I
14 always ask them, but do you follow the box scores and stuff
15 in baseball? Can you tell me what a batting average is?
16 It's not any more complicated than that.

17 Q When we look towards the future in data collection
18 in Pennsylvania what do you think we should be striving for?

19 A I think that what -- there should be data quality.
20 You want to have faith that what you're seeing is relatively
21 close to the truth. This is not evidence though. It's --
22 it's not perfect. It's entered by humans, and there are
23 mistakes. But to strive for data quality, to strive for
24 data consistency.

25 Just as the juvenile justice system functioning

1 varies all over the state, the information may mean slightly
2 different things in different places. And so to ensure some
3 consistency of the reporting so that we don't have missing
4 data; and that when we say substantiated case it means the
5 same thing everywhere.

6 To have the ability to not have to drop everything
7 to answer simple questions, to have the ability to answer
8 simple questions routinely, easily. And I would hope that
9 with something like this that takes most of the simple stuff
10 and just puts it right out there that everybody can have
11 access to.

12 I mean, I use the word the public, but it's the
13 people in the system. I think that -- I don't know, like
14 give everybody a homework assignment. Learn something about
15 the juvenile justice system in your county. I would love to
16 have more education at all levels.

17 I mean, probation officers can be given a little
18 bit of knowledge about, you know, how to think in terms of
19 numbers without getting frightened. Judges can probably be
20 trained too, prosecutors, you know, defense counsel.

21 But in other ways too, I think, you know, it would
22 be nice to even just have education throughout the populous
23 to have, you know, high schools know more about what the
24 juvenile justice system is in their state.

25 MS. BENDER: Thank you. That's all I have, Your

1 Honor.

2 CHAIRMAN CLELAND: Okay. Mr. Legg.

3 BY MR. LEGG:

4 Q Could you explain to me just a little bit about the
5 entity that you work for, the National Center for Juvenile
6 Justice, just so we're clear as to what it is, I guess?

7 A The National Center for Juvenile Justice is a
8 private non-profit organization. We are the research
9 division of the National Council for Juvenile and Family
10 Court Judges. They are located in Reno, Nevada. We are
11 located in Pittsburgh.

12 We're located in Pittsburgh because Judge Maurice
13 Cohill, back in the early 70s when he was sitting on the
14 juvenile bench, said, you know, the decisions that I'm
15 making and the lives of these kids are hugely important, and
16 I feel like I need to have some maybe research information
17 to help me make those decisions. What a concept, using
18 information to guide decision making.

19 And so he approached a council and said, I think
20 that our membership organization ought to have a research
21 division. They said, sure, Maurice. You raise the money
22 for it. Go for it. He raised all the money in around
23 Pittsburgh, and that's why we're there today.

24 We've existed since 1973. The National Juvenile
25 Court Data Archive project that I mentioned, we obtained a

1 grant funding from the federal government in 1975, one year
2 after their existence. We probably -- about 60 percent,
3 maybe a little more, of our funding comes from the federal
4 government.

5 And we have contracts with Pennsylvania, with PCCD,
6 to do various things. We have funding from the MacArthur
7 Foundation and grants and contracts with other states to
8 help them do the job of juvenile justice a little better.

9 Q So is it fair to say that the National Center for
10 Juvenile Justice was created to be a data analyzing entity?

11 A I don't think that that was exclusively what the
12 intention was, but to have a research data and research --
13 yeah, research capacity to provide information to the
14 judges.

15 I don't know that initially the thought was to have
16 us necessarily doing all the research, and we don't. We
17 look to other -- you know, research that others do and help
18 repackage it for the juvenile justice community.

19 Q So is the National Center for Juvenile Justice
20 collecting data from across the country?

21 A We do for the juvenile court data project, yes.

22 Q And that would be data that was already maintained
23 by the states, and they turn it over to you?

24 A Exactly.

25 Q So you're not creating the criteria, or there's no

1 special criteria that -- you take whatever they'll give you?

2 A Right, exactly. We're unusual in that way. Most
3 national data collection systems have a form or, you know,
4 you have to give it to us like this. Probably a example
5 that you might be more familiar with, the FBI maintains the
6 Uniform Crime Reporting Program.

7 They have very specific requirements as to how
8 those data files need to be submitted and what the variables
9 need to be like. I've heard of states having their file
10 rejected because they did not distinguish -- in the victim
11 information for the homicide data that's collected, they
12 didn't distinguish common law marriage relationships from
13 other marriage relationships as the structure requires.

14 Ours is a voluntary system, like theirs is, but we
15 have no clout to tell people, you know, what they have to
16 do. We provide guidance to them, and it's, I think, amazing
17 because the project that -- that that started back in 19 --
18 you know, the 1920s, and as that project evolved there was a
19 reporting form. People were asked to provide a little bit
20 of information on each and every case with a paper and a
21 pencil and send it in to the people at the federal
22 government that were doing the work at that time.

23 Because that system existed and states, counties
24 all around the country knew about it, when they first
25 started to automate they said, oh, well, let's just automate

1 this. And so there's a commonalty that has existed in
2 juvenile justice information systems that I would argue
3 hasn't existed on the adult side that in many ways we know
4 nationally much more about what happens with juvenile court
5 cases as they get processed, much more than we know about on
6 the adult side.

7 Q Given all this data that you're Center has
8 collected --

9 A Um-hum.

10 Q -- and has available to it, has this particular
11 entity taken any steps on its own to say perhaps we should
12 be a watch dog, and perhaps we should be doing something
13 with this data to try to make sure that we might see things
14 that maybe the states aren't seeing?

15 In other words, have you done anything to say is
16 there another Luzerne County out there --

17 A No, I think --

18 Q -- in the United States?

19 A I think for us there is a distinction between our
20 use of data for research and understanding the relationships
21 between variables and that sort of thing and a difference
22 between that and a monitoring function. We do not do that.

23 We are about to engage where we started work on a
24 project for the federal government to help them collect the
25 compliance monitoring data that states must collect for the

1 report to the federal government.

2 And in a way that makes me a little nervous because
3 I don't want people to be afraid to give me data. It's
4 completely voluntary. If I were to go and say look at this
5 state. They're terrible. They just wouldn't give me data
6 anymore.

7 Q I guess let me phrase it this way. Has your entity
8 considered in its research capacity researching whether or
9 not other states have situations that may be ripe for a
10 Luzerne County type of scenario? And I'm not saying that
11 you would necessarily go to that state and say they're a bad
12 state, but I would think that other citizens would welcome a
13 group coming in that has the type of data and welcome
14 knowledge that you have, and to say that, hey, you know, you
15 have a climate there that was similar to Luzerne County,
16 either having large number of waivers of counsel, high
17 placement rates, things that you have available to you or
18 potentially have available to you as an entity.

19 Has there been any discussion about perhaps we
20 should do, in terms of our research capacity, some type of
21 analysis of this data to provide the information that these
22 states might need to say, hey, we have a problem?

23 A Not like what you're talking about. We -- I think
24 the function that we're serving is to sort of provide
25 national baseline data in the juvenile court data archive.

1 We do not publish any data that identifies a state or a
2 county without getting their permission first. That's part
3 of the confidentiality agreement that we maintain with all
4 of our data providers.

5 So we're providing primarily national analyses, not
6 comparing states for those -- the court data. And -- but
7 that's providing folks a baseline of sorts where they can,
8 you know, compare themselves.

9 Now, we have from time to time done some reports
10 where we didn't identify the counties, but we showed that
11 there was a tremendous range in behavior. So some counties
12 detain at this rate, other counties are detaining at this
13 very low rate, which gives folks a sense. They can look at
14 their own data then and go, woe, we're way up here. Do we
15 really want to be?

16 From time to time we have been asked by states to
17 conduct analyses to see whether they were doing something
18 unusual. We had a request once from the State of Maryland.
19 They had a new person in a key position, and she thought
20 that they were waiving too many cases to criminal court. So
21 we conducted an analysis to show them what kinds of cases
22 and, you know, what they were really doing. And then the --
23 and she ended up deciding that they weren't.

24 But it gave them information for how they were
25 behaving, and then we pulled the data together from a number

1 of other counties that were -- jurisdictions, I should say,
2 that had similar transfer rules, similar jurisdictions,
3 similar case load characteristics, and showed them how they
4 compared to that group.

5 Q Now, I looked at the material that you provided to
6 us in terms of the different types of, I guess, web-based
7 statistical --

8 A Um-hum.

9 Q -- tools that you've created. I didn't see
10 anything in there in terms of waiver of counsel. Is there
11 -- would there be --

12 A That is not a variable that is collected by every
13 place. The -- I mean, that's something that we could look
14 at to see if we have now enough of our data providers that
15 have that as -- as a key variable. If you're interested in
16 -- in that as a specific topic, I would recommend that you
17 look at some work that was done several years ago by Barry
18 Feld, who is an attorney in Minnesota looking at the work --
19 the situation in Minnesota and other places around the
20 country.

21 He used data that was collected by the archive. We
22 do make our data available for researchers, if they agree to
23 confidentiality conditions. He conducted a study because he
24 was concerned about waiver of counsel in Minnesota. And he
25 was looking not just in Minnesota.

1 And it was interesting that he found that kids who
2 had counsel were more likely to be placed out of their
3 homes. Being an attorney he could say things like, well,
4 maybe they just had a bunch of really bad attorneys. I
5 think it's a little different than that. It's the kids that
6 were likely to be placed were the ones that kept counsel.

7 Q But your -- your group would have some information
8 on waiver of counsel from other states?

9 A Yes. It's not something that we -- that is
10 included in our national estimates at the current time.

11 MR. LEGG: That's all I have, Mr. Chairman.

12 CHAIRMAN CLELAND: Mr. Listenbee.

13 BY MR. LISTENBEE:

14 Q I'd like to follow up on the questions that were
15 asked by Judge Cleland concerning the matrix that Dr. Sharp
16 talked about this morning.

17 A Okay.

18 Q With JCMS could we ask you or staff working for you
19 to give us a matrix with the following items on them:
20 Arrest data by county for Pennsylvania, diversion rates,
21 waiver of counsel rates, adjudication of delinquency rates,
22 disproportionate minority contact rates, placement rates
23 other than private, program accountability rates like the
24 Florida report that you had here?

25 A That would be a no on the last one, but most of the

1 other ones I think yes. And actually the -- the
2 Pennsylvania data book that we put online has arrest rate by
3 county, and we also produced that slightly different numbers
4 at the -- you know, on the federal website. That's --

5 Q But could we ask that that could be combined in one
6 report? I have a couple of other -- community-based
7 placement accountability rates?

8 A The data that we have for Pennsylvania, I think we
9 have received once or twice a file that would allow us to do
10 recidivism kind of numbers. But that's not something that
11 we get on a regular basis.

12 Q Recidivism rates in general for juveniles?

13 A From that file it's possible to do that, yes.

14 Q And expungement of case rates?

15 A Expungement?

16 Q Of records, of juvenile records by county?

17 A I don't know if that's in the file. I don't think
18 so. It's not in there in its current form. That's correct.
19 I think lot of that is certainly possible, yeah.

20 Q And we could ask you to come up with a report that
21 we could then use along with other data? I'm not sure which
22 items we would actually use, but those kinds of things would
23 be readily available for the most part?

24 A Yeah. I think that the database that will sort of
25 be underneath this Easy Access, or whatever it ends up being

1 called, underneath this tool would allow that to happen in
2 the -- the way -- the way it exists now, if you wanted to
3 see a table that is by county and looking at those other
4 things.

5 Now, this data -- the arrest data are in another
6 system. But yeah, those are all very possible things. The
7 arrest rates, you know, are part of the data book right now,
8 and you could look online and see county maps that give you
9 the rates within ranges at least.

10 Q But if we were looking for just one report?

11 A That has all that stuff, yeah, yeah.

12 MR. LISTENBEE: All right. Thank you.

13 BY MR. HOROHO:

14 Q Judge, just one follow-up question then. How much
15 would all that cost? What would be the cost to create that
16 analysis?

17 A I don't know. The Easy Access tool that -- I mean,
18 we discussed a figure of about \$30,000 to figure out how to
19 extract the data to develop the online interface and to work
20 with CJJT & R so that they can then do that.

21 Certain enhancements to the whole system would
22 involve some additional costs depending on what -- you know,
23 what is needed. To pull together tables like that, what I
24 suggested to some -- a similar kind of request for
25 information that we had in our conference call for the

1 Female Services Committee the other day, there are technical
2 assistants monies available. We have a technical assistant
3 to juvenile court project.

4 We have that data analysis project that I
5 mentioned. I think that if this group were to make a
6 request, a formal request to the Office of Juvenile Justice
7 and Delinquency Prevention for certain things, not that we
8 would do that maybe all the time, but I mean if you want a
9 collection of things, and we can talk with other -- you
10 know, to let the agencies learn how to, you know, bundle
11 that together on a regular base, that there might not be any
12 cost at all. Your federal tax dollars at work.

13 CHAIRMAN CLELAND: Judge Woodruff.

14 BY JUDGE WOODRUFF:

15 Q Doctor, I know that you know Mr. Anderson in regard
16 to JCJC, and you've in the past indicated that you've worked
17 with the federal government and states. Do you work with
18 agencies as well to corroborate with such as with the JCJC?

19 A We -- we have from time to time helped some of our
20 -- our state data providers do things like improve their
21 system or, you know, learn. Like they -- they want to have
22 enhancements to their information system. They don't know
23 what other people are doing, so that we would talk with them
24 on a more agency specific basis, yeah.

25 Q In regard to the data that you receive, is your --

1 your data that you're receiving being provided from a
2 separate source than data such as JCJC acquires?

3 A In the -- in Pennsylvania?

4 Q Yes, yes.

5 A No. We're just getting the JCMS data. I think for
6 the detention report that I mentioned we did get a separate
7 file that was the detention admissions data.

8 Q Let me ask you this question. Is your agency
9 available if we were to -- or JCJC or the State of
10 Pennsylvania to provide you with additional data just to be
11 analyzed for Pennsylvania, would your agency be able to do
12 that?

13 A Oh, certainly. The Pennsylvania data book that we
14 do maintain we go out and retrieve data files from many
15 different state agencies to -- you know, the things that are
16 there. There's health data and education data and lots of
17 things from different agencies, yes.

18 JUDGE WOODRUFF: Okay. Thank you.

19 CHAIRMAN CLELAND: Mr. Mosee.

20 BY MR. MOSEE:

21 Q I can imagine that one of the hurdles that you have
22 to overcome with regard to comparing data on a national
23 level is that sometimes things may be called apples in one
24 state and apples in another state, but you're really talking
25 about apples and oranges?

1 A Apples and dump trucks.

2 Q For example, the definition of a juvenile --

3 A Um-hum.

4 Q -- is different from state to state. Do the
5 databases define the variables?

6 A We work very closely with our data providers all
7 around the country to try to understand their data as well
8 as they do. Sometimes we maybe find things in their data
9 that they were unaware of. You know, data glitches or
10 problems, things that we can help them solve.

11 But, yeah, we have a fairly good understanding of a
12 lot of the terminology. And the challenge for us, honestly,
13 is to take all the, you know, data in Pennsylvania look
14 different than the data in Maryland and Ohio and New York
15 and California and Florida. We take it. We process it and
16 restructure it so that it's -- we kind of recode it into a
17 common format, which is by its very nature very, very
18 generic.

19 And so we have to understand their -- their
20 variables so that we are recoding things properly. That is
21 the bulk of what that project does.

22 Q And I guess my question goes to whether or not I,
23 as somebody from Pennsylvania, am I going to be able to
24 understand the distinctions as a result of accessing the
25 data and the information in your database? Does it go into

1 descriptions of the substantive law and the definitions?

2 A We -- for the National Easy Access that we do
3 people are only looking at a national number. They can't
4 pick a state and look at it. But for some of the other
5 things that we do that are -- like arrest data are available
6 at the state and county level. Homicide data are available
7 at the state level.

8 And just to understand, if you're looking at your
9 own stuff compared to that national aggregate, which is like
10 putting everything in the blender, we also maintain a state
11 juvenile justice profiles where we describe a lot of those
12 differences and nuances. Certainly not all the details
13 about state law, but what the upper age of jurisdiction is.

14 If there's a lower age specified what the transfer
15 provisions are, who manages probation, who manages the
16 training schools, what responsibilities does probation have,
17 what general -- you know, if there's a balanced and
18 restorative justice philosophy, what is going on in each
19 state so that people can understand why there's all this
20 variation going on.

21 MR. MOSEE: Thank you.

22 CHAIRMAN CLELAND: Doctor, thank you, very much.
23 We appreciate your work?.

24 DR. SICKMUND: May I make one other comment because
25 it just occurred to me?

1 CHAIRMAN CLELAND: Certainly.

2 DR. SICKMUND: I guess when Ron Sharp was speaking
3 that, I mean, there's a lot of talk about money and how to
4 fund some things. And I think that if -- if you realize
5 that if you do a better job with the kids, with juvenile
6 justice, if your case outcomes are better, that will save a
7 lot of money.

8 And I just wanted to mention a study that was done
9 in South Carolina a number of years ago where they looked at
10 the juvenile court careers of kids from the time they first
11 showed up at court and followed them into the adult system.
12 And they followed them, I think, ultimately for like 11
13 years. And what they found was if they did a little bit
14 better with the kids that only ever got placed on probation,
15 if they reduced the recidivism rate for the probation
16 population by five percentage points, that the money that
17 would be saved in the long run was the equivalent of that
18 agency's annual budget.

19 So there's some -- if you are able to use data to
20 make better decisions, to do a better job with juvenile
21 justice, it will pay for itself. Thank you.

22 CHAIRMAN CLELAND: Doctor, thank you, very much.
23 We'll be in recess until 1:00.

24 (Recess taken from 12:00 to 12:56.)

25 CHAIRMAN CLELAND: Good afternoon. We're ready to

1 resume the afternoon hearings of the Interbranch Commission
2 on Juvenile Justice. And our first witness is Wendy
3 Luckenbill. Ms. Luckenbill, if you would please take the
4 oath.

5

6 WENDY LUCKENBILL, called as a witness, being duly
7 sworn, testified as follows:

8

9 MS. LUCKENBILL: I swear.

10 CHAIRMAN CLELAND: Please have a seat. Ms.
11 Luckenbill is the child policy coordinator for the Mental
12 Health Association of Pennsylvania and is here to testify
13 today about victim services involving juvenile crime. Mrs.
14 Luckenbill, go ahead.

15 MS. LUCKENBILL: Good afternoon. I want to thank
16 Chairman Cleland and the members of the Interbranch
17 Commission for the opportunity to testify and offer
18 recommendations related to the alleged Luzerne County
19 juvenile justice corruption and its implications, not only
20 for Luzerne County, but for the juvenile justice system in
21 our Commonwealth.

22 Specifically I am prepared to provide testimony and
23 recommendations on behalf of families and their children and
24 the Mental Health Association of Pennsylvania, which we call
25 the MHAPA, and its 17 local affiliates, including our

1 affiliate in Northeastern Pennsylvania, the Advocacy
2 Alliance, which has been partnering with MHAPA in doing
3 outreach and support to the family and children victims of
4 the Luzerne County scandal.

5 Foremost I am here as a family peer advocate. My
6 work has taken me far from the days when I tried to get the
7 services and help I needed for my own children to little
8 avail.

9 Since then I have advocated for thousands of
10 families and their children directly helping them to
11 negotiate a dizzying maze of policies, programs, and
12 regulations to find services and fight for their children's
13 rights.

14 I am proud to have worked and partnered alongside
15 many exemplary leaders from all the child serving systems
16 whose work has bettered the lives of children and their
17 families and made the children's system more accessible and
18 effective, such as Judge Arthur Grim when I was the Child
19 and Adolescent Service System Program, we call that CASSP,
20 Family Partner in Berks County; at the state level with
21 champions like Connie Delmuth and Lenora Stern, who began
22 the children's mental health system in Pennsylvania; and my
23 allies from the Pennsylvania juvenile justice system,
24 including Jim Anderson and Keith Snyder from the Juvenile
25 Court Judges' Commission, Mike Schneider and Jim Rieland

1 from the Pennsylvania Council of Juvenile Probation
2 Officers, and Mike Pennington from the Pennsylvania
3 Commission on Crime and Delinquency, and attorneys Robert
4 Schwartz and Marsha Levick, and Lourdes Rosado of the
5 Juvenile Law Center. I am honored to collaborate with these
6 partners in the Models For Change work in Pennsylvania for
7 the last five years.

8 I have taken the opportunity to watch the
9 Commission proceedings on the Pennsylvania Cable Network
10 broadcasts. The testimonies have given me pause and
11 sometimes sickened me, but in the end they have not
12 surprised me.

13 I have heard Judge Cleland and the Commission
14 repeatedly pose the question of how could so many people
15 have watched this abuse go on, year after year, and not come
16 forward, and not stopped it? To that point I want to first
17 testify that the stories from Luzerne County differ in scope
18 and not in kind from the myriad of stories from families
19 that I have heard over the last 20 years at the county,
20 state, and national level.

21 At the very heart of these stories is an audacity
22 and complicity on the part of staff charged with serving
23 families and their children across all the public child
24 serving systems to work against the stated goals of their
25 system, despite the presence of many professionals I have

1 met who daily strive with every fiber of their being to do
2 the right thing.

3 My experience has taught me that there are enough
4 professionals willing to violate or ignore the needs and
5 rights of those they are paid to serve that they do
6 undermine the capacity of the systems to function. And it
7 is not only individuals, but entire systems colluding to
8 stack the deck in the pursuit of cost containment, or ease
9 of administration, or validation of a personal viewpoint,
10 such as zero tolerance.

11 It is not just Luzerne County families who feel
12 like they have stepped through the looking glass. It is
13 most families who need help, and instead find that they are
14 interacting with systems designed to manage problems, not
15 support children and their families.

16 I have been invited by the Commission to offer
17 recommendations which will help prevent a pervasive
18 violation of the public's trust and children's rights from
19 happening again, and to address ongoing systemic needs
20 related to the problems which this scandal has exposed.

21 MHAPA's recommendations are based not only on our
22 experience and thoughts, but also on the input we received
23 during two family forums that MHAPA, in partnership with the
24 Advocacy Alliance, conducted in Luzerne County in August and
25 September of 2009.

1 The recommendations are also based on input from
2 family advocates and juvenile justice professionals from
3 across Pennsylvania that have worked with MHAPA since
4 September of 2007 as members of the Models For Change,
5 Pennsylvania Family Involvement Subcommittee, which I chair,
6 and which has now become the Pennsylvania Council of Chief
7 Juvenile Probation Officers, Balanced and Restorative
8 Justice Implementation Committee's Family Involvement Work
9 Group.

10 Finally, I am basing my recommendations on the
11 findings of the Family Involvement in Pennsylvania's
12 Juvenile Justice System monograph, which was published in
13 November, 2009 jointly by John D. and Catherine T.
14 MacArthur's Models For Change and the Pennsylvania Balanced
15 and Restorative Justice Implementation Committee.

16 So my recommendations are as follows: First, to
17 system accountability, which many people have talked about
18 over these proceedings. The system must be held to a higher
19 state -- standard of accountability and must provide
20 oversight with accompanying access to information and
21 redress for families and their children, professionals from
22 the child serving system, and the community at large.

23 Accountability and redress will be improved by,
24 first, the creation of a state juvenile justice ombudsman.
25 There's been discussion between the Pennsylvania Department

1 of Welfare and the Pennsylvania Legislature for a few years
2 about some kind of child ombudsman being started in
3 Pennsylvania.

4 Many states have a children's ombudsman. We do
5 not. There must be an Office of the Ombudsman supported at
6 the state level which is able to assist any person with a
7 grievance or concern about the juvenile justice system and
8 its partners, to provide general information about rights
9 and policy to the public, and to facilitate or trigger an
10 investigation when needed, recommend resolutions, and report
11 to the three branches of government and the public at least
12 annually.

13 We need to expand the family and youth advocate
14 projects. There must be both family and youth advocates
15 accessible to all families and their children involved with
16 the juvenile justice system who can provide peer support,
17 information, and help with concerns and grievances.

18 And we've heard many professionals say they didn't
19 know where to turn in Luzerne County to report the abuse.
20 But I must underscore that families don't have any idea
21 where to go for help.

22 There are 30 counties in Pennsylvania that fund
23 trained family peer advocates. And Luzerne County is not
24 one. In fact, they've refused to institute that despite
25 overtures from our affiliate up there which serves the rest

1 of the Northeastern Pennsylvania region.

2 These peer advocates provide support to families
3 across the child serving systems, including juvenile
4 justice. Chester County added a juvenile justice specific
5 family peer advocate in 2009. Family peer advocates have
6 demonstrated convincingly that they are able to divert
7 children from intensive and costly services just by giving
8 families the support and information they need to
9 effectively partner with systems and services.

10 Additionally, currently the state funds MHAPA to
11 provide External Youth Advocates to state operated youth
12 development centers and youth forestry camps. These
13 advocates are critical outside eyes that help any youth that
14 is concerned about his or her conditions of confinement.

15 However, the state only funds two full-time staff
16 and two part-time staff to cover all seven facilities with
17 approximately 500 youth at any one time. Clearly this
18 skeleton staff cannot provide the level of supports these
19 youth and their families need. And in the advent of the
20 Federal Bureau of Juvenile Justice Statistics Report, which
21 was called Sexual Victimization in Juvenile Facilities
22 Reported by Youth, 2008 to 2009, and the serious concerns it
23 raised about the conditions at Cresson Secure Treatment
24 Unit, we must have more external advocate support for the
25 youth in these state-operated facilities.

1 Accountability also hinges on information.
2 Families and their children must have access to sufficient
3 information which supports a meaningful involvement with and
4 promotes positive outcomes from their juvenile justice
5 experience.

6 If families and children do not understand the
7 basic principles, process, and purpose of juvenile justice,
8 they can't effectively engage with the system and the
9 services and opportunities it seeks to offer.

10 Conversely, when the system is not acting in the
11 best interest of the children and family, families must have
12 information on how to rectify this situation. To that end
13 the family involvement work group is being supported in this
14 last year of the MacArthur Foundation grant to develop a
15 resource guide to juvenile justice for families and a
16 training curriculum on family involvement for juvenile
17 justice professionals.

18 The curriculum initially will be offered to
19 juvenile probation officers and subsequently adapted for all
20 juvenile justice system professionals, including judges and
21 providers. We will need the system's support to disseminate
22 both activities fully as well as to continue this work in
23 future years and to expand this work to informational
24 materials and activities targeted to youth and families.

25 My second recommendation focuses on evidence based

1 practices. We have to commit to evidence based practice.
2 The Pennsylvania juvenile justice system has committed to
3 evident based programs, which is why we were invited to
4 become the first Models For Change state by the MacArthur
5 Foundation.

6 As the Foundation support ends, and in partnership
7 with the Pennsylvania Commission on Crime and Delinquency,
8 we are expanding the capacity of Pennsylvania to develop,
9 implement, and support evidence based practice at the local
10 level through the development of two evidence based practice
11 center.

12 We need to ensure these centers are embedded in the
13 system and that all partners see their existence as critical
14 to quality and cost effective as well as outcome effective
15 juvenile justice programs.

16 In addition, these centers must address and promote
17 programs of practices that support family and youth
18 partnerships with the juvenile justice system. There is a
19 growing body of research that clearly establishes that such
20 practice is highly effective in producing good outcomes from
21 the youth, family, and community.

22 Pennsylvania is already implementing such practices
23 at the local level, including mental health and drug courts
24 for youth, family group decision making, and evening
25 reporting centers that divert youth from placement. We need

1 to eliminate non-evidence based practices, including zero
2 tolerance.

3 The Commission should identify evidence based
4 alternatives to the zero tolerance philosophy that schools
5 in Luzerne County used and which contributed significantly
6 to the abuses. I want to highlight one evidence based
7 practice that is from the education and not the juvenile
8 justice system, as this practice directly addresses the
9 issue of zero tolerance.

10 This practice is called Positive Behavioral
11 Interventions and Supports, and is currently being
12 implemented in many Pennsylvania schools. This practice is
13 supported by the federal government as a school climate
14 organizational framework that supports positive behavior in
15 all children.

16 The Technical Assistance Center on Positive
17 Behavioral Interventions and Supports has been established
18 by the Office of Special Education Programs, US Department
19 of Education, to give schools capacity building information
20 and technical assistance for identifying, adapting, and
21 sustaining effective school-wide disciplinary practices.

22 Currently the proliferation of this practice, and
23 there's a list of over 100 schools waiting to begin it,
24 which this practice substantially improves the disciplinary
25 climate in school and reduces or even eliminates a need for

1 most police and juvenile justice interaction, our ability to
2 proliferate is limited only in our ability to provide
3 trainers to the schools.

4 If we want to address the roots of zero tolerance
5 and the school to jail pipeline, this is the solution that
6 we have been searching for. The state has a Positive
7 Behavioral Supports Leadership Team that meets monthly and
8 has members from the Department of Education, schools that
9 are implementing the practice, private providers,
10 HealthChoices Managed Care, and the advocacy community.

11 We need to ensure least restrictive, appropriate,
12 and effective educational outcomes. Of significant note one
13 final solution that the courts and probation offices have
14 relied on heavily for over 15 years has been the schools for
15 disruptive youth or alternative education schools.

16 I must bring to the Commission's attention that
17 these schools are not evidence based. And, in fact, the
18 state does not collect sufficient outcome data. We did not
19 know what, where, or how students who attend these schools
20 end up in the short or the long term.

21 Programs are promoted and funded on purely
22 anecdotal or loosely connected data. Families consistently
23 report that these schools are used as containment, and that
24 the segregation with other troubled students and poor
25 instructional standards, which I'll note includes reduced

1 school hours and reduced qualifications for the teachers
2 that staff it, these poor instructional standards doom their
3 children to reduced futures.

4 At the least the Commission needs to request a full
5 and exhaustive reporting to occur where children are in
6 segregated and restricted educational settings and ensure
7 that when the courts and the juvenile probation offices
8 include these schools in children's plans they can ensure
9 that this is the most effective and appropriate educational
10 option for the child.

11 We need to make a full commitment to evidence based
12 practices in court practice. Along with the commitment to
13 evidence based programs and practices, the juvenile justice
14 system needs to recommit to the prohibition of policies and
15 regulations which are not in accord with positive and
16 rational outcomes.

17 We should not fund things that do not work. Even
18 judges should not have the power to order responses to a
19 child that are based on whims and not wisdom. The juvenile
20 justice system should prohibit many of the court processes
21 that victimized the children of the Luzerne County scandal
22 and were counter to good and evidence based practice,
23 including deprivation of effective, adequate legal counsel,
24 the shackling of children as a means to humiliate and break
25 them and as an inappropriate substitution for effective and

1 humane safety measures, the forced medication and
2 inappropriate mental and physical health treatment of the
3 child, and the confinement of children where other safe and
4 effective alternatives exist or should be developed.

5 The third recommendation I make has to do
6 specifically with a commitment to family involvement. The
7 juvenile justice system must adopt and commit to family
8 involvement as a driving principle for quality effective
9 system reform.

10 The family involvement work group has been engaging
11 the juvenile justice advisory structure and the larger
12 juvenile justice system community in supporting its concepts
13 and recommendations. The monograph's publication comes at a
14 time when Pennsylvania needs to express its commitment not
15 only to youth in the juvenile justice system, but to the
16 families who up until recently have been invisible and
17 neglected partners to their child's care and rehabilitation.

18 In 2007 the Pennsylvania Balanced and Restorative
19 Justice Implementation Committee reviewed and revised their
20 original strategic plan adding a new goal, which is to
21 develop a family involvement focus within the balanced and
22 restorative justice model.

23 Following the endorsement of this goal the
24 Implementation Committee invited the Models For Change
25 Family Involvement Subcommittee to serve as their family

1 involvement work group immediately and post-MacArthur
2 funding. I am working with a small team from the work group
3 to provide ongoing updates and information on the family
4 involvement work to the Pennsylvania Commission on Crime and
5 Delinquency, Juvenile Justice Delinquency and Prevention
6 Committee, the JJDPC, and this team has been invited to
7 present a two-year plan to the JJDPC in February, which will
8 propose a time line of implementation activities for the
9 Committee to oversee and support.

10 The findings and recommendations from the monograph
11 serve as a foundational blueprint for the juvenile justice
12 system, and specifically it addresses the changes needed to
13 reduce the likelihood that a juvenile justice process can
14 exist that tramples over the rights and best interests of
15 the youth and the families it is serving.

16 There's related findings from the Family
17 Involvement in Pennsylvania's Juvenile Justice System
18 Monograph. I supplied copies to the Commission members, and
19 I hope this document will serve to inform the
20 recommendations that I have shared.

21 To that end I want to point out specific sections
22 within the monograph that address the testimony I have
23 offered.

24 The sections cite recommendation topics of building
25 respect through communication, which is on page 13;

1 increasing family involvement at the local level, page 16;
2 and supporting family focus at the state level, which is on
3 page 18.

4 I want to thank you for your commitment to
5 improving the juvenile justice system to better serve
6 Pennsylvania's youth and to ensure that we do more to
7 prevent system abuses.

8 To end I want to share a quote from the United
9 States Declaration of Independence that my one son shared
10 with me as we were discussing the resolution of the Luzerne
11 County problems.

12 Prudence, indeed, will dictate that governments
13 long established should not be changed for light and
14 transient causes; and accordingly, all experience has shown
15 that mankind are more disposed to suffer, while evils are
16 sufferable, than to right themselves by abolishing the forms
17 to which they are accustomed.

18 But when a long train of abuses and usurpations,
19 pursuing invariably the same object evinces a design to
20 reduce them under absolute despotism, it is their right and
21 it is their duty to throw off such government and to provide
22 new guards for their future security.

23 CHAIRMAN CLELAND: Thank you.

24 MS. LUCKENBILL: Thank you.

25 CHAIRMAN CLELAND: Questions? Ms. Bender.

1 BY MS. BENDER:

2 Q Thank you, very much, Ms. Luckenbill, for being
3 here with us today. I'm interested in the family and youth
4 advocate positions that you were talking about. You said
5 they are 30 counties right now?

6 A Yes.

7 Q How are those people prepared to assume that
8 position?

9 A They are homegrown and supported through an
10 informal network, which I try to support, but we don't have
11 a formal training or outreach program. But I know all those
12 advocates, and most of them have been there for a long time,
13 five, ten years. A lot of them learn on the ground, but you
14 can't advocate for a child without eventually learning all
15 the systems, and that's how they're grown.

16 Q And is any data collected on the number of people
17 they see or the types of cases they handle or the outcomes
18 of those cases?

19 A I think that varies from project to project. Every
20 one of them is funded a little bit differently. Some are
21 funded through all the child serving systems pooling money.
22 Some are funded just purely through foundational grants.
23 And others are funded through a specific initiative like the
24 Chester County through their system of care work.

25 Some collect a lot of data. Other ones it's a very

1 informal situation. Some are part time. Like the woman in
2 Huntingdon, Juniata, and Mifflin is part time for three
3 counties and serves adults and children.

4 So it's very -- it's very unregulated. It's very
5 informal. And people generally are there because of the
6 passion that they feel to have people not experience what
7 they have experienced. And that's one of the reasons that
8 when I talked about evidence based practice, I think it's
9 critical if we're going to really look at this service that
10 we know anecdotally looks like it works.

11 We really need to codify it. In effect, Federation
12 of Families for Children's Mental Health, who works at the
13 national level, has undergone a two year study with the
14 federal government because these little pockets of advocacy
15 has grown up all over the country and nobody's really
16 organized them into a sophisticated approach and practice.

17 Q And is the same for the external advocates that
18 serve the youth development centers, are they trained in any
19 way?

20 A They're trained by MHAPA. We have a curriculum
21 that we developed.

22 Q And how many people -- how many children do they
23 serve in the facilities?

24 A There's 500 at any one time.

25 Q Do you know how many per year though they would

1 actually provide services for?

2 A I don't have that data, but I could get it to you
3 because we report it to the state, all our encounter data.

4 Q And how do the children access that, those
5 advocates?

6 A They can request to speak to the advocates when
7 they're on site. They can make an appointment. The
8 advocates also move through the population and just casually
9 engage with the residents. And also the kids can make a
10 request to talk to them by phone.

11 MS. BENDER: Thank you. Thank you, Your Honor.

12 CHAIRMAN CLELAND: Judge Woodruff.

13 BY JUDGE WOODRUFF:

14 Q Ma'am, I'm looking at your commitment to family
15 involvement -- commitment to family involvement, and I note
16 that you have family focus listed here. Is -- is that
17 commitment that you talk about part of, I guess, the court
18 system use of organizations or projects like family group
19 decision making? Is that what you're talking about?

20 A Yes, exactly.

21 Q Those types of programs?

22 A Exactly. Multisystemic therapy. A lot of the new
23 practices that are coming along really hinge on including
24 the family as part of the decision making and implementation
25 of the service.

1 Q Okay. And I -- this is something that's fairly
2 recent to be used. You're requesting or recommending that
3 those type of programs be expanded?

4 A Yes.

5 JUDGE WOODRUFF: Okay. Thank you.

6 CHAIRMAN CLELAND: Mr. Horoho.

7 BY MR. HOROHO:

8 Q Ms. Luckenbill, you talked in your -- today in your
9 report you mentioned one of the evidence based practices
10 that would avoid the zero tolerance is a practice called
11 positive behavioral intervention and supports?

12 A Yes.

13 Q Is that organized, and has that been implemented by
14 the Pennsylvania Department of Education, or --

15 A That's one of the programs that we see being
16 implemented under that larger concept that Dr. Zahorchak
17 talked about yesterday, the wellness and resiliency
18 initiative.

19 So this is -- this -- wellness and resiliency is a
20 philosophy. PBI, or positive behavioral interventions, and
21 supports is an actual evidence based framework that allows
22 you to make that operationalized in the school.

23 Q Okay. And so is that a -- is that a statewide type
24 of group, or is that something within the Department that
25 Secretary Zahorchak kind of puts together for schools?

1 A That is being operated under what we call PTAN.
2 It's is the Pennsylvania Training -- it's the training and
3 technical arm of the Department of Education. They've been
4 implementing it. They've been growing it through the
5 intermediate units and local schools. They've been
6 providing a network of trainers to help schools initiate it.

7 And because of that waiting list that I just
8 mentioned, which is probably more than 100 schools, there's
9 also private practitioners who are going into the schools
10 and training. Basically you need someone to teach the
11 school how to do it.

12 So there is very little cost to the school except
13 the amount of time that the teachers need to participate in
14 the training and then oversight. Because it's not just a
15 one-time training. It's training and coaching.

16 Q And you talk about part of -- member of the
17 leadership, members of the Department of Education,
18 HealthChoices Managed Care, advocacy community. Are any
19 representatives of the juvenile court system part of the --
20 this leadership team?

21 A They are not.

22 Q I know that the Secretary and a group of us talked
23 about maybe as a recommendation getting a small group from
24 the Secretary of Education's office along with the juvenile
25 court system. This might be one of those groups?

1 A This would be a wonderful place. And I've actually
2 been trying to sell it to my friends in juvenile justice,
3 and I -- we haven't pulled anybody over yet. But definitely
4 the juvenile justice community really needs to be aware of
5 PBIS. Because the empirical data is riveting.

6 What's more exciting is to talk -- for me is to
7 talk to people that are implementing two, three months in
8 their schools, and this is -- there's folks in Philadelphia.
9 And, in fact, where it intersects, and I see with the
10 juvenile justice system, is in Berks County as we
11 implemented Models For Change we focused on disproportionate
12 minority contact.

13 And Judge Grim organized a really vital and vibrant
14 community initiative to deal with that, and we got very far
15 along. And what everybody said was the final hurdle was
16 schools. Because we can -- they were able to affect every
17 -- the approaches to kids within the community, but they
18 couldn't affect what was happening in Reading School
19 District.

20 And so MacArthur Foundation is actually funding the
21 implementation of PBIS in the Reading School District right
22 now, and we should see some very different things coming out
23 of Reading because of that.

24 Q Now, earlier in your report you -- you write, my
25 experience has taught me that there are enough professionals

1 willing to violate or ignore the needs and rights of those
2 that are paid to serve that they do undermine the capacity
3 of the systems.

4 Are you aware of any other juvenile court system in
5 any of the other 66 counties that have -- that are comprised
6 of professionals who are willing to violate or ignore the
7 needs and rights of juveniles?

8 A I'm not aware of any more. As I said, it varies in
9 scope, not in kind. So certainly the -- what happened in
10 Luzerne County or an entire school -- an entire juvenile
11 justice system was compromised. That's -- that's unique to
12 my experience.

13 However, one of the things that we did for the
14 family involvement monograph was to convene focus groups.
15 And several of those focus groups were for families and
16 youth. And the stories that we heard were similar to what
17 happened in Luzerne County.

18 And I've included just a couple focus group
19 comments in the monograph. I'd be happy to provide all the
20 family comments to this Commission if it would -- if it
21 would be illustrative.

22 Because what families said is my child was taken
23 out of the courtroom, and I didn't know where he was for a
24 month, and nobody would return my phone call. Or, you know,
25 they didn't like me and my kid, and so he was going out.

1 You know, stuff like that.

2 The deprivation -- the denial of counsel, I haven't
3 heard that. Families haven't told that to me. But juvenile
4 justice systems really hinge on that individual that a
5 family's interacting with. And it really varies not only
6 from county to county, but within a department who you're
7 talking to. It can be night and day between one juvenile
8 probation officer and another.

9 Q I would be interested in -- we would be interested
10 in receiving that information, because we're looking for any
11 other, I guess, hot spots or other places in and around the
12 Commonwealth that would be on the verge of having abuses
13 like the juvenile court system and what happened in Luzerne
14 happen to them. You're not aware that there are any on the
15 verge of --

16 A No.

17 Q Okay.

18 A I don't think there's any other pervasive
19 violations, but I think there's lots of places where a
20 parent will say, I don't think that placement is -- if
21 they're able to even speak in court, they'll say, I think
22 that placement is to the detriment of my child. And the
23 court or the juvenile probation office is not interested in
24 that opinion. Or a child is placed in some kind of
25 residential setting without their medication or put on a

1 medication that the family knows is just going to make that
2 child have more behavioral difficulties because they've
3 already been on that medication in the past. And yet their
4 concerns are overridden or ignored. So -- so we're not a
5 perfect system yet.

6 MR. HOROHO: Thank you, very much.

7 BY MR. LISTENBEE:

8 Q Just one question. Ms. Luckenbill, what can you
9 tell us about the -- what families say about their
10 interactions with counsel appointed by the court to
11 represent them, the public defenders or private counsel?

12 A Well, I think generally families are very concerned
13 about their represent -- the representation of their child
14 because that counsel is appointed to represent them. He's
15 -- he or she is appointed to represent their child.

16 And I don't think that it's necessarily a
17 deliberate effort to disrespect the family. I think that
18 it's high case loads, and I think it's -- it's the confines
19 of the process that my experience with the families that
20 I've worked with has been that when they meet the defense
21 attorney it's walking into the courtroom, and they haven't
22 had an initial discussion with the counsel.

23 The counsel isn't aware of many of the concerns the
24 family has about long term needs of their child. And
25 there's -- there's no capacity for the family to share in

1 what should be a group decision making. And so, therefore,
2 I think a really good question is why don't we use family
3 group decision making more and that kind of group -- group
4 process and group thing?

5 We were talking earlier, Mr. Allen said -- asked a
6 question about what if there was a team of people making
7 those decisions and looking at the evaluations, and it
8 struck me that nobody -- nobody thought about involving the
9 families.

10 And one of the striking things that we found in our
11 monograph is that by the time a family and a youth gets to
12 the point where they're involved with the court, there may
13 be a lot of bad feelings on everybody's side. And it isn't
14 an easy thing to get the family to the table. And that's
15 why we need a sophisticated approach so we can facilitate
16 effective partnership between everybody who's working for
17 the child.

18 And if a family -- Mr. Schwartz yesterday said many
19 families want their kids involved in court and want their
20 kids put away because they see that as an answer, and they
21 see that as an answer because they don't have the
22 information to know there's another way to approach a child.

23 Q Do you have comments about counsel in the reports
24 that you referred to Mr. Horoho?

25 A I do have some, yeah.

1 Q Can you send us those as well?

2 A Yes.

3 MR. LISTENBEE: Thank you.

4 CHAIRMAN CLELAND: Ms. Luckenbill, thank you, very
5 much.

6 MS. LUCKENBILL: You're welcome.

7 CHAIRMAN CLELAND: For your appearance and your
8 testimony here today and the work that you have been doing.
9 And we appreciate your appearing and offering your
10 suggestions and ideas. Thank you, very much.

11 MS. LUCKENBILL: Thank you, very much.

12 CHAIRMAN CLELAND: This Commission will stand
13 adjourned now until our next hearing, which will begin at
14 9:00 on Monday, February 1st here in Harrisburg. And we
15 will then meet also on February 2nd, returning to
16 Wilkes-Barre on February 25th. We're adjourned.

17 (Whereupon, the hearing was adjourned at 1:33.)

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1 I hereby certify that the proceedings and evidence
2 are contained fully and accurately in the notes taken by me
3 on the hearing of the above cause, and that this is a
4 correct transcript of the same.

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9 _____
Date

_____ Donna E. Gladwin, RPR

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