

The Honorable Denise Navarre Cubbon

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Testimony before the House Committee on Education and the Workforce Hearing on “Providing Vulnerable Youth the Hope of a Brighter Future Through Juvenile Justice Reform”

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Good Morning Chairwoman Foxx, Ranking Member Scott, Subcommittee Chairman Rokita, Subcommittee Ranking Member Polis and Members of the Committee. It is my honor to testify before you at today’s hearing, “Providing Vulnerable Youth the Hope of a Brighter Future Through Juvenile Justice Reform.”

My name is Denise Navarre Cubbon, and I currently serve as the Administrative Judge of the Lucas County Juvenile Court in Lucas County, Ohio, which encompasses Toledo and the surrounding area. I also serve on the Supreme Court of Ohio Advisory Committee on Children, Families and the Courts.

Prior to my election to the bench, I served as a Lucas County assistant prosecuting attorney for 23 years, where I spent most of my time in the juvenile division, so I have extensive experience working with victims of juvenile crimes. The victims I worked with genuinely wanted kids to have the chance to change their behavior and understand the circumstances these kids come from. I took that insight with me to the bench.

I strongly believe in incorporating cutting edge research and best practices in the field of juvenile justice to meet the needs of an ever-changing population of young people and seek the most positive outcomes for youth, their families and their communities. To that end, I am a member of the Board of Directors of the National Council of Juvenile and Family Court Judges (NCJFCJ).

As one of the oldest judicial membership organizations in the nation, the NCJFCJ has been instrumental in educating judges, referees, commissioners, court administrators, attorneys, social and mental health workers, probation officers, and other justice professionals across the country for 80 years. The NCJFCJ serves an estimated 30,000 professionals in the juvenile and family justice system. The NCJFCJ is recognized nationally, not only for the high quality judicial education we provide, but also for first-rate interdisciplinary training, hands-on technical assistance, research and statistics, and policy development in the areas of child welfare, juvenile justice, and domestic violence. The NCJFCJ is devoted to ensuring justice and improving outcomes for families, children, and victims of domestic violence that touch the court system.

I want to thank you for holding this hearing to amplify the great progress that the juvenile justice field has made. Congress and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) are integral to our success in the field. My colleagues and I at the NCJFCJ were pleased with the bipartisan, bicameral support for the reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP) in the 114th Congress, and remain hopeful that a reauthorization can be

signed into law swiftly this Congress. This hearing is a positive signal that Congress is prioritizing a reauthorization, and we are grateful that you are keeping the drumbeat alive.

The NCJFCJ holds the position that the juvenile justice system must be properly resourced and must embrace an ever-evolving practice informed by the latest research from the field. Without education and resources and a federal partner to assist juvenile justice professionals, challenges will continue to burden certain parts of the juvenile justice system and we will fail to carry out the four core requirements of the JJDP.

I would like to focus my testimony this morning on my view from the bench, and specifically on ways to support the practices that keep juveniles from reoffending and enable them to go on to be productive members of their communities.

As you know, juvenile justice is unique because of the nature of the population that we serve. Recent breakthroughs in brain science tell us that the human brain is not fully developed until age 25. I will leave the 18-25 year olds for another time, but really for young people, they are still developing. The NCJFCJ has passed a handful of resolutions that place the well-being and safety of children in the court system at the forefront. One, regarding judicial training on adolescent brain development, builds on the NCJFCJ's ongoing research that proves the developmental differences between adolescents and mature adults. The resolution encourages judicial leadership to guide policy changes, practices, and decision making to incorporate the research findings on adolescent brain development.

I am not saying that young people who have committed offenses are not guilty or should not be held accountable just because they are not fully developed, but they should be given the kinds of services that are appropriate to help them make changes in their lives, whether it is cognitive or family therapy, partnering with a meaningful adult, getting special education services, or addressing the causes and effects of trauma.

Juvenile offenders go through a much different court process than adults. For example, while adults go to trial, juveniles are adjudicated; their actions are called offenses, not crimes; and rather than being sentenced, they receive a disposition. Likewise, a juvenile court process is much different than the adult justice system, and a judge sitting on a juvenile court bench needs specific training on the juvenile system in order to serve juveniles in the most productive way. In recent years, a body of research has begun to develop that has moved our field forward, and courts can now apply a strong evidence base to carry out what works and avoid practices that have been deemed ineffective with juvenile offenders.

Each state has its own juvenile justice system. Thus, laws, policies and practice vary widely among states and even at the local level. This variety results in a range of outcomes for youth, families and communities. In best-case scenarios, juvenile offenders are able to rehabilitate in a positive community setting and go on to lead productive lives. In worst-case scenarios, young people are not rehabilitated, and find themselves in a cycle of crime that lands them in the adult criminal justice system or worse.

The JJDPDA was created in 1974 to address the inconsistencies across the juvenile justice systems nationwide to improve outcomes for youth, families and the community. This game-changing legislation was last reauthorized in 2002, nearly fifteen years ago.

The JJDPDA identified four issues that are central to delinquency prevention and rehabilitation, known as the “four core protections.” States that comply with the four core protections can receive federal funding to advance their work to promote those protections.

The four core protections include:

1) Deinstitutionalization of Status Offenders (DSO): Status offenses are acts that are only illegal because the individuals committing them are minors - offenses such as skipping school, running away, consuming alcohol, or smoking. Under the JJDPDA, such offenders cannot be held in secure detention or confinement, with very limited exceptions. The DSO provision aims to prevent status offenders from being held in secure juvenile facilities for extended periods of time and in secure adult facilities for any length of time. Research has proven that detention is counter-productive in instances of status offenses, and these youth are best served in community-based settings.

2) Adult Jail and Lock-Up Removal (Jail Removal): Youth may not be detained in adult jails and lockups, with the following exceptions: a limited time before or after a court hearing (six hours), in rural areas (24 hours plus weekends and holidays) or in unsafe travel conditions. Some of the many horrors of children being detained in adult jails include psychological and physical abuse, isolation, assault and even suicide. (This provision does not apply to children who are tried or convicted in adult criminal court of a felony-level offense.)

3) "Sight and Sound" Separation: In the instances when exceptions to Jail Removal result in children being placed in an adult jail or lockup, these juveniles must be kept from "sight and sound" contact with adults, including being housed in proximity to adults, sharing common spaces or any other circumstance where an adult could be a threat. This provision, like the one above, is for the protection of children.

4) Disproportionate Minority Contact (DMC): States are required to investigate and remediate the disproportionate contact of youth of color at all points in the justice system - from arrest to detention to confinement. Research shows that young people of color are sentenced more harshly than their white peers for the same crimes and young people of color make up a disproportionate part of the juvenile justice system. This protection requires states to assess and address this inequity.

The mere fact that the JJDPDA and the Department of Justice’s Office of Juvenile Justice and Delinquency Prevention (OJJDP) exist acknowledges the fact that kids need to be treated differently. The federal government has helped us develop data-driven best practices that show us that most kids’ needs can be best met within the community.

The JJDPDA has been a pivotal part of the progress we have made in Ohio in juvenile justice practices. I would like to share a few short examples with you.

I am a member of the Ohio Department of Youth Services RECLAIM Ohio Advisory Committee. RECLAIM, which stands for Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minors, operates based on widely accepted research about youth rehabilitation: that low and moderate risk youth offenders fare better when they are served in community-based placements as an alternative to incarceration.

RECLAIM Ohio has been in operation since the early 1990's and has seen tremendous results for juvenile offenders in the state. Today, more youth are served in local settings, where they can incorporate their support networks, such as families, into their treatment. Subsequently, Ohio's youth institutions are no longer overcrowded, and we are able to focus our efforts within our incarcerated population on rehabilitation and treatment efforts for the more serious, felony-level and repeat offenders.

RECLAIM Ohio has been so successful that the population under the ward of the Department of Youth Services in Ohio has gone from a high of 2,600 in 1992 to just over 500 individuals in recent years. Because of our programming, we have had the opportunity to keep kids at home and keep the community safe, which results in better outcomes.

We as judges have a responsibility to keep our communities safe while we give youth opportunities for rehabilitation and hold them accountable. Our position in Toledo is to apply the research that shows what is right for kids- only incarcerating those who pose a danger to the community. The only way to effectively achieve that is to develop a continuum of services that addresses the individual needs of each young person.

In Toledo we have recently developed a Community Treatment Center for felony offenders. This intensive day program uses the positive youth justice model, which emphasizes community ties, positive peer culture and family. Before services are provided, each kid who enters the Community Treatment Center is assessed to determine his or her needs. We make a point to meet each young person where they are.

Young people who go through this program face a series of steps toward genuine rehabilitation, starting with accountability. We have stabilizing services such as drug treatment programs, behavioral health services and family therapy. Trained mentors offer positive adult relationships, and workforce readiness programs include an urban greenhouse and other settings where teens can prepare themselves for employment.

As an aside, every single kid who comes into my court wants a job, so my colleagues and I are always looking at ways to get them job-ready.

It costs less to keep kids home and give them services to meet their needs- it is much less expensive than incarceration. It is also more effective. When you bring a young person back to the community without rehabilitation or community-based services, recidivism rates can be up to 75 percent, and a recidivism rate of 50 percent is considered "good." High risk kids really need targeted services in order to avoid recidivism.

Our JJDPA funding has allowed us to develop reentry programming that keeps kids engaged with their families when they're in lockup; utilize community programming to keep kids out of the system; acknowledge and address the fact that trauma causes trauma-triggered behaviors that have been misinterpreted for years and years. JJDPA funding allows us to help juvenile court judges work with service providers to figure out that certain behaviors categorized as crimes are symptoms of much bigger problems for our youth, and has equipped us with the tools to help kids succeed.

In terms of my own career and success on the bench, the ability to use training dollars to help judges do their work could not be done without the support of the OJJDP. That funding enables the NCJFCJ to translate research into practical training such as educational programs and resources that teach us best practices that have a positive impact on the young people in our courts.

Thank you for holding this hearing – it demonstrates that you value the best interests of the children of this country as highly as those of your own.