

THE KATRINA IMPACT ON CRIME AND THE CRIMINAL JUSTICE SYSTEM IN NEW ORLEANS

HEARING BEFORE THE SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES ONE HUNDRED TENTH CONGRESS FIRST SESSION

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**THE KATRINA IMPACT ON CRIME AND THE
CRIMINAL JUSTICE SYSTEM IN NEW ORLE-
ANS**

TUESDAY, APRIL 10, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10 a.m., at Dillard University, Lawless Memorial Chapel, 2601 Gentilly Boulevard, New Orleans, LA 70112, the Honorable Robert C. Scott (Chairman of the Subcommittee) presiding.

Present: Representatives Scott, Forbes, and Gohmert.

Staff Present: Bobby Vassar, Subcommittee Chief Counsel; Gregory Barnes, Majority Counsel; Veronica Eligan, Professional Staff Member; Michael Volkov, Minority Chief Counsel; and Caroline Lynch, Minority Counsel.

Mr. SCOTT. Subcommittee on Crime, Terrorism, and Homeland Security on the subject of “The Katrina Impact on Crime and the Criminal Justice System in New Orleans.” I’d like to express my gratitude for our host, President Hughes, and Dillard University employees and families for your generosity, hospitality and hard work, and for making your campus and wonderful facility available for us today. Last time I visited we were at the Hilton Hotel; so, I’m sure it’s great to be back. I know Dillard never missed a beat; so, it’s a pleasure to be here. And thank you for your hospitality.

I’d also like to thank Mayor Nagin and the city of New Orleans, and officials and employees for the warm and receptive welcome that you’ve shown in the development of this hearing.

Further, I want to acknowledge Councilman Jefferson for his invitation to come here today and the assistance he and his staff provided in making contacts and their arrangements necessary for the hearing to take place. Representative Jindal expressed his regret, but he could not rearrange his schedule to appear; but he indicated that he would be submitting a statement for the record.

And being mindful that such—that much of the devastating impact of Katrina still affects the city today, I want all of New Orleans to know that your direct experience and suffering as a result of the worst disaster in American history is a tragedy that all Americans feel. The devastation and suffering have all been seared into our consciousness, and we are all dedicated to the complete

and rapid recovery of the city to its former stature as a great and unique international, as well as American, treasure.

We're here today to look through—looking upon the effects of crime in the criminal justice system and what more the Federal Government can do to help in the subject; but we're aware that help is needed in other aspects of rebuilding the city as well. For months we've been reading and hearing reports indicating that New Orleans is experiencing an extraordinary wave of crime, particularly violent crime. With all major cities, preventing and responding to crime is a challenge. However, it is clear that New Orleans had some unique challenges owing to the impact of Katrina on infrastructure, records, manpower, and other operational necessities. We know that a gallant effort is being waged by the men and women who have been able to stay under these most challenging circumstances, and we applaud those efforts. We also know that some things are being done by the Federal Government through its criminal justice agencies and other Federal operations to address some of these serious deficits.

We want to hear from you, some of your Federal partners, and others engaged in assessing and rebuilding the effort to determine what are the continuing challenges and what is being done about them and what more needs to be done that the Federal Government might assist.

We have an impressive group of witnesses with the knowledge—with the knowledge and expertise, that we need to hear from. We look forward to their testimony, and are looking forward to working with each and every one of you as we restore this great city. It is now my privilege to recognize the senior Ranking Member of the Subcommittee, my colleague from Virginia, Congressman Randy Forbes, for his opening statement.

Mr. FORBES. Thank you, Chairman Scott, for convening this important hearing on the criminal justice system in New Orleans. I'd also like to thank Dillard University President Hughes for hosting us this morning, and welcome our distinguished guests, Mayor Nagin, City Council President Thomas, and Representative Jefferson.

Restoring New Orleans for its residents and for its booming tourism industry is a priority. In the weeks and months following hurricane Katrina much of the rebuilding efforts focused on the city's homes, businesses, schools, and hospitals.

A critical but often overlooked component to restoring the city is its criminal justice system. It's all too easy to forget that the city's police force, jails, crime labs, and courts were also damaged or destroyed by Katrina. As cleanup efforts continue, New Orleans is suffering from the worst surge in violent crime in recent years. New Orleans struggled for years with the high rate of violent crime, drugs, and gang activity.

Hurricane Katrina exacerbated these problems. Just last week, there were eight homicides in only a handful of days, bringing the total number of homicides this year to 53; this compared to 17 homicides for the same period last year. Numerous factors contribute to this rise in crime. The return of gangs to New Orleans brings the return of drug trafficking and warring between rival gangs. Through witness intimidation and threats, many violent

gang members are able to carry out their crimes with little concern of prosecution.

At a time when increased police presence is critical to stemming the rise in violent crime, the New Orleans police force is down from roughly 1600 to 1200 officers who make on average about 1500 arrests every week. Even with its diminished police force, NOPD has created a criminal intelligence bureau to address the reoccupation of New Orleans by the criminal element and assigned additional patrols for this year's Mardi Gras. Criminal investigations are delayed or stalled because of long delays in forensic testing. After Katrina essentially destroyed its crime lab, the NOPD was forced to rely on neighboring parishes and Federal assistance to process evidence. In addition, limited jail capacity and fewer prosecutors and public defenders have resulted in mounting caseloads in courts, setting little to no bail, or simply releasing defendants before they are prosecuted. Recently, the public defender's office moved for the release of 42 defendants based on its own admission that it could no longer provide adequate counsel.

I believe New Orleans is committed to ridding the city of violent crime and reforming its criminal justice system. To assist in these efforts, the Department of Justice announced in January that it provided six assistant U.S. Attorneys, six additional ATF special agents to work with the New Orleans Violent Crime Impact Team, nine additional FBI agents to supplement the New Orleans Violent Gangs Safe Streets Task Force, and three additional Deputy U.S. Marshals and investigative analysts to support the Crescent Star Fugitive Task Force. I'm hopeful that these additional resources and cooperation between Federal, State, and local law enforcement are successful. I look forward to hearing from today's witnesses about the progress New Orleans is making to rebuild its criminal justice system and stop the violence and see how we move forward from here. I yield back my time.

Mr. SCOTT. Mr. Gohmert, do you want to make a statement?

Mr. GOHMERT. No.

Mr. SCOTT. Thank you very much. We'll now proceed with the introduction of our witnesses. We have a long list of witnesses today, and we're going to try to follow the Subcommittee's rules on timeliness so that we can hopefully complete our agenda so that people can catch their planes back home. Each witness's statement will be made part of the record in its entirety; so, I would ask each witness to summarize his or her testimony in 5 minutes or less. To help stay within that time, we have a little timing light at the table, which will start off green and go to yellow when your time is almost up, and then go to red when the 5 minutes are up.

We'll then have four—we'll have four separate panels of witnesses. I will introduce each panel just before that panel's presentation. In the interest of time, these introductions will be a little briefer than normal; but we do have additional biographical information on the Committee's web site.

Our first witness today is Ray Nagin, Mayor of the city of New Orleans. He was first elected as mayor in 2002, and reelected in 2006 to a second term. He holds an MBA from Tulane University.

Our next witness will be the Honorable Oliver Thomas, President of the New Orleans Council. He was first elected to Council in

1994, and he is in his fourth term. He received a Bachelor's Degree of Science from the College of Santa Fe.

Our host, Marvalene Hughes, President of Dillard University, has been president since 2005. She is the ninth president of Dillard and the first female to be appointed president. She earned a Ph.D. in Administration and Counseling from Florida State University and a Master's Degree from Tuskegee University.

Final witness on this panel will be the Honorable William Jefferson, Member of Congress. He is in his eighth term, representing Louisiana's Second District. He's a graduate of Southern University A&M College, has a Master's in Taxation from Georgetown and a Law Degree from Harvard University.

Mr. SCOTT. Mayor Nagin. Thank you for your hospitality.

**TESTIMONY OF MAYOR C. RAY NAGIN,
CITY OF NEW ORLEANS, LA**

Mr. NAGIN. Thank you, Mr. Chairman. In the interest of time, I will be as brief as I can. I am Mayor C. Ray Nagin, mayor of one of America's most beloved and distinctively culturally unique cities in America. To the Chairman, Chairman Scott, thank you for being here. Members of the Subcommittee on Crime, Terrorism, and Homeland Security of the House Committee on the Judiciary: Thank you again for being in New Orleans.

This is a very critical topic for us. We've been working for the past 19-20 months to get our city back in order. We have miraculously avoided bankruptcy. And with the help of some loans from the Federal Government, we have been able to stand this city up as best we can.

You will hear testimony today regarding the struggles that we have faced, particularly in the criminal justice system. You've read off some statistics that kind of encapsules what's been going on. We have been working very hard. We've enlisted support from lots of different sources, key members of the criminal justice system and the New Orleans City Council. We all stood together and reengaged our focus area—efforts as it relates to trying to abate the violent crime that has been plaguing our city. We worked with former Louisiana Attorney General Richard Eyoub. We called in National Guard support, State Police support. We're done just about everything that we could to make sure that we had the resources necessary.

The hard-working men and women of our criminal justice system, and particularly our law enforcement agencies, have been working tirelessly in spite of some of their unique struggles, still trying to rebuild their lives after Katrina. But like many communities, we are struggling with violent crime in our community, and we face many challenges that could use Congress's support.

We face the substance abuse crisis in our community, where we really do not have the resources to make a dent in that, nor to deal with it adequately. Our education system continues to struggle going forward. Domestic violence is on the rise in our community as it relates to posttraumatic stress disorder that is affecting many of our citizens. And our mental health system, health care system, is very broken in this community and really needs some serious attention.

I am asking for a couple of very specific things that Congress can help us with. First, on crime-fighting tools: We need about \$17 million for vehicles, equipment, and recruiting strategies to support our crime-fighting efforts for the New Orleans Police Department. Secondly, our youth, we need your immediate help for this summer's activity. We are looking for \$4 million to employ 2,000 young people in our community, to make sure that they have something meaningful to do—kids who are in the at-risk-age categories, for summer youth employment. Fourthly, we need to—we are asking for support to reestablish an ex-offender's work force development program, \$3 million to fund comprehensive work force development services for 500 former offenders so that they can reestablish themselves productively back in our community. And then, finally, to provide some critical drug rehabilitation services; another critical issue in our city that we just don't have the resources at this time, nor have they come from the Federal Government nor the State government to help us with this. We need \$10 million over 3 years to implement a program that would provide culturally sensitive and appropriate drug rehabilitation and prevention.

Ladies and gentlemen, that concludes the—the bulk of my comments, and I'll be happy to answer any questions. And I want to thank you again for being in New Orleans today.

[The prepared statement of Mr. Nagin follows:]

PREPARED STATEMENT OF C. RAY NAGIN

NEW ORLEANS, LA (April 10, 2007)—Mayor C. Ray Nagin gave opening remarks today before the start of the House Judiciary Committee Subcommittee on Crime, Terrorism and Homeland Security regarding the “Katrina Impact on Crime and the Criminal Justice System in New Orleans.”

The text of his comments follows: I am C. Ray Nagin, Mayor of New Orleans, one of America's most beloved and culturally distinctive cities, and a city which is facing the challenge of recovering and rebuilding after the worst natural and man-made disaster to occur in the United States of America. To Chairman Robert C. “Bobby” Scott and members of this Subcommittee on Crime, Terrorism and Homeland Security of the House Committee on the Judiciary: Thank you for coming to New Orleans to continue the generous support Congress has given for the rebuilding of our city.

I would also like to publicly express appreciation for the dedicated and tireless support that we have received from the United States Department of Justice. By supplying federal assets and resources to assist our police department, speed the repair of our criminal justice system and initiate innovative programs, they have been an invaluable partner.

You will hear testimony today regarding the struggles that we face in rebuilding a criminal justice system whose infrastructure was completely destroyed by Hurricane Katrina and the subsequent flooding. Our work has been unflagging, and I would like to outline for you the steps that we have taken to accelerate its recovery:

Last summer, I convened a 100-day implementation team to provide recommendations for accelerating several areas of our recovery, including city services, repopulation, and the criminal justice system. The 100-day team was led by Former Louisiana Attorney General Richard Ieyoub and included many individuals who will testify today. Some of the accomplishments of this team were:

- Established automated intranet access to give the District Attorney and Clerk of Criminal District Courts immediate access to accurate records of police personnel.
- Improved subpoena delivery to police officers on the orders of Police Superintendent Warren Riley to have the NOPD Office of Compliance be responsible for the acceptance of all Criminal District Court subpoenas and for delivery to members of the department.
- Collaborated with District Attorney's Office to secure additional Assistant DAs from other jurisdictions to eliminate the excessive case backlog.

- Reorganized physical evidence damaged during Hurricane Katrina and made it available for trial in June 2006.

Earlier this year, key members of the criminal justice system and the New Orleans City Council stood with me to announce a focused effort on violent crime in our city. Since January, with the cooperation of Orleans Parish Criminal Sheriff Marlin Gusman and the support of his deputies, our police department has been able to assign more police officers to police patrols. In addition, the department, under the leadership of Chief Riley, has increased the number of drug and alcohol checkpoint areas in the city, leading to hundreds of arrests, drug seizures and the confiscation of hundreds of guns. The department also has implemented the Quality of Life task force that is addressing concerns less immediate than life and death situations, but that contribute to the way that people feel about our neighborhoods.

We are grateful for the hardworking men and women in law enforcement who, in the midst of their own personal losses, continue to serve on the front line to protect our citizens and our city. Last fall, I proposed and the City Council approved pay increases for police officers. We are currently working with Civil Service to develop a program that would provide incentives to attract former military personnel to become police officers in our department.

Despite this positive movement, we continue to face many challenges. Our police department remains understaffed and lacks some critical equipment and supplies. Our officers are encountering more crime suspects and victims who suffer from substance abuse. And too many of our young people are on the road to prison or an early death.

In crafting our federal legislative agenda this year, we focused on these realities and the fact that the criminal justice system does not exist in isolation. It is struggling to provide safety and security in a city with many problems that can lead to crime and violence, some of which existed before Hurricane Katrina's widespread destruction exacerbated their affect:

- Like many communities in this country, we face a substance abuse crisis
- The education system, which was deeply troubled before Katrina, is rebuilding from scratch
- Domestic violence is a significant problem that triggers cycles of violence in homes
- Our mental health services delivery system is broken and putting even more strain on the police department

We are seeking the following appropriations to address some of these issues:

Crime Fighting Tools

- \$17.1 million for vehicles, equipment and a recruiting strategy to support the crime fighting efforts of the New Orleans Police Department (NOPD) by giving them critical tools to increase their capacity and effectiveness.

Summer Jobs Initiative to Prevent Juvenile Crime

- \$4 million to employ 2,000 young people from our most at-risk age categories in a summer jobs program that would provide healthy and constructive alternatives in their lives.

Re-establish an Ex-Offender Workforce Development Program to Prevent Recidivism

- \$3 million to fund comprehensive workforce development services for 500 former offenders so they can re-establish themselves productively in our community

Provide Critical Drug Rehabilitation Services

- \$10 million over 3 years to implement a program that would provide culturally sensitive and appropriate drug rehabilitation and prevention, and would increase facility capacity. We have to combat the scourge of drugs shattering lives and destroying the fabric of our community.

Public safety has been a critical concern of our administration. We have made aggressive efforts to focus on violent crime and have specifically targeted murders. In increasing the presence of police officers on the street and through cooperation with the U.S. Attorney's Office, U.S. Drug Enforcement Agency, Bureau of Alcohol, Tobacco and Firearms, Federal Bureau of Investigation, Orleans Parish Criminal Sheriff's Office, the District Attorney, judges and the community, we are confident that we have all aspects of criminal justice system working in concert. We will not give up until we make our community safe.

Thank you again for visiting New Orleans. We look forward to your continued support as rebuild from an experience no other American city has ever faced.

Mr. SCOTT. Thank you very much.
Mr. Thomas.

**TESTIMONY OF THE HONORABLE OLIVER M. THOMAS, JR.,
PRESIDENT, CITY COUNCIL, CITY OF NEW ORLEANS, LA**

Mr. THOMAS. First of all, let me thank our host Dr. Hughes and the Dillard family, our Congressman, the mayor; you, Chairman Scott, Mr. Forbes, and other Members of the Committee. Thank you for having me here today. It's always special when Congress comes to town. It means we matter. It means New Orleans still matters. But it also means that there are problems here we haven't solved yet.

No one will dispute the fact that we face many issues in the city. We wouldn't be here today if we didn't. But within the plethora of issues, there are some that are more important than most; and we think that is crime and crime prevention. We know that is of the utmost importance.

Now, we've seen some disputes over the impact of crime statistics. We've heard that modeled one way or another, with generous population assumptions, our crime is relatively stable. We've heard that modeled other ways, assuming a smaller population, that crime has risen drastically. But none of that matters to people who live here. We are tired of hearing interpretations and assumptions. Whatever crime we have is too much, and whatever solutions we are putting in place can't be done fast enough. Those disputes—those facts are indisputable.

It is also a fact that government, all governments—local, State, and Federal—have begun to act. At the local level, the City Council, led by Councilman James Carter, has established the Crime Summit and a Crime Subcommittee, where community activists, leaders, and national experts came together to address issues and formulate solutions to our crime problem.

We've increased our funding for police pay for officers, that we used—and it also increased the area to entice new recruits. We suspended residency requirements post-Katrina that would have made it impossible to recruit outside of our area. We've raised salaries for Assistant District Attorneys in an attempt to both recruit and retain legal talent.

For the first time in recent memory, all of our leaders are on the same page. Police Superintendent Warren Riley and District Attorney Eddie Jordan have come together on agreements that will help with processing, evidence gathering, and prosecution of cases. Today there are dedicated task forces of prosecutors charged with interfacing with police officers to make sure that particular cases have particular contacts within both offices and to facilitate their movement through the system. Police officers are learning how to write better, more-efficient reports, and ADA's are learning how to prepare officers to testify in cases. Both departments are learning from each other, and that's a positive step. We are looking at models based on best practices of everything that has worked. Community cases, Broken Windows, neighborhood watch, you name it; we are desperately trying to find the solution.

There are partnerships at the State level that have allowed the National Guard and State Police to help augment our law enforcement capacity in certain areas. We're sharing a crime lab in Jefferson Parish, as we struggle to find the resources to rebuild our own. There are partnerships with the DEA, dedicated narcotic units, with the Department of Justice for extra prosecutorial ability, and in cases with the U.S. Attorney to move cases into Federal court whenever it's possible. Everything is and should be done with both eyes toward making the systems that are involved work better.

That's some of what we're doing, but it's far from everything that needs to be done. And that's where we—that's where we need your help. We're in desperate need of additional Federal dollars to rebuild our criminal justice system. We need our courts back, fully operating. We need our crime lab funded and running. We need to increase the number of officers on the street, and we need to help our community help itself.

We need our parks reopened. We need better schools for our kids. We need recreational activities at night and in the summer. All of that, I hope you can help us with. And there might be people who say, "Why spend money on playgrounds when we should be building prisons?" Why—we've already done that.

We already have one of the highest incarceration rates in the country, particularly among African American young men. If we could have arrested our way out of this problem, we would have done so a long time ago.

The simple truth is—if there's ever a simple truth to be told—that every part of our system must work better in order for our system to work. Our schools must teach children who'll use that knowledge to build careers and economic wealth; which then, in turn, they'll invest in their children, and communities—which will build stronger communities, which will strengthen individual responsibility, which will create a stronger city and a better quality of life.

But better schools without recreational activities isn't enough. Because we all have kids or know kids, who were kids, and know that if you don't give kids something else to do, they'll find, in many cases, the wrong thing to do with the amount of time that they have on their hands.

But schools and recreation without police and prosecutorial protection isn't enough, because if we can help people feel safe, then they won't—because if we can't help people feel safe, then they won't wait around for their children to help not only change the world, but change this community. This, too, is an indisputable—this is an indisputable fact.

Finally, everything I've mentioned here can be done and should be done. And the fact that we're here, as I've said before, means that we all want it to be done because here matters and New Orleans matters. It's a special place with an indomitable spirit. It deserves to be saved. We can save it, and we appreciate you guys being here to help save our community. Thank you.

Mr. SCOTT. Thank you, Mr. Thomas.

[The prepared statement of Mr. Thomas foll follows:]

PREPARED STATEMENT OF THE HONORABLE OLIVER M. THOMAS, JR.

Thank you for having me here today. It's always special when Congress comes to town. It means we matter here. It means New Orleans still matters. But it also means that there are problems we haven't yet solved.

No one will dispute that we face many issues in this City. We wouldn't be here today if we didn't. But within that plethora of issues, there are some that are more important than most. Crime, and crime prevention, is that important.

Now, we've seen some disputes over the impact of crime statistics. We've heard that, modeled one way, with generous population assumptions, our crime rate is relatively stable. We've heard that, modeled other ways, assuming a smaller population, crime has risen drastically. We're tired of hearing interpretations and assumptions. Whatever crime we have is too much, and whatever solutions we're putting in place can't come fast enough. Those are indisputable facts.

It is also a fact that this government, all governments, local, state, and federal, have begun to act. At the local level, the City Council, led by Councilman James Carter, established a Crime Summit, where community activists, leaders, and national experts came together to address issues and formulate solutions to our crime problem. We've increased our police budget, raising pay for officers and used that pay increase to entice new recruits. We suspended residency requirements that, post-Katrina, would have made it impossible to expand our police force. We've raised salaries for Assistant District Attorneys, in an attempt to both recruit and retain legal talent.

For the first time in recent memory, all of our leaders are on the same page. Police Superintendent Warren Riley and District Attorney Eddie Jordan have come together on agreements to help with processing, evidence gathering, and prosecution of cases. Today, there are dedicated task forces of prosecutors charged with interfacing with police officers, to make sure that particular cases have particular contacts within both offices, to facilitate their movement through the system. Police officers are learning how to write better, more efficient reports, and ADA's are learning how to better prepare officers to testify in cases. Both departments are learning from each other, and that is a positive step. We're looking at models, based on best practices, of everything that's worked. Community policing, Broken Windows, neighborhood watch. You name it, we're looking at it.

There are partnerships at the state level, that have allowed the National Guard and State Police to augment our law enforcement capacity. We've been sharing a crime lab with Jefferson Parish, as we struggle to find the funding necessary to rebuild ours. There are partnerships with the DEA, for dedicated narcotics units, with the DOJ for extra prosecuting capacity, with the US Attorney, to move cases into Federal Court when possible. Everything is, and should, be done with both eyes toward making the systems involved work better.

That's some of what we're doing, but it's far from everything that needs to be done, and that's where we need your help. We are in desperate need of additional federal dollars to rebuild our Criminal Justice system. We need our courts back, fully operational. We need our crime lab funded, built, and running. We need to increase the number of officers on our streets, and we need to help our community help itself.

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The simple truth is, if there is ever a simple truth to be told, that every part of our system must work better in order for our system to work. Our schools must teach our children, who'll use that knowledge to build careers and economic wealth, with which they'll invest in their children and communities, which will build stronger communities, which strengthens individual responsibility, which creates a stronger city, and a better quality of life.

But better schools without recreational activities isn't enough. Because we all have kids, or know kids or were kids, and know that if you don't give kids something to do with the time they have, they'll do things you don't want them to be doing, with the time they shouldn't have.

But schools and recreation without police and prosecutorial protection isn't enough. Because if we can't help people feel safe now, they won't wait around for their children to change the world. So this too, is indisputable fact.

Finally, everything I've mentioned here can be done, and should be done. And the fact that we're here, as I said before, means we all want it to be done. Because here

matters. New Orleans matters. It's a special place with an indomitable spirit. It deserves to be saved. We can save it. And that, as well, is an indisputable fact.

Mr. SCOTT. Dr. Hughes.

**TESTIMONY OF MARVALENE HUGHES, PRESIDENT,
DILLARD UNIVERSITY, NEW ORLEANS, LA**

Ms. HUGHES. Good morning, Mr. Scott and Members of the Committee on Crime, Terrorism, and Homeland Security of the Judiciary. It is truly my pleasure to welcome you to New Orleans and, more specifically, to Dillard University. You're right. When you were here the last time, we were living at the Hilton Hotel. But we determined that Dillard University had to be the anchor here because there was no life in this area. And indeed, as we have returned, we have noticed that others are returning as well. So Dillard is pleased to host this important Congressional forum for, like virtually all of our fellow New Orleanians, we firmly believe that the security of our citizens is critically, critically important to the rebuilding of this great American and international city. Our students, faculty, and administration are dedicated to rebuilding New Orleans as well. And we are eager to provide our expertise, vision, facilitation, and problem-solving skills and abilities to the challenges at hand. We offer you a world of expertise, a world treasure, intellectual expertise, and research. We demand that all of our students engage in research projects. And last year that meant that every student was engaged in research projects on all of the issues pertaining to Hurricane Katrina.

The sustained rebuilding of New Orleans will require action and viable solutions from credible entities like you. I commit to you that Dillard University is on record and will stay on record to utilize its intellectual expertise, its research, human and social capital, to help find creative ways to approach the challenges of increased crime in the New Orleans community post-Katrina.

As we continue our rebuilding efforts, our students, faculty and staff need to feel safer. They want to go about their business living a normal life here. Safety and security are—are a must if we are to attract others to take part in the rebuilding of the community and this great city. They provide the basic foundation that will provide the critical impetus needed to move forward. We extend our best wishes and hope that this hearing is successful. I know that I speak for every university president in this city when I ask you to help us. Help us to reduce crime. Help us to assure safety and security. Help us to attract and re-attract our students. Our enrollment is far too low to sustain our universities. And, finally, help us to present to the public an image that identifies this city in the United States and the world as a positive place to be, a place where our students can learn and grow, and a place where we can continue to attract students from all around the world. We need that desperately. Thank you so much for coming again.

Mr. SCOTT. Thank you, Dr. Marvalene Hughes.

Our colleague, Representative Jefferson. Bill.

**TESTIMONY OF THE HONORABLE WILLIAM J. JEFFERSON, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOU-
ISIANA**

Mr. JEFFERSON. Thank you, Mr. Chairman.

It's a pleasure to welcome you here to New Orleans again and to welcome those of your Subcommittee. I want to thank Dr. Hughes and the Mayor and Councilman Thomas for their fine remarks, and for letting me be a part of this panel with them.

There's a tendency for those concerned about criminal justice and crime prevention to seek to assess blame for the state of our criminal justice system. And while we acknowledge a responsibility on the part of our criminal justice officials for the return of the system to its functioning capacity, it's important to remember the effect the flooding of our city had on our criminal justice system and the attendant difficulty of its recovery. As examples, the flooding of the basement of our criminal justice court building and of the evidence laboratory of the New Orleans Police Department, destroyed and damaged valuable records, including historical information on those engaged in violent criminal behavior, and evidence they currently needed to prosecute crimes. And our entire city was evacuated, and some of our most seasoned prosecutors and indigent defenders, along with hundreds of former police officers relocated to other cities and took other jobs.

The stream of revenues that funds—which funds our criminal justice system was interrupted due to the post-storm downturn in business activity and the inability of home owners to pay sales and property taxes. Many areas are sparsely populated and harder to police.

But it's plain that the rebuilding of our city depends in large part on rebuilding confidence in a fair and effective criminal justice system that respects and enforces the law.

It's important that the Federal Government assist the city of New Orleans in overcoming problems with its criminal justice system. After all, it was Federal-government-designed-and-built levees, under the jurisdiction of the United States Army Corps of Engineers that broke, flooding the city and severely damaging the physical infrastructure and workings of the criminal justice system. It's time to talk about solutions.

Long-term solutions have been mentioned here: Schools, better jobs, less desperation. But we talked today about some shorter term ones that affect the problems. The Mayor has mentioned mental health concerns. There's a Social Services Block Grant of 500 to a million that hasn't gotten here yet, that's still in Washington. We need to work on that. The families and children have great stress in families now that we also need to address, that the Mayor has mentioned. I won't go over that.

But I'll mention that during the 1990's President Bill Clinton and Congress appropriated funding to support the Community Oriented Policing Squad Program, or COPS program. The Federal Government supported then the addition of 100,000 policemen to the ranks of our municipalities and States and to the use of technology to prevent crime and create networks among the law enforcement communities. Here in New Orleans, the COPS program at its height provided \$20 million annually that allowed our police

department to train and put to work in high crime areas many policemen who used neighborhood beats, foot patrols, and special crime prevention methods to combat crime in certain neighborhoods. The program worked, resulting here in New Orleans in a significant reduction in our crime rate, and especially with regard to the murder rate.

I encourage the Crime Subcommittee to seek funding to renew the program here in New Orleans on a temporary basis to tide us over this—this current crisis. We want to thank the State National Guard for what they've done. But the National Guard are not policemen. They have certain restrictions they must work under, and we need more policemen on this street.

There's sufficient evidence that the problem with violent crime in New Orleans is also a problem of drug use, resulting in criminal activity. Some statistics show that over 60 percent of those arrested for criminal activity in New Orleans test positive for illegal drug use. The police report that the vast majority of murders in our city are connected to drug use and to drug-related turf wars. It is clear, then, that problem of drug use and abuse in our city must be addressed if we are to curb violent crime in New Orleans.

There is much the Federal Government can do. The Drug Enforcement Administration has resources and programs designed to promote drug prevention. These programs must be employed to a greater extent here in New Orleans. I encourage the Crime Subcommittee to ask the DEA, "What is being done here in New Orleans, with one of the highest violent crime rates in our city, to stop the flow and use of illegal drugs?" "To what extent is the DEA investing additional resources in drug-use-prevention programs in the city that has been so devastated by the flood?" I encourage the Committee to insist on more creative drug prevention intervention by the DEA.

And what of the effectiveness of drug importation laws? None of the drugs on our street are grown in the backyards or farms of Americans. Almost all of it comes from sources outside of America. Should we employ new strategies to deal with this problem, since the old ones aren't working? And what of drug consumption? Are there ways that the Committee can support more drug education to stem consumption? And the few drug-treatment facilities that existed before the storm are for the most part still out of business, including the one called BASIC that was doing exciting and wonderful things with a community-based drug program.

Victims and witnesses to violent crime in New Orleans are often afraid to participate in our system of criminal justice. There's a need here to help make it easy for our police to protect people in having a safe place before they are able to—so they can testify and be part of the solution to the problem. The percentage of incidents involved with unsolved and even uncontested crimes, especially murder in New Orleans, is directly related to the fear that people feel about testifying in court.

We are pleased to see, as Councilman Thomas has said, the reestablishment of the crime lab at the University of New Orleans and with recent programs and cooperation between the DA's office and the NOPD. We want—we need—to strengthen and support their efforts on the Federal level. It's never been more important to rebuild

the criminal justice system in New Orleans than now. President George Bush pledged to the citizens of our Nation, "We will build a New Orleans that is better than before." This cannot take place because there are thousands of citizens of our city who delay their return because of a perception and the reality of violent crime and its effects on everyday life.

We have problems, Mr. Scott, that go well beyond the jurisdiction and rebuilding of FEMA—and the restoration—of our criminal justice system infrastructure: Rebuilding of fire and police stations; rebuilding the DA's office; rebuilding our court system—all of our important questions here that we must deal with, that we think the Federal Government can assist us with in finding a solution. So, in any event, I think the Mayor wrapped this up and said: "The eyes of the Nation are on the Federal Government and its response to the needs of the people of New Orleans following the flood of our city." Enhanced support for drug-prevention efforts, support for witness participation in our criminal justice system, and support for the enhanced training and deployment of police to our city's violent crime hot spots, and rapid restoration of these physical infrastructures of the criminal justice system is something the Federal Government can do more to help to make our city safer.

Thank you, again, for coming to our city Chairman Scott. And I thank the Members of the Committee for their attention to this matter. I appreciate the chance to testify before it.

Mr. SCOTT. Thank you, Representative Jefferson.

[The prepared statement of Mr. Jefferson follows.]

PREPARED STATEMENT OF THE HONORABLE WILLIAM J. JEFFERSON, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Testimony of
Congressman William Jefferson
before the
Crime Subcommittee, House Judiciary Committee

It is a pleasure to welcome Chairman Bobby Scott and the members of the Crime Subcommittee of the House Judiciary Committee to New Orleans. Following the devastation caused by the breach of the levees, our City has struggled to get its Criminal Justice System functioning at an acceptable level.

There is a tendency for those concerned about criminal justice and crime prevention to seek to assess blame for the state of our criminal justice system finds. And, while we acknowledge a responsibility on the part of our criminal justice officials for the return of the system to its functioning capacity, it is important to remember the effect the flooding of our city had on our criminal justice system and the attendant difficulty of its recovery. As examples, the flooding of the basement of our Criminal Court Building and of the evidence laboratory of the New Orleans Police Department, destroyed and damaged valuable records including historical information on those engaged in violent criminal behavior, and evidence they currently needed to prosecute crimes. And, our entire city was evacuated, and some prosecutors and indigent defenders, along with hundreds of former police officers, relocated to other cities and took other jobs.

The stream of revenues that funds much of our criminal justice system was interrupted due to the post storm downturn in business activity and the inability of homeowners to pay sales and property taxes. Many areas are sparsely populated and hard to police.

But, it is plain that the rebuilding of our city depends, in part, on rebuilding confidence in a fair and effective criminal justice system that respects and enforces the law. At present, our city's and state's system leaves much to be desired in these respects. Criminal defendants remain in prison for too long a period of time before they are brought to trial. The Indigent Defender Program, according to our city's own Criminal Court Judge Arthur Hunter, effectively denies some defendants their Constitutional right to counsel. In addition, crime, especially violent crime, is a true tragedy in New Orleans, with certain neighborhoods of our city ravaged by murders and other crimes, and with hundreds of families each year made to suffer the loss of loved ones.

It is important that the federal government assist the City of New Orleans in overcoming the problems with its criminal justice system. After all, it was federal government-designed-and-built levees, under the jurisdiction of the United States Army Corps of Engineers that broke, flooding the city and severely damaging the physical infrastructure and workings of the criminal justice system. It is time to talk about solutions.

During the 1990's, President Bill Clinton and Congress appropriated funding to support the Community Oriented Policing Squad Program or COPS program. The federal government supported then the addition of 100,000 policemen to the ranks of our municipalities and states and to the use of technology to prevent crime and create networks among the law enforcement communities. Here in New Orleans, the COPS program at its height provided \$20 million annually that allowed our police department to train and put to work in high crime areas many policemen who used neighborhood beats, foot patrols, and special crime prevention methods to combat crime in certain neighborhoods. The program worked, resulting here in New Orleans in a significant reduction in our crime rate and especially with regard to the murder rate.

Unfortunately, the COPS program was meant to be temporary. The funding was cut after a period of time under the Bush Administration. I encourage the Crime Subcommittee to seek funding to renew the program here in New Orleans, again, on a temporary basis to tide us through our current crisis.

There is sufficient evidence that the problem of violent crime in New Orleans is also a problem of drug use resulting in criminal activity. Some statistics show that over 60% of those arrested for criminal activity in New Orleans test positive for illegal drug use. Police report that the vast majority of murders in our city are connected to drug use and to drug-related turf wars. It is clear that the problem of drug use and abuse in our city must be addressed if we are to curb violent crime in New Orleans.

There is much that the federal government can do. The Drug Enforcement Administration (DEA) has resources and programs designed to promote drug prevention. These programs must be employed to a greater extent here in New Orleans. I encourage the Crime Subcommittee to ask the DEA what is being done here in New Orleans, with one of the highest violent crime rates in our country, to stop the flow and use of illegal drugs. To what extent is the DEA investing additional resources in drug use prevention programs in this city that was so devastated by the flood?

I encourage the Committee to insist on more creative drug prevention intervention by the DEA. Use New Orleans as a test case. Conduct more meetings at schools, provide greater access to information for parents, and otherwise institute an emergency program to combat drug use in New Orleans.

And, what of the effectiveness of drug importation laws; none of the drugs on our street are grown in the backyards or farms of Americans; almost all of it comes from sources outside of America. Should we employ new strategies to deal with this problem, since the old ones are not working? I hope the committee will tackle this problem. And, what of drug consumption? The few drug treatment facilities that existed before the storm are for the most part still out of business, including one called BASIC that was doing exciting and wonderful things with a community-based drug program. Are there ways that the Committee can support more drug education to stem consumption?

Victims and witnesses to violent crime in New Orleans are often afraid to participate in our system of criminal justice. The threats to their lives and property are viewed as too great to support their risking all, even if it means the potential to make their neighborhood a safer place to live. On occasion, those who choose to serve as witnesses to violent crimes have become themselves victims of retaliatory and threatening acts.

This country's system of criminal justice depends on the willingness of eye witnesses to crimes to feel free to tell their story. I encourage the Crime Subcommittee to work closely with the State of Louisiana to encourage the full funding of a Victim Witness Program that works in New Orleans.

The percentage of incidents of unsolved and even uncontested crimes, especially murder, in New Orleans is a shame and a danger to every law-abiding citizen in our city. Providing support to citizens who choose to put themselves on the line in support of justice for victims of crime must be a priority of this country and of the City of New Orleans. I encourage the District Attorney of Orleans Parish to work closely with State officials to secure during this session of the Louisiana legislature sufficient funding for a Victim and Witness Assistance Program that works, in conjunction with federal support.

The federal government has provided the State of Louisiana with Community Development Block Grant (CDBG) program funding that can be used to support the criminal justice system of our state and city. It and additional federal resources can support the rebuilding of the Victim/Witness Program.

University of New Orleans and with recent programs of cooperation between the DA's office and the NOPD. We need to strengthen and support their efforts on the federal level. It has never been more important to rebuild the criminal justice system of New Orleans. President George Bush pledged to the citizens of our nation that we would rebuild a New Orleans that is better than before. This cannot take place if there are thousands of citizens of our city who delay their return because of a perception and the reality of violent crime and its affects on everyday life.

The eyes of the nation are on the federal government and its response to the needs of the people of New Orleans following the flooding of the city. Enhanced support for drug prevention efforts, support for witness participants in our criminal justice system, and support for the enhanced training and deployment of policemen to our city's violent crime hotspots and rapid restoration of these physical infrastructures of the criminal justice institutions is something that the federal government can do now to make the city safer.

Once again, I thank the members of the Crime Subcommittee for their support of New Orleans recovering criminal justice system. Your presence in New Orleans during the time of Congressional recess is greatly appreciated and shows your commitment to making the necessary changes and rebuilding of our City. I challenge committee members to view the problems of the city's violent crime rate and criminal justice system as one of the top concerns of this nation.

Mr. SCOTT. And we'll have questions now, recognizing myself for 5 minutes. I guess not just to ask too many questions, but Representative Jefferson I want to thank you for inviting us here. You invited the Education Committee here several months ago, and I was part of that delegation. I was also part of the delegation that came on the anniversary of the hurricane last August. You got the Housing Subcommittee here recently; so, you've been hard at work making sure we don't forget. You and Representative Jindal have been very meticulous in making sure that we keep this on our front burner. You mentioned many important issues, as did Mayor Nagin. Some of the lists are not specifically Criminal Justice Crime Subcommittee issues, but all affect criminal justice issues. For example, if you don't do the summer jobs, you're going to have criminal justice implications. We need to have ex-offenders and drug rehabilitation, specific crime initiatives—there are a lot of things that we need to do—to make sure that we prevent crime before it starts. And when Mr. Thomas said some complained about building playgrounds, we ought to be building prisons; I'm sure you told them, "If we had more playgrounds, we wouldn't need as many prisons as we're trying to build." So I appreciate all of the testimony.

And Dr. Hughes, I did have one question specifically for you. We have many of the people on the front line of the criminal justice system that have questions. But, Dr. Hughes, since I have you: The last time I was here, there was a good consortium amongst the colleges, all trying to rebuild. Can you tell us what's going on with that consortium?

Ms. HUGHES. That consortium continues.

We currently, as administrators, for example, at Dillard University are living in Tulane space downtown. We are using the library of the University of New Orleans and using other facilities as needed. We are in the process now of further defining the particulars of the consortium so that in the future post-Katrina, ad infinitum, we begin to become more definitive about how we can assist each other to be stronger. I think we now know that together we are much stronger, we can expand our offerings, and we are a permanent consortium.

Mr. THOMAS. Mr. Chairman, at one of the Committee meetings we had not too long ago with the consortium of the universities, we talked about a commitment to better lighting. We're working with the utility company to make sure that the campuses are lit. Coordination with the New Orleans Police Department, with campus security, and the other agencies; so, these are the kinds of systems that are kind of coming out of that consortium; and we are working with, especially—specifically, under—public officials and with university leaders in those two areas to make sure that at least those two things happen immediately for students and administrators who are working on our university campus.

Mr. SCOTT. And what portion of the students—you know, less than 100,000 staff and students were in New Orleans before the hurricane?

Ms. HUGHES. That's correct.

Mr. SCOTT. And how many staff and students are in New Orleans now?

Ms. HUGHES. I'm going to give you an estimate. First let me address that for little Dillard University. As you know, we could not come back to campus until September of 2006; and, so, our students were not on campus. But when we did return, we have about 55 percent of our students who returned. Many of the universities are not comparably as low because they were back much sooner. But I know that enrollment is consistently down for all of the universities; and, so, I'm going to guess that, on an average, we probably have about 70 or 75 percent of our students down. And, as you know, the enrollment determines what our budget is; so, it's very important to us that we project the kind of image that will attract students back.

Mr. SCOTT. And how does public safety affect the return of students?

Ms. HUGHES. It is absolutely critical for the return of students. And, as a matter of fact, in addition to the public safety that's offered by the city, Dillard determined that it needed to also increase its security. And, so, we are a gated community, and we've taken advantage of that. But we know that we need someone on duty 24/7, and that's what we do.

Mr. SCOTT. And, Mayor Nagin, let me just ask one more question really quickly. Summer—do you have a summer jobs program planned for this summer.

Mr. NAGIN. Yes, we do. We are presently funding that through our general fund. We are trying to get at least a thousand young people employed this summer, but the need is much greater.

Mr. SCOTT. Thank you.

Representative Forbes.

Mr. FORBES. Thank you, Mr. Chairman. Once again, I want to thank you, all of our witnesses, for being here, and for your expertise. Mr. Chairman, I'd like to move at this time to allow Congressman Jindal's statement to be included as part of the record without objection.

Mr. SCOTT. Without objection.

[The prepared statement of Mr. Jindal follows:]

PREPARED STATEMENT OF THE HONORABLE BOBBY JINDAL, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF LOUISIANA

Thank you Chairman Scott and Ranking Member Forbes for the opportunity to participate in this hearing. Since Hurricane Katrina, the violent crime rate in New Orleans has not subsided, but continues to increase. On Monday April 2, 2007, four men were killed in New Orleans bringing the number of murders this year to 53, compared to 17 for the same period last year. One shooting even occurred as the victim was holding his two-year-old son and watched as his wife was gunned down.

New Orleans' murder rate in 2003 was nearly eight times the national average—and since then, the murder rate has continued to increase. In 2002 and 2003, New Orleans had the highest per capita city homicide rate in the United States, with 59 people killed per year per 100,000 citizens—compared to New York City's seven. In 2006, despite a population decrease stemming from Hurricanes Katrina and Rita, 161 killings still occurred in the Crescent City.

The problem of crime is not a new one, nor is it a problem that is limited to major urban areas like New Orleans. The first five minutes of local newscasts—whether in Shreveport, Monroe, Lake Charles or anywhere in between—recap the violent crimes, robberies and drug arrests that have occurred in the last 24 hours that are placing a stranglehold on our communities.

Criminals are getting more daring and are willing to strike during any time of the day. In February of this year, a successful professional in Baton Rouge was walking to her car on a rainy afternoon at a local grocery store when she was con-

fronted by a man and woman brandishing a gun. Luckily, she was not injured, but her story is a good reminder that while we cannot be captive to these types of events, we should remain vigilant of our surroundings and work together to combat this growing trend.

Once thought to be only a problem in our Nation's largest cities, violent crime and gangs have invaded smaller communities, as witnessed by the recent shooting in the town of Maringouin located in Iberville Parish, where three reported criminal gangs exist. Across the state in 2005, Louisiana endured 26,889 violent crimes, 450 murders, and 19,681 aggravated assaults. This places Louisiana's crime rate about 24 percent higher than the national average rate.

Although not all criminal activity can be linked to the rise in gang violence, the U.S. Department of Justice reports that there are currently over 25,000 active gangs in more than 3,000 jurisdictions in the United States. In New Orleans, gang related crime is most often a result of turf wars between groups. These gangs often operate through sales of illegal narcotics.

More and more communities are suffering from gang type violence where all too often innocent bystanders are tragically shot, and law-abiding members of communities are prisoners in their own homes in fear of being caught in the cross-fire of gang violence. These gangs are also introducing our youth to dangerous illegal drugs in many of these communities.

To help fight this problem I have introduced legislation that will establish joint task forces of Federal, State and local law enforcement and prosecutors so they can share resources and intelligence to help target the most serious gangs in a community. For Louisiana, this means encouraging full interaction and communication beyond parish lines between law enforcement, prosecution, Clerks of Court, judges, corrections, and homeland security.

The Violent Crime Reduction Act of 2007 would create guidelines to designate High Intensity Gang Areas in these communities and authorize Federal funding to help combat gang activity, as well as help states hire prosecutors and purchase technology, equipment and training for gang enforcement.

But, many times once these criminals are caught and released, they will move to another part of the state and begin all over again. For 36 years, Louisiana has been trying to put together a database to track criminals, arrests, prosecutions, and convictions. As hard as it is to believe, there currently is no comprehensive system to track offenders from the time of arrest through to disposition. This type of system would have been very valuable in the wake of Hurricanes Katrina and Rita when FEMA refused to share information with local authorities on whether any evacuees staying at shelters or FEMA-run trailer parks had a past history of sexually violating innocent children.

Louisiana can become a model for the nation by having the first fully-integrated automated criminal justice information system. The key to implementing this thirty-year-old effort is to provide funding to the key reporting agencies, particularly the District Attorneys, to help establish this type of system. The project should also facilitate the completion of systems for law enforcement and courts, and assure interoperability between the various systems.

In light of this goal, my legislation authorizes the U.S. Department of Justice to award grants to state and local programs for the specific purpose of designing and establishing a statewide database to track criminals, arrests, prosecutions, and convictions. With Louisiana receiving such a grant, a database that law enforcement agencies have sought for more than three decades would finally be established and would play an important role in protecting our children and communities from established criminals.

No single group can solve the crime problem alone. Our country was able to begin breaking up organized crime years ago only when Federal, state and local governments worked together to utilize each other's resources. My legislation helps establish that working relationship again. Only through that coordinated effort, as well as the efforts of ordinary citizens watching and taking action in their neighborhoods, will we take back our communities and tackle the current crime problem in Louisiana.

Mr. FORBES. And I'm on the same time frame that you are, so I'm going to try to be as brief as possible and ask you to keep your questions brief. First of all, Congressman Jefferson, you mentioned the fact that this was not an assessment of blame; and, truly, it's not an assessment of blame. At the same time, what it is is an exploration of opportunities to effectively reach our goals, and not

just toss money on the problems. One of the things this Committee had actually heard in testimony earlier in Washington, was that as few as 20 percent of the programs that we actually fund have been proven to have effectiveness. And, so, what we're trying to do is make sure we're getting the most bang for our bucks. I could spend my whole time praising the great efforts that you've done, which have been great, particularly the great degree of support that the NOPD has from the Federal law enforcement. That's a model of what you guys are doing, and I think that's wonderful.

But, Mr. Thomas, I want to ask you, first of all: In most localities around the country, when you're talking about building playgrounds and educational programs, one of the things we look to is our corporate neighbors to come in and help fund that, not necessarily the Federal Government. Is it your understanding that there is at least a perception among a lot of your corporate entities, some of whom are listed, but there's at least a perception that there's some corruption in New Orleans that maybe makes it difficult for them to have the kind of work environment that they want?

Mr. THOMAS. Well, we've had committees like Friends of NORD—and we still have Friends of NORD—that help to raise money for play spots and playgrounds that currently exist. One of the problems we have, especially post-Katrina, is the level of philanthropy, and we—

Mr. FORBES. Now, if you can, keep it on my question.

Mr. THOMAS. Well, yeah. Oh, yeah.

Mr. FORBES. You understand that there is that—

Mr. THOMAS. Absolutely.

Mr. FORBES [continuing]. Perception among a lot of your corporations—

Mr. THOMAS. There has been that perception for quite some time. I have been questioned all the time about, well, whether there's corruption or inefficiency or inadequate administration, or, "I would much rather donate to a particular school or a booster club, instead of NORD." We're trying to address that question right now. I think the Mayor, through his administration, is working with the entities that want to help or trying to at least make people feel and understand that the money is actually going to get to the play spot or playground.

Mr. FORBES. The thing that I would ask you to do, just, again, because I've only got five—

Mr. THOMAS. Right.

Mr. FORBES [continuing]. And I'd love to talk with you on that—

Mr. THOMAS. Right.

Mr. FORBES [continuing]. But if you could maybe submit for the record for us what program you're doing to try to change that perception for the corporations. The other question I had for you: You mentioned that New Orleans had the highest incarceration rate, one of the highest in the country.

Mr. THOMAS. Our State has for 20 years.

Mr. FORBES. Your State has?

Mr. THOMAS. Yes.

Mr. FORBES. But in New Orleans, you have one of the lowest prosecution rates.

Mr. THOMAS. Yes.

Mr. FORBES. And help me, because, you know, one of the things that we scratch our heads is when we see murders taking place on—that are videotaped—

Mr. THOMAS. Yes.

Mr. FORBES [continuing]. That are not prosecuted and people are released, and the Federal Government has to pick that up. How does that instill the kind of confidence that Mr. Jefferson talked about in the fair and effective criminal justice system?

Mr. THOMAS. That's one reason why one of the first things I did was institute a crime summit and started the subcommittee headed by Council Member James Carter, who is a former criminal defense attorney. He worked at the Federal Weed and Seed program to make sure that the systems that are in place don't allow the same kinds of things that happened in the past—since they had more accountability because it's the police department; the funding component, which is the—the city, the criminal court judges, or—the district attorney. We think at the end of the day, with the components that are working together now, you are going to see progress; and we are seeing progress. Better relationships, better report writing, better relationships between ADAs and police officers that have to testify in cases, witnesses that feel more comfortable and feel safer in coming forward, are going to help in those areas.

Mr. FORBES. If you could get us that because, again, we're going to face these same—

Mr. THOMAS. Yes.

Mr. FORBES [continuing]. Questions whether we're going to ask them today or we ask them down the road, but that would be helpful. And, also, whether your judges get a percentage of the release bond? I mean, you know, there are questions that are raised to us, if we had—last question that—

Mr. THOMAS. We'll make sure that kind of information gets to this Committee.

Mr. FORBES. Thank you so much. And, since I'm about out of my time: Mayor, we know that Katrina had devastating effects on New Orleans and everyone else.

Mr. NAGIN. Uh-huh.

Mr. FORBES. We want to explore that. But one of the things we also—we get questions about back in Washington is that, prior to Katrina, New Orleans had, you know, one of the highest murder rates, lowest prosecution rates in the country. Have you guys done an analysis to see what were those problems before Katrina and after Katrina, and how you are creating a plan that's going to solve those problems too; so, as you move forward, you are—again, I'm just using Mr. Jefferson's words—building that confidence in a fair and effective criminal justice system that respects and enforces the law?

Mr. NAGIN. Congressman, we have done many studies and analysis. We currently have Dr. Brown from Houston who is a former crime czar working with us to analyze our criminal justice system. We have former Attorney General Richard Eyoub. We have all the elements of the criminal justice system going through a critical

analysis and making changes to improve our criminal justice system. But I must point out to you that one of the big inhibitors right now is the lack of Federal dollars that is flowing to repair our infrastructure that is required by the Stafford Act. That is the thing that is causing us right now not to rebuild this system to the best it can be.

Mr. FORBES. And thank you. And thank all of you so much for your time. My time is up.

Mr. SCOTT. Our colleague from Texas, Mr. Gohmert.

Mr. GOHMERT. Thank you, Mr. Scott. I appreciate all of you-all being here. And President Hughes, I appreciate the opportunity to be here at your fine university. I was struck by the beauty of this campus and how well groomed it is. You had mentioned that students didn't return until a full year after Katrina. Was there hurricane damage here to the campus that caused your delay to come back?

Ms. HUGHES. I think probably the best description I could give you is to say that this campus was a lake for about 4 weeks. Where you're sitting is probably the only building that did not have water on every—on at least the first floor and in some instances the second. So, we had to go through a 100 percent process of remediation; and it was either a choice to allow our students to remain scattered all over the country or to bring them back to what I consider home and what they consider home. And we brought them home to New Orleans where they were a part of the economic redevelopment in that area living at the Hilton Hotel. And, in the meantime, we weren't building this campus.

We had to remediate. That took about 6 months. We started our construction in late January or February.

Mr. GOHMERT. I'm pressed for time. My time is very limited. Just the fact that there was a lake here for 4 weeks—

Ms. HUGHES. Yes.

Mr. GOHMERT. —[Laughter.] But, Mayor Nagin—

Mr. NAGIN. Yes.

Mr. GOHMERT [continuing]. You know, without employment obviously, it tends to make people lean toward crime.

Mr. NAGIN. Yeah.

Mr. GOHMERT. I—you know, there were—there were stories of fast food restaurants, different places, offering big bonuses post-Katrina to get people to come in.

Mr. NAGIN. Yes.

Mr. GOHMERT. And, yet, we saw a high crime rate, that kind of puzzled the cow where you reconcile people paying big bonuses just to come work in fast food—

Mr. NAGIN. Yeah.

Mr. GOHMERT [continuing]. And crime also being high at the same time.

Mr. NAGIN. Well, there are many jobs that are available in our community; it's true. And many people are being employed at unprecedented levels. But I go back to the effects of Katrina. When the Federal levee system broke, many people were stranded and neglected and just totally displaced.

Mr. GOHMERT. Wait. It was the Federal levee system?

Mr. NAGIN. Yes, sir. Yes, sir.

Mr. GOHMERT. That is all Federal money that went into the levees?

Mr. NAGIN. Yes. For the most part, sir. Most of it, yes. So, there are people in our community that are struggling right now with the after effects of Katrina.

And that coupled with the smaller footprint and the turf wars that are going on for drug territory is fueling the crime rate.

Mr. GOHMERT. Well, Representative Jefferson, you had mentioned that one of the big problems was criminal records that were destroyed, making prosecution difficult. And I know, having been a judge and Chief Justice in East Texas, one of the things we dealt with constantly was making sure that we had adequate backup for all of our records. Was there not adequate protection and backup for the records that existed here in New Orleans?

Mr. JEFFERSON. I don't think I can answer that specifically. The other—

Mr. GOHMERT. Okay. Well, you had brought it up in your statement.

Mr. JEFFERSON. Right. Right. You know what happened. It must be that there wasn't backed up evidence.

Mr. GOHMERT. Of course, there was much talk about it in the news about your coming back to New Orleans so quickly. What did you see first-hand in the way of law enforcement attempting to prevent crime, looting, that kind of thing happening, when you first returned?

Mr. JEFFERSON. Well, as I said, early on, we had the Army here, and we had the National Guard and all of that, so nothing went on here to speak of, in respect to crime except a few reports about shooting at some of the people who were here, which weren't supported as time went on. And for a period of time, the city was really a safe place.

And it seemed to be that things had calmed down. But then all of a sudden people started coming in and the drug wars started. I think, more than anything else, this happened when these people were establishing themselves—trying to establish themselves as the king of this drug area. And the shootings have been, in many case execution-style shootings; the person shot in the head and all of that. It's a tough situation. We think a great deal of it's related to the reestablishment of drug activity in the area.

Mr. GOHMERT. But, initially, immediately after the storm, there was not a lot of activity of—

Mr. JEFFERSON. No.

Mr. GOHMERT [continuing]. Any kind.

Mr. JEFFERSON. No.

Mr. GOHMERT. So, from experience—

Mr. JEFFERSON. After—

Mr. GOHMERT [continuing]. What was done to prevent—

Mr. JEFFERSON. After—

Mr. GOHMERT [continuing]. Those people—

Mr. JEFFERSON [continuing]. You got so many people here, you have 40,000 or so troops in the city, who are regular Army people. You had some huge number—I don't remember anymore—of National Guard troops. And they were all over the place, and they stayed here for a while. And, of course, there weren't many people

here at all. As people trickled back in, there seemed to be a time of opportunity for some people who wanted to come in and set up a drug operation. And that setup is what happened. When the military people left, and the National Guard was down, and police officers trying to get back into the establishment, it seemed for a minute that things were under control, but it really was a false calm.

Mr. GOHMERT. My time is expired. Thank you, Mr. Chairman.

Mr. SCOTT. Thank you. We want to thank the witnesses for their testimony. This has been very helpful. And, as we said, Mr. Mayor and Mr. Thomas, we want to be as helpful as we possibly can. So, thank you very much.

Mr. NAGIN. Thank you. Thank you for being here. God bless.

Mr. SCOTT. We ask that Eddie Jordan and Warren Riley, Chief of Police, and Sheriff Gusman come forward and take seats.

Mr. THOMAS. We also have some pamphlets from community organizations that are working with the crime consortium, that I gave to the officer to pass out. We have some pamphlets from the different community organizations that are involved in—

Mr. SCOTT. We have some pamphlets available Mr. Thomas has mentioned. Mr. Thomas. Mr. Thomas, are these—

Mr. THOMAS. Yes.

Mr. SCOTT. Our first witness of this panel will be the Honorable Eddie Jordan. He served as the New Orleans, the Orleans Parish District Attorney from 1994 to 2001. He served as a U.S. Attorney for the Eastern District of Louisiana and received a law degree from Rutgers University School of Law.

The next witness will be Chief Warren Riley, who serves as the Chief of Police from the—from New Orleans Department. Has served as the Chief of Police in New Orleans Police Department since November of 2005. He's a 24-year veteran of the New Orleans Police Department, and he served as the department's Chief Operating Officer prior to becoming Chief. He holds a Master's Degree from Southern University of New Orleans.

Next will be Sheriff Gusman, Criminal Sheriff of Orleans Parish. As criminal sheriff, he's responsible for the care, custody, and control of incarcerated defendants in Orleans Parish, which holds the Nation's eighth largest correctional facility. He received a law degree from Loyola University.

Mr. Jordan.

**TESTIMONY OF THE HONORABLE EDDIE J. JORDAN,
ORLEANS PARISH DISTRICT ATTORNEY, NEW ORLEANS, LA**

Mr. JORDAN. Thank you, Mr. Chairman, and thank you Members of this Committee for giving us an opportunity to talk about the impact of Hurricane Katrina on our criminal justice system and our ongoing efforts to fight crime in the city of New Orleans.

Having served as U.S. Attorney for the Eastern District of Louisiana, I am very much conscious of the importance of law enforcement in fighting crime and working with all of our criminal justice agencies. My office suffered tremendous damage after the storm. And allow me to give a brief overview of the financial condition of the office post-Katrina.

For 2005, the district attorney's allocated budget was a little in excess of \$3 million. However, immediately after the storm, we were informed that we would not be receiving a substantial portion of our allocated budget. This loss of revenue resulted in the layoff of 57 non-attorney employees. That is roughly 84 percent of my non-attorney staff. For a period of time, my office operated with 11 staff members and approximately 57 or 55 attorneys.

It was not until June of 2006 that the Department of Justice and the Louisiana Commission on Law Enforcement awarded my office a substantial sum of money in excess of 3 million in Recovery Grant funds. These funds are to be expended over a 24-month period, and they have allowed my office to return to some degree of normalcy.

For 2007, the New Orleans City Council appropriated almost \$3 million in operating expenses for my office. This increase over 2006 allowed my office to increase the salaries of assistant district attorneys to roughly \$45,000 and to add an additional three prosecutors to our Violent Offender Prosecution Unit. Now, this is important because of the history of high attrition that my office has suffered over the years. We have had a tremendous number of assistant district attorneys leave the office over the years because of the very low salaries. But with this increase, we have had more success in retaining our prosecutors. But as a result of the storm, we probably have in excess of 50 percent of our attorneys being new prosecutors, and most of them are inexperienced; that is, individuals right out of school.

Today we are funded for 89 assistant district attorneys. Before the storm we were funded for approximately 92 assistant district attorneys. Our immediate needs in the district attorney's office are for an expanded Victim Witness Assistance program and also for community prosecutors and for funding for an office space. And let me start with the last item first.

Currently, we're in about our third temporary location after the storm. The storm had a devastating impact on our office building. The first floor took on about three to four feet of water. We lost many of our records, and we have not been able to return to that building. There is no definitive date as to when we will be back in that building. Our attorneys are operating on card tables right now, and about 120 individuals are on one floor of an office building. It's clearly inadequate. Many prosecutors share offices—there are three and four to a room.

Let me talk about the Community Prosecutor concept very briefly. We desperately need additional prosecutors to screen violent crime cases in particular. We envision that these prosecutors would work very closely with police officers in making stronger violent crime cases that can be brought to court. They would also interact with community members in the neighborhoods throughout the city of New Orleans.

And, finally, the most important item that we think that Congress can help us with is an expanded Victim Witness Assistance program. We need funding for this program because of the very real fear that many victims of violent crime have in the city of New Orleans; victims and of course, family members and witnesses of violent crime as well. The Victim Witness Assistance program

would be designed to help victims of domestic violence, sexual assault, stalking, and witnesses who have a certain fear that, if they testify, they may be in harms way. Excuse me. We think that providing additional funding for transportation and for a safe house located in another State, and also partnering with some of our other criminal justice agencies such as the sheriff's office in providing some minimal level of security would be extremely helpful and would allow us to service more individuals who are the victims of violent crime and who are witnesses to violent crime. Already my office has provided services to a number of individuals in the successful prosecutions of homicide cases and other violent crime cases.

And I'll answer any questions that you have following the presentations of the other panel members.

Mr. SCOTT. Thank you. Thank you very much.

[The prepared statement of Mr. Jordan follows:]

PREPARED STATEMENT OF THE HONORABLE EDDIE J. JORDAN, JR.

INTRODUCTION

I believe it would be beneficial to briefly highlight the financial condition of my office post-Katrina. Prior to Katrina, the City of New Orleans provided allocated operating funds (budget) to the district attorney's office on a quarterly basis. For 2005 the district attorney's allocated budget was \$3,371,616.00. Disbursed quarterly, we were due to receive four checks each in the amount of \$842,904.00. We did not receive a 2005 fourth quarter check. On September 29, 2005 we were informed that the city had no money to contribute to the operating expenses of the district attorney's office. Our other traditional revenue sources—grant reimbursements, traffic court fees, bail bond fees, court costs, and diversion and bad check program fees—were also halted. This loss of revenue resulted in the lay off of 57 non-attorney employees (84% of the staff).

After Katrina my office operated with a skeleton crew of eleven staff members and approximately fifty-five attorneys. In November 2005 the City Administration informed us that we had been allocated \$2,360,131 for 2006 operating expenses. We received these funds via a monthly stipend of \$196,677.58. By January 2006 we were able to restart several grants, which allowed us to return five data entry clerks, a screening bill typist, and one secretary to work. During March and April we began the process of applying for Department of Justice (DOJ) emergency funding through the Criminal Justice Infrastructure Recovery Grant program. In May and June we were able to restart our Domestic Violence Program grants. These grants allowed the return of two social worker counselors to assist domestic violence victims, and allowed us to dedicate a screener and investigator to focus exclusively on domestic violence cases. Also in June 2006 the DOJ and Louisiana Commission on Law Enforcement awarded my office \$3,014,000 in Recovery Grant funds. These funds are to be expended over a twenty-four month period, and are intended for the two-fold purpose of returning operations of the district attorney's office to an essential level, and, where possible, to restore services to pre-Katrina levels. This grant provided operating funds as well as funds to fill thirty-three staff positions and seven attorney positions. The seven attorney positions were authorized for a four person Case Recovery Management Team (CRMT) dedicated to reviewing pre-Katrina cases to assess if the case remains viable and to insure all incarcerated defendants are brought to court for appropriate proceedings; and a three person Violent Offender Prosecution Unit (VOPU) dedicated to prosecuting violent crimes and certain repeat offenders. The Recovery Grant also allowed my office to reestablish our Diversion and Investigative Units, and to return other critical clerical and administrative personnel to duty. Grant funds provide operating expenses for our Victim Witness Assistance Unit, and for basic services such as telephones and file storage.

For 2007 the New Orleans City Council appropriated \$2,946,131 in operating expenses for my office. This is less than pre-Katrina operating expenses, but a \$585,999 increase over 2006 funding. This increase was specifically allocated to provide salary increases to line prosecutors, and to allow the addition of three additional prosecutors to the Violent Offender Prosecution Unit. The salary increases

made possible by the 2007 budget increase raised the minimum base salary for prosecutors to \$45,000.

STAFFING ISSUES

Before Katrina the Orleans Parish District Attorney employed ninety-two prosecutors. Two prosecutors were part-time. Currently we are funded for eighty-nine full-time prosecutors. Thirteen of these positions are grant funded. Funds for eight of the grant positions will be expended by the end of 2007—seven Infrastructure Recovery Grant positions (CRMT and VOPU) and one grant funded rape screener's position.

In the short term the immediate need of my office is for eight additional screeners to assist my Screening Division. These additional attorneys would be utilized to facilitate the screening of victim cases by insuring that every victim has significant and timely contact with an attorney during the screening process. The additional attorneys would also be used to establish a Community Prosecution Program.

This program would also facilitate the screening process by placing prosecutors at district police stations where they could provide assistance to police officers and begin the screening process, including making contact with victims/witnesses, immediately after a crime is reported.

ATTORNEY CASELOAD

Katrina essentially shut down the criminal justice system until November 2005. The Orleans Parish Criminal Court Building, the District Attorney's Office Building, the New Orleans Police Headquarters Building, and the Orleans Parish prison system all sustained significant flood damage. Currently, the District Attorney and New Orleans Police Department are still operating from temporary facilities. The Orleans Parish prison system is operating at a fraction of its pre-Katrina capacity. The Criminal Court has re-occupied its building, however that building has likewise not been restored to pre-Katrina condition. Damage to this infrastructure obviously impacted the ability to prosecute cases. My office is currently operating from its second temporary office. The Criminal Court returned to its regular offices in June 2005.

FUTURE NEEDS

The primary immediate needs of my office are funding for victim witness assistance, enforcement personnel, and additional office space. Eight additional attorneys are needed to assist with the screening of cases and to establish the core of a Community Prosecution Unit. As noted, the Community Prosecution Unit contemplates placing prosecutors at district police stations where they could have immediate contact with victims and witnesses and provide an additional resource for investigating police officers.

Five law enforcement personnel are needed to supplement the work of the Screening and Homicide Divisions. Currently, my office has limited resources to commit to the pre-indictment investigation of cases—including homicide cases, which are screened by my Homicide Division. Police reports and other cases presented to my office for review frequently require follow-up investigative attention—such as additional forensic work, location of additional witnesses, procurement of necessary documents, clarification of victim/witness statements. New Orleans police personnel shortages have made it difficult for police officers to provide timely follow-up assistance once they have submitted a report. Additional investigative support dedicated to my office will provide the investigators needed to facilitate the important goal of a faster screening decision and, ultimately, a better-prepared case for our trial attorneys to prosecute.

Finally, my office is operating out of our second post-Katrina temporary office. The city of New Orleans has been unable to provide a definitive date as to when we can reoccupy our permanent office. Significant renovations have yet to begin. We have approximately 125 employees crowded into less than 20,000 square feet of office space. As a practical matter, this results in multiple individuals sharing offices and data and clerical personnel working from workstations set up in corridors. Locating additional space is a priority for my office in the coming weeks.

Thank you for the opportunity to bring these issues to your attention.

Mr. SCOTT. Chief Riley.

TESTIMONY OF WARREN J. RILEY, CHIEF OF POLICE, NEW ORLEANS POLICE DEPARTMENT, NEW ORLEANS, LA

Chief RILEY. Good morning, Mr. Chairman and Members of the Committee. Thank you all for taking the time to listen to the issues that are impacting the New Orleans Police Department and our criminal justice system.

In the 20 months since Hurricane Katrina, the New Orleans Police Department has overcome many hurdles, but many challenges remain. Most of our officers who lost homes to the storm have repaired or purchased new homes. Others are renting but some are still living in FEMA trailers. Many family members who were displaced have returned to the city. However, some families remain displaced. We were able to secure a 10 percent across-the-board pay raise for all officers, and reasonably promoted police officers from the grade of Police Officer 1 to the grade of Police Officers 2, 3, and 4, which were long overdue and will go a long way in helping our retention. Overcoming these few hurdles have motivated our officers to continue to faithfully serve the citizenry of New Orleans in spite of the many challenges that remain. And to do that, I applaud their commitment and dedication.

The challenges that continue to face the New Orleans Police Department are multidimensional. While Katrina has enhanced our challenges, many existed pre-Katrina.

The criminal environment of the city of New Orleans is a product of many long-term socioeconomic factors, but it's driven to extremes by the massive systematic drug culture and the violence that is engendered by that lifestyle.

As law enforcement professionals, we recognize the challenges these factors have had on overall crime and the criminal justice system in our great city.

In the aftermath immediately following Hurricane Katrina, a significant number of our law-abiding citizens, as well as the criminal element, were displaced in cities across America. As a result, the city of New Orleans experienced unprecedented reductions in crime. Now that many of our law-abiding citizens are returning to help rebuild our city, many of those involved in criminal activity are returning as well. The challenges the New Orleans Police Department faced pre-Katrina are now compounded with new challenges post-Katrina.

New challenges for the NOPD include personnel issues such as recruiting and retention, a reduced learning period for recruits, and the potential impact that it has on retirees. The personnel issues: NOPD's personnel losses since the storm have been extreme. Locally we have no competitive advantage in recruiting qualified applicants. We suffered a net loss of 217 officers in 2005 and 216 in 2006. As of April 5 of 2007, we have lost another 49 officers. One Police Academy class has graduated in 2007 with 38 new field trainees. A second group is currently in the academy with 31 potential officers. It is estimated that, at the current annual rate of loss, by the time the second class graduates, we will have a net loss for the year to date. In 2005 our maximum commissioned strength was 1741 officers. Post-Katrina we have experienced a decrease of 482 officers. Our current effective personnel strength, total commis-

sioned members minus those on long-term illness, injury, and all recruits, is 1,227 officers.

This is a decrease of 514 officers. This is a net loss of almost 30 percent of our 2005 maximum personnel strength.

Issues with retention. Retaining our officers has become—is becoming increasingly difficult. Retention has been impacted by both resignation and retirements.

In the past, the rate has averaged about 6 or 7 percent a year. It is now over 15 percent and shows no sign of declining. Many of our officers have indicated the following reasons for considering and/or separating from the department: Working conditions, loss of buildings and infrastructure in the department, living conditions. Post-Katrina housing is still an issue for many. Schools and lack of affordable housing significantly impact—are a significant impact from increased rental rates and insurance rates and utilities that our officers just can't afford.

Twenty months after the storm, our working conditions have not improved. The NOPD is still operating in FEMA trailers. My office is in a FEMA trailer. We have no headquarters buildings. Three of our eight district stations are still not repaired. We have no permanent crime lab facility. We did, in fact, move into rented space at the University of New Orleans just last week. No central evidence and property storage facility. No Special Operations Division/Traffic Division complex. No Juvenile Division holding facility. All of these districts or divisions and units are operating out of FEMA trailers. None of the facilities lost in the storm have been repaired or replaced.

We are only a few months away from another hurricane season, which by all meteorological predictions will be active. Any storm that enters the Gulf of Mexico has a high probability to affect the city of New Orleans. The lack of critical police facilities and capabilities is not only having a deleterious effect on the presentation—on the presentation and prosecution of cases, it has eroded the morale of the officers who see their best efforts to combat crime stalled due to our inability to adequately test and evaluate the evidence; and watch as the same offenders are repeatedly arrested and released.

Due to the massive flooding of the city, New Orleans witnessed a migration of nearly half of its resident population and a significant portion of its businesses, many to—many to our neighboring parishes that were less affected by flood waters. Those parishes have grown significantly both in population and businesses. As a result, tax revenues in New Orleans have declined and city services suffered, including the police department. Tax revenues in unaffected cities and parishes, such as St. Tammany, Baton Rouge, and Jefferson, have increased significantly and allowed those areas to increase both services and salaries. At present, we only have one qualified firearm examiner and one fingerprint examiner. Our current backlog of firearm examinations exceed 200, and confiscated narcotics to be tested exceed 2000. Many of our most experienced and technically trained personnel have left the New Orleans Police Department for other or nearby law enforcement agencies, for higher pay, better facilities, and a better quality of life.

Issues with recruiting. For many of the same reasons affecting retention, recruitment is a problem locally. Even with extensive advertising campaigns by the New Orleans Police and Justice Foundation, recruiting bonuses and housing assistance, the NOPD is still “fishing in the same pond” as neighboring jurisdictions that have similar or higher salaries. They, too, have been forced to raise pay and benefits to retain and hire additional officers. They also have actual or perceived better living and working conditions, a main reason NOPD has lost a significant number of experienced officers and specialists to nearby departments this year. We do not have the pay and incentive packages necessary to recruit from outside of our immediate region. Recruiting already trained and qualified officers from other departments outside of our region is the only way the NOPD can strengthen its numbers in the short term and gain experienced, qualified officers able to work the streets immediately in any effective manner.

We have outlined an ad campaign to recruit former military. As soon as issues can be resolved with POST, which is a Police Officer Standards and Training Council, on what military training can be counted toward POST, we will begin a pursuit of military personnel more vigorously.

The criminal justice system and the impact: The criminal justice system in New Orleans was completely destroyed by Hurricane Katrina. Both the criminal courts and Orleans Parish district attorney’s office are suffering from a backlog of cases and a lack of prosecutors and indigent defenders. The pre- and post-Katrina challenges of the criminal justice system has further exacerbated the crime problem by creating a mindset in the most violent offenders that they will not suffer for their crimes in New Orleans.

Mr. SCOTT. I notice you’ve got quite a ways to go.

Chief RILEY. Uh-huh.

Mr. SCOTT. But—

Chief RILEY. Okay. It’s kind of hard to cover Katrina in 5 minutes, so—but, anyway, to wrap it up, just to—

Mr. SCOTT. I’ll ask you some questions, and you can get your—

Chief RILEY. Okay.

Mr. SCOTT [continuing]. Rest of your statement in the questions.

Chief RILEY. Okay. All right. Can I just wrap it up? A couple of things. Some of the things that we need. We need our 16 facilities repaired. We have 16 buildings that were damaged that have not been repaired. We will need the latest in equipment and technology for those facilities in order to bring us up to modern-day policing—to a modern-day policing agency. We will need some assistance with funding if possible to bring our starting salaries up to the national level that will attract people to come to this city in the aftermath of Katrina. And we need to create an area for housing First Responders so those First Responders who have been living in 10-by-30-foot trailers can move into a decent home or apartment. So those are four or five things that are really crucial to rebuilding this police department.

Mr. SCOTT. Thank you, and I hate to cut you off, but if you look—

Chief RILEY. I understand.

Mr. SCOTT [continuing]. Through and see what you didn't get in when we get to questions make sure you can get it in at that point.
 Chief RILEY. Okay.
 Mr. SCOTT. Okay?
 [The prepared statement of Mr. Riley follows:]

PREPARED STATEMENT OF WARREN J. RILEY

The criminal environment of the City of New Orleans is the product of many long-term, socio-economic factors, but it is *driven* to extremes by the massive, systemic drug culture and the violence that is engendered by that lifestyle. Law enforcement professionals understand the huge impact that poverty and the drug culture have on overall crime and it needs not be explained in depth for purposes of this summary report. For those not "in the business," just look to the significant spikes in crime suffered by the communities that "hosted" large numbers of displaced residents from New Orleans, and the criminal element that was with them, in the aftermath of Hurricane Katrina. Now, imagine the crime problem these same individuals create when they are all in one city and you begin to understand the current situation in New Orleans.

NOPD PERSONNEL ISSUES—

NOPD's personnel losses since the storm have been extreme. Locally, we have no competitive advantage in recruiting qualified applicants. We suffered a *net loss* of **217** officers in 2005 and **216** in 2006. As of April 5, 2007, we have lost **49** officers. One Police Academy class has graduated in 2007 with **38** new field trainees. A second group is currently in the Academy with **31** potential officers. It is estimated that at the current annual rate of loss, by the time the second class graduates we will still have a net loss for the year to date. Our 2005 high was 1741 officers. We are down **482** officers until the two current recruit classes complete field training and graduate. Our current effective personnel strength (total commissioned members minus those on long term illness/injury and all recruits) is 1227. This is a decrease of **514** officers. This is a net loss of almost 30% of our total 2005 personnel high-point.

ISSUES WITH RETENTION—

For reasons ranging from working conditions (loss of buildings and infrastructure of the Department), living conditions (post-Katrina housing is still an issue for many), schools, cost of living locally (significant impact from increased insurance rates and utilities), we have had a significant increase in personnel losses due to resignations and retirements. In the past, the rate has averaged about 6–7% per year. It is now over 15% and shows no sign of declining.

New Orleans has lost over half of its resident population and a significant portion of its businesses. Neighboring parishes that were not devastated by flood waters have grown significantly, in both population and businesses. As a result, tax revenues in New Orleans have plunged and city services suffer, including the police department. Tax revenues in the unaffected cities and parishes (St. Tammany, Baton Rouge, and Jefferson) have increased significantly and allowed those areas to increase both services and salaries.

Many of our most experienced and technically trained personnel have left the NOPD for other, nearby law enforcement agencies for higher pay, better facilities and a better quality of life. At present, we only have 1 qualified firearms examiner and 1 fingerprint examiner left.

Over 200 firearms examinations alone are backlogged, as well as, over 2000 narcotics tests.

Only a significant pay raise (more than just an offset to the local cost of living increases) will induce officers to remain and "re-evaluate" their retirement or career options, as well as allowing the department to recruit qualified applicants and officers from outside our immediate region. Based on national and regional data, an across-the-board base salary increase of 45 to 50% with some minimal, annual cost-of-living adjustment would be required.

ISSUES WITH RECRUITING—

For many of the same reasons affecting retention, recruitment has been a problem locally. Even with extensive advertising campaigns by the New Orleans Police and Justice Foundation (NOPJF), recruiting bonuses and housing assistance, the NOPD is still "fishing in the same pond" as neighboring jurisdictions that have similar or

higher salaries. They too have been forced to raise pay and benefits to retain and hire additional officers. They also have actual or perceived better living and working conditions, a main reason the NOPD has lost a significant number of experienced officers and specialists to nearby departments this year. We *do not* have the pay and incentive package necessary to recruit from outside our immediate region. Recruiting already trained and qualified officers from other departments outside our region is the *only* way the NOPD can strengthen its numbers in the short term and gain experienced, qualified officers able to work the streets immediately in any effective manner.

We have outlined an ad campaign to recruit former military. As soon as issues can be resolved with the POST Council on what military training can be counted toward POST training requirements thereby allowing former military to be treated as "lateral" entry, we will be able to actively recruit from this pool and possibly fill vacancies faster than a traditional "new" hire. Once again though, competitive pay will be the determining factor for where these quality applicants will apply and work.

LEARNING CURVE—

Absent a significant change in salaries and benefits, the NOPD will continue to lose between 100–150 officers per year for the foreseeable future. Without immediate help from trained, lateral hires, we must rely on our own training of new recruits to replenish our ranks. The learning curve for new trainees is estimated at 7–8 months from the beginning of the Academy to their first permanent assignment after their Field Training Officer period. An additional 2 years of street experience is required after the Academy before they can function outside of a "calls-for-service" only capacity. With the staggering loss of senior, experienced officers and the crime problems facing the city, we cannot wait for new, entry level officers to gain experience. We must aggressively recruit lateral, experienced officers from other departments outside of our immediate region to fill our ranks and "hit the deck running".

ADMINISTRATIVE ASSIGNMENTS—

Recognizing that our personnel shortage is past critical, the NOPD has reviewed all personnel assignments that are not DIRECTLY related to providing police services "on the street". An extensive analysis was done of all units in the Administrative and Support Bureau to determine the availability of commissioned personnel for reassignment to street duties. There are 90 commissioned members of all ranks in these Bureaus (*including* 10 captains, 6 lieutenants and 26 sergeants) *supplemented* by 15 commissioned members on administrative reassignment or limited duty due to injury or illness, from the Administrative Duties Division (ADD). 21 of the 85 currently staffed positions would have to retire or go to ADD if transferred to field duties. All of these units are operating at *severe* personnel shortage levels and any loss of personnel would likely tip the balance to a total loss of unit functionality. Since many of these units directly serve street operations, this is a critical issue. All commissioned personnel who are in administrative assignments MUST work 3 days a week in an Administrative Task Force to supplement the District personnel in the areas most affected by violent crime.

CRIMINAL JUSTICE SYSTEM IMPACT—

The criminal justice system in New Orleans was completely destroyed by Hurricane Katrina. Both the Criminal Courts and the Orleans Parish District Attorney's Office have suffered from the backlog of cases and a lack of prosecutors and indigent defenders. The District Attorney's Office was suffering from understaffed and inexperienced prosecutors prior to the storm. These issues became even more critical after the loss of staff and facilities. As with the NOPD, the DA's Office is unable to compete in the market place for qualified staff. The pre and post Katrina dysfunction of the criminal justice system has further exacerbated the crime problem by creating a mindset in the most violent offenders that they will not suffer for their crimes in New Orleans. They are further emboldened to commit more crimes.

With the criminal justice system only slowly coming back on-line locally, and given the huge backlog of cases that must eventually be screened and prosecuted, the demand for officers to appear in court will jump significantly. This need will remove those officers from their assigned duties and further reduce the number of commissioned personnel available at any given time to perform their regular duties. With the already low number of available officers, any further impact is significant.

If it were not for the unprecedented cooperation and assistance of the local U.S. Attorney, Jim Letten and the FBI, DEA, ATF, ICE and US Marshall's Office, crimi-

nals in New Orleans would operate without fear of any punishment from the criminal justice system.

POTENTIAL IMPACT—

We have over 200 officers of all ranks eligible for immediate retirement with 25 or more years of service. Any additional significant negative impact on their working environment could cause a massive loss of these experienced members.

PERSONNEL ASSISTANCE SUMMARY—

It is very difficult for the NOPD to set internal “benchmarks” on the release of assistance currently being provided by the Louisiana National Guard (300 members) and Louisiana State Police (60 Troopers). The LANG has worked side-by-side with the NOPD in the areas of the City most heavily damaged and least populated, to provide the extra personnel required to protect property where there are no “eyes and ears” of citizens to report activity. The LSP has provided high visibility coverage in the French Quarter and Downtown area to supplement the NOPD where the density of visitors and citizens is greatest.

The current class of police recruits will be completed with all training by the middle of June 2007 and available for permanent field assignments. Another class should be available for permanent field assignments in November 2007. These classes, coupled with an active campaign to attract lateral entry personnel, our most reasonable estimate for this year is 100–120 new officers by year’s end. This may not offset the losses we expect of 195–210 (based on trends of last 2 years) due to retirements and resignations.

We cannot expect the LSP and LANG to continue to provide personnel support to the NOPD indefinitely. Each of these organizations has their own individual missions to meet and have graciously given of their limited resources for far longer than anyone expected. Given the demands on the US military today, the extra burden shouldered by the LANG in New Orleans could have a negative effect on our military’s overseas missions.

Twenty months after the storm, the NOPD is still operating in FEMA trailers. We have no HQ building. Three of eight District stations are still not repaired. We have no permanent Crime Lab facility (we moved to rented space at the University of New Orleans only last week), no Central Evidence and Property storage facility, no Special Operations Division/Traffic Division complex, no Juvenile Division holding facility. None of the facilities lost during the storm have been repaired/replaced. We are only a few months away from another hurricane season, which by all meteorological predictions will be active. We have an almost 50% likelihood of a storm affecting the city of New Orleans.

The lack of critical police facilities and capabilities is not only having a deleterious effect on the presentation and prosecution of cases, it has eroded the morale of the officers who see their best efforts to combat crime stalled due to our inability to adequately test and evaluate the evidence and watch as the same offenders are repeatedly arrested and released.

The NOPD is at a crossroads. We will never abandon our mission to “Serve and Protect” the citizens of New Orleans, but we are faced with the daily reality of an imminent collapse of our criminal justice institutions.

Mr. SCOTT. Mr. Gusman.

**TESTIMONY OF MARLIN GUSMAN, ORLEANS PARISH
CRIMINAL SHERIFF, NEW ORLEANS, LA**

Mr. GUSMAN. Good morning. Good morning, Mr. Chairman and Members of the Committee. Thank you for this opportunity. As the criminal sheriff, I am responsible for one of the core components of the local criminal justice system, the operation of the parish jail system. This responsibility includes providing the care, custody, and control of subjects housed in our jail facilities as well as the processing of all individuals arrested within the city of New Orleans. Additionally I serve as the Executive Officer for the Orleans Parish Criminal District Court, which includes the execution of all writs, orders, and processes, including warrants and subpoenas, as well as providing security for the court system. Ancillary functions

of my office include, but are not limited to, law enforcement patrols, the operation of search and rescue, mounted, and K-9.

To really understand how Katrina has affected our operations, it's important to know where we were prior to the storm and where we stand now. Prior to the storm, the sheriff's office operated 11 jail facilities at near capacity with a combined bed space of approximately 7200 incarcerated subjects, giving it the distinction of being one of the Nation's 10 largest jail systems. Of these 11 facilities, only four are currently operational. And included in the list of inoperable jail facilities are four of our largest: The Old Parish Prison, Community Correctional Center, Templeman Phase I and II, and Templeman Phase III and IV. Adding to our burden, prior to March 1, 2007, over 2,000 offenders had to be transferred to other jurisdictions due to the lack of bed space. This was an enormous financial burden because these individuals had to be transferred back and forth for court proceedings.

Our intake and book operations have been significantly affected as well. We now process between 180 to 200 arrestees on a daily basis. This is in a facility that's designed to process only 80. Before, we had a state-of-the-art facility, and now that facility was destroyed; so, we're back to an older facility.

Other components of our office that were also affected: Before Katrina, we had a modern kitchen facility. We produce over 20,000 meals a day. Now, we have a facility that's just a small temporary facility. We produce 7,000 meals a day.

One of our primary responsibilities is to provide those that are in our custody adequate medical care, commensurate with community health care standards. Prior to Katrina, we had a complex medical system for our inmates. We had doctors and nurses. Now, we've lost a lot of that. As a result, we've been forced to scale down on-site medical operations, and we have to transport inmates to local hospitals for the treatment of injuries and illnesses.

Inmate rehabilitation programs have also suffered. Before Katrina, my department ran three very successful rehabilitation programs: The "Blue Walters," the "Francois Alternative," and the "About Face" program. Successful completion of these programs effectively reduced the likelihood of an inmate re-offending. Now, financial hindrances and limited infrastructure have closed these programs.

In order for us to operate, we have to have these critical issues addressed. We need to restore our four largest jail facilities. We need to restore our kitchen. We need to rebuild a modern booking facility. We need to have increased funding to recruit and retain qualified employees.

What can you all do? The United States Congress can assist us by working toward streamlining the remediation process. Cut the red tape that's involved in this process. Authorize another round of Hurricane Infrastructure grant funding. Continue and increase allocation levels for Federal grant funding, including the Byrne and the JAG. Authorize another round of Community Disaster Loans, and you can forgive the prior Community Disaster Loans. The 10 percent mesh that's required by FEMA, we need to have that waived. This is critical for us, as we received well over \$60 million

in damage to our infrastructure and our contents, and the 10 percent mesh would require a big payment for us.

In closing, I would like to express our sincere appreciation to the many individuals that have helped us in our recovery process. The people like the Federal Emergency Management Agency, James Stark, John Connolly, Jim Hill, the Justice Team, Judge Mark Roy. I would also like to express my thanks to the United States Department of Justice, Attorney General Alberto Gonzales, U.S. Attorney Jim Letten, Mr. Domingo Herrera, for their assistance. The Louisiana Attorney General Charles Foti, and Louisiana Supreme Court Justice Kitty Kimball. This has been a very difficult road for us, and I appreciate all of the help that we've gotten. And I also would like to thank you all for joining us in New Orleans to hear our concerns about the escalating level of crime and the state of the criminal justice system. Thank you very much.

Mr. SCOTT. Thank you. Thank you, Sheriff.

[The prepared statement of Mr. Gusman follows:]

PREPARED STATEMENT OF MARLIN N. GUSMAN

The impacts of Hurricane Katrina and the flood resulting from the levee failures are far reaching and can only be described as catastrophic. Never before has this Nation experienced a natural disaster of this magnitude, which very nearly destroyed one of the World's most vibrant and culturally diverse cities. The world is very familiar with scenes of the hurricane damage, immense flooding and the lives lost as a result of this tragedy. Now the focus is on the survivors, the citizens of New Orleans who are struggling to put their lives back together and rebuild. Recently, much of this focus has been placed on the escalating levels of crime in the city. Outsiders see a city with half of its former population with a per capita crime rate that is beginning to exceed that of pre-Katrina levels. Violent crime, most notably murder, is on the increase with close to 50 homicides to date in 2007. The crippled criminal justice infrastructure is struggling to deal with this serious issue. Progress in the city has been seriously hindered by the crime problem.

As the Criminal Sheriff, I am primarily responsible for one of the core components of the local criminal justice system, the operation of the Parish jail system. This responsibility includes providing for the care, custody, and control of subjects housed in our jail facilities as well as the processing of all individuals arrested within the City of New Orleans. Additionally, I serve as the Executive Officer for the Orleans Parish Criminal District Court, which includes the execution of all writs, orders, and processes including, warrants and subpoenas as well as providing security for the court system. Ancillary functions of my office include, but are not limited to, law enforcement patrols, the operation of search and rescue, mounted, K-9, motorcycle, and SWAT units, community service programs, work release programs, and inmate rehabilitation programs.

This written testimony will first address how Hurricane Katrina and the flood have affected the operations of the Orleans Parish Criminal Sheriff's Office (OPCSO). I will then describe what work still needs to be completed and what resources are needed to complete this work.

To adequately understand how Katrina has affected our operations, it is helpful to see where we were prior to the storm and compare that to where we stand now. Prior to the storm, the OPCSO, operated 11 jail facilities at near capacity with a combined bed space for approximately 7,200 incarcerated subjects, giving it the dubious distinction of being one of the Nation's ten largest local jail systems. Of these 11 facilities, only four are currently operational. Included in the list of inoperable jail facilities are four of our largest: Old Parish Prison, Community Correctional Center, Templeman Phase I & II Jail, and Templeman Phase III & IV Jail (three out of four of these facilities are owned by the City of New Orleans). The inoperability of these four facilities results in a loss of critical bed space for approximately 4,100 inmates at a time when these resources are needed more than ever with the escalating crime rate. Also, it should be noted that our operating revenue has been significantly decreased since it is based on inmate per diem payments. Adding to our burden, prior to March 1, 2007, over 2,000 offenders had to be transferred to other jurisdictions due to this lack of bed space. This was an enormous financial burden because these individuals had to be transferred back and forth to Orleans

Parish for court proceedings. On a positive note, FEMA resources have enabled us to construct a temporary modular jail facility that can house up to 800 minimum-security inmates.

Our intake and booking operations have been significantly affected as well. It was projected that the yearly number of arrested subjects processed through our booking facility in 2005 would exceed 100,000 individuals. We were processing between 250 to 400 arrestees in any given 24-hour period in a state-of-the art booking facility. This facility suffered tremendous damage and is scheduled to be demolished soon. Intake operations have been temporarily transferred to our old booking facility, known as Central Lock-up, located on the ground level in the House of Detention. This facility was designed in the late 1950's and was only supposed to accommodate 80 arrestees per day. Intake requirements quickly outgrew this facility in the mid 1980's. Now we are processing between 180 to 200 arrestees per day in a facility designed to process only 80. It is important to note that in 2006, well over 50,000 arrestees were processed in this temporary facility (this figure also attests to the escalation in crime). With no other options we are doing the best we can to operate in this environment in a safe and professional manner.

Other critical components of our office vital to operating an immense jail system were also affected. Pre-Katrina, our modern kitchen production facility produced over 20,000 meals per day. This facility was seriously damaged by high winds and the flood and remains, to this day inoperable. After we opened our first jail facility following Katrina (the House of Detention), all inmate and staff food had to be outsourced to catering firms as we had no viable means of food production. This was a financially burdensome choice but no other viable options existed. Thankfully, FEMA stepped in and assisted us with payments. Current food production operations are conducted out of a temporary kitchen facility, which produces more than 7,000 meals per day. This is actually an incredible feat considering the fact that this kitchen was not designed to handle such a heavy workload. It should also be noted that the cost of basic foodstuffs has increased in post-Katrina New Orleans adding to our already stretched finances.

One of our primary responsibilities to those that are in our custody is to provide medical care commensurate to community healthcare standards. Prior to Katrina, the OPCSO operated a complex medical system for our inmates. We employed many doctors (of numerous specialties), nurses, and other healthcare workers, and provided for comprehensive 24-hour care of sick and injured inmates. We operated a psychiatric tier and a psychiatric step-down tier as well as other psychiatric services for inmates with mental illnesses. A medical observation unit housed inmates who were sick or injured and a medical housing unit housed inmates with chronic illnesses such as advanced HIV disease and hepatitis. Both of these units were staffed 24 hours a day by physicians and nurses. This was a significant benefit to us, as we did not have to transport these individuals to the hospital for treatment. They could be treated on-site. Unfortunately both of these facilities were completely destroyed. As a result, we have been forced to scale down on on-site medical operations and have to transport inmates to local hospitals for the treatment of injuries and illness that we used to be able to treat on-site. This is actually problematic for several reasons. As you are well aware, many of the local hospitals were closed following Katrina, including Charity Hospital, which had an on-site prison ward for critically ill inmates (it should be noted that we provided security for our inmates on this ward). Now, inmates requiring hospitalization or complex medical procedures must be transported, at great expense to the OPCSO, to the two closest public hospitals, one in Houma and one in Baton Rouge. In addition to the high transportation costs, additional manpower is required. As a side note, it should also be pointed out that local medical resources available to inmates once released from jail are lacking causing continuity of care issues. The loss of medical personnel is also a significant problem in post-Katrina New Orleans.

Prior to Katrina the Sheriff's Office employed almost 1,200 individuals. Now, current staffing levels are at about 700. It is very difficult to find and then retain qualified employees now for many reasons. The lack of available and affordable housing plays a significant role as well as the lack of schools and medical facilities. Many of our former employees want to return to New Orleans and their jobs at the OPCSO but are hindered by this (many of our former employees have also permanently relocated outside of Southeastern Louisiana). We, with the assistance of FEMA, have only partially addressed this issue by providing more than 80 trailers, on our property as temporary employee housing. Also, job seekers are demanding higher wages to offset employment and environmental conditions. The criminal justice system has been particularly hard-hit by this. The cost of recruiting and retaining qualified law enforcement and medical professionals have increased exponentially. Many former deputies have left the profession to seek employment in other

sectors or have taken up employment with other law enforcement agencies that can afford to pay their employees higher salaries. Finding skilled laborers (electricians, welders, locksmiths, etc.) is also very difficult.

Hurricane Katrina has also affected our court security operations. Pre-Katrina the OPCSO was responsible for providing security only at Criminal District Court. Now, we provide security in three additional court locations: Magistrate Court in the House of Detention, Traffic Court in the House of Detention, and at the temporary Municipal Court. This obviously requires additional financial resources and manpower. Another significant problem related to our responsibility within the court system is directly related to the inoperability of the Old Parish Prison. The Old Parish Prison was directly connected to the Criminal District Court, effectively reducing the need to transport as many inmates. Now, all inmates have to be transported in vans from the outlying jails to the court. This is a financial burden as well as a potential risk to public safety.

Inmate rehabilitation programs have also suffered. Before Katrina my department ran three very successful rehabilitation programs: Blue Walters, Francois Alternative, and About Face. Successful completion of these programs effectively reduced the likelihood of an inmate re-offending. Now, financial hindrances and limited infrastructure have closed these programs. This is unfortunate, especially at a time when they could effectively contribute to the reduction of crime in New Orleans.

Though much progress has been made in the 17 months proceeding Hurricane Katrina (with the assistance of many Federal agencies including FEMA, the Department of Justice, and many others), an incredible amount is still needed. In order for the OPCSO to successfully operate in post-Katrina New Orleans and to meet the needs of the criminal justice system, the following critical issues need to be addressed:

- The restoration of our four largest jail facilities: Community Correctional Facility, Old Parish Prison, Templeman Phase I & II Jail, and Templeman Phase III & IV. This would increase our capacity (an additional 4,100 beds) to hold some of New Orleans most violent and repeat offenders. Crime is increasing requiring more bed space. It is important to note that the City of New Orleans owns three out of these four facilities.
- The restoration of our permanent kitchen production facility to adequately provide for the dietary needs of our increasing offender population.
- Increase the availability of affordable housing for our employees.
- Rebuild a modern booking facility that can adequately accommodate the increasing intake volume.
- Increased funding to recruit and retain qualified employees.
- Increased funding to enable the OPCSO to purchase much needed equipment for our employees so they can complete their missions in a safe and effective manner.
- Need to expedite the recovery and remediation process between the City of New Orleans and FEMA so that city-owned facilities under the control of the OPCSO can be refurbished and placed into operation.

In all honesty, more financial resources are required to achieve all of these objectives. Only so much can be done with the limited resources available to us as well as our loss of revenue.

The United States Congress can continue to assist us in achieving these goals by:

- Work towards streamlining the remediation process. Work to cut the “red tape” involved in the process. Change rules and procedures to expedite the flow of much needed funds.
- Authorize another round of Hurricane Infrastructure grant funding.
- Continue and increase local allocation levels on Federal grant funds including LETPP, Byrne/JAG, etc. These funding sources enabled us to purchase much needed law enforcement equipment as well as funding critical overtime for jail security and proactive patrol operations.
- Authorize another round of Community Disaster Loans.
- Forgive prior Community Disaster Loans.
- Waive the 10% match/deductible required by FEMA. This is critical for the OPCSO as we received well over sixty million dollars in damage to our infrastructure and contents. A 10% match would require a payment on our part in the amount of approximately six million dollars.
- Provide assistance to first responders so that they can afford to live and work here, as they are the backbone of the New Orleans criminal justice system.

Despite the major challenges we face, much has been accomplished following the hurricane and attests to our resilience and willingness to revitalize the City of New Orleans. Immediately following Katrina and the flood, we were able to evacuate well over 6,000 inmates (not to mention hundreds of civilians) without any serious injuries or a loss of life. This almost unbelievable feat attests to the outstanding efforts of the deputies and staff of the Sheriff's Office. Less than two months after the flood we were able to open an 800 permanent bed facility, which helped to facilitate public safety in Katrina's wake. Since Katrina, with the hard work of Sheriff's deputies and staff and the assistance of Federal and State agencies, we have been able to refurbish and open four additional jails, including the temporary facility mentioned above, providing a much needed 1,700 beds. Numerous projects are underway to repair other areas of our infrastructure. With the assistance of FEMA, we have been able to construct a temporary Municipal and Traffic Court in one of our buildings. A temporary booking facility has been open for well over a year. In addition, a master mitigation plan is being created with the help of FEMA to provide for the survivability and sustainability of the entire criminal justice system should we be affected by another natural or man-made disaster of Katrina's magnitude.

In closing, my staff and I would like to express our sincere appreciation to the many individuals who have assisted us in the recovery process. First, the devoted employees of the Federal Emergency Management Agency deserve mention including James W. Stark, John Connolly, Jim Hill and the Justice Team, as well as Judge Mark Roy. I would like to express my thanks to the United States Department of Justice, particularly to Attorney General Alberto Gonzales, Jim Letten, and Mr. Domingo Herrera for their continued assistance to the recovery of the criminal justice system in New Orleans. I would also like to thank Louisiana Attorney General Charles Foti and Louisiana Supreme Court Chief Justice Kitty Kimball. I would like to express many thanks to the devoted employees of the Sheriff's Office who have worked tirelessly to rebuild our department. I would also like to express my gratitude to the Louisiana Sheriff's Association. Finally, I would like to thank the members of the U.S. House of Representatives, Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security for joining us in New Orleans to hear our concerns about the escalating level of crime and the state of the criminal justice system.

Mr. SCOTT. I recognize myself for 5 minutes. And thank you, Sheriff, for saying thank you for what we've done. We usually don't get much of that. I know we haven't done much, but we have done something; so, I appreciate your comments.

Sheriff, you mentioned you had 7200 that you were housing before Katrina. How many are you taking care of now?

Mr. GUSMAN. Well, we actually had an average yearly population of right under 6,000. We had beds for 7200. Now we house about 2500.

Mr. SCOTT. And how many—you said some of the units have been closed.

How many beds do you actually have?

Mr. GUSMAN. We have 2500 beds. We're just right at capacity. It's kind of difficult sometimes. We have to make sure that we transfer in the event of overcrowding.

Mr. SCOTT. Well, you're aware that many of the sheriffs that I know would be delighted to have the capacity census. Most of them are way over capacity.

Mr. GUSMAN. Well, Mr. Chairman, it brings problems in. It brings benefits.

Mr. SCOTT. What's the length of the sentence, average length of sentence, of the people in your jails?

Mr. GUSMAN. Well, currently, all of—virtually everyone that's in jail now are pre-trial offenders; so, they are waiting trial, and they haven't been sentenced yet.

Mr. SCOTT. And do you have mental health resources?

Mr. GUSMAN. We employ one full-time psychiatrist and two part-time; and we have a floor in one of the jails that's dedicated to psychiatric care.

But I've got to tell you that it's really strained and stretched; it's a difficult situation. Unfortunately, we pick up a lot of people who really deserve other care as opposed to being in jail.

Mr. SCOTT. Mr. Jordan, you mentioned the crime lab and records. Can you just tell us what the present state of affairs is with the crime lab and criminal justice records?

Mr. JORDAN. Actually, I think the Superintendent knows more about the crime lab.

Mr. SCOTT. Okay.

Chief RILEY. As it relates to our crime lab, we just secured a lease with the University of New Orleans. We have taken over their old computer lab. We are going to begin moving in this week with equipment at the University of New Orleans. Our lab should probably be running at about 45-50 percent of its abilities over the next 30 days; but we hope over the next 90 to 120 days to have it up and fully functional; so, that's a big move for us. As it relates to records, we did, in fact, lose some reports that were at three district stations that were wiped out the day of the flood. Those reports were probably less than 30 days old, but there were hundreds of arrest records/reports that were in there that had not been brought up to our record room as of the date of the storm. Those three areas were completely—those stations were completely overwhelmed by water, and we did lose those reports.

Mr. SCOTT. Did the arrest records just disappear?

Chief RILEY. Those were original reports that, yes, that had the details of the arrests.

Mr. JORDAN. Now, my office has a Case Recovery Management Team that is funded by the Federal Government. That's composed of prosecutors who look at the status of cases to determine whether they're still viable today. These are pre-Katrina cases that they're looking at. And this team has completed the vast majority of its work at this time, and they've looked at records and evidence stored in the courthouse and stored in other locations to determine whether those cases are viable.

Mr. SCOTT. Chief Riley, you mentioned that you were not up to full capacity of employees. Is that for lack of money or for lack of recruitment—being able to recruit at the salaries you're recruiting for.

Chief RILEY. Well, it's a number of issues.

The majority of officers that resigned left after their families were relocated. Over the past 2 years, some of their families have reestablished themselves in other communities and those officers had decisions to make.

And, so, we probably—we probably lost about 60 percent of our officers for that reason: They moved on. Their families, they lost their home; they lost everything they owned.

Mr. SCOTT. Well, if they moved on, you're not paying them. Are you unable to recruit and replace those?

Chief RILEY. We have only been able to—we have just graduated a class of 38 recruits. It took us 6 months to get people through the system. The majority of people, as always, that apply did not

make it through the process. We have a new class in place right now with 31 recruits; so, we have not been—we're not anywhere near replacing over 500 officers that we've lost.

Mr. SCOTT. Thank you. Mr. Forbes.

Mr. FORBES. Thank you, Mr. Chairman. Chief, I want to, first of all, thank you for the job you're doing. I know it's a tough task. We want to be there to help you, and we are reviewing the whole testimony; so, don't think we're not doing anything. As I look at this, though, one of the things that my good friend from Texas raised was that this beautiful building we're in was a lake, I think the president testified after Katrina. But before Katrina, it wasn't a lake. It was a beautiful building. It's a beautiful building now. Mr. Jordan, as I looked at your office, and the criminal justice system in New Orleans, you really don't want us to restore it back to where it was before Katrina because it looks like to me, based on the statistics we have, your office, it was broken significantly before that. I just want to ask you some questions about that. How long did you say you've been District Attorney in that office?

Mr. JORDAN. Since 2003.

Mr. FORBES. Well, in 2003, there were 58 desks per 100,000 residents. Is that an accurate statistic in New Orleans?

Mr. JORDAN. I imagine that sounds correct.

Mr. FORBES. Do you know what the national average was across the country then?

Mr. JORDAN. No.

Mr. FORBES. Wouldn't it be useful if you're talking about attorneys to at least know that national average? Let me ask you this: Your office only had—12 percent of individuals arrested for murder were sent to prison in 2003 and 2004. There's something wrong with that system based on prosecution rates across the country. Do you know what the prosecution rates were across the country for murders and—

Mr. JORDAN. Well, Congressman, let me just say this: That I think that our conviction rate is consistent with other prosecutors' offices throughout the country when we look at the cases that are acceptable for prosecution. And let me just expand on that by indicating that over the last several years we have improved on the acceptance rate for cases and prosecution. That number has increased steadily since—since my tenure in office.

Mr. FORBES. Mr. Jordan, let me ask you this question: You can—

Mr. JORDAN. Can I complete my statement?

Mr. FORBES. You—you can. But I've got 5 minutes, and, so, you can put anything you want into the record, and I'm happy to have it. And if the Chairman will give us more time later, we can look at anything you want. But—but we have one recent case where the murderer was actually caught on tape and wasn't prosecuted.

Mr. JORDAN. Well, let—let me—

Mr. FORBES. Explain that one.

Mr. JORDAN. Let me speak to that. First of all, you were in error when you say that it was caught on tape. What it was, before the storm, there was an incident where there were three individuals who fired firearms at the car wash, and they did not kill the individual that they were shooting at, but they did seriously injure

those individuals. And we had a videotape of those individuals shooting the people at the car wash.

Mr. FORBES. Did you prosecute them?

Mr. JORDAN. Yes, we did, and we got a conviction. In fact, we got a guilty plea; so—

Mr. FORBES. You got a guilty plea, or the Federal Government got it?

Mr. JORDAN. No. My office got a guilty plea; so, I don't—I think your information is incorrect.

But that case is still ongoing. But it does illustrate something that's very important, and that is a fear factor on the part of the witnesses. Even though those individuals were aware of the fact that there was a videotape, they were afraid to testify because of the fact that the individuals charged with this crime were released on bond, and they thought that they should have been behind bars. Now, we don't control whether they are released on bond; but under Louisiana law, people have a right to make a bond; and if they make that bond, then they are back out on the street. Now, under the Federal system, there's an advantage because it's simply a question of whether they are considered a flight risk or a threat to the community. In either event they would have been detained without bond. But under our system, they were released on bond, and these people were afraid to testify. And, Congressman, you may not be aware of the fact, but the victims had to testify in that case. It was—even with the videotape, the victims' testimony was important.

Mr. FORBES. Can I ask you about—

Mr. JORDAN. I'm not—I haven't completed my statement yet on—that particular point, because that case is still going on. And that was why it's so important for us to have a Victim Witness Assistance program that helps us to transport people and provide some minimal level of security to people because we do have a—a great level of fear in the city of New Orleans.

Mr. FORBES. Let me ask you, on the release provision that you talked about: On your bail bond reduction hearings, is the State—is the State present when those hearings take place?

Mr. JORDAN. Not necessarily, Congressman.

A bond can be reduced at a later point in time. Simply if a phone call is made and the judge feels that that person is not going to be a flight risk or a threat to the community. And that has happened. Most of the judges, however, do not reduce bonds, but it does happen on occasion. And, again, this is an illustration of the better Federal system because I believe that generally they don't release people charged with these kinds of serious crimes.

Mr. FORBES. But help me with this system. My time is up. I want to cover just a few more seconds here, that—that you need to explain. When—when a hearing, as I understand it, takes place, an individual defendant is brought before a magistrate. And in that particular situation, before a magistrate, initial bond is set. Is that correct?

Mr. JORDAN. That's correct.

Mr. FORBES. And then, subsequently, the bondsman can call a judge and request that that bond be reduced. Is that correct?

Mr. JORDAN. That's correct.

Mr. FORBES. And your office doesn't even get the opportunity to be there to make an argument in that particular—

Mr. JORDAN. That's correct, Congressman.

We do not necessarily—we are not necessarily present for a bond reduction conversation that may take place.

Mr. FORBES. Don't you think that you should be able to be present?

Mr. JORDAN. Yes, I do. And we have advocated that. We believe that there should be a contradictory hearing whenever a bond is reduced.

Mr. FORBES. My time is up. Thank you.

Mr. Jordan.

Mr. JORDAN. Thank you.

Mr. SCOTT. Mr. Gohmert.

Mr. GOHMERT. Thank you, Chairman Scott.

Chief Riley, let me ask you: Do you know what the current census estimate for New Orleans is?

Chief RILEY. That varies. I think the latest one goes back to July of '06, which were reports from a couple of weeks ago that estimated somewhere around 223,000 people. There was a demographer on the news the other night that states that since July of '06, that it is now somewhere around 270,000; so, we really don't know.

Mr. GOHMERT. Okay. Well, when you were mentioning you'd lost 30 percent of the officers, I was trying to reconcile that with the reduction in population of New Orleans. And it sounds like a year later, the 223,000, was a 49 percent reduction in population; and now, being around 30 percent. But I know, you hear things. You read things. And I'd understood from the owner of a dealership here that, in an area that was not flooded, he was contacted and told, as Mr. Sewell, to protect his cars, the police had cut into the safe and had all of the keys to the new cars and that the cars were driven away to safety, and they still haven't gotten some of those back. Is there truth to that?

Chief RILEY. Well, I can tell you the officers did cut into a safe. One of Mr. Sewell's employees was there giving out keys to his friends, who were driving off with the cars. Our officers on patrol saw that. We, in fact, stopped the thefts. We did use—I'll be honest with you: We did use about 30 of those Sewell cars for emergency purposes, but we also warehoused 78 of those cars in the Convention Center, and probably saved him a lot of money, and maybe we didn't save him a lot of money. Insurance. Who knows.

Mr. GOHMERT. Okay. But if they were warehoused, but they—it wasn't necessary to move them, then I'm not sure I understand.

Chief RILEY. When I said we warehoused them, we warehoused 78—I believe over 100 cars were stolen. We used 30 of the cars. We warehoused about 78 of those cars that were, in fact, returned to Mr. Sewell completely undamaged.

Mr. GOHMERT. Let me ask District Attorney, Mr. Jordan: How many prosecutors do you have currently?

Mr. JORDAN. We have approximately—86, I believe, is the total number.

Mr. GOHMERT. And investigators?

Mr. JORDAN. I think we have something like 20 or so.

Mr. GOHMERT. How—how does that compare to pre-Katrina?

Mr. JORDAN. Well, as I indicated in my testimony, we had 92—92 positions that were funded before the storm. And—

Mr. GOHMERT. You—that's how many people were actually working there, or just how—

Mr. JORDAN. No.

Mr. GOHMERT [continuing]. Many positions?

Mr. JORDAN. 92 prosecutors.

Mr. GOHMERT. Right.

Mr. JORDAN. We have additional prosecutors—well, we've been allotted prosecutors for a Violent Crime Unit. There's 6 prosecutors who are part of that unit. There are 13 positions that are actually funded by grants now; so, that's—that's a big difference between the way it is today and the way it was before Katrina. Those 92 positions or so were funded by the State of Louisiana completely and not by any—there—there may have been one or two grants, but not nearly as many as we have now. And we also have Federal funding for a Case Recovery Management Team.

Mr. GOHMERT. In all due respect, you answered my question, how many—

Mr. JORDAN. Okay.

Mr. GOHMERT [continuing]. You had before. And—and we—we're able to dig up the facts on how much the Federal Government is funding and how much should be funded. But you addressed the bond issue, and I'd like to go back to that. You mentioned that your office wasn't even allowed to be present at some of the bond reductions. And I think in some material that we were furnished this statement is made, that New Orleans bail and bond release practices allow judges and other officials to receive payments of a certain percentage of release bonds. Is that true? Can a judge receive a percentage of a release bond?

Mr. JORDAN. I—I—it's my understanding that there may be a portion of the bond that goes toward some kind of fund that the court has.

Mr. GOHMERT. That—I'm blown away. As a former district judge, I—I just can't believe—so, what you're saying is some bondsman who wants to lower a bond can call a judge, and if the judge does not lower the bond where an individual can get out, the judge—the judge gets nothing for his funding. However, if he lowers the bond to a rate that the bondsman would make, then the judge gets a cut of—

Mr. JORDAN. Well, I'm not saying that. I think that that—on forfeiture of that bond, a portion of it may go toward the court. That's my understanding.

Mr. GOHMERT. Well, that's—that's—I'm astounded over it. That's incredible that a court would get a cut of the action of a bondsman if he lowers the bond to where the bond can be made. I also was concerned about, in State law, it says that—section 761 requires the arrestee be released if the charges have not been sufficiently substantiated after 60 days. In Texas we have an 180-day rule, and I—there were times when my hands were tied, and I had to release somebody if charges were not properly filed within 180 days. Sixty days, sometimes you can't even get the lab reports back in by that time. Can you?

Mr. JORDAN. Well, Congressman, that's a very good point in that we have had tremendous problems since the storm because of the absence of a lab. And it has created a situation where a number of individuals had to be released because there were no lab reports.

Mr. GOHMERT. Well, do you know if anybody is attempting to address that in the Louisiana Legislature?

Mr. JORDAN. Well, we are addressing it here in Orleans Parish. We are doing it through a combination of things. The agreement that Police Chief Riley and I have entered into recently would allow for field tests to be conducted on those drugs, and then a lab report would be conducted or the lab report would be furnished to the DA's office within 24 days after the arrest. And so far we—we had a number of field test cases; so, we hope that that would solve the problem along with the—the lab being in place in the next few days.

Mr. GOHMERT. My time is expired. Thank you very much.

Mr. JORDAN. Thank you.

Mr. SCOTT. I'm sorry. It's just that I just introduced a bill in the Virginia General Assembly simply to do just that to allow the field tests to be sufficient for the preliminary hearing, but you need the real lab report for the trial.

Mr. JORDAN. Yes.

Mr. SCOTT. And that's worked—I understand it's worked well.

Mr. JORDAN. That's excellent well.

Mr. SCOTT. And, Mr. Jordan, let me just clarify.

Mr. JORDAN. Okay.

Mr. SCOTT. You said that the court gets some of the bond released. That's the court. That's not the judge. Is that right?

Mr. JORDAN. That's—that's the court, as I—

Mr. SCOTT. The judge doesn't—

Mr. JORDAN. That's not—

Mr. SCOTT. It doesn't go in the judge's pocket.

Mr. JORDAN. It's not in the judge's pocket.

Mr. SCOTT. I know in some cases they had, in the traffic crime in small cities, the judge would actually get a cut in the crimes; which I think was thrown out as being a violation of due process, when the judge had a personal financial interest in the outcome of the case. But that's not what you're talking about?

Mr. JORDAN. No, that's not.

Mr. SCOTT. Forbes, you had another question?

Mr. FORBES. Chief, once again, I want to thank you. Your—your testimony is very good about the morale of your officers, and you know those officers better than anybody. We understand the morale. But I have one question that wasn't in your testimony. Even prior to Katrina, in New Orleans, only 7 percent of those arrested by your officers—out in the street, risking their lives doing stuff they had to do—were eventually sentenced to prison. In fact, the Metropolitan Crime Commission actually stated that criminal court judges in New Orleans were significantly less likely than judges elsewhere to send people, even violent offenders, to prison. You know your officers. Ninety-three percent of the people that are arrested aren't going. Do you have any impact on them? Do you hear any feedback from them?

Chief RILEY. Well, absolutely. I mean, you become demoralized when you arrest a person, especially a violent offender, and that violent offender has enough confidence to say to you that, "I'll see you out next week. I'll be out next week," and then you see them out next week. So, there certainly has been and there are a lot of things that are being done to correct the revolving door. But there certainly has been a revolving door in our local system, and it certainly has been a problem for—not recently. This has been going on for 20 years. And that's why we have been in the top 10 in violent crime for the last 20-25 years.

Mr. FORBES. But, Chief, that's why your testimony is so important because you pointed out there were problems before, and there are problems after.

You—we want to correct all of them.

Chief RILEY. Yes.

Mr. FORBES. And we thank you for—on that revolving door, where are the problems? What do we need to do to—to help stop that revolving door?

Chief RILEY. Well, I think that, first of all, Mr. Jordan and I, we've taken some steps with the 10-point plan. I don't know if you all have a copy? That's something you probably need to get if you—

Mr. FORBES. I don't. So, I don't know if you have one, if you could—

Mr. JORDAN. I have a copy of it.

Chief RILEY. So, that will—that will certainly help, the 10-point plan that was in place. The 701 release rule, certainly hindered this department—

Mr. FORBES. Just for the record, people, that's the 60-day rule.

Chief RILEY. Yes, that's the 60-day rule. You know, 180 days would be great, and it's something that we may need to look into. But that certainly has hindered us. Not—not having swift trials have been a problem as well. Our police officers had to be better trained as it relates to report writing and things like that. So across the board, I think Katrina, in the aftermath, has revealed a lot of deficiencies; a lot of deficiencies that we are now working on. But, again, we do need assistance from the Federal Government to get some of those things done.

Mr. FORBES. Chief, thank you.

Chief RILEY. You're welcome.

Mr. FORBES. Thank you all.

Mr. JORDAN. Thank you.

Mr. SCOTT. Some of—some of these do not require funding. Some do. Is that what I understand?

Chief RILEY. Correct.

Mr. JORDAN. Yes.

Mr. SCOTT. Any other questions? Thank you very much. We appreciate your testimony.

Mr. JORDAN. Thank you.

Chief RILEY. Thank you.

Mr. SCOTT. Thank you. Our next witnesses will be composed of the—we just had the State law enforcement officials. Now we're going to listen to the Federal—local law enforcement; now we're going to hear from the Federal law enforcement. And our witnesses

will be: Beginning with Jim Letten, the U.S. Attorney for the Eastern District of Louisiana. Prior to his current post, he served as Chief of the U.S. Department of Justice's Organized Crime and Racketeering Strike Force. He's a native of New Orleans and has graduated from Tulane Law School.

Next we have James Bernazzani.

Mr. BERNAZZANI. Correct.

Mr. SCOTT. Thank you. He is Special Agent in Charge—Special Agent in Charge of New Orleans Division of the FBI. At the time of his appointment, he was Special Agent in Charge of the New Orleans Division. He had acted as Deputy Assistant Director for International Terrorism Operations for the FBI. He holds a Master's Degree from Harvard University.

Mr. David Harper, Special Agent in Charge of the New Orleans Field Division of the Bureau of Alcohol, Tobacco, Firearms, and Explosives. Prior to his employment with the ATF, he was Special Agent for the State Department of Diplomatic Security Service and a U.S. Army officer. He holds a Bachelor's Degree from the University of Mississippi.

William James Renton, Special Agent in Charge of New Orleans Field Division of the Drug Enforcement Administration. Prior to that, he was the law enforcement—he had his law enforcement career as a police cadet in the Jefferson Parish Sheriff's Office.

He holds a Bachelor's Degree from Loyola University.

And Jacques Thibodeaux, Acting Chief Deputy, United States Marshal, Eastern District of Louisiana. In addition to that post, he also is a military police colonel in the Louisiana National Guard. And that—John Thibodeaux, he has spent—military police in Louisiana National Guard. Spent 4 months on active duty after Katrina with the National Guard as part of the recovery in New Orleans.

Mr. SCOTT. And we begin with Mr. Letten.

TESTIMONY OF THE HONORABLE JIM LETTEN, UNITED STATES ATTORNEY, EASTERN DISTRICT OF LOUISIANA

Mr. LETTEN. Thank you, sir. Good morning, Chairman Scott and Members of the House Subcommittee. I am Jim Letten, United States Attorney for the Eastern District of Louisiana, and it is a distinct honor for me to appear before you, representing the outstanding men and women of our U.S. Attorney's Office and Federal law enforcement. I'm proud to serve our citizens with these men you see before you and with the leadership and professionals of the NOPD, with which we have had a long-standing partnership. I might add that serving as the U.S. Attorney in this district is a unique personal honor for me, a New Orleanian born and raised, with roots on both sides of my family running many generations deep. In fact, our family's law enforcement commitment to this area includes my great-grandfather, who in the summer of 1898 gave his life in the line of duty as a New Orleans Police Officer, while apprehending a wanted violent criminal just about four blocks from where I now work.

It's worth noting that prior to Hurricane Katrina, the city of New Orleans itself grappled with one of the highest per-capita homicide rates in the U.S. In fact, just a few months before the hurricane,

at the Mayor's Crime Summit Breakfast, I warned, and I continue to warn today, that the viability and even survival of this city will depend on the ability to control and reduce violent crime, to deter public corruption—which through years of endemic fraud, distortion, and kickback schemes has contributed to an enormous population business and talent drain—and provide a viable public education system, especially for our poor, and to diversify the deteriorating economy of the city.

As this city re-populated in earnest, particularly in the spring of 2006, our office—with our partners in FBI, DEA, ATF, and the Marshals Service and NOPD—aggressively pursued Project Safe Neighborhoods, a top priority of this administration. Indeed it is this very population return, including some of the criminal element, under severely adverse conditions that have resulted in 161 homicides alone in Orleans for 2006. As of today, there sadly have been 61 homicides in Orleans Parish since January 1.

We in the Federal system in attempting to address the violent crime problem, place particular emphasis on attacking drug- and firearm-related crime. During the last two decades, the drug trade in this city has largely been limited to low-level street trade, primarily engaged in by young men from poor areas, who either alone or in very loosely knit non-structured groups or gangs, sell drugs and violently engage one another and settle disputes with firearms.

In fact, New Orleans does not suffer a traditional gang problem. In truth, however, the loosely knit criminal element of New Orleans is more difficult to identify, penetrate, infiltrate and control than structured organized gangs would be. What is most important for us to acknowledge is that the vast majority of these homicides and other violent offenses must be handled by the local criminal justice system, as they do not fall within Federal jurisdiction. We, nevertheless, have seen opportunities to act boldly where our Federal resources can be brought to bear, and we have and will continue to do just that. Despite our limited jurisdiction, we have made positive strides on the Federal level.

But our crime problem here is a result of an extremely complex landscape and returning drug dealers and violent criminals who have chosen to return to New Orleans, in order to exploit dysfunction in the local justice system, including a now notorious revolving door. This revolving door alone has likely attracted an inordinately high number of offenders in relation to the relatively small population of the city, who if arrested on local charges, often anticipate being released either from prison or their bond obligations within 60 days if formal charges are not filed against them in that period. Some 3,000 of these Rule 701 releases occurred in 2006 alone. That's unacceptable.

Further, despite a committed reform-minded Police Superintendent, which we have the pleasure of working with, NOPD still suffers many challenges which it has to overcome. In calendar year 2006, our office, the U.S. Attorney's Office, charged 358 individuals with drug, violent crime, firearm, and significant immigration offenses, producing 32 more indictments in 2005 despite the fact that only half the population had returned. In 2006, our immigration charges tripled over 2005. In 2006, our violent crime prosecutions increased by 32 percent over the previous year with a 98 percent

conviction rate. Similar data shows a 100 percent conviction rate of immigration offenses and a 10.3 percent increase in drug cases filed with a 93.5 percent conviction rate.

In total, between January 1, 2006, and today, we have indicted no less than 302 individuals on violent crimes and firearms related felonies with an additional 515 on drug felonies as well. Many of those cases have been made by the fine men and women of NOPD.

But statistics do not even begin to tell the positive story of Federal law enforcement. The Attorney General himself has visited this city no less than six times since Hurricane Katrina; and during September allocated additional Federal resources to the area, including additional Federal agents to FBI, ATF, U.S. Marshals Service, and additional Assistant United States Attorneys. Those additional prosecutors include six specially detailed prosecutors, who are being reauthorized to me through the end of fiscal year 2007, as well as nine Assistant U.S. Attorneys who have been hired to serve on our staff for 14-month terms.

Additional ATF agents have been assigned to supplement its very successful Violent Crime Impact Team, and it re-launched its successful 24-hour ATF gun hotline. The FBI's recently launched violent crime intelligence initiative continues to develop, maintain, and distribute information regarding both violent offenders for use by all agencies in connecting our efforts against these dangerous individuals.

DEA, ATF, and NOPD are involved in a Targeted Offenders Project, in order to screen previous NOPD murder, armed robbery, and firearm arrests to identify those eligible for Federal prosecutions. And the U.S. Marshals have supported the highly successful Crescent Star Fugitive Task Force.

Last September's announcement of additional resources from the Attorney General also provided funding for a police athletic league, additional Weed and Seed sites and safe havens and reestablishment and refunding of Boys and Girls Clubs of America destroyed by the storm. This January, just weeks ago, we wrapped up yet again Federal efforts against violent offenders, to take pressure off the District Attorney's Office and the local criminal justice system by Federally charging more violent crime and drug offenders, particularly in urban high-crime spots around the city. That hinged on small teams of FBI, DEA, and ATF Special Agents, operating in support of their partners, NOPD, in the field to identify cases subject to Federal jurisdiction. Since the first week of February, this initiative has produced some 55 additional individuals arrested for Federal drug distribution and firearm charges, 42 of whom have been indicted and all but two who remain in custody, detained. Also, the Attorney General provided additional ATF agents to supplement those permanently assigned to the New Orleans Violent Crime Impact team. And ATF has also obtained critical new ballistics testing equipment known as NIBIN, to replace the equipment so important to NOPD's forensic ballistic identification efforts.

Nine additional FBI special agents have been assigned to New Orleans to supplement those currently assigned to its wonderful Violent Gang Safe Streets Task Force; and specially qualified FBI agents around the U.S. were specifically recruited and assigned to

assist in the investigation of recent homicides and cold cases to determine which could be charged under Federal law.

Special agents of the DEA were temporarily provided with authority to investigate and enforce all criminal laws in addition to Federal drug laws in order to assist NOPD more effectively. The Attorney General has also provided funding for our own U.S. Attorney's Office, and this is important, to acquire two highly competent professionals to augment our already well-established, highly efficient Federal victim witness team to provide for protection, relocation, counseling, and other assistance to victims and witnesses of crimes, not only for the U.S. Attorney's Office, but more importantly for local criminal justice such as the DA's Office.

And the Attorney General has committed up to \$3 million in Federal funds to help establish and build a family justice center to address victims of domestic sexual violence in the city and surrounding parishes.

In keeping with our extraordinary role, which you can see has gone far beyond enforcement, in November of 2005, the U.S. Attorney's Office is one of the leaders in constructing what is now called the Southeast Louisiana Criminal Justice Recovery Task Force. As a result of this task force last May, BJA distributed nearly \$60 million to Louisiana law enforcement agencies, some \$30 million of which went to needy agencies in the New Orleans area.

Just one of the solutions in which we in the Department of Justice have helped, along with our partners in local law enforcement, include the department's allocation of critical resources to help secure the employment of critically needed crime lab technicians to support NOPD. To that, and through our efforts and those of many of our important partners, a contract was recently secured between the city and the UNO Foundation which, through an initial 3-year lease, will now provide NOPD with its own crime lab, and they're moving in as we speak.

We intend to replicate this year's anti-gang funding from the Department of Justice in the Public Safety Housing Initiative, PHSI, which in 2006 helped our local partners make over 800 arrests of individuals threatening the highly populated west bank area. And as we move toward the summer, we are identifying the need for additional safe havens for our children built on Weed and Seed models. And with that worthy initiative, we have formed and are moving ahead with a broad unprecedented coalition of agencies from Federal, local, and State government, as well as the private sector and faith-based groups, with the goal of providing education, jobs, activities, and programs for thousands of at-risk youths.

Because failure is not an option we must and will continue to fight relentlessly for public safety; for only then, with true commitment, integrity, vision, and patience, will we prevail.

I thank you so much for your support, for what you have done and continue to do for us, for being here, for caring about this wonderful city. I also invite, if you would give me the opportunity down the road, when I have a chance to, to straighten the record a little bit relative to the Alton Hooks case because I can talk about the facts of that case, that evolution. Thank you.

[The prepared statement of Mr. Letten follows:]

PREPARED STATEMENT OF THE HONORABLE JIM LETTEN

**STATEMENT
OF
JIM LETTEN
UNITED STATES ATTORNEY
EASTERN DISTRICT OF LOUISIANA
BEFORE THE
SUBCOMMITTEE ON CRIME
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES
CONCERNING
“The Criminal Justice System in New Orleans
Following Hurricane Katrina”
April 10, 2007**

Chairman Scott, members of the Subcommittee on Crime, I am Jim Letten, United States Attorney for the Eastern District of Louisiana. It is a distinct honor to be here before you as the United States Attorney, as the ranking Federal law enforcement official in this district, representing the outstanding men and women of my U. S. Attorney’s Office and Federal law enforcement. On their behalf and on a personal note, I thank you for your continuing commitment and support to all of our offices, and especially to the critical rebuilding effort during a very historic, difficult, and challenging time for this State, this city and this region.

Our U. S. Attorney’s Office immediately reestablished itself as a viable entity following our dislocation from the City of New Orleans as a result of Hurricane Katrina. This speedy and highly-efficient reconstitution and coordination was accomplished as a result of extraordinary commitment and teamwork by many individuals, including U. S. Attorney General Alberto Gonzales, the office of the Attorney General, the Deputy Attorney General, and the Executive Office for U. S. Attorneys (EOUSA), as well as an unparalleled sacrifice and commitment by Middle District of Louisiana (Baton Rouge) U. S. Attorney David Dugas and his very fine staff. Operating from our temporary headquarters in Baton Rouge, the men and women of our office

efficiently maintained the functions of the U. S. Attorney in that city, as well as a satellite office in Houma, Louisiana, thanks to the generosity of numerous other Department of Justice components and U. S. Attorneys' Offices throughout the United States. Determined to stay abreast or ahead of demands on our office and the U. S. Department of Justice, as we anticipated the population returning to the city and the recovery beginning in earnest, after spending four months operating primarily outside the district, our office relocated fully operational in our present quarters in the Hale Boggs Federal Building and Courthouse complex in downtown New Orleans by January 1, 2006.

In fact, between Hurricane Katrina's landfall on August 29, 2005, and April, 2006, the City of New Orleans and much of Jefferson, Plaquemines, and St. Bernard Parishes were virtually depopulated (or at least under-populated). In addition to the population decreases, New Orleans has lost many large and small corporations and businesses over the years. The population decreases contributed to a false sense of security by many and a similarly unrealistic expectation that crime — and homicide — levels would remain very low. This euphoria, I believe, was unrealistic given the condition of the city and its significant violent crime problem prior to the storm.

For example, prior to Hurricane Katrina, the City of New Orleans (limited to Orleans Parish) grappled with one of the highest per-capita homicide rates in the United States. In fact, just months before Hurricane Katrina struck, at the Mayor's Crime Summit breakfast, I warned that the viability and even survival of the city would depend on the ability to control and reduce violent crime; to control and deter corruption (which, along with violent crime, had contributed to an enormous talent drain); to build a viable public school system (especially for those poor and

unprivileged children in Section 8 and public housing); and to build and diversify the economy of the City which had been hemorrhaging businesses and job opportunities over recent decades.

The U. S. Attorney's Office, coupled with our Federal law enforcement partners — ATF, DEA, FBI, and the U. S. Marshals Service — along with our local partners — including the New Orleans Police Department, Jefferson Parish Sheriff's Office, and others — aggressively pursued the Administration's and the Department's violence-reduction goals under the collaborative priority partnership known as Project Safe Neighborhoods (PSN) from its inception. In seeking information and answers, we tend to look to statistics. However, for a variety of reasons, *reliable* statistics have been somewhat elusive, especially post-Katrina. To date, officially-released NOPD statistics suggest a numerical downturn in 2006 homicides in New Orleans over the first three quarters of 2005, citing 53 recorded homicides in the first three quarters of 2006 compared to 68 in 2005, for an apparent reduction of homicides of 22% for that period. However, as we reported to the U. S. Department of Justice and to Gulf Coast Recovery Chairman Donald Powell's staff, NOPD's second quarter murder statistics for the city was published at 39 homicides (for an estimated population of roughly 220,000) versus 69 murders for second quarter 2005 (for an estimated population of 450,000). Using even these figures, it is clear that, at best, by the second quarter of 2006 — when the population began to return in earnest — the homicide rate in New Orleans was every bit as bad, and perhaps even somewhat worse, as it was the previous year when we led the nation. The return of the population, then, had the effect that I — and all in Federal enforcement — fully expected. Indeed, the population return under conditions wrought by Hurricane Katrina, including the destruction of 80% of the City through flooding, measurably exacerbated the crime problem.

It is worth noting, however, that the final published number of homicides for New Orleans for 2006 was 161. This final figure, of course, indicates an increase in the number of post-Katrina homicides commensurate with population return. A significant population of migrant workers, the exact number of which can only be estimated, reaching perhaps between 30,000 and 60,000 on any given day, must be considered when determining contributing factors and stresses upon local, State, and Federal law enforcement.

As of April 6, 2007, there have been 56 homicides in Orleans Parish since the beginning of 2007.

In addressing the violent crime problem, we look primarily to drug, firearm-related crime, and immigration cases affecting and contributing to local challenges simply because they are all interrelated.

I must stress that, save in extraordinary cases, all of our Federal drug cases are against distributors because simple possession of controlled substances is a misdemeanor under Federal laws. Many of these distributors are directly or indirectly involved in street-level violence in the City and in the region. Indeed, the drug trade in New Orleans has, since effective prosecution and interdiction in the 1980s and early 1990s, transitioned to a low-level, street trade for the most part, primarily engaged in by young males from housing developments and poor neighborhoods, who -- either alone or in very loosely-knit, non-structured groups -- sell drugs and violently engage one another and settle disputes with firearms.

The violence in the streets is generally the result of actions by individuals who, although armed because they are involved in the drug trade, nevertheless also tend to settle non-drug-related disputes violently. Moreover and importantly, the vast majority of homicides and other

violent offenses, including rape, armed robbery, assault, and property crimes, must be handled by the local criminal justice system because they cannot be connected to a chargeable Federal offense or do not otherwise fall within Federal jurisdiction.

One cannot ignore the fact that after Katrina, New Orleans overnight became a "frontier" or "border" town, initially bereft of its indigenous population; with a largely poor and uneducated indigenous population returning to destruction and a shortage of available housing and educational opportunities; with enormous additional pressure from a growing population of transient/migrant laborers, many of whom are illegal, and numbering perhaps between 30,000 and 60,000. This pressure is especially compelling, as our Federal indictments against illegal aliens who are aggravated felons or who have other aggravating factors have tripled since Hurricane Katrina, with many more to come. It is certainly worth noting that outstanding and successful efforts by the U. S. Marshals Service and the U.S. Immigration and Customs Enforcement (ICE) have yielded excellent results in direct response to this phenomenon of a transient population. In fact, as indicated hereinafter, the U. S. Marshals Service has been very successful and aggressive in seeking and arresting hundreds of violent fugitives on felony charges as part of the U. S. Marshals Service Crescent Star Fugitive Task Force begun last October.

Although plagued by increasing violence, New Orleans does not suffer, and has never suffered, a "traditional" gang problem. That is, although, post-Katrina offenders identified with certain organized (in some cases Central American transnational) gangs have been observed, identified, or otherwise arrested for various State/local offenses, we do not believe that any of these large, structured organized gangs (or any other organized gangs for that matter) are

operating as such in the area. However, the presence of these individuals suggests a very small forward presence of certain elements to determine if the area is fertile for organized gang activity to flourish — hence, our extraordinary vigilance through the intelligence-sharing process utilized by FBI, DEA, ATF and the U. S. Marshals Service.

In truth, the criminal element in the New Orleans area is far more difficult to identify, penetrate, infiltrate, control and ultimately to deal with, than organized gangs would be. As stated, there is a relatively small cadre of ruthless, violent offenders raised in public and Section 8 low-income housing; without the benefit of any family or educational system due to the virtual non-existence of a viable public school system in New Orleans; who have grown up in a culture of poverty, despair and violence; and who obtain, use, and sell illegal drugs for quick, easy profit. Penetrating these groups, for many reasons, has proven difficult at best, if not impossible under most circumstances. We have, however, made positive strides *on the Federal level*, in investigating, arresting, indicting, and prosecuting many of these individuals, and thereby getting them off the streets.

The crime problem here is the result of an *extremely* complex landscape including:

- A returning population consisting of thousands of poor individuals with inadequate, unsafe housing; inadequate skills, education, and employment opportunities; and serious drug and related problems.
- Thousands of returning poor are “squatting” in large recently-flooded areas of the inner city, often in filthy, unlivable conditions, causing alarm even at NOPD HQ levels based upon observations by responding police officers that “at midnight responding to calls in these areas we will sometimes see hundreds of individuals sitting on the sidewalk, on doorsteps, or just walking around with nothing to do....”.

- Inadequate schools, and only a small number of charter or State-operated public schools that are operational post-Katrina, providing barely adequate education to serve the returning masses, thus feeding juvenile crime problems.
- A population of unaccompanied minors; up to 18% by some estimates.
- An estimated 20-25% of all school age children are *not* enrolled in or attending schools in New Orleans.
- Returning drug dealers and violent criminals have chosen to come back to New Orleans in order to attempt to exploit the highly dysfunctional local criminal justice system, including its notorious “revolving door”.
- A separate population of between 30,000 and 60,000 transient/migrant workers, many of whom are illegal in the area, contributing a clientele to a lively drug trade.

Further, despite a committed, competent, reform-minded police superintendent, with dedication to rebuild the police department, NOPD suffers a number of debilitating problems, including:

- A hemorrhaging of experienced, competent officers to other departments and agencies.
- A lack of adequate reporting/computer/database equipment for tracking of cases and intelligence.
- A shortage of adequate jail space (both adult and juvenile). and an equal shortage of qualified individuals to act as prison guards in both Orleans and Jefferson Parishes.
- Overcrowding in non-flooded sections of New Orleans and adjacent Jefferson Parish on the West Bank of the Mississippi River (Algiers) resulting in high-crime hot spots there.

In 2006, the U. S. Attorney’s Office charged a total of 358 individuals with drug, violent crime, firearm and significant immigration offenses.

- 196 individuals were indicted for Federal drug distribution felonies;

- 71 defendants were charged with violent crimes and firearms offenses;
- 91 defendants were charged with immigration felonies (many of whom were prior convicted aggravated felons);
- 267 individuals were charged with drug and/or violent firearm offenses in 2006.

In comparison with the previous year (2005), our office produced 32 more indictments, despite the fact that only half the population of pre-Katrina New Orleans had returned.

Additionally, having indicted 29 individuals with immigration felonies in calendar year 2005, our office more than tripled that number in calendar year 2006 with 91.

Further, caseload data extracted from our systems established that our violent crime prosecutions (including firearms charges) increased by a solid 32% in 2006 over 2005, producing a 98% conviction rate. Our similar data shows a 100% conviction rate in immigration offenses and a 10.3% increase in drug cases filed, with a 93.5% conviction rate.

Looking retrospectively, between the first of January 2006 and March 30, 2007, our office has indicted no less than 302 individuals on violent crimes and firearms related felonies. Moreover, during that same period we have indicted no less than 515 individuals on serious drug-related felonies as well. These statistics, of course, do not include the hundreds of other individuals charged on other offenses, ranging the entire Federal criminal spectrum, from white collar offenses, to child pornography and exploitation, to Katrina fraud and the like.

Moreover, thanks to the extraordinary competence and dedication of the fine men and women of Federal enforcement (including our own U. S. Attorney's Office as well as FBI, DEA, ATF, U. S. Marshals Service, ICE, Secret Service and others), our office produced literally hundreds of notable, significant cases against violent offenders, drug dealers and firearm-related

offenders in 2006. That very aggressive trend, which is the result of our concerted, unabated efforts to get more and more drug and violent crime cases charged in the Federal system continues into 2007 to this very date.

Statistics do not even begin to tell the positive story of Federal enforcement — or perhaps more importantly — our groundbreaking partnerships with our local brethren in our ever-changing, ever-increasing battle against crime in post-Katrina New Orleans.

To be sure, nowhere is the serious and unwavering commitment of the Federal government more evident than in the presence of the U. S. Attorney General.

Simply stated, since Hurricane Katrina occurred a little more than a year and a half ago, Attorney General Alberto Gonzales has personally visited the city on no less than six occasions. Moreover, in the days, weeks and even months immediately following Hurricane Katrina, I personally spoke with the Attorney General and staff members regarding our unique difficulties, challenges and solutions on a daily basis. That collaborative communication continues to this day, and continues to produce results.

As evidence of our commitment to work in an exemplary partnership with our State and local law enforcement agencies and our commitment to combat violent crime, in September, 2006, (following an August visit by Attorney General Gonzales to New Orleans in which he met face to face with local law enforcement leaders) the Department of Justice allocated additional Federal resources to New Orleans, including additional Federal agents to FBI, ATF, and the U. S. Marshal Service, as well as additional Assistant U. S. Attorneys.

At that time, our office received the benefit of the assignment of six additional prosecutors from various U. S. Attorney's Offices and Main Justice components around the

country, on six-month details to assist in our increasing Federal investigations and prosecutions. Those details were re-authorized by the Attorney General in January of 2007, and we will have the extended benefit of six additional detailees who have produced extraordinary results.

During the first six-month cycle, in addition to supporting our Assistant U. S. Attorneys in working on myriad other existing cases, our statistics show those six Special Assistant U. S. Attorneys opened 84 new matters, and indicted 48 additional defendants on serious felony charges, mostly related to violent crime, firearms offenses and immigration cases. Additionally, as the direct result of specific funding and authorization provided by the Attorney General in August, 2006, our U. S. Attorney's Office has hired an additional nine Assistant U. S. Attorneys to serve on our staff. All of these positions have been filled with most of the individuals having arrived and presently in service. These AUSAs are tasked with the investigation and prosecutions of similar violent crime, firearms and immigration offenses, as well as Katrina fraud-related offenses.

During that August visit, the Attorney General additionally announced the assigning of four additional ATF Special Agents to New Orleans to supplement the Violent Crime Impact Team (VCIT), in order to focus on reducing gun crime through Federal prosecutions and assistance to the New Orleans Police Department. These agents and existing task force officers were assigned the mission of identifying and pursuing recidivist offenders considered the "worst of the worst" and who reside and operate in certain high-crime areas.

The Attorney General also announced that ATF was re-launching its highly successful 24-hour ATF gun hotline which allows citizens to report illegal gun use and possession of firearms responses.

Pursuant to the Attorney General's support for the reestablishment of ATF Hotline, the New Orleans Field Division together with the U.S. Attorney's Office, has used an aggressive and successful advertising campaign to publicize the local hotline number, resulting in hundreds of tips, many of which have led to the arrests of violent offenders.

Swiftly putting these additional resources to work, a ramped-up effort to take increasing pressure off of the local district attorney's office, (which suffered some 3,000 Rule 701 releases of arrested defendants last year as a result of that office's not having brought charges within the prescribed 60-day period), and in an effort to charge more firearm and drug offenders — particularly in urban high crime or "hot spots" around the city, small teams of ATF, DEA, and FBI agents have partnered with members of NOPD. Our purpose is to make these Federal agents more readily available to local officers, to identify cases which are subject to Federal jurisdiction, to charge them whenever possible in the Federal system and to provide the necessary investigative assistance to make Federal arrests and follow-up with Federal prosecutions. Beginning in earnest during the first week of February, this new initiative has produced some 55 additional individuals arrested on Federal drug distribution and firearms charges, 42 of whom have been indicted. To date, all but two of these individuals remain detained in Federal custody as flight risks and/or dangerous to society, pending disposition of their charges.

The FBI's recently-launched violent crime intelligence initiative gathers information on violent criminals from partnering agencies (both State and Federal), develops and maintains "the most violent offenders" list, and routinely distributes that information to Federal, State and local law enforcement for action. Specifically referred to as the "New Orleans Joint Agency

Metropolitan Area Violent Crime Strategic Assessment,” this important and detailed intelligence product is the result of the FBI’s very aggressive and forward-leaning violent crime intelligence initiative. Providing a panoramic view of the violent crime landscape, it evaluates the totality of violent criminal activity from organized gangs to affiliated individuals. Furthermore, recognizing the continued violence associated with the return of neighborhood gangs, violent conflict over turf and drugs, and increasing violence crossing parish boundaries, this important intelligence product explores not only the identities and characteristics of the offenders but also the nexus between drug trafficking, violence and guns, which it identifies as focus for source identification and case resolution.

In addition to this FBI intelligence effort, DEA, ATF, and NOPD have recently initiated an intelligence effort aimed at violent crime reduction and titled the “Targeted Offenders Project,” with three primary objectives. The first goal is for all NOPD arrests for murder, armed robbery, and illegal possession of firearms since Hurricane Katrina to identify violent repeat offenders eligible for immediate Federal prosecutions for weapons violations. The second goal is to collect, analyze, and collate all documentary evidence seized from these suspects and their organizational associates, where appropriate. Finally, the project will identify emerging violent gangs, conspiracies, or organizations operating in the New Orleans Metropolitan Area for targeted enforcement action.

Additionally, DEA’s Divisional Intelligence Group (DIG) has sponsored Federal law enforcement analytical training in New Orleans for NOPD’s Criminal Intelligence Bureau (CIB). Prior to this process, the CIB officers had no formalized intelligence training. This DIG has

worked with CIB to determine needs, establish priorities and develop data bases to manage information gathered through field interview cards.

DIG is also working with Crimestoppers to develop actual intelligence on drug-related hotline complaints.

The Attorney General further announced the assignment of four additional individuals - three Deputy U.S. Marshals and one support person to supplement and support the highly-successful Crescent Star Fugitive Task Force, which partners the U. S. Marshals Service and New Orleans Police Department to locate and arrest violent felony fugitives across thirteen parishes in the Eastern District of Louisiana.

In addition to extending the assignment of the three Deputy U.S. Marshals to the Crescent Star Fugitive Task Force, the U.S. Marshal Service has doubled its efforts in conducting periodic fugitive roundups, and its Technical Operations Group (TOG) has provided assistance to and has prioritized cases from that task force, routinely providing Federal, State, and local agencies with support in electronic surveillance, aerial surveillance, communications, and analysis and intelligence related-fugitive investigations. The mission and accomplishments of the U. S. Marshals Service are a critical component of the Federal enforcement effort, particularly inasmuch as fugitives account for a large percentage of violent crime committed in any jurisdiction. This is particularly problematic in New Orleans and its environs which, by virtue of a re-surging population (in certain areas), and a significant, largely-anonymous population of migrant workers (many of them illegal aliens), the area potentially provides a possible safe haven for fugitives to blend among the itinerant work force. Since the Attorney General's New Orleans multi-component initiative was officially kicked-off in October, 2006, the USMS Crescent Star

Fugitive Task Force (previously referenced) has arrested no less than 253 violent fugitives on felony charges, including 11 individuals wanted for murder, and 20 listed on the New Orleans Police Department's top 20 most wanted list. Seventeen individuals have been arrested for armed robbery and 14 firearms have been seized. Stated simply, by taking these violent offenders off the streets of New Orleans, the USMS continues to contribute a great deal to addressing the crime emergency in New Orleans.

Additionally, the Crescent Star Fugitive Task Force has provided extensive training to State and local partner agencies to address the new challenges facing law enforcement in New Orleans in the post-Katrina environment, including entry techniques for mobile homes (such as FEMA trailers), "shotgun" houses, debris piles, abandoned buildings, and other structures, further supplemented by canine training, building entry, fugitive apprehension, and firearms training. This training has indeed provided an enhancement for State and local law enforcement decimated by the hurricane.

It is also worth noting that despite an increased burden on the USMS district operation in terms of prisoner population and productions, resulting from the increase in Federal prosecutions, the USMS continues to meet the challenges effectively.

The Attorney General announced additional resources to rebuild communities and to provide for the public safety of our citizens including:

- providing for the partnership and funding to assist in the establishment of a police athletic league as a result of grants from the Justice Department's Bureau of Justice Assistance and Office of Juvenile Justice and Delinquency Prevention.
- providing additional funds to help establish Safe Havens for children in three New Orleans Weed & Seed sites.

- re-establishing Boys and Girls Clubs of America destroyed by Hurricane Katrina with funding provided through the Bureau of Justice Assistance and Office of Juvenile Justice and Delinquency Prevention.

During the last week of January, Attorney General Gonzalez returned to New Orleans and announced yet additional Federal resources to help combat the recent increase in violent crime in the city, citing the efficiency, power, and effectiveness of Federal law enforcement in getting and keeping violent offenders off our streets without permitting them to return to terrorize our citizens. These additional resources will continue to support State and local law enforcement officials who are struggling to meet the challenges of fighting violent crime here in the city.

First, the Attorney General, as I previously indicated, authorized the extension of funding for six Federal prosecutors detailed as Special Assistant U.S. Attorneys to our office through the end of this fiscal year.

Second, ATF was authorized to provide six special agent details (an increase of two from the original four details dispatched in August) to supplement the six ATF special agents permanently assigned to the New Orleans VCIT, temporarily doubling the standard ATF manpower assigned. Additionally, ATF has obtained critical new equipment to replace the National Integrated Ballistics Identification Network (NIBIN) equipment that had been deployed at a New Orleans Police Department site but was destroyed by Katrina flood waters. That NIBIN equipment will shortly be placed into service to support the New Orleans Police Department as soon as NOPD moves into its new crime lab facility which is presently being prepared. Once the NIBIN equipment is redeployed to the full-service NOPD Crime Lab (which is being readied as a result of extraordinary collaborative efforts, including Department of Justice funding) NOPD will be able to link with over 200 sites throughout the country to compare ballistics information in

helping to solve and reduce violent crime by linking together cold crimes and recovery weapons where previously very few, if any leads existed.

Third, nine additional FBI agents were assigned to the New Orleans area to supplement the thirteen FBI agents previously assigned to its Violent Gang Safe Streets Task Force. The FBI staff support training to the New Orleans Police Department on Project Pinpoint, an innovative technique allowing FBI and law enforcement partners to map location of crimes, bench warrant information, tips from the public, and source coverage, in order to connect dots and utilize intelligence efficiently.

Additionally, highly qualified FBI special agents from around the United States have been specifically recruited to work in the field side-by-side with NOPD to assist in the investigation of current homicides and "cold" cases and to determine the existence of any Federal elements that would permit a Federal homicide charge. Such cases might include those that our office has had great success in handling in the past, including homicides related to carjackings, murder-for-hire, plots and drug-related murders.

The additional personnel assigned to the U.S. Marshal Service Crescent Star Fugitive Task Force were further extended.

Special agents of the DEA were temporarily provided with authority to investigate and enforce all Federal criminal laws, in addition to Federal drug laws, effectively allowing DEA agents to assist New Orleans Police Department in maintaining law and order in the City of New Orleans on a broader scale than ever before.

DEA Special Agents were among the first in the field to implement this newly-formulated initiative even before its announcement on January 21, 2007 by immediately embedding 17

locally assigned DEA Special Agents with specialized NOPD units. Seven Special Agents were assigned to the Crime Abatement Team (CAT) which focuses its efforts on reducing violence in crime “hot spots.” Seven additional DEA Special Agents were embedded with units of the NOPD’s Special Operations Division which performs not only SWAT functions, but also responds to high risk situations. Three Special Agents were additionally assigned to NOPD’s Major Narcotics Unit, in order to ameliorate a recent NOPD personnel turnover.

DEA’s partnership with NOPD to address the rising violence situation in one of the city’s “hottest” area known as Central City, located within the Sixth District, led DEA to commit a HIDTA Task Force group consisting of four Special Agents, along with ten NOPD detectives to focus on violent drug traffickers operating in this area.

Today, DEA Special Agents and Task Force officers are on the scene and have participated in the arrest of at least forty defendants on Federal drug and weapons charges with law enforcement partners, and have assisted NOPD in the arrest of over 400 for State and local violations.

Also in January, as a result of the commitment of the Attorney General, the Department of Justice provided funding for our United States Attorney’s Office to recruit, identify, and hire two highly-competent professionals to augment an already well-established, highly-efficient victim witness team in order to provide for protection, relocation, counseling, and other assistance to victims and witnesses of crime, both in the United States Attorney’s Office, and in local prosecutors’ offices such as the New Orleans District Attorney’s Office. That process is currently underway.

The Attorney General announced that the Department of Justice is committing up to \$3 million in Federal funds to address domestic violence and sexual assault in the City of New Orleans and surrounding parishes. The Acting Director of the Department's Office on Violence Against Women (OVW) has spearheaded an effort to build a broad community partnership to determine the best way to address the needs of victims in New Orleans. In particular, this community partnership is exploring using the funding to create a family justice center, based upon a successful model established in San Diego and other cities across the United States.

The Attorney General also focused on the extraordinary efforts by the U. S. Department of Justice to rebuild the local greater New Orleans criminal justice system in its entirety.

Following an initial meeting in Baton Rouge, Louisiana, in November, 2005, this USAO took the lead in constructing, guiding, and participating in what we have called the Southeast Louisiana Criminal Justice Recovery Task Force. That Task Force was constructed based upon my personal request to Louisiana Supreme Court Justice Kitty Kimball to chair four working groups which we built and which are active and productive to this day: the Judicial (courts) working group, chaired by Justice Kimball; the District Attorney working group, chaired by Louisiana District Attorney's Association Director Pete Adams; the Law Enforcement/Police Recovery working group, chaired by New Orleans businessman and Police Foundation founder John Casbon; and the Corrections Systems working group, chaired by Louisiana Secretary of Corrections Richard Stalder. That Recovery Task Force, as a result of great leadership on the part of the working group chairs (and especially Justice Kimball, who has emerged as its defacto overall Chair), as well as our own efforts, and those of DOJ (and in particular BJA), thrives to

this day, and remains one of the few forums in which the various State and local justice/judicial agencies communicate directly with each other on sensitive issues affecting the entire system.

As the direct result of our construction of this task force, we brought in BJA which, in May, 2006, signed grants distributing over \$58 million to Louisiana law enforcement agencies, some \$30 million of which went directly to needy agencies (e.g. NOPD and Jefferson Parish Sheriff's Office) in the greater New Orleans area.

Despite a slow recovery due to sometimes endemic dysfunctionality in local city (New Orleans) government, our Criminal Justice Recovery Task Force has, through sheer will, periodic meetings, and leadership of the working groups, produced some improvements to the criminal justice system since its organization, and in particularly the last few months.

New Orleans Police Department Solutions and Innovations Include:

- NOPD has achieved a necessary, money-saving, and significant reduction in the costly and wasteful issuance of thousands of unnecessary subpoenas in pending criminal matters by providing a centralized location for the receipt of subpoenas for all officers.
- NOPD officers continue to receive much-needed training (previously supplied by our USAO, together with our Federal investigative partners) on more efficient report writing to reduce the number of officers needed to appear for judicial proceedings, thus freeing more officers for enforcement missions.
- Improvements have been made in handling and transporting of evidence from the flooded-Clerk's Office (where much evidence was lost, damaged, and disordered).
- The U. S. Department of Justice is allocating resources which will help secure the employment of critically-needed crime lab technicians to support NOPD. The Department has, since Katrina, operated without its own crime lab having been forced to access, where possible, the crime labs of surrounding jurisdictions. NOPD's recovery is in large measure dependant upon obtaining its own crime lab space and personnel. To that end, through our own personal efforts, the Department of Justice has helped, along with Gulf Coast Recovery Chairman Donald Powell's office, the New Orleans Police and Justice Foundation, and

FEMA, to secure a contract between the city and the University of New Orleans Foundation, which, through an initial three-year lease, will provide NOPD with its own state-of-the-art crime lab in the near future. In fact, elements of NOPD forensic units are presently moving equipment and materials into the facility.

- Finally, as a result of extraordinary coordination efforts by our office and our partners within the Louisiana State Police, Jefferson Parish Sheriff's Office, as well as Plaquemines and St. Bernard Parish Sheriffs' Office, NOPD and those partners now have interoperable field communications systems.

Criminal District Court Clerk's Office

- Necessary evidence for criminal cases has been much more effectively and efficiently cleaned and restored.
- The previously cumbersome and almost impossible process for accessing and viewing evidence by prosecutors has been revamped, allowing prosecutors to get earlier and better access to evidence stored by and in the Clerk's Office.
- Plans for better, more accessible and safer storage of evidence are being implemented. For instance, at a recent Southeast Louisiana Criminal Justice Recovery Task Force meeting, we successfully fostered a dialogue in which the decision was made to utilize above ground storage for evidence (which heretofore still had been maintained at ground level and subject to flooding) for criminal district court evidence.
- Improved inventory control methods for storing and retrieving evidence have been implemented.
- Some necessary positions in the Clerk's Office have been restored.

New Orleans District Attorney

- As a result of efforts through BJA and the State of Louisiana, increased pay has been provided for the hiring and retention of competent assistant district attorneys.
- As a result of a specific plan and funding of \$3 million from BJA, a former Federal prosecutor and cadre of experienced prosecutors have been hired with Federal monies to improve and speed up screening of previously-arrested cases.
- As a result of the same BJA funding and planning by the Department of Justice and Task Force members, plans are underway with Federal funding to build a

small career criminal bureau of experienced State prosecutors to handle difficult and demanding cases and train other prosecutors.

- As the direct result of Federal government intervention, approximately three weeks ago the District Attorney's Office announced the implementation of operational reforms in order to increase efficiency. Specifically, in a multi-part plan, the DA, together with and supported by the Police Chief, announced the commitment by the District Attorney to reduce Rule 701 pre-charge releases by permitting his prosecutors to file bills of information against drug offenders based upon positive field tests. The field test training and over 2,400 of the actual presumptive field tests kits have been supplied by DEA to NOPD as a direct result of this important resolution in order to make possible the utilization of this valuable investigative and prosecution tool. Additionally, a previously-formalized and dysfunctional communication dynamic between the District Attorney's Office and the New Orleans Police Department will be changed, and replaced with a regular case screening/tracking, prioritization and review process, which (if actually implemented) should additionally contribute measurably to reducing pre-charge releases.

Criminal Courts

- The Criminal District Court's building has been largely restored, allowing judicial proceedings and trials to be held in the main building.
- Plans are underway for improvement to the existing computer system for case tracking and management.
- Many necessary court employee positions have been restored.
- Notwithstanding severe limitations, some juvenile detention space for housing of juveniles (presently twenty beds) has been achieved with efforts to increase juvenile justice underway.

Indigent Defense (Public Defenders)

- Currently underway are plans to completely re-vamp the inefficient indigent (public) defense system.
- An attempt to improve communication with the other elements of criminal justice system is underway.

Corrections/Prisons

- After a long absence of any juvenile detention facilities, twenty juvenile beds are now available, with plans to obtain more before June.
- Acceleration to renovations to the prison system and the courthouse are the direct result of communications with the city and the local Director of Homeland Security, thus helping to increase the city's efficiency in moving along federally-funded renovation contracts.

Immediately following the deployment of 300 National Guard Troops and 60 Louisiana State Police Troopers to New Orleans (to augment and support NOPD's efforts) in June, 2006, I called together the heads of all Federal agencies, as well as NOPD Superintendent, State Police Superintendent, and National Guard Adjutant General and Field Commander, in order to reestablish the Joint Operation Command (JOC - which we successfully utilized as an operational control mechanism in New Orleans post-Katrina), which continues effectively operating to this date, meeting bi-weekly. As a result of bi-weekly face-to-face meetings, agencies operating in support of NOPD throughout the City of New Orleans and its environs, provide briefings, share intelligence, and deconflict investigations, in order to ensure efficient, non-conflicting operations of all law enforcement entities operating in the area.

In December 2006, Governor Blanco announced the decision to allow deployed National Guard Troops and State Police Troopers to remain (at present strength) in New Orleans through June, 2007 - a reversal of a recent decision to pull those out on January 1, 2007.

The U. S. Attorney-led Public Safety Housing Initiative (PHSI), initially started and funded by \$600,000 in discretionary funds which came through our USAO last year has been successful in yielding numerous State/local arrests in the high crime area on the West Bank of

New Orleans where Orleans Parish (Algiers) meets Jefferson Parish (including Gretna, Westwego and Marrero). Although Federal funding has run out and we are actively attempting to obtain additional funding, it is important to note that cooperative efforts have yielded (between May, 2006 and the end of November, 2006), the following:

- The extraordinary work of that Public Housing Safety Initiative Task Force — comprised of cross-deputized members of the New Orleans Police Department, Jefferson Parish Sheriff's Office, Gretna Police Department, and Plaquemines Parish Sheriff's Office — continues to produce results. For instance, from the time of its inception, on May 10, 2006, through March 1, 2007, 832 arrests were made, within a total of 264 separate cases. 264 of those were drug related; 273 were felonies; 148 were misdemeanors.
- Seized drugs include: crack cocaine (638 grams), heroin (46 grams), and cocaine (289 grams), as well as other drugs such as marijuana, MDMA, methamphetamine, and other controlled substances.
- Importantly, an analysis of the criminal histories of the 829 suspects which were stopped by task force members between May of 2006 and July 2006, reveal that 79 percent had previous felony arrests, with 28 of those subjects having previously been arrested for murder, some on multiple occasions. Additionally, 42 firearms were seized, 17 of which were in the possession of convicted felons. 10 juveniles were arrested with firearms, with 26 individuals arrested who were probation and/or parole violators.
- Finally, although the \$400,000 portion of the \$600,000 originally allocated to the PHSI Task Force has been exhausted (with \$200,000 reserved for prevention), the task force continues to operate, with the 2007 PSN Grant Selection Committee having just recommended that all 2007 Anti-Gang Initiative Grant Funds go toward this already well-established task force.
- The PHSI Task Force is not limited to enforcement, however. Two community programs which focus on at-risk youths has been, in part, a product of the funding of this grant. Leveraged with funding from non-profit organizations and donations, to youth programs, Future Leap Assessment Test Takers (FLATT), and the Gulf South Summer Youth Action Corp programs were funded and supported as well.

NOPD has agreed to accept technology and assistance from the Jefferson Parish Sheriff's Office which would provide a usable defendant and case-tracking database. Elements of that system are already being installed and utilized.

Broad coordination of multi-agency and private summer and after-school activities for at risk youth is currently underway. Spearheaded by Gina Warner (of the Greater New Orleans After School Program) and Father William Maestri (of the Catholic Archdiocese of New Orleans), we are actively engaged in identifying youth program needs and coordinating, deconflicting, building, and seeking funding for programs provided by numerous public, private and faith-based entities, in order to provide for maximum coverage for thousands of children in the city and its environs this summer.

In conclusion, let me say that despite our somewhat necessary reliance on statistics in measuring crime and our efforts against it, we will never reach a point at which we believe **any** homicides or violent crime — however reduced — are at an acceptable number for our city or our region.

In the near term, we must and will continue to bring any and all available resources to bear to federally-charge as many violent and potentially violent offenders, including drug dealers, as possible, and therefore get them into the efficiently-functioning Federal system where they can be detained, swiftly indicted, prosecuted, imprisoned and separated from society, while establishing a deterrent as well.

Because the vast majority of crimes being committed on the streets of New Orleans do not fall within Federal jurisdiction, it is absolutely imperative that all entities which comprise the constituent parts of the State and local criminal justice systems operate at maximum efficiency.

Stated simply, those competent, dedicated and committed public officials, elected and appointed, who serve our citizens, whether members of the judiciary, law enforcement, corrections, legal defense or other offices, must be provided with the funds, material, personnel, strategies, tactics and solutions to overcome the myriad complex challenges they face in order to operate at maximum efficiency.

Additionally, we must build not only the finest educational system for our youth and especially our poor who cannot afford parochial and private education but we must also provide them with safety and security, to permit them to avail themselves of job opportunities here and elsewhere. Those job opportunities must come through our continued zero-tolerance for corruption in all levels of government, whether law enforcement, the judiciary, legislative or executive branches. We must reverse the debilitating exodus of our bright young minds, our corporations and our businesses. We must rebuild and diversify an economy which has increasingly and for far too long defaulted to depending upon tourism, which although always a mainstay here, is nevertheless fragile and cannot alone sustain the entire economy. We must rebuild the Port of New Orleans and reestablish it as the largest port in the United States in terms of gross tonnage. We must, through establishment of public safety and building of first-rate public education, attract and hold onto diverse forms of industry including manufacturing, petrochemical and transportation. However, at the end of the day, we can only achieve these things if we first establish a safe environment for our people.

As I have said before on numerous occasions, the myriad and often daunting challenges facing New Orleans and the region in the wake of Katrina cannot be ignored, neglected, excused or written off as inescapable post-Katrina phenomena. Indeed, most of these challenges pre-existed Katrina by years, and were simply accelerated to critical mass by shifts, changes, and challenges in that tragic storm. In fairness, those challenges are exponentially worse now due to our damaged economy, population, and infrastructure.

However, the fact that the City of New Orleans does truly face unprecedented challenges, obstacles and outright struggles across the social, economic, and governmental spectrum, does not mean that the city is facing its own apocalypse. It is not. Nor can the advances that we are making in many areas be seen as a signal that all is well. In truth and in fact, we are in the midst of neither collapse nor redemption. We are embroiled in a long-term struggle in which a severely-challenged city now must be rebuilt from the pilings up. For one of the nation's and even the world's greatest cities, failure is simply not an option. We must and will continue to fight, for only then with true commitment, integrity, vision and patience will we prevail.

I am proud and honored to be a part of what I believe to be a team of extraordinary people who demonstrate each day that we are and will remain equal to the task and the mission with which we have been entrusted.

I welcome any questions the Members of the Subcommittee may have.

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Mr. SCOTT. Mr. Bernazzani.

TESTIMONY OF JAMES BERNAZZANI, SPECIAL AGENT IN CHARGE, NEW ORLEANS—FBI DIVISION

Mr. BERNAZZANI. Good afternoon. Welcome to New Orleans. Katrina did not create the current landscape facing New Orleans. Katrina changed it. Notwithstanding the vast majority of law-abiding citizens in this city, New Orleans was a violent city before the storm, and it's a violent city after the storm. Based upon a generation of aspects of failures and dysfunction of State institutions, a segment of society has been created which is disenfranchised. They have no opportunity. They are products of an educational system that didn't educate. They are products of a State judicial system that failed to mete out consequences for criminal activity. They are products of levels of corruption that drove business away from this area, thus denying the youth meaningful jobs and the city a tax stream for programs. And when you add crack cocaine and the AK-47, you have got New Orleans today.

Notwithstanding the challenges facing State and local law enforcement and the judiciary, Federal Government has stepped up to help, to support. It's important to understand that this is not the federalization of New Orleans. NOPD is the lead law enforcement department for public safety in the area.

The FBI with our law enforcement partners are stepping up to try to build confidence in the community, to cooperate, to have witnesses come forward. And what we are trying to do where we can is find the Federal hook. And where we have agreement between NOPD, FBI, DEA, ATF, and Marshals Service, we will bring these individuals to a very aggressive United States Attorney's Office, who understand the rules of law and understand what quality of life means. And there is no revolving door.

And we are beginning to build traction. We have a very strong outreach program with the community with NOPD and FBI. I've given you some of these cards that we'll be passing out. It instructs people how to report information anonymously. Prior to this effort, the FBI received a tip relative to public safety once every 2 weeks. Now we're getting a half-a-dozen a day, and we're moving forward.

I brought in nine homicide investigators from around the country to work in support of the NOPD homicide, to help plug holes in those cases; and, again, when we find the Federal hook, we'll bring them to the Federal system, a plus to agents in the eight districts supporting NOPD, again performing nontraditional roles, working, riding along with NOPD. And, again, where we can find that Federal hook, we'll bring them down to the United States Attorney's Office. And this effort will continue.

We have also set up a Multi-agency Violent Crime Intelligence Center, where we integrate the disparate pieces of intelligence designed to tell us what's going on, who's in town, what they're doing; and by extension who's out of town, and intent on returning, and what they're going to do. It is very interesting what we see relative to what Katrina did in changing the threat landscape, which allows us to understand and move our finite resources, whether it be FBI, DEA, ATF, NOPD, and the like. And this will continue.

So the fundamental efforts of the FBI in violent crime is that (1) from an operational operative—homicides and day-to-day street work; (2) from an intelligence optic—building that mosaic, understanding the threat landscape that will drive operations, identifying the baddest of the bad and going after those individuals and getting them off the streets, and hopefully getting them in the Federal system. And the third thing is outreach. No matter what we do here—we can make arrests until the cows come home; but if there's 15 kids in line willing to take that kid's place, who we've taken off the streets, then we're going to be having the same conversation 5 years from now.

I've passed out cards to build what's known as the strategic peace. Everybody focuses on the tactical peace, law enforcement; whether it's the arrests, prosecution, conviction, or incarceration. That's all fine and good. We can lop the head off of this monster. But we need to get to those individuals 8-, 9-, 10-, 11-, 12-year-old kids, who may be involved in nonviolent criminal activity, breaking and entering, stealing a car. We need to get to those individuals and provide some sort of mentoring, some sort of opportunity so they won't graduate to the 17-year-old shooter. And that's what we're interested in. Thank you very much.

Mr. SCOTT. Thank you.

Mr. Harper.

**TESTIMONY OF DAVID HARPER, SPECIAL AGENT IN CHARGE,
NEW ORLEANS—ATF FIELD DIVISION**

Mr. HARPER. Thank you, Chairman Scott, Congressman Forbes, Congressman Gohmert, and Members of the House Subcommittee. We appreciate the opportunity to appear before you today and share some of the good work and contributions being made by the men and women of the Bureau of Alcohol, Tobacco, Firearms and Explosives.

As you're aware, violent crime in New Orleans was an increasing concern well before Hurricane Katrina. Just months before the storm, the Department of Justice and ATF established a Violent Crime Impact Team, or VCIT, in New Orleans. Since August of 2006, the Department of Justice has funded detailed assignment of between four and six additional ATF special agents to the New Orleans area.

We believe that ATF's contribution to the long-term solution must necessarily include focusing our resources on that relatively small group of violent recidivists that commit a disproportionate amount of violent crime. We've begun targeting that group using a four-point approach.

First: Establishing an ATF/NOPD team to identify and target the most violent repeat offenders who have benefited the most from a disrupted local criminal justice system. To date, 71 individuals have been identified and investigations are under way.

Second: Preventing the diversion of firearms from the legitimate retail commerce into the crime gun market through investigation of thefts from Federal firearms licensees and illegal firearms trafficking.

Third: Reestablishing the National Integrated Ballistic Information Network, the NIBIN System, and the New Orleans Police De-

partment crime lab and dedicating four special agents to investigate cold case serial homicides and assaults that are linked together through the use of that technology.

Fourth: Actively adopting firearms cases from our Federal, State, and local enforcement partners for Federal prosecution wherever appropriate.

Since the ATF VCIT was augmented by the Justice Department in August of 2006, cases against 108 defendants have been forwarded to Mr. Letten's office for Federal prosecution by the combined efforts of the New Orleans Field Division.

Gentlemen, I appreciate the opportunity to testify today and to share our progress with you; but we're well aware that there's—there's much work left to do. In closing, I'd like to specifically acknowledge the good work being done by Chief Riley and the men and women of the New Orleans Police Department despite the enormous challenges that they face. And I also look forward to answering your questions. Thank you.

Mr. SCOTT. Thank you.

[The prepared statement of Mr. Harper follows:]

U. S. DEPARTMENT OF JUSTICE

STATEMENT

OF

DAVID HARPER
SPECIAL AGENT IN CHARGE
NEW ORLEANS FIELD DIVISION

BEFORE THE

SUBCOMMITTEE ON CRIME
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

"THE CRIMINAL JUSTICE SYSTEM IN NEW ORLEANS
FOLLOWING HURRICANE KATRINA"
PRESENTED ON
APRIL 10, 2007

**STATEMENT
OF
DAVID HARPER
SPECIAL AGENT IN CHARGE
NEW ORLEANS FIELD DIVISION
BEFORE THE
SUBCOMMITTEE ON CRIME
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UNITED STATES HOUSE OF REPRESENTATIVES
CONCERNING**

**“The Criminal Justice System in New Orleans
Following Hurricane Katrina”
April 10, 2007**

Chairman Bobby Scott, Congressman Forbes, Congressman Golmert and members of the House Subcommittee, my name is David Harper, Special Agent in Charge for the Bureau of Alcohol, Tobacco, Firearms and Explosives, New Orleans Field Division. I want to thank you for the opportunity to appear before you to discuss the significant contributions of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) relating to the impact of Hurricane Katrina on the criminal justice system in New Orleans.

Violent crime in New Orleans was an increasing concern even before Hurricane Katrina. Just months before the storm, the Department of Justice and ATF established a Violent Crime Impact Team or VCIT in New Orleans. Since August of 2006, the Department of Justice has funded the detail assignments of four (4) to six (6) additional special agents to New Orleans.

We believe that ATF's contribution to a long term solution must necessarily include focusing our resources on that relatively small group of violent recidivists that commit a disproportionate amount of the violent crime. We have begun targeting that group using a four point approach.

First: Establishing an ATF/NOPD team to identify and target the most violent repeat offenders who have most benefited from a disrupted local criminal justice system. To date, 71 individuals have been identified and investigations are underway.

Second: Preventing the diversion of firearms from legitimate retail commerce into the crime gun market through aggressive investigation of thefts from Federal firearms licensees and illegal firearms trafficking.

Third: Re-establishing the National Integrated Ballistic Information Network (NIBIN) System at the new NOPD Crime Lab and dedicating four (4) special agents to investigate cold case serial homicides and assaults linked through that technology.

Fourth: Actively adopting firearms cases from Federal, State and local law enforcement agencies for Federal prosecution whenever appropriate.

Since the ATF VCIT was augmented by the Justice Department in August 2006, cases against 108 defendants have been forwarded to Mr. Letten's office for Federal prosecution.

Gentlemen, I appreciate the opportunity to testify today and share with you our progress in making our Nation's communities safer, but we know there is much more to do. We are determined to succeed in our mission of reducing violent crime, preventing terrorism, and protecting the public. In closing, I would like to specifically acknowledge the good work being done by the Chief Riley and the men and women of the New Orleans Police Department despite the enormous challenges we face. I look forward to responding to any questions you may have.

Mr. SCOTT. Mr. Renton.

**TESTIMONY OF WILLIAM JAMES RENTON, JR., SPECIAL AGENT
IN CHARGE, NEW ORLEANS—DEA FIELD DIVISION**

Mr. RENTON. Thank you, Chairman Scott, Mr. Forbes, and Mr. Gohmert. It's a pleasure to be here before you and the Members of the Committee and to have an opportunity to verbalize what the DEA's contribution has been to the post-Katrina recovery of the city of New Orleans.

Immediately after the storm, DEA Special Agents began—our entire office, 56 officers, became involved in NOPD, our partners of longstanding, in helping to patrol the city's streets of New Orleans and maintain law and order.

Since November or December 19—of 2005, after the NOPD was reconstituted somewhat, we assumed our more traditional roles. However we focused continually on the city and the violent drug traffickers that were affecting availability as well as the quality of life in the city.

In January, we started a new program, which, at the request of the Attorney General, we were provided with additional authority to enforce all the laws of—Federal laws in the city of New Orleans and the metropolitan area. As you know, DEA is a single-mission agency, that's only entitled to—authorized to enforce title 21 of the United States Code, which specifically refers to drug trafficking. DEA was one of the first agencies to implement the new program that we started on January 31 of this year. We embedded with New Orleans Police Department several of our special agents in the CAT Team, which is the Crime Abatement Team, which is a new strategy that Chief Riley initiated to try to reduce violent crimes in hot spots.

We also embedded Federal officers with the New Orleans Police Department's Special Operation Division, or SWAT team, to handle the most violent areas and hot spots in the city that—where crime was—was breeding. We also additionally sent people, three people, DEA special agents, to participate with major narcotics for the city of New Orleans, working in areas to try and quickly take drug dealers off the streets where they were selling drugs in the open market.

Also DEA assisted the Sixth Police District in New Orleans, Central City, which is historically the most violent crime-ridden district in the city. We sent four Special Agents and ten Task Force Officers to that area to try and help remediate some of the crime situations. We've had a number of successes, and DEA agents have been on the scene or participated in effecting arrests of individuals, forty of the Federal arrests that have been made to date and prosecuted in Federal court.

Also, we provided training to the New Orleans Police Department. Immediately after the storm, Chief Riley asked if we could provide leadership training, which we did, to every Sergeant/Lieutenant in the New Orleans Police Department. We did this in three separate sessions, with over 100 officers at each session. We brought in mental health professionals, law enforcement professionals, and assisted the NOPD with leadership training under the division that Chief Riley had.

Later we had been involved in some intelligence initiatives, whereby we trained some NOPD officers as well as other law enforcement officers in the area of intelligence techniques. And we've entered into a partnership with the New Orleans Police and ATF to review all homicide arrests since the storm, as well as any arrests where a defendant was arrested with a weapon and/or drugs, to try and see if there's a Federal statute which can be prosecuted in court.

Ladies and gentlemen, I appreciate your attention, and I'd like to thank you for coming down here and looking at what the Federal Government's response has been to crime. We have certainly responded to the situation. Like Mr. Letten, as a local native who grew up in the suburbs of this great city, I was shocked to see the effects of Hurricane Katrina. I was pleased, very pleased, to be able to help in the response. DEA is fully committed to the effort here and will continue to be so in the near future.

Mr. SCOTT. Thank you.

Mr. Thibodeaux.

**TESTIMONY OF JACQUES THIBODEAUX, ACTING CHIEF
DEPUTY, U.S. MARSHAL, EASTERN DISTRICT OF LOUISIANA**

Mr. THIBODEAUX. Chairman Scott, Members of the Subcommittee on Crime. First, as a resident born and raised here in Louisiana, I'd like to take the opportunity to personally thank you for the efforts as—as we progress in the future. The——

Mr. SCOTT. Is your mike on? There's a little green light.

Mr. THIBODEAUX. The U.S. Marshals Service Crescent Star Fugitive Task Force was created in May 1999. Since that date, our task force has cleared over 3500 local, State, and Federal warrants between its inception and the day Katrina hit.

In the days immediately after Katrina, the U.S. Marshals responded by sending Deputy Marshals to the disaster zone, with the primary goal of assisting local and State law enforcement. The key partnership was with Louisiana Probation and Parole, which resulted in the location of more than 2,000 State probation and parole fugitives whose whereabouts were unknown in the immediate aftermath of Katrina. Many of these offenders were the regions worst sexual predators.

Although our task force was, in effect, shut down for 4 months, as local and State officers returned to their departments to conduct essential local and State law enforcement, the recovery continued. Our first step started with two of our core missions, judicial security and fugitive apprehension. The first partnership was a product of our judicial security mission. As we returned over 300 Federal prisoners back to five local contract jails, bringing much needed Federal funds to devastated local law enforcement. In the words of one sheriff, "We need every cent we can get right now. Our department lost everything."

The task force also reestablished fugitive investigation with the partnership between the New Orleans Police Department and the U.S. Marshal Service National Crime Information Center divisions. The U.S. Marshals Service conducted initial verification of NOPD warrants in the aftermath of Katrina. The NOPD NCIC Division also co-located in our task force work space for 13 months after the

storm and had some Federal local cooperation in the verification of fugitive warrants.

As we continued to recover, our next partnership began in October of 2006 with the establishment of the U.S. Attorney General's anti-crime initiative in New Orleans. We have four additional DUI U.S. Marshals Service personnel to supplement our task force, bringing our total task force number to eight full-time criminal investigators. Our task force is actively targeting fugitives in all 13 parishes in Eastern Louisiana and tracking them as they cross parish, State, and national boundaries.

In prioritizing cases for apprehension, specialized support has been provided by the Marshals Service Technical Operations Group, Financial Surveillance Unit, Criminal Information Branch, Internal Investigation Branch, and more important the Sexual Offenders Investigation Branch, as well as all resources from a national network of U.S. Marshals Service regional- and district-based task forces. These units have assisted in the apprehension of numerous high-profile fugitives.

As a result of these initiatives, the Marshals Service strengthened its relationship with all law enforcement in the region, locating some of their most wanted fugitives, including 20 of the NOPD's most top-wanted fugitives and two fugitive cases that were profiled on America's Most Wanted television program. Since the inception of the Attorney General's Initiative, we have made 253 physical arrests and cleared a total of 316 warrants. Eleven of these were wanted for murder, 17 for armed robbery, 11 for rape, 10 for escape, and 32 sexual offenses. The U.S. Marshals Service is committed to the recovery of this area. As we are closing in on our task force's 5,000th arrest, and we continue to protect the judicial system, the large influx of Federal arrests, our message is clear: We are in this effort for the duration. I look forward to answering your questions. And thank you again for your efforts here in Louisiana.

Mr. SCOTT. Thank you very much. Let me ask a few questions.

Mr. Harper, you mentioned that you had identified 71 individuals who are committing a disproportionate number of crimes, and you focused on them. Can you say a little bit about what the focus was, and tell us how it made a difference?

Mr. HARPER. It's a—relatively new program we are currently focusing on. We have accomplished the first goal as identifying these people because we were obviously aware that there were a number of people who had been through the revolving door and had not been incarcerated; so, we've identified those individuals. We're looking at the cases where they have been arrested to see where we may be able to use what they've already done to conduct historical investigations, conspiracy investigations. Or if that's not the case, we may just target those folks as repeat offenders and—for proactive investigation. And we're expecting our first few indictments in the very near future.

Mr. SCOTT. You identified them. They knew they were identified?

Mr. HARPER. No, sir. This is a joint project with the New Orleans Police Department, and their—original identification of some of these individuals was through data-mining of the existing system that the Police Department had.

Mr. SCOTT. Mr. Letten, you mentioned the Gang Safe Streets Task Force and Weed and Seed model. Can you elaborate on that?

Mr. LETTEN. Yes, sir. The Safe Streets Task Force is, actually, an important component of what we know as Weed and Seed.

The Weed and Seed model is something that actually has been in effect for a long time. We've continued it.

We're actually rebuilding our three Weed and Seed sites and trying to expand Weed-and-Seed-like coverage throughout the city post-Katrina. The Weed and Seed—the two components of Weed and Seed are the weeding, which of course is the law enforcement, increased law enforcement/presence/activity, arrests and prosecutions in those high-crime areas that are designated as Weed and Seed and recognized as funded Weed and Seed areas. To that end, we've gotten very good funding from the Department of Justice CCDO, and we've applied that to our Weed and Seed sites.

The seeding portion, of course, transcends that. The seeding portion is the building of safe havens for our children and actually social services and activities for our children and residents in those areas to actually give them alternatives to crime.

Mr. SCOTT. And what kind of Federal resources are going into the seeding part?

Mr. LETTEN. Actually we are waiting right now. The Department of Justice is presently getting ready to provide for us funding for our Weed and Seed packages. Haven't seen that 2007 funding yet, but we expect the commitment from this Attorney General and from CCDO, the Community Capacity Development Office, has been absolutely tremendous. And, so, we are—we're anticipating from Mr. Greenhouse, and certainly from the—from the department, that funding shortly.

Mr. SCOTT. The District Attorney mentioned Witness Protection as an important issue. Do you have the same problem, and what are we doing about it?

Mr. LETTEN. Actually, there's two—that's an interesting concept because that's really what most local prosecutors refer to generically as witness protection is what's really more like victim witness services. When we think of witness protection, we think of the U.S. Marshals Service, a very, very effective witness protection program where individuals who testify against let's say organizations, et cetera, who are at high risk and who fit into these categories, which are very few, are relocated and given new identities and things like that.

Usually with individuals in urban situations, who are witnesses to murders and such, simply having fundamental victim witness services; that is, professionals who understand victims' rights, understand their needs, who know how to apply the funding—which doesn't need to be a whole lot—to those needs, knowing how to relocate those individuals and give them faith in the system, advise them of the proceedings and have those people safe and ready to testify; and then give them whatever short-term relocation or even local relocation they may need thereafter. That is what local prosecutors need, and that's the bulk of what we use. We've got Donna Duplantier and Lisa Stewart are two of the best victim witness professionals that I can ever imagine. They've been extremely effective in our office in bringing to the table the resources that we

have, which are more than adequate in the Department of Justice, to help with our victims. We—the Attorney General, though, has seen the need for help on the local side, and has actually allowed us—which I'm grateful for—to hire, which we're doing right now, two specialists that are primarily going to be used to help do those same things to or for local victims, particularly at the DA's office.

Mr. SCOTT. Can you say a word about the crime lab?

Mr. LETTEN. Yes, sir. NOPD's crime lab was literally washed out. It existed in the basement of their headquarters. NOPD, thanks to the generosity, teamwork, and kindness of Jefferson Parish Sheriff's Office, St. Tammany Parish Sheriff's Office, State Police, and the Federal agencies sitting here, I will tell you, has been able to cobble solutions where their crime lab needs, in terms of serology, ballistics, blood analysis, DNA analysis, et cetera, are met and drug analysis.

However, that's not an adequate solution because if—they don't have one-stop shopping. Our office and—and the Department of Justice, Steve Parent, who is now the acting EOUSA Director. I would daily communicate to the Attorney General and the DAG and their staff, including Will Moschella and those individuals who work with us, what we're doing down here, the needs that have been identified. One of the needs we identified to them was a desperate need to get NOPD some crime lab services locally and on site. They came up with funding in the Department of Justice to pay for an initial half million dollar, initially, I believe; an initial, I guess, cadre of experts to actually serve those crime lab functions to pay for technicians.

We are also working behind the scenes with some wonderful partners, New Orleans Police and Justice Foundation and others, who together, working together, and bringing the city together with the University of New Orleans Foundation actually we're able to leverage and facilitate, and with FEMA I might add and Chairman Powell's office who were so important in this, we brought them together and leveraged a lease, a 3-year lease that just occurred just a few weeks ago as NOPD, as Warren Riley, as Chief Riley mentioned, to move into some very good lab space there, which is being occupied, literally, as we speak, by NOPD. So Justice is paying for parts of the technicians, and FEMA and other sources are paying for the lease. And the bricks and mortar and hardware, we're hoping that will take us down the road until we can get them more steadily established.

Mr. SCOTT. Thank you.

Mr. FORBES. Thank you, Mr. Chairman. Once again, I want to thank you all for being here and the great job that you are doing for the city and for our county.

Mr. Letten, you probably exemplify most of the people sitting in this room. You had a grandfather that had a commitment to this area in 1898. You love New Orleans and all that's going on here. But people here deserve systems that work, and they deserve to be able to walk on the streets and be safe. And that's not going to happen if we don't look at all the problems that were there post-Katrina and pre-Katrina.

And I wish I had time to talk to all of the witnesses, but my 5 minutes I want to address it to you two. Mr. Letten, the first question is to you, and then to Agent Bernazzani.

My questions for you are these: We heard earlier testimony about the need for playgrounds and for parks and for other kinds of things that would normally be funded in large part by tax revenues from businesses. In part of your testimony, you mentioned that you thought there was a huge population business talent drain based on public corruption. And I'm going to ask you, one, to address that; and, two, you heard Mr. Jordan mention the fact that I had my facts wrong on this case that was not prosecuted. They were facts that I had based on video of the individual that was—

Mr. LETTEN. Yes, sir.

Mr. FORBES [continuing]. Caught on tape. He said that there was a State conviction. Could you clarify that for me because I want to make sure I've got my facts right. And then the third part I'd like for you to address is this: when you gave your statistics, it seemed like about the lowest conviction rate you had was still 95 percent—

Mr. LETTEN. Yes, sir.

Mr. FORBES [continuing]. From 100 percent. The flip side is on the State level we're releasing that back out. It just doesn't seem like the criminal justice system can work when you only take in 7 percent of your arrests.

Can you address those two?

And then, Agent, if you could address this whole witness intimidation part of it because I don't understand how you get witnesses to testify if they know that 93 percent of the people arrested are going to, one, be back on the streets. But then they have these bond reduction hearings where the State is not being represented, and you put people back on the streets with some percentage of it going to the court or to the judges.

So, if the two of you would address that. And we'll start with you, Mr. Letten.

Mr. LETTEN. Yes, sir. If I can—I'll try to answer those three in sequence then.

The first one is I've—you know, I've—I've dubbed—and I love this city. God. I've dubbed the phenomenon New Orleans experienced as the East Berlin syndrome. First of all, let me say: The problems we're experiencing now have been exacerbated by Katrina. They were not created by Katrina. We've been grappling with a lot of these issues for years.

In the 1960 census—and I don't have the precise numbers—New Orleans hit its zenith with probably 600,000 plus citizens; maybe 630,000. That number dwindled significantly. We lost a population so that, when we were going into Katrina, we probably had a little over 400,000, maybe 450,000, in net population. That's a significant population drain.

More importantly, we lost large businesses that simply moved out of the city, large corporations. We diversified our economy. We lost talent. Our kids were graduating from schools and not returning to New Orleans. What was happening is the business phenomenon and I think with it the inability to attract and keep business was driven by the fear of corruption statewide and in the city.

I, born and raised here, as a prosecutor for 27 years, I talk to people every day, and I've been approached by citizens. And we've done corruption cases—Jan Maselli Mann, our first assistant is in the audience today, she just brought home a significant public corruption case of high-level city officials who were involved, and it's a kickback scheme involving energy contracts in the city.

Over the years what happened is we were very tolerant of city and State officials basically sticking their hands out and requiring kickbacks for influence, for public contracts, and simply to do business. Businesses did not want to locate here. That contributed, then, that business exodus occurred, as job opportunities went out the window, our tax base, our revenue streams declined. We also did not provide, for many years, a decent public educational system. If you can afford private and parochial schools, great. But if you were the poor and you had to go to public schools, you had probably the worst public school system in the United States.

So the economy was significantly deteriorating. And, again, it was driven primarily by corruption. Only recently do I believe—after the conviction of Edwin Edwards and after a number of very, very important convictions here in Orleans and in Jefferson Parish where we showed a functional zero tolerance for corruption—and we're still pursuing that—are we seeing attitudes—or we're seeing attitudes about the city beginning to change. But it's like turning an aircraft carrier around. It's something that we have to do. We have to provide a zero tolerance for corruption, that has gutted our city over many years.

And, so, going into Katrina, we had a significantly reduced population. We had a significantly reduced tax and revenue base. We had a significantly reduced industry base. We were relying solely on the port—which was declining, sadly—and tourism, which was very, very fragile. And, so, that's the phenomenon that I was talking about.

The second thing I believe you asked is the matter that I happen to know, is the prosecution of Alton Hooks. And I clarify the record not to be critical at all, but simply because I was involved in the decision to charge that case with my top prosecutors.

What happened is, in 1994, there was a very celebrated, very widely known, case that involved a car wash surveillance camera that captured three individuals in, more or less, a shootout. It wasn't a bad case. I mean, you could see one of the individuals in particular firing an AK-47 at another individual, trying to kill them, clearly. One of the individuals armed was a guy named Alton Hooks. These individuals were identified. They were arrested by NOPD, brought to the DA's office. The DA's office took the case forward, was having great difficulty—I believe they charged them with—and I stand to be corrected—with attempted murder or aggravated battery, or some significant State offenses. They were having difficulty with one of the judges for reasons entering into evidence, actually authenticating that tape and getting the judge to accept it into evidence.

We—at some point, I talked—we follow these cases because, wherever we saw the need and the ability to step in Federally, we do. I instructed my prosecutors, "Find out which of those individuals are chargeable Federally." Alton Hooks, one of the primary

shooters, it turned out, was a convicted felon. I gave them personally the go-ahead to use the evidence we got and seek and obtain an indictment against Hooks for being a convicted felon in possession of a firearm. It sure wasn't attempted murder, but it was a charge that we could make stick.

In the meantime, as soon as the defense attorneys found out that we had brought the Federal case to bear, they wanted to negotiate. We had actually negotiated the possibility of a package deal, where he would plead guilty to not only the State—the Federal charges, 10 year charge, but also a significant amount of time on the State charges. For reasons I—I'm not going to necessarily get into at this point, that was not accepted by the DA's office at that time. So what we did was we proceeded. We went forward. It turns out that Alton Hooks, in May of 2005, before Katrina, pled guilty to the convicted felon in possession firearms charge, was later sentenced, is doing 10 years in Federal prison. After the Federal conviction, then, he wrapped up the State case by pleading guilty to a similar concurrent charge, I believe to—maybe to the attempted murder, with concurrent time that followed the Federal time. So, that's the evolution there.

Mr. FORBES. Let's switch real quick. My time is out, but I think it's important to get your testimony in about witness apathy.

Mr. BERNAZZANI. I—I honestly believe that the revolving door—for some reason because of this bond-reduction program, where a judge can set bond and another judge can reduce it to personal recognizance has a debilitating effect on the community to cooperate. I honestly believe that NOPD and the District Attorney's office have been victimized by this program also. Because, Part 1, the violence continues because these violent guys that are let back on the street are violent people to begin with. Two, the community won't cooperate because if I finger you as that violent felon I know in a few days you're back on the streets and I become the next victim, and I don't want that. And when the community senses a failure in the State Judicial System—and the revolving door is a failure—a second judicial system kicks in: Street justice. And the killings beget the killings, beget the killings. We have a lot of revenge killings in New Orleans and it's spiraling. This bond-reduction program has to stop. They need to implement a contradictory hearing program whereby if there's an effort to reduce a bond, especially with the violent individual, that the people can be represented by the District Attorney's Office to argue why that bond should not be reduced. It's statutory. It's statewide. It needs to be done.

Mr. FORBES. Thank you.

Mr. SCOTT. Mr. Letten, what is the Federal procedure on that?

Mr. LETTEN. On the bond? We—in the Federal system we are—we don't have the—well, we don't have—we don't suffer a couple of those phenomena.

Number 1, when an individual is arrested, let's say, by any one of these Federal agencies in the field, that individual is—is—what—the first thing that happens is that person is brought before a United States Magistrate Judge. Normally, that person is arrested with—a Federal complaint is filed either before or immediately after the arrest is made if it's made—if it's a reactive arrest.

What happens is, our Federal prosecutors before—in open court—unless it’s a sealed proceeding—but with a represented defendant in there—actually produces, under Federal law, produces evidence, where we believe it’s appropriate, to demonstrate that an individual is either a flight risk or a danger to himself or others. There is a presumption under law that is created if that person is—is dealing drugs, dangerous drugs. And certainly, in the cases involving these drug distributors, we—we have an almost perfect success rate where an individual is distributing drugs or is a convicted felon possession or is using and carrying firearms during/in relation to a drug trafficking offense, we have a very good record where we can produce adequate evidence for those in—for those judges to hold that person and detain that person without—until that—charge is disposed of, unless additional evidence comes to light, until that—until the matter is over.

Now, if the Court—if the Court or the defense attorney wants to reopen the matter and get a reduction, then there has to be an adversarial hearing. In State Court, the State Constitution, except in capital cases, requires that a bond be set. However, what happens is that very often, and less so now as a result of an evolution that occurred last year, it is possible for, let’s say, a Magistrate in State Court, Criminal District Court, to set a \$100,000 bond on an alleged shooter and to have a phone call made to a judge—and most of the judges are wonderful. They really are. But to have a phone call made to a judge who may or may not get the facts and who, with the stroke of a pen, can actually give that person recognizance bond, or lower it to some bond that is so minimal that the person rolls out. And that was a terrible revolving door for a very long time, which plagued the system and—and turned back out on the streets some very, very dangerous characters, as Jim talked about.

Mr. SCOTT. Thank you.

Mr. Gohmert.

Mr. GOHMERT. Thank you. And we do appreciate all of you being here as well. A number of things have been discussed. For one thing, Mr. Letten, you had mentioned earlier that one of the problems was years of, and among other things, endemic fraud and corruption.

You talked about the extent of that: public officials sticking their hands out; one businessman telling me that he was amazed that, not only do you pay a fee, but then you pay the person that’s collecting the fee; and one guy even was willing to take a check because everybody did it. That is pretty amazing. But the classic model, that they—in the past, have been violent crimes, murder, robbery, rape, burglary not necessarily violent, but those were only State crimes.

Mr. LETTEN. Yes, sir.

Mr. GOHMERT. And I was amazed over the years that people who were running for Congress and saying, “I’m going to go to Washington. I’m going to bring down the murders, the rapes, the—the burglaries.” I’d hear the commercials, but that—that’s a State issue. Here you’ve been helping, and I know laws have been passed to give additional jurisdiction to the Federal authorities. But the classic model was the States take care of the most violent crimes, local crimes. And if there’s a problem with corruption, that was the

heart and soul of, you know years ago, the Federal prosecutions. Since that appears to have been a problem, have you been involved in investigating, pursuing corruption, particularly post-Katrina?

Mr. LETTEN. Absolutely, sir. We have. Ad thanks once again, thanks to, I think, some of the best Federal agents anywhere; thanks to some of the best prosecutors anywhere, who have an unlimited capacity for work; and thanks to my Attorney General, who has given us additional resources in recognition of these incredible burdens we carry, we have been able to continue our efforts against corruption. Am I—am I saying that we don't have to be—you know, obviously, we have to be very careful about how we set our priorities and how we use our assets. Of course, we do. But we—our—we have not faltered in our zero tolerance for corruption cases. As I said, you know, this case—we—there was a case against some—some very well-placed City Hall officials and their associates who were involved in a very elaborate kickback scheme, who exploited a multi-multimillion-dollar, probably well over a billion dollars, for energy savings for the City of New Orleans. That case was—you know, a lot of people thought that, after Katrina, that case would kind of go by the wayside and we'd have our hands full with other things. Well, not so. As I said, our first Assistant U. S. Attorney, who's also my Criminal Division Chief, actually went forward, indicted that case. We were prepared to go to trial in January, when those three individuals pled guilty. I believe there were a total of eight in that—and I could be wrong. It might be twelve—numerous individuals out of that same case, that corruption case, which was an involved kickback scheme, who pled guilty. The lead defendants name is Stan Barre. And that, I think, is emblematic of the type of dedication/commitment we have against corruption because we recognize that, unless we keep pressure up on individual who potentially wield the power, the corrupt power, to violate the law or influence business adversely, then we're going to lose the high ground. And we can't lose the high ground, and we won't. And so we are there. We're doing both, and we believe we have the assets right now to do that.

Mr. GOHMERT. Let me, on a different note: Mr. Renton, with the DEA, what do you find to be the principal source of drugs in this State, post-Katrina? Where are they coming from?

Mr. RENTON. Most—the majority—or 90 percent of the drugs here in the city are coming from the—unfortunately, Texas border, Mexican-Texas border, and is being transported. Historically, New Orleans has been a retail center; not a trans-shipment point, not a distribution point, but a retail center for drugs, where drugs are—it's the ultimate destination of where they are being used. Houston was historically the source city for New Orleans prior to Katrina. That trend has virtually continued.

That has been exacerbated by the fact that a great number of New Orleans residents, who may or may not have been involved in the drug trade prior to Katrina, relocated to Houston closer to the source of the drugs, and have made connections in Houston whereby they were able to get drugs in larger quantities and at cheaper prices, which are eventually brought to New Orleans and distributed.

Mr. GOHMERT. I was afraid you were going to say that was the source. I know from Texas law enforcement, I was hearing, you know, for example, we made it harder to get Sudafed; so, now we're getting more drugs from Mexico to replace it. But I'm sorry to hear that they're making their way to New Orleans. Mr. Chairman, could I ask Mr. Bernazzani—

Mr. SCOTT. Yes.

Mr. GOHMERT. I heard earlier that New Orleans isn't suffering from traditional gang problems. What is the gang problem here? Where is it coming from?

Mr. BERNAZZANI. It's a misnomer. There really are no gangs here, but it's five letters. It's easy to say. Basically what it is is drug-distribution networks based upon neighborhood linkages. It's very horizontal in constructs. There isn't a hierarchy of leadership/membership/finance/communication to get into to a point where we can start a criteria investigation. But it's a different pre- and post-Katrina relative to these quote, unquote, gangs is that: The storm caused these individuals to be dislodged, as Billy was saying, over to Houston, Dallas, Memphis, and the like. And when they came back after they made their connections, they came back to a city that was about 60 percent relatively uninhabitable. And so they migrated to new areas, the least-affected areas. And that means the Garden District, Uptown, the affluent areas; on the other side, the Marigny, across the river into Algiers and the West Bank. So what we have right now is a population shift of a criminal element that's trying to establish its presence and longevity. And, unfortunately, as Jim Letten has been saying, this segment of society has a strange outlook relative to social contact, how one deals with one another. And the resolution of conflict is usually violence, is usually a weapon. And, so, we're going through this process right now. When you look at—you know, everybody talks about the population and the per capita. That's very difficult, as Chief Riley has told you, because it fluctuates. What people need to focus on is the relationship and the percentage between the criminal element and law-abiding citizens. Prior to the storm, there were 485,000 in the city. You had a segment that was a criminal element. Many of these individuals after the storm haven't been returning because of the slow progress of recovery. Many of the homes on the Lakefront, those are law-abiding citizens out there. Those who are returning are the criminal element that's feeling the State Judicial system of Texas or Florida or Tennessee. And they want to come back here where they enjoy the revolving door. So, post-Katrina, when you look at the percentage of the criminal element vis-a-vis the total population of those law-abiding citizen, it's fundamentally different; and, unfortunately, it shifts toward the criminal element.

Mr. GOHMERT. Thank you.

Mr. LETTEN. Can I correct the record, sir, for—I thought about something, and please indulge me if I put a "b" when there should have been an "m" before, when I was talking about the city savings contract. I really want to be very careful about the record. When I talked about the city savings contract and its corruption case, I believe it was—it was a multi-year contract, that was many millions of dollars.

It was not a billion dollars. I think it was something like \$30 million or whatever. I probably would have remembered that had I not walked in here today trying to keep everything else in my head. But that was an inadvertent misstatement on the base.

Mr. GOHMERT. Still a lot of zeros.

Mr. LETTEN. Oh, it's a lot of zeros, yes, sir.

Mr. SCOTT. Thank you very much.

Mr. FORBES. Thank you.

Mr. LETTEN. Thank you.

Mr. SCOTT. And we'll ask our next panel to come forward. We will come to order and welcome our next panel.

First, we have the Honorable Ernestine Gray, Judge of the New Orleans Parish Juvenile Court. She serves as the 57th President of the National Council of Juvenile and Family Court Judges. She holds a Law Degree from Louisiana State University School of Law, and has the added distinction of having a sister who is a judge in my district in Virginia. Judge Gray, it's good to see you.

Judge GRAY. Thank you.

Mr. SCOTT. Our next witness will be Howard Osofsky, Professor and Chair, Department of Psychiatry, at Louisiana State University Health Sciences Center. In addition to the current post, he also serves as Co-director of the Louisiana Rural Trauma Services Center. He received a Medical Degree from New York State College of Medicine, and a Doctorate in Psychology from Syracuse University.

Next will be Reverend John Raphael, Pastor of New Hope Baptist Church in New Orleans. He was educated in the city, where he attended Dillard, Loyola, Southern University. He also has a Bachelor's Degree from Christian Bible College.

Our final witness will be Peter Scharf, Research Professor of Criminal Justice at Texas State University. He is also Executive Director of the Center for Society, Law, and Justice, which he founded at the University of New Orleans. Previously served as Director of Technology and Technical Assistance at the Police Foundation in Washington DC, where he helped found the Bureau of Justice Assistance Community Policing Consortium and developed its Risk Management Management System. He holds a Doctorate of Education Degree from Harvard University and has the added distinction of having a daughter who lives in my district. Thank you.

Mr. SCOTT. Judge Gray.

**TESTIMONY OF THE HONORABLE ERNESTINE GRAY, JUDGE,
ORLEANS PARISH JUVENILE COURT, LOUISIANA**

Judge GRAY. Thank you, and good afternoon. It is my honor to be here to speak before the Committee this afternoon. A lot of what I would want to have said to you has already been said; so, it's going to be emphasis and reemphasizing. I'd like to start off by quoting a police officer who was quoted in an article in the Times Picayune on Sunday, entitled, "Losing Juvenile Jails - Age Justice Some Say - Alternative Sought for Young Offenders"; an article by Katy Reckdal.

Mr. SCOTT. Could you move your mike a little closer?

Judge GRAY. Sure. And Officer Melvin Gilbert said, "If we do what we've always done, we'll get what we've always gotten." Ein-

stein said it differently: “Insanity is doing the same thing over and over and expecting different results.”

Indeed Hurricane Katrina presented those of us living in New Orleans with crisis and opportunity. Every day, as we are still dealing with the crisis, we are trying very hard to make use of, and maximize, the opportunities. In order to effectively talk about post-Katrina, one must have some appreciation of pre-Katrina.

Youth in Louisiana are subject to a significantly higher level of significant risk factors than the national average; and children in New Orleans are at even greater risk. According to the Annie Casey Foundation’s Kids Count, an Agenda for Children, Louisiana ranks 49 out of the 50 States in terms of overall child welfare; and the city of New Orleans consistently ranked lower than the State as a whole. Louisiana ranked 49 in the country for the number of children living in poverty, with 26.6 percent of all children in Louisiana living in poverty. In New Orleans, 40.5 percent of children lived in poverty. Louisiana was 49 in low-birth-weight babies. New Orleans had a higher percentage than the State as a whole: 10.1 versus 5.7. Louisiana ranked 41 in the percentage of teens who are high school dropouts. Again, New Orleans children were at higher risk. Fifteen percent of 16- to 19-year-olds in New Orleans were high school dropouts, compared to 10 percent statewide.

As summer approaches, and the anticipated school vacation, coupled with a lack of recreational activities and other proactive factors, suggest to the Orleans Parish Criminal Court that the number of arrests for delinquent behavior—both representative of normal adolescence and actual crimes—may significantly increase. It is not my purpose to sound alarmist, because I believe on the whole that the news about our youth, those 17 years and under, is positive.

In fact, prior to Hurricane Katrina, based on information from the New Orleans Police Department, the Juvenile Division, we were beginning to see some modest decline in juvenile delinquency and status offenses. For example, the Juvenile Division reported a 6 percent decrease in curfew violations, a 35 percent decrease in truants, and a 12 percent decrease in juvenile arrests, when comparing the first 8 months, January to August, of 2004 and 2005.

During 2006, there were approximately 870 arrests for delinquent behavior which resulted in 347 new delinquency filings in the Orleans Parish Juvenile Court. The breakdown of the arrests by crimes was as follows: Possession of marijuana 120, or 14 percent; those children arrested on warrants, 101, or 12 percent; criminal trespass, 71, or 8 percent; disturbing the peace and simple battery, 63, or 7 percent; possession of crack cocaine and curfew and other offenses 53; or 6 percent; resisting arrest and distribution of crack cocaine, 47, or 5 percent; murder, out of the 161 total for the year, 3 of children who were under 17, 2 at age 16, 1 at age 15—armed robbery, 12, or 0.013 percent; gun possession arrest, 38, or 0.04 percent.

While the numbers for the first quarter of 2007 seem to be on the increase, based on the number of petitions that have been filed with the Court, we do not yet have the arrest data from which the police—from the Police Department, by which we could give the same percentages.

Other pieces of demographic information which the Committee might find interesting is that African American youth are 98 percent of those youth arrested in New Orleans; Whites represent 1 percent; and Asians are 0.002 percent. The breakdown by sex of African American youth is 76 percent male and 22 percent female. Further, our best information indicates that youths between the ages of 15 and 17 are responsible for most of the delinquent behavior committed by youth in our city.

I would be remiss if I did not say, as we worry about delinquent youth, we must also be concerned about those youth who, most times through no fault of their own, find themselves in foster care. Youth growing up in foster care face a broad range of challenges are, and are at high risk for delinquent behavior. It is well documented that many adult prisoners have a history of childhood abuse and neglect.

Given all of the above, here are important takeaways for this Subcommittee: The progress that has been made in the juvenile area could not have been made without the support of the Federal Government, and we will more than likely continue to need your support for some time in the future. We have come a long way in bringing stake holders together, capitalizing on the juvenile reform efforts that started in the State prior to Hurricane Katrina. And we are assessing our needs, but we are just beginning the dialogue of how our system should operate. We are looking to the National Council of Juvenile and Family Court Judges Delinquency Resource Guidelines, and the eight core strategies of the Annie Casey's Juvenile Detention Alternative Initiatives to provide much of the blueprint for how we will work in the future.

As we continue to work to build a better, more responsive citizen, there are some critical issues that we must address: data collection, disproportionate minority confinement, continued meaningful collaboration, alternatives to incarceration, development of Continuum of Care, as well as addressing the conditions of confinement.

Our programs are good, but under-funded. As we're trying to live and work in post-Katrina New Orleans, many of our services are not back in place. Our programs are at capacity, with smaller case-loads overall. There are too few programs under Continuum of Care that should be in place as any community is trying to ensure that its youth population has the best chance of becoming healthy, productive adults and contributing citizens. We are lacking critical services for families in our communities, particularly mental health and substance abuse.

As we work hard to improve the system, protect the community, and hold juveniles accountable, we must not forget that we worry about what a child will become tomorrow, but we cannot forget that he is someone today.

I would urge Congress to continue to ensure the existence of the Office of Juvenile Justice and Delinquency Prevention, which will come up for reauthorization this year.

You might wonder why a Judge sitting in New Orleans would see that as important. I will tell you. Someone asked about programs that work. My information is that we in the juvenile arena are able to rely on information from the Office of Juvenile Justice and Pre-

vention that talks about what are the best practice, what are the programs that work, because they have published and continued research and evaluating programs and put out in the field for replication those things that work; so, I would urge our continued support of that office. I would also urge, as someone else has mentioned, the continuation of Byrne funds that are available to communities, come to New Orleans, to the State of Louisiana, that would support the criminal justice system through funding. I would urge you to continue to support that.

In closing, I would say that prevention, I believe, is the key. We do not soothe a victim; we cannot take away the pain of a victim after the crime is committed. The way we stop them from hurting, the way we make it better for them, is to do whatever we can, everything that we can, to prevent the crime, to event the harm, in the first place. That is how we serve our citizens. That is how we serve our children. That is how we serve our community. And that is how we serve our Nation. Thank you.

Mr. SCOTT. Thank you.

[The prepared statement of Ms. Gray follows:]

PREPARED STATEMENT OF THE HONORABLE ERNESTINE GRAY, JUDGE,
ORLEANS PARISH JUVENILE COURT, LOUISIANA

U. S. House of Representatives

Committee on the Judiciary

SUBCOMMITTEE ON CRIME, TERRORISM AND HOMELAND SECURITY

Field Hearing in New Orleans, Louisiana

On

THE KATRINA IMPACT ON CRIME AND THE CRIMINAL JUSTICE SYSTEM IN
NEW ORLEANS

Tuesday, April 10, 2007

Written Statement of

Ernestine S. Gray, Judge
Orleans Parish Juvenile Court
New Orleans, Louisiana

I. MAGNITUDE OF ORLEANS PARISH INFRASTRUCTURE AND JUVENILE JUSTICE PROBLEMS GENERALLY:

Hurricane Katrina was the most destructive natural event New Orleans has ever experienced, both in personal loss and tragedy and overall loss of city infrastructure. In his statement to the nation at the National Day of Prayer and Remembrance Service on September 16, 2005 President George W. Bush said: "The destruction is immense, covering a city, a coastline, a region. Yet the hurt always comes down to one life, one family. We've seen the panic of loved ones separated from each other, the lonely pain of people whose earthly possessions were swept away, and the uncertainty of men and women and children driven away from the lives they knew. Many did not survive the fury of the storm. Many who did ask, why -- and wonder, what comes next."¹

From August 29, 2005 through the date of this testimony, much of New Orleans' city infrastructure (including basic services such as power, gas, communication, water, police, firefighter, city government and juvenile justice services) has been and continues to be inoperable and/or woefully inadequate to maintain public safety and essential juvenile justice services. Over 250,000 homes were lost in the storm. OPJC essential staff were not permitted to reoccupy the court building located at 421 Loyola Avenue until December 2005. The following problem and statement of need provides general information about OPJC's operational status pre-Katrina, OPJC's short-term operational recovery efforts and OPJC's long-term needs to restore essential juvenile justice operations to provide the level of service necessary for recovery of Orleans parish.

II. OPJC OPERATIONS PRE-KATRINA:

Prior to Katrina, New Orleans was the largest city in the state of Louisiana with an estimated population of 463,000.² This represented more than 10% of Louisiana's total population of 4.5 million. Twenty-six percent of New Orleans' population was under the age of 18. The youth population in New Orleans was at greater risk of engaging in delinquent behavior prior to Katrina. Studies show that exposure to risk factors such as poverty, poor health and poor education "make [youth] more vulnerable to criminal activity and subsequent institutionalization."³

Youth in Louisiana are subject to a significantly higher level of risk factors than the national average, and children in New Orleans are at even greater risk. According to the Annie E. Casey Foundation's Kids Count and Agenda for Children Louisiana ranks forty-ninth out of the fifty states in terms of overall child welfare and the city of New Orleans consistently ranked lower than the state as a whole.⁴ Louisiana ranks forty-ninth in the country for the number of children living in poverty, with 26.6% of all children in Louisiana living in poverty. In New Orleans, 40.5% of children lived in poverty. Louisiana is forty-ninth in low birth-weight babies. New Orleans had a much higher percentage than the state as a whole (10.1% of births vs. 5.7% of births statewide). Louisiana ranks forty-first in the percentage of teens who are high-school dropouts. Again, New Orleans's children were at a higher risk (15% of sixteen to nineteen year olds in New Orleans were high school drop-outs, compared to 10% statewide).⁵

In 1908, the Louisiana legislature established the Juvenile Court for the Parish of Orleans as the first court in Louisiana to have exclusive jurisdiction over juveniles. The legislature gave the court authority to regulate the care, treatment and control of neglected and delinquent children, seventeen years of age and under, and provided for the trial of adults charged with the violation of laws for the protection of the physical, moral and mental well-being of children, or with desertion or failure to support, wife, or children. The Louisiana Constitution of 1921 formalized the status of the Orleans Parish Juvenile Court as a District Court of specialized jurisdiction. OPJC is a state court mandated to be funded by the City of New Orleans. In meeting this mandate, the City provided personnel, with the exception of judges and grant funded positions, some essential services and supplies. A significant portion of the court's funding is received through state and federal funds.

OPJC handles cases involving Delinquency, Traffic, Families in Need of Services, Child in Need of Care, Voluntary Transfers of Custody, Termination of Parental Rights, Adoptions, and Child Support.

The OPJC is comprised of six judges with administrative matters assigned to the Chief Judge who is chosen annually by the judges sitting en banc. The court is comprised of several functional divisions: (1) the judiciary, which is responsible for all operations of the court; (2) the judicial administration, which deals with the maintenance of personnel records, ordering of supplies, and preparation of the budget; and (3) the clerk's office, which handles all legal records.

III. OPJC SHORT-TERM OPERATIONAL RECOVERY EFFORTS:

Following the storm's destruction, courts in the affected areas were forced to close for extended periods of time. With the assistance of Baton Rouge Juvenile Court, Orleans Parish Juvenile Court re-opened on September 12, 2006 through the end of October, 2005, in Baton Rouge to conduct emergency detention hearings for pre-adjudicated children and youth. The Office of Youth Development housed, clothed, and fed over one hundred Orleans Parish juvenile offenders who were in local detention centers pending court hearings and whose families were displaced by the storm. OPJC judges, with the assistance of Baton Rouge staff, Orleans Parish Indigent Defenders, the Juvenile Justice Project of Louisiana, the Office of Youth Development, the Baton Rouge Public Defender's Office, and the Baton Rouge Sheriff's Office conducted hearings to reunify as many children and youth as public safety would allow. The court also held emergency hearings for children and youth in Child in Need of Care proceedings in Baton Rouge. The Dependency Division began locating children in foster care, foster parents, biological parents, social workers, lawyers, CASA volunteers and others to ensure the safety and reunification of all children in the system.

In November 2005, Occupational Safety and Health Administration (OSHA), Federal Emergency Management Agency (FEMA), and the City of New Orleans did not allow OPJC essential personnel to reoccupy the courthouse located at 421 Loyola Avenue

because of the hazardous conditions resulting from a flooded basement. OPJC made arrangements in December with the First City Court in Algiers to continue to hold delinquency hearings, including detention hearings three days a week: Monday, Wednesday, and Friday. OPJC also conducted dependency hearings in Jefferson Parish at First City Court four days a week reviewing every open case.

In September 2005 the New Orleans City Council, which provides city funds to the OPJC for staff and operational expenses, asked OPJC to cut all staff but essential personnel. In October 2005 the city reduced OPJC's staff by approximately 70% thereby dramatically reducing essential court services. In December 2005 the City reduced the overall budget – by over 50% - including personnel and operations from \$2,311,042.00 to \$1,129,455.00. The City reduced OPJC's operational budget from \$215,469.00 to \$150,847.00.

OPJC had ninety four employees (94) employees and currently has sixty-six (66) employees. Twenty-four (24) of who are funded by the City of New Orleans. The remaining forty-two (42) are from other grant funds including funds from the Department of Justice for Criminal Justice Infrastructure Recovery. Much of the grant funds will end by June 2008.

Despite the challenges presented by dramatic budget cuts, OPJC reorganized essential staff responsibilities among the initial thirty-one (31) employees, re-occupied the building on Loyola Avenue in January 2006, and opened full-time to the public on January 10, 2006. Since the Court reopened in January it has received 60 new delinquency petitions and 16 new emergency hold orders through March 2006 and is currently operating with 1576 open cases.

IV. OPJC'S LONG-TERM NEEDS TO RESTORE ESSENTIAL JUVENILE JUSTICE OPERATIONS TO PROVIDE THE LEVEL OF SERVICE NECESSARY FOR RECOVERY OF ORLEANS PARISH.

Orleans Parish current estimated population is 200,000.⁶ According to recent reports there were approximately 28,000 children registered in New Orleans Public Schools.⁷

Generally, children and youth have few structured activities and care available to them in the city with only 18% of its public schools open, 17% of its child care centers open, 38% of its public libraries open, and 36% of its hospitals open.⁸

Risk factors⁹ for delinquency post-Katrina remain the same and the pre-Katrina data suggests that without recovery, the situation for New Orleans' children is more dire because of the lack of services to address Post-Traumatic Stress and other issues related to the traumatic events they experienced. According to the United Way of Greater New Orleans, before Katrina there were 3,200 nonprofits in Louisiana which collectively spent \$8 billion each year. Nearly 10% of employees in the Greater New Orleans Area worked for non-profits. Fewer than half of the GNO Area nonprofits are fully operational and/or providing any services at all. Children and youth without community-based resources and structured activities to provide supervision have the opportunity to engage in delinquent behavior.

As summer approaches, the anticipated school vacation coupled with lack of recreational activities and other protective factors¹⁰ suggests to this Court that the number of arrests for delinquent behavior – both representative of normal adolescence and actual crimes – may significantly increase. It is not my purpose to sound alarmist, because I believe that the whole the news about our youth, those 17 and under, is positive. In fact, prior to Hurricane Katrina, based on information from the New Orleans Police Department Juvenile Division, we began to see some decline in juvenile delinquency and status offenses. For example, the Juvenile Division reported a 6% decrease in curfew violations, a 35% decrease in truants and a 12% decrease in juvenile arrests when comparing the first eight months (January to August) of 2004 and 2005. During 2006 there were 870 arrests for delinquent behavior which resulted in 347 new delinquency petitions being filed in the Court. The breakdown of the arrests by crime type was as follows:

possession of marijuana	120 or 14%
warrants	101 or 12%
criminal trespass	71 or 8%
disturbing the peace and simple battery	63 or 7%
possession of crack cocaine and curfew and “other” offenses	53 or 6%
resisting arrest and distribution of crack cocaine	47 or 5%
murder (out of the 169 total for the year)	3 or 0.003%
armed robbery	12 or 0.013%
gun possession	38 or 0.04%

While the numbers for the first quarter of 2007 seem to be on the increase based on the number of arrests reported petitions that have been filed in court, we do not have the arrest data from the police department by which to give percentages similar to those for 2006. Other pieces of demographic information which the committee might find interesting is that African- American youth are 98% of youth arrested in New Orleans, whites are 1% and Asian youth are 0.002%. The breakdown by sex for African-American youth is 76% male and 22% female. Further, our best information indicates that youth between the ages of 15 and 17 are responsible for most of the delinquent behavior committed by youth in our city.

I would be remiss if I did not say that, as we worry about delinquent youth we must also be concerned about those youth, who most times through no fault of their own, find themselves in foster care. Youth growing up in foster care face a broad range of

challenges and are at high risk for delinquent behavior. It is well documented that many adult prisoners have a history of childhood abuse and neglect.

Given all of the above, here are the important take aways for this subcommittee, the progress that has been made in the juvenile area could not have been made without the support of the federal government and we will more than likely need support for some time in the future. We have come a long way in bringing stakeholders together (capitalizing on the juvenile reform efforts in the state, where we can) and assessing our needs but we are just beginning the dialogue of how our system should operate. We are looking to the National Council of Juvenile and Family Court Judges Delinquency Resource Guidelines (attached) and the eight (8) core strategies of the Annie E. Casey's Juvenile Detention Alternative Initiatives (attached) to provide much of the blueprint for how we will work in the future. As we continue to work to build a better, more responsive system there are some crucial issues that we must address, i.e. data collection, disproportionate minority contact, continued meaningful collaboration, alternatives to incarceration, developing a continuum of care as well as addressing the conditions of confinement.

Our programs are good but under funded. As we are trying to live and work in post Katrina New Orleans, many of our social services are not back in place. Our programs are at capacity with a smaller caseload overall. There are too few programs on the continuum of care that should be in place in any community to help ensure that its youth population has the best chance of becoming healthy, productive adults and contributing citizens, we are lacking services for families in communities, particularly mental health and substance abuse.

As we work hard to improve the system, protect the community and to hold juveniles accountable we must not forget that "we worry about what a child will become tomorrow, yet we forget he is someone today." (Staci Tauscher)

Thank you.

¹ President's Remarks at National Day of Prayer and Remembrance Service, September 16, 2005, National Cathedral, Washington, DC). Found at <http://www.whitehouse.gov/news/releases/2005/09/print/20050916-4.html> (last visited April 11, 2006).

² (Katz, Bruce, et al, Katrina Index: Tracking Variables of Post-Katrina Reconstruction, The Brookings Institution, Metropolitan Policy Program, April 5, 2006, p. 49.

http://www.brookings.edu/metro/pubs/200604_KatrinaIndex.pdf last visited April 10, 2006.)

³ Celeste, Gabriella and Patricia Puritz, eds. "The Children Left Behind." American Bar Association Juvenile Justice Center (June 2001) found at <http://www.njdc.info/pdf/LAreport.pdf>.

⁴ Found at http://www.aecf.org/kidscount/sld/compare_results.jsp?i=1000&cr=1&cr=20, <http://www.agendaforchildren.org/kcdata/?parish=Louisiana&yr=2003>, and <http://www.agendaforchildren.org/kcdata/?parish=Orleans&yr=2003> (last accessed on 3/30/06).

⁵ "Louisiana – Population and Housing Narrative Profile: 2004." U.S. Census Bureau American Fact Finder, http://factfinder.census.gov/servlet/NPTable?_bm=y&-geo_id=16000US2255000&-qr_name=ACS_2004_EST_G00_NP01&-ds_name=&-redol_og=false (last accessed 3/30/2006). "New Orleans – Population and Housing Narrative Profile: 2004." U.S. Census Bureau American Fact Finder, http://factfinder.census.gov/servlet/NPTable?_bm=y&-geo_id=04000US22&-qr_name=ACS_2004_EST_G00_NP01&-ds_name=&-redol_og=false (last accessed 3/30/2006).

⁶ Found at <http://www.msnbc.msn.com/id/16192029/>.

⁷ Greater New Orleans Afterschool Partnership, Status Report: New Orleans Afterschool 2007, Found at <http://www.gnoafterschool.org/>.

⁸ Katz, Bruce, et al, Katrina Index: Tracking Variables of Post-Katrina Reconstruction, The Brookings Institution, Metropolitan Policy Program, April 5, 2006, p. 49, 52-53. http://www.brookings.edu/metro/pubs/200604_KatrinaIndex.pdf Last visited April 10, 2006.

⁹ Found at <http://guide.helpingamericasyouth.gov/programtool-factors.cfm>

¹⁰ Found at <http://guide.helpingamericasyouth.gov/programtool-factors.cfm>

ATTACHMENT



www.gnoafterschool.org
 1600 Constance St • New Orleans, LA 70130
 504.304.8265 • Fax: 504.304.8266

Status Report: New Orleans Afterschool, January 2007

Introduction

As with everything in New Orleans, the landscape of afterschool services has changed dramatically since Hurricane Katrina. Before Hurricane Katrina, children in New Orleans had over 200 afterschool programs located in schools, nonprofit organizations, community centers, housing developments, recreation centers, and churches. Now, with approximately 28,000 public school children in New Orleans there are only 42 afterschool sites, serving less than 25% of the targeted population. As many families strive for normalcy by seeking new housing and returning to work, the need for afterschool programs is vital.

In January 2007 the Greater New Orleans Afterschool Partnership surveyed a sampling of the operating afterschool providers in order to supply various stakeholders with this status report on the current state of afterschool in New Orleans.

Key Findings

Afterschool providers in New Orleans are working collaboratively in a climate of limited resources and challenging circumstances to optimize afterschool programs and services for children and youth. Afterschool programs in New Orleans vary widely in scope and format. At one end of the spectrum are five-day-a-week programs offering academic and enrichment opportunities and at the other are activities and services offered on a smaller scale or those of a particular program design, such as literacy, dance, or art.

Despite a growing number of afterschool offerings in the eighteen months following Hurricane Katrina, these survey results point to a number of troubling gaps:

- Survey responses indicate that programs are **servicing less than 25%** of the estimated 28,000 public school age children currently in New Orleans.
- Despite the fact that nearly 80% of the afterschool programs in New Orleans are located in public schools, **the Recovery School District, the largest school operator, has only two schools that offer afterschool programming.** Leaving over fifteen state-run schools without afterschool programming.
- Access to convenient and affordable afterschool programming is most **limited in those areas that suffered the most severe flooding** from Hurricane Katrina. Lakeview, Gentilly, the Lower 9th Ward, and New Orleans East all have limited or no afterschool programs.
- These areas of the city with the **highest rates of crime are also the neighborhoods with limited afterschool programming.**
- The overwhelming majority of afterschool programs in New Orleans focus on elementary and middle school students.

Only a handful of the current programs serve youth between the critical ages of 13-18.

Areas for Immediate Action

Administration

Programs are struggling to recruit and retain qualified staff. Nearly all of the programs surveyed report losing lower wage staff due to competition in a higher wage environment. Also, all programs report some level of loss in association with facilities, equipment, and/or materials. Providers and staff request ongoing technical assistance, training, and support to improve the quality of and access to their programs.

Funding

Public Funding for afterschool programs falls significantly short of needs. The Louisiana State Department of Education has been slow to release needed funds for afterschool programming. Contracts for 21st Century Community Center grants were not finalized until January 2007, six months after programs began serving students. Furthermore, the handful of New Orleans programs awarded 21st Century funding had their programming budgets cut from 40% to 60% by the State.

Private funding has also been difficult for programs to access. Many private and corporate funders have cited a lack of infrastructure as the rationale for their reluctance to invest in afterschool recovery efforts, yet recovery will be unlikely without resources.

Mental Health

The children in New Orleans are suffering from various post-traumatic stress disorders. Survey respondents report that students continue to exhibit behavioral changes such as lack of sleep, less attentiveness, more hostility, and increased emotional outbursts. The lack of mental health services and consistent school nursing leaves students and families with few options for improving children's overall mental health.

Transportation

Lack of transportation is hindering student participation in afterschool programs. All public schools in New Orleans are now "open access" schools, meaning students are not required to attend the school closest to their home. While this has opened public education choices to families, one negative result is that children often do not attend a neighborhood school and must rely on personal or public transportation if they want to participate in a program that extends beyond the regular school day.

Conclusion

All New Orleans students deserve quality afterschool care that keeps them safe, provides critical child care for working parents, lowers juvenile crime rates, and inspires learning through creativity and opportunities for enrichment and discovery. The results of providing quality afterschool, research shows us, are healthier families, safer neighborhoods, better school day attendance, enhanced academic performance, and students who are involved and engaged in their education.

Quality afterschool programs address many of the ills that face our families and ultimately help create a better New Orleans for all citizens. It is our hope that those who read this status report will dedicate much needed resources to this critical issue.

Risk Factors

Many of the risk factors that make it likely that youth *will* engage in risky behaviors are the opposite of the protective factors that make it likely that a teen *will not* engage in such behaviors. For example, one risk factor is family management problems. If parents fail to set standards for their teen's behavior, it increases the likelihood that the teen will engage in substance abuse or delinquent behavior. Conversely, a protective factor is effective parenting. If parents consistently provide both nurturing and structure, it increases the likelihood that a teen *will not* get involved with substance abuse or delinquent behavior and will become involved in positive activities.

Exposure to risk factors in the relative absence of protective factors dramatically increases the likelihood that a young person will engage in problem behaviors. The most effective approach for improving young people's lives is to reduce risk factors while increasing protective factors in all of the areas that touch their lives.

Risk factors function in a cumulative fashion; that is, the greater the number of risk factors, the greater the likelihood that youth will engage in delinquent or other risky behavior. There is also evidence that problem behaviors associated with risk factors tend to cluster. For example, delinquency and violence cluster with other problems, such as drug abuse, teen pregnancy, and school misbehavior.

Risk factors that predict future risky behaviors by youth are shown below.

Individual

- Antisocial behavior and alienation/delinquent beliefs/general delinquency involvement/drug dealing
- Gun possession/illegal gun ownership/carrying
- Teen parenthood
- Favorable attitudes toward drug use/early onset of AOD use/alcohol/drug use
- Early onset of aggression/violence
- Intellectual and/or development disabilities
- Victimization and exposure to violence
- Poor refusal skills
- Life stressors
- Early sexual involvement
- Mental disorder/mental health problem

Family

- Family history of problem behavior/parent criminality
- Family management problems/poor parental supervision and/or monitoring

- Poor family attachment/bonding
- Child victimization and maltreatment
- Pattern of high family conflict
- Family violence
- Having a young mother
- Broken home
- Sibling antisocial behavior
- Family transitions
- Parental use of physical punishment/harsh and/or erratic discipline practices
- Low parent education level/illiteracy
- Maternal depression

School

- Low academic achievement
- Negative attitude toward school/low bonding/low school attachment/commitment to school
- Truancy/frequent absences
- Suspension
- Dropping out of school
- Inadequate school climate/poorly organized and functioning schools/negative labeling by teachers
- Identified as learning disabled
- Frequent school transitions

Peer

- Gang involvement/gang membership
- Peer ATOD use
- Association with delinquent/aggressive peers
- Peer rejection

Community

- Availability/use of alcohol, tobacco, and other drugs in neighborhood
- Availability of firearms
- High-crime neighborhood
- Community instability
- Low community attachment
- Economic deprivation/poverty/residence in a disadvantaged neighborhood
- Neighborhood youth in trouble
- Feeling unsafe in the neighborhood
- Social and physical disorder/disorganized neighborhood

Protective Factors

Researchers know less about protective factors than they do about risk factors because fewer studies have been done in this area. However, they believe protective factors operate in three ways. First, they may serve to buffer risk factors, providing a cushion against negative effects. Second, they may interrupt the processes through which risk factors operate. For example, a community program that helps families learn conflict resolution may interrupt a chain of risk factors that lead youth from negative family environments to associate with delinquent peers. Third, protective factors may prevent the initial occurrence of a risk factor, such as child abuse. For example, infants and young children who are easy-going may be protected from abuse by eliciting positive, rather than frustrated, responses from their parents and caregivers.

Recent scientific studies have shown that community resources also can influence individual teenagers' positive traits. For example, young people are more likely to be a part of youth organizations and sports teams if their parents perceive that the community is safe and that it has good neighborhood and city services (such as police and fire protection or trash pickup). Similarly, youth are more apt to be exposed to good adult role models other than their parents when communities have informal sources of adult supervision, when there is a strong sense of community, when neighborhoods are perceived to be safe, and when neighborhood and city services are functioning.

Protective factors that protect youth against delinquency and substance abuse are shown below.

Individual

- Positive/resilient temperament
- Religiosity/valuing involvement in organized religious activities
- Social competencies and problem-solving skills
- Perception of social support from adults and peers
- Healthy sense of self
- Positive expectations/optimism for the future
- High expectations

Family

- Good relationships with parents/bonding or attachment to family
- Opportunities and reward for prosocial family involvement
- Having a stable family
- High family expectations

School

- School motivation/positive attitude toward school
- Student bonding and connectedness (attachment to teachers, belief, commitment)
- Academic achievement/reading ability and mathematics skills
- Opportunities and rewards for prosocial school involvement
- High-quality schools/clear standards and rules
- High expectations of students
- Presence and involvement of caring, supportive adults

Peer

- Involvement with positive peer group activities and norms
- Good relationship with peers
- Parental approval of friends

Community

- Economically sustainable/stable communities
- Safe and health-promoting environment/supportive law enforcement presence
- Positive social norms
- Opportunities and rewards for prosocial community involvement/availability of neighborhood resources
- High community expectations
- Neighborhood/social cohesion

CHAPTER 1 FOUNDATIONS FOR A JUVENILE DELINQUENCY COURT OF EXCELLENCE

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CHAPTER I FOUNDATIONS FOR A JUVENILE DELINQUENCY COURT OF EXCELLENCE

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The *JUVENILE DELINQUENCY GUIDELINES* is intended to be used by courts and other juvenile delinquency system stakeholders to assist their efforts to improve practice. The *GUIDELINES* is aspirational - they focus on what should be as opposed to what is. Every effort has been made to make the *GUIDELINES* practical and usable, and to ground recommendations in the most current research and promising practices available at the time of development.

Some jurisdictions are already following many of the recommendations. Some jurisdictions may find it extraordinarily challenging to follow the recommendations. Regardless of jurisdictional status and resources, it is hoped that the *GUIDELINES* will provide a common vision and motivational framework for those working toward an improved juvenile delinquency system.

As jurisdictions strive to implement the *GUIDELINES* with training and technical assistance from the NCJFCJ, juvenile delinquency system practitioners from all situations - urban, rural, suburban, and with varying degrees of resources - will be able to create and share successful implementation methods.

CHAPTER 1 FOUNDATIONS FOR A JUVENILE DELINQUENCY COURT OF EXCELLENCE

This chapter of the *DELINQUENCY GUIDELINES* provides the foundation a juvenile delinquency court needs to become a court of excellence. The chapter begins with a basic discussion of why a separate court for juveniles and adults continues to be necessary. The chapter moves to the goals and key principles of a juvenile delinquency court of excellence. The chapter concludes by defining critical roles in the juvenile delinquency court process and the responsibilities of each role.

A. THE CONTINUING NEED FOR THE JUVENILE DELINQUENCY COURT

As described in the Introduction, during the 1990s legislatures moved away from a rehabilitative juvenile delinquency court model toward a more punitive model by reducing the minimum age of transfer to adult court and expanding the offenses for which a juvenile could be transferred. They also moved away from individualized justice by instituting automatic waivers and direct criminal filings that reduced judicial discretion. These changes caused some individuals to question whether there was still a need for a separate juvenile delinquency court. The answer is unequivocally yes.

In most instances, the criminal court is focused on deterrence and punishment. The juvenile delinquency court is focused on identifying the underlying issues causing the delinquent behavior and providing interventions to address these issues. Both courts have a goal of community safety. The juvenile delinquency court, however, accomplishes this goal through individualized responses as opposed to standard sentencing, an important difference. In *Roper v. Simmons* (2005) the U.S. Supreme Court stated the following three reasons that make juveniles under 18 different from adults:

- *First, as any parent knows and as the scientific and sociological studies tend to confirm, a lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults and are more understandable among the youth. These qualities often result in impetuous and ill-considered actions and decisions.¹ In recognition of the comparative immaturity and irresponsibility of juveniles, almost every State prohibits those under 18 years of age from voting, serving on juries, or marrying without parental consent.²*

- *Second, juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure.³ Youth is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage. This is explained in part by the prevailing circumstance that juveniles have less control, or less experience with control, over their own environment. As legal minors, juveniles lack the freedom that adults have to extricate themselves from a criminogenic setting.⁴*
- *Third, the character of a juvenile is not as well formed as that of an adult. The personality traits of juveniles are more transitory, less fixed.⁵*

Because youth are more readily changeable, interventions that enhance their understanding and skills are most effective in changing their behavior and consequently, in most instances, more effective in improving future community safety than strictly punitive responses. Community safety is inextricably linked to teaching juvenile offenders the skills that will change their behavior from offending to law abiding. Research suggests that there are effective responses that can prevent crime and reduce risk factors for crime.⁶

The juvenile delinquency court of excellence is the hub of the juvenile justice system. From this hub, schools and public and private social agencies draw additional authority when the problems of troubled youth and their families rise to the level of youth breaking the law.⁷ Without the involvement of these system stakeholders, the attitudes, skills, and behaviors of most youth may not be changed. With their involvement, the change that will produce safe communities can occur.

The child welfare system has an important impact on the juvenile justice system. Research is clear that youth who have been abused and neglected are at heightened risk for early onset of delinquency. Examples of research findings include:

- Physical abuse and parental psychological unavailability at an early age were found to be risk factors for antisocial behavior in adolescence.⁸
- Characteristics that are common in parents of abused and neglected children, including poor parenting skills, parental stress, low interaction between parent and child, poverty, young parents, parental criminal problems, and low parental education are related to later violence in offspring.⁹
- Almost 50% of the maltreated boys in one

study were persistent serious delinquents by age 13 years, compared with 19% of the matched controls. This relationship is all the more important because early onset of serious delinquency is a general indicator for a continued serious delinquent career.¹⁰

- Children who witness partner violence have higher rates of distress, internalizing problems, noncompliance, aggression, delinquency and other antisocial behavior.¹¹
- Almost 50% of the sexually assaulted boys in the study reported engaging in delinquent acts, compared with only 16.6% of those not sexually assaulted; the girl's rate was 19.7%, four times higher than the delinquency rate of girls who had not been sexually assaulted (4.8%).¹²

Recognizing the importance of the heightened risk of delinquency for adjudicated abused and neglected youth, the Juvenile Justice and Delinquency Prevention Act of 2002 requires a study of juveniles in the juvenile justice system who were in the care or custody of the child welfare system prior to becoming delinquent.

In addition to the heightened risk of delinquency for abused and neglected youth, there is a heightened risk of delinquency for youth who have experienced other types of victimization and child trauma, including witnessing violence and physical assault. Recent studies have found that:

- Youth who are victimized have a 78% likelihood to offend as compared to a 32% likelihood of non-victims.¹³
- Almost 47% of physically assaulted boys report engaging in delinquent acts as compared with almost 10% of boys who were not physically assaulted. Twenty-nine percent (29%) of physically assaulted girls report engaging in delinquent acts as compared with 3% of non-assaulted girls.¹⁴
- About 33% of boys who had witnessed violence reported engaging in delinquent acts as compared with 6.5% of boys who did not witness violence. About 17% of girls who witnessed violence reported delinquent behavior as compared with 1.4% of girls who did not witness violence.¹⁵

These interrelationships and complexities regarding delinquent behavior, victimization, trauma, abuse, and neglect further emphasize the need for a separate juvenile delinquency court - a court staffed with judges and other professionals who understand and can address these dynamics in their responses to youth who break the law.

Countries across the world have juvenile delinquency courts for the same reasons. They are the legal institutions that address the problems of

youth who break the law by bringing together the professionals, parties, and tools that will make a difference in the unacceptable behavior of these youth. Formal legal proceedings in the juvenile delinquency court bring parents, social workers, probation officers, schools, service providers, and members of the community into a problem-solving environment to address some of society's most enduring problems. There is no substitute for the juvenile delinquency court and society will not function well without it.

B. THE GOALS OF A JUVENILE DELINQUENCY COURT OF EXCELLENCE

In order for systems to be effective and be able to prove their effectiveness, they need to have clearly stated measurable goals. The key principles or steps that will lead the system toward goal achievement must be defined. Participants in the system must continually measure progress toward key principles and goals, instituting process improvement when needed. The juvenile delinquency court and the stakeholders that directly interact in the court's processes need to have compatible goals in order for the juvenile justice system to serve most effectively the youth and families that come before it. In the juvenile delinquency court of excellence, stakeholders involved in the daily operations of the juvenile justice system work together to craft goal statements and work together to monitor progress toward goals.

A juvenile delinquency court goal statement should include some aspect of all of the following components:

The goals of the Juvenile Delinquency Court are to:

- *Increase safety in communities by supporting and implementing both effective delinquency prevention strategies as well as a continuum of effective and least intrusive responses to reduce recidivism;*¹⁶
- *Hold juvenile offenders accountable to their victims and community by enforcing completion of restitution and community service requirements;*¹⁷ and
- *Develop competent and productive citizens by advancing the responsible living skills of youth within the jurisdiction of the juvenile delinquency court.*¹⁸

The juvenile delinquency court cannot achieve these goals alone. These goals can only be achieved when the

CHAPTER 1 FOUNDATIONS FOR A JUVENILE DELINQUENCY COURT OF EXCELLENCE

Juvenile delinquency court collaborates with stakeholders in the community and other components of the juvenile justice system.

Some juvenile delinquency courts may choose to call this statement a vision or mission statement as opposed to a goal statement. Regardless of what nomenclature the juvenile delinquency court chooses, all of the concepts apply.

Some juvenile delinquency court judges express concern about the appropriateness of becoming involved in system collaboration. They are often concerned because they believe that collaboration may be perceived as engaging in *ex parte* or unethical communication that violates judicial canons. Juvenile delinquency court judges must be diligent regarding protection of the rights of all parties and should therefore not engage in *ex parte* discussions regarding substantive issues of pending cases without the knowledge of all parties. When involved in collaborative and training activities, the juvenile delinquency court judge must make it clear that no discussions will occur involving pending cases and that case examples will protect the confidentiality of the parties. Judges must also examine their judicial ethics advisory committee opinions, if available, and any court decisions interpreting state judicial conduct codes as to the propriety of judicial and non-judicial conduct.

However, the prohibition against *ex parte* communications and the restrictions created by state judicial conduct codes should not preclude the involvement of juvenile delinquency court judges in community and system collaboration. Accordingly, the National Council of Juvenile and Family Court Judges (NCJFCJ) has taken a leadership role in advocating judicial collaboration since the early 1990s. ***The DELINQUENCY GUIDELINES recommends where state expectations are not clear or prohibit juvenile delinquency court judges from community involvement and collaboration, juvenile delinquency court judges should make every effort to either adopt rules that encourage judges to be involved in system collaboration, or advocate change in their state judicial conduct codes to permit system collaboration.***

C. KEY PRINCIPLES OF A JUVENILE DELINQUENCY COURT OF EXCELLENCE

It is important for juvenile delinquency courts to identify the *Key Principles* that will lead them to achieve their goals. The NCJFCJ has researched and published recommendations on more than 25 different issues within the juvenile delinquency system. Throughout these publications, there are

certain principles that are consistently recommended, and it is from this group of recommendations, as well as the Project Development Committee's extensive experience, that these foundational *Key Principles* for the optimal juvenile delinquency court of excellence have been identified.²³

It is important to note that some jurisdictions may currently have state statutes that prevent them from implementing one or more of these key principles. In order for a juvenile delinquency court to be *optimally* efficient and effective, implementation of these principles in their entirety is necessary. However, implementation of any of the principles should improve the juvenile delinquency court process. In jurisdictions where state statutes prevent implementation of a key principle, juvenile delinquency court judges should consider working with the legislature and delinquency system participants to change these statutes.²⁴

The ***DELINQUENCY GUIDELINES 16 Key Principles*** that form the foundation for juvenile delinquency courts of excellence to reach their goals are:

1. *Juvenile Delinquency Court Judges Should Engage in Judicial Leadership and Encourage System Collaboration* –

The juvenile delinquency court judge should regularly convene system stakeholders and the community to promote mutual respect and understanding within the juvenile delinquency court system, and to work together to improve the system. The juvenile delinquency court judge and court administrator should engage the state chief justice and state court administrator in system collaboration.

In addition to state and local judiciary, juvenile delinquency court stakeholders include state court administrators, law enforcement officers, detention and juvenile delinquency court intake staff, prosecutors, public defenders and the defense bar, probation officers, detention staff, substance abuse and mental health systems professionals, education administrators and teachers, workforce development staff, child welfare professionals, representatives of community agencies, crime victims, crime victim advocates, victim services providers, legislators, and the community at large. If a state uses a judicial assignment system, it is important that both the judge who is responsible for assignments and the judges assigned to juvenile delinquency court are involved in juvenile delinquency court judicial leadership and system collaboration.

Juvenile delinquency court judges should regularly appear in the community for the purpose

of promoting better understanding and support. They should inform the community of the juvenile delinquency court's goals and the issues associated with youth, families and crime victims in the juvenile delinquency court system. Judges should encourage the development of successful programs, including volunteer and faith-based programs, to assist children and families within the juvenile delinquency court. Juvenile delinquency court judges should be willing to be engaged by system participants and the community to discuss juvenile delinquency court issues and the work of others on behalf of children and families.²⁴

States should consider creating juvenile justice commissions and juvenile court judges should consider creating statewide juvenile court judges organizations for the purpose of providing leadership and influence at the state level.²⁵ Supreme Court Chief Justices and state court administrators should be involved in juvenile delinquency court leadership and support efforts, and should empower judges at the local level to engage in leadership and collaboration activities.

2. Juvenile Delinquency Systems Must Have Adequate Staff, Facilities, and Program Resources – *Juvenile delinquency systems must have sufficient numbers of qualified judges, judicial officers, probation officers, case management staff, intake staff, prosecutors, public defenders, and victims' advocates to create manageable caseloads and timely process. They must have adequate courtrooms, separate and safe waiting areas for victims and offenders, secure holding facilities, private meeting space for youth and counsel, and detention facilities that are both secure and non-secure. They must have the necessary array and quantity of quality services to meet the needs of delinquent youth.*

Juvenile delinquency courts must have access to a wide array of diversion resources as an alternative to formal juvenile delinquency court action, and to assessment services, treatment services for mental health, substance abuse and sexual offenders, educational assistance, restitution programs, non-secure community service programs, wrap-around services for youth with multiple needs, and community placements. Juvenile delinquency courts must have access to services for parents who need assistance in managing the behavior or special needs of their delinquent child.

Juvenile delinquency courts must have access to secure facilities for serious and violent offenders. These facilities should be staffed by qualified professionals and provide treatment and other

services that will prepare youth for reentry into the community.

3. Juvenile Delinquency Courts and Juvenile Abuse and Neglect Courts Should Have Integrated One Family-One Judge Case Assignments – *One juvenile court judge should handle the delinquency and abuse and neglect hearings on all members of one family from the beginning to the end of all juvenile delinquency court processes. When the juvenile delinquency court has jurisdiction over other related matters, such as child support or domestic relations, those matters should also be included in One Family-One Judge case assignments. When the court does not have jurisdiction over other related matters, the juvenile delinquency court judge should initiate coordination among the courts to ensure consistency of response.*

One family-one judge provides consistency and increased knowledge of the youth and family. When an alleged delinquent youth is also an adjudicated abused or neglected youth, the same judge or hearing officer should, at a minimum, oversee disposition planning and monitoring to ensure consistency and avoid contradictory responses.

Judges should be trained to hear evidence impartially and should be unbiased in hearing evidence during the adjudicatory process, even though they have heard previous cases regarding the same youth. In many small jurisdictions, one family-one judge case assignments occur naturally since there is only one judge to hear juvenile cases. Judges are responsible to ensure that their appointed judicial officers are also trained to hear evidence impartially. If counsel has reason to believe that a judge or judicial officer cannot be impartial in a specific case, counsel should file a motion requesting recusal or disqualification.

4. Juvenile Delinquency Court Judges Should Have the Same Status as the Highest Level of Trial Court in the State and Should Have Multiple Year or Permanent Assignments – *Juvenile delinquency court judges should do everything possible to inform elective and appointing authorities that in order for a juvenile delinquency court to be effective, its judges should have a professed interest in and capacity to handle juvenile and family matters, and judicial terms should be permanent or a minimum of six years.*

Juvenile delinquency courts of excellence have judges who are dedicated to and invested in

CHAPTER 1 FOUNDATIONS FOR A JUVENILE DELINQUENCY COURT OF EXCELLENCE

the juvenile delinquency court system. The breadth of knowledge and wisdom that result from experience are critical to ensure that this complex court serves the best interests of the community and its youth. **The DELINQUENCY GUIDELINES recommends six continuous years as the minimum time for a judge or judicial officer to spend on the juvenile delinquency court bench.**

5. All Members of the Juvenile Delinquency Court Shall Treat Youth, Families, Crime Victims, Witnesses, and Others With Respect, Dignity, Courtesy, and Cultural Understanding – *The juvenile delinquency court must be accessible, understandable, and respectful to persons of all ages, cultures, and abilities, in its processes, its written materials, and its verbal and non-verbal communications.*

All members of the juvenile delinquency court system, from intake, assessment, diversion, courtroom, and disposition services, must understand and appreciate the ethnic and cultural traditions and mores, the socio-economic circumstances, the gender differences, the disabilities, and the strengths of those who enter the juvenile delinquency system. All members of the juvenile delinquency court should understand how courts can positively impact disproportionate minority contact, and should design and monitor decision-making that minimizes the possibility of bias.

Effective juvenile delinquency court systems ensure certified interpreters are available to assist families who do not speak English or are hearing impaired; legal materials are available in the language of significant ethnic groups in the jurisdiction that do not speak English; and, services are designed with appropriate cultural and cognitive understanding. Juvenile delinquency courts of excellence strive to set their hearings and appointments at times that will minimize youth missing school and parents missing work.

6. Juvenile Delinquency Court Judges Should Ensure Their Systems Divert Cases to Alternative Systems Whenever Possible and Appropriate – *Juvenile delinquency courts should limit formal processing of petitions to cases where it is apparent that law enforcement diversion, prosecutor diversion, or juvenile delinquency court diversion to community services, has failed to protect, or will be ineffective in protecting the community from significant risk of harm.*

Juvenile delinquency courts should encourage

law enforcement and prosecutors to consider diversion for every status offender, every first-time, non-violent misdemeanor offender, and other offenders as appropriate. Juvenile delinquency court judges should engage the community, law enforcement, and the prosecutor to develop diversion programs, including dispute resolution alternatives. Juvenile delinquency court judges should participate in the creation and ongoing monitoring of these programs to ensure that they are successfully diverting appropriate alleged juvenile offenders.

7. Youth Charged in the Formal Juvenile Delinquency Court Must Have Qualified and Adequately Compensated Legal Representation – *Alleged and adjudicated delinquent youth must be represented by well trained attorneys with cultural understanding and manageable caseloads. Juvenile delinquency court administrative judges are responsible to ensure that counsel is available to every youth at every hearing, including post-disposition reviews and reentry hearings.*

Juvenile delinquency court judges and judicial officers should be extremely reluctant to allow a youth to waive the right to counsel. On the rare occasion when the court accepts a waiver of the right to counsel, the court should take steps to ensure that the youth is fully informed of the consequences of the decision. A waiver of counsel should only be accepted after the youth has consulted with an attorney about the decision and continues to desire to waive the right.

8. Juvenile Delinquency Court Judges Should Ensure Crime Victims Have Access to All Phases of the Juvenile Delinquency Court Process and Receive All Services to Which They Are Entitled by Law – *The prosecutor, probation officer, or both, should provide victim advocates to assist crime victims throughout the court process. Crime victims should be welcomed, respected, listened to, and involved in system improvement efforts.*

Juvenile delinquency court judges should ensure that crime victims are encouraged to participate in the juvenile delinquency court process by providing safe and separate waiting rooms, providing assistance in submitting victim impact statements, and making enforced orders of restitution. Judges should ensure that offending youth have opportunities to learn the impact of crime on the victim through victim impact panels or other methods, and that programs exist to assist youth to earn and pay restitution to victims.

9. **Juvenile Delinquency Courts Should Render Timely and Just Decisions and Trials Should Conclude Without Continuances** – *Timeliness includes the days between when a youth is charged, adjudicated and disposition orders are made and implemented, as well as the hours parties wait between the time their hearing is scheduled and when it actually begins. Just decisions ensure that the juvenile delinquency court's response is in line with the offense and that similar offenses with similar circumstances generally receive similar responses.*

Timely delinquency systems require that diversion decisions be made within days of the filing of an affidavit, that the initial hearing on formally processed petitions be scheduled within three weeks of the petition being signed for youth not in detention, and that cases are taken under advisement no more than five days. Timely delinquency systems require all hearings to be scheduled and held at specific times with the next hearing set at the end of each hearing. It is important to note that just decisions can be appropriate for the offense, be similar to those for other offenses with similar circumstances, and yet still provide individualized responses to meet the youth's needs.

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10. **Juvenile Delinquency System Staff Should Engage Parents and Families at all Stages of the Juvenile Delinquency Court Process to Encourage Family Members to Participate Fully in the Development and Implementation of the Youth's Intervention Plan** – *Juvenile delinquency system staff should make efforts to identify and engage parents and other family members, including extended family. The juvenile delinquency court judge should strongly encourage delinquency system staff to involve the family in developing the case plan and make sure that the case plan includes services for the family that will enhance family skills to improve the youth's chances of success. The juvenile delinquency court judge should hold parents and legal guardians accountable for participation in the treatment plan.*

Juvenile delinquency system judiciary and staff should routinely gather identifying information on immediate and extended family members so that the court is aware of all resources and support systems that are available to become part of the youth's intervention plan and support system. The juvenile delinquency court should encourage the inclusion of the parents and family in devel-

oping the intervention plan to the maximum degree possible, as family involvement in negotiating and designing the plan, even choices with regard to minor details, can positively impact adherence and favorable outcomes.³¹ The juvenile delinquency court judge should require the parent or legal guardian to participate in treatment when necessary to meet the needs of the youth, if state statutes permit such orders.

11. **The Juvenile Delinquency Court Should Engage the School and Other Community Support Systems as Stakeholders in Each Individual Youth's Case** – *The juvenile delinquency court enhances a youth's chance for success by working with school systems and other community support systems. The need to address a youth's educational functioning cannot be overemphasized, as education is a critical factor in every youth's potential success.*

Juvenile delinquency system staff should routinely collect information about the youth and family's cultural, religious and other community interests and connections, in order to build both short and long term support systems for the youth. Medical, mental health, substance abuse, child protection, developmental disabilities, and other systems should be engaged as appropriate to meet each youth's needs.

The juvenile delinquency court should routinely obtain information in every case to identify and address all of the youth's educational needs. Youth who are not succeeding in school are prime candidates for truancy, and truancy is a risk factor for delinquency. In today's job market, the lack of a high school diploma can mean unemployment or a minimum wage job. Unless the youth is in an appropriate education environment as part of the solution for change, the youth's chances of success are severely limited. Consequently, it is important that a coordinated effort be made by juvenile delinquency courts and schools to ensure each youth's success, especially youth who have dropped out or been incarcerated.

12. **Juvenile Delinquency Court Judges Should Ensure Court Dispositions are Individualized and Include Graduated Responses, Both Sanctions and Incentives** – *Juvenile delinquency court staff should hold youth and families accountable for illegal behavior, deliver clear consequences when youth violate the law, and teach youth necessary behavior change. Effective juvenile delinquency courts accomplish these goals by using*

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graduated responses that vary according to the severity, frequency and degree of violence of the offense, and the special needs, strengths, and circumstances of the youth and family.

In effective individualized juvenile delinquency court response systems, trained professionals, usually probation officers, assess each youth and accurately determine the strengths and needs around which to build responses. Individualized responses are designed so that they do not prevent a juvenile delinquency court from rendering similar responses for similar offenses under similar circumstances.

A graduated sanctions and incentives model has been developed by the Juvenile Sanctions Center of the National Council of Juvenile and Family Court Judges. The Center published *Graduated Sanctions for Juvenile Offenders: A Program Model and Planning Guide* in 2003. This publication describes in detail how a juvenile delinquency court can implement a multi-tiered continuum of interventions that emphasizes the need to hold each juvenile offender accountable for any and all offenses committed. The continuum provides services that can respond effectively to the individual needs of each offender, uses graduated consequences and positive reinforcement, and promotes the use of progressively more severe sanctions when needed for repeat offenders. This model recognizes that it is necessary, in order to prevent a youth's return to the juvenile justice system, to couple sanctions and incentives with a range of effective service interventions to address the underlying problems that caused the delinquent behavior.

Research suggests that graduated responses are more effective when they include not only consequences but also nurturing and cultivation of existing strengths.²¹ Research also shows that responses are more effective when they enable youth to actively practice and demonstrate skills in a way that strengthens a community connection. Consequently, juvenile delinquency court judges should ensure that their graduated response systems include opportunities for youth to contribute positively to the community while developing necessary skills and knowledge to change their behavior.

13. Juvenile Delinquency Court Judges Should Ensure Effective Post-Disposition Review Is Provided to Each Delinquent Youth as Long as the Youth Is Involved in any Component of the Juvenile Justice System – *Effective oversight ensures that youth and parents are complying with court orders and that service providers are following through*

with timely, necessary services. Court orders should always be reasonable, necessary, and supported by evidence.

Juvenile delinquency courts should use their statutory oversight authority to the fullest extent possible. The juvenile delinquency court has the capacity to provide objective third party monitoring and recourse for parties to challenge decisions. Active and meaningful post-disposition review should occur until all court requirements are completed, including the process of successful reentry into the community if the youth has been placed.

If the juvenile delinquency court does not have oversight authority, the court should work together with the governmental systems that do have oversight authority to ensure that all delinquent youth are being held accountable and are receiving needed services in a timely fashion. If youth are frequently recidivating because they have not received appropriate and effective services, juvenile delinquency court judges should work collaboratively to improve existing systems. When necessary, juvenile delinquency court judges should advocate for changes in state law to provide judicial oversight authority to the juvenile delinquency court.²²

14. Juvenile Delinquency Court Judges Should Hold Their Systems and the Systems of Other Juvenile Delinquency Court Stakeholders Accountable – *Juvenile delinquency court judges should ensure that the juvenile delinquency system has measurable goals, key principles, and objectives that serve as standards against which system performance is measured, and that an annual delinquency system "report card" is made available to stakeholders and the public.*

The juvenile delinquency court judge should lead a collaborative effort of all delinquency system stakeholders to establish and clearly articulate delinquency system goals. The juvenile delinquency court and each system stakeholder should subsequently establish aligned goals and objectives so that the court and all system stakeholders are moving in the same direction and can measure and report progress. The juvenile delinquency court should measure the outcomes of all routinely court ordered services to ensure they are effective.

15. Juvenile Delinquency Court Judges Should Ensure the Court Has an Information System That Can Generate the Data Necessary to Evaluate Performance, Facilitate Information

Sharing with Appropriate Agencies, and Manage Operations Information –

Juvenile delinquency court staff should regularly generate aggregate data for monitoring and managing court performance. In addition, the judiciary and other appropriate court staff should be able to use the system to obtain case tracking and case management data on individual cases as well as manage other operation information needs such as property and evidence.

Judges should ensure that their juvenile delinquency court information systems have the capacity to collect, analyze, and report data that measures the extent to which their key principles are being followed and their goals and objectives are achieved. Pre-programmed system reports should provide aggregate information on the timely processing of cases including the number of, reasons for, and lengths of time for continuances. Aggregate reports should report outcomes, recidivism, and the administration of consistent justice to youth with similar charges and characteristics. The system should have query abilities to produce *ad hoc* reports. Judges, judicial officers, probation officers, and other approved staff should be able to access current and complete information on the status and progress of any individual youth. The system should be able to link information on family groups and abuse and neglect cases.

The juvenile delinquency court should design information systems so that they maintain the privacy rights of individuals and so that within privacy parameters, information can be shared between the juvenile delinquency court and other appropriate governmental or service agencies.

16. The Juvenile Delinquency Court Judge Is Responsible to Ensure that the Judiciary, Court Staff, and all System Participants Are Both Individually Trained and Trained Across Systems and Roles – *All participants in the juvenile delinquency court system should be trained in child and adolescent development principles, cultural differences, mental health, substance abuse, and learning issues, and community systems and services. All participants in the juvenile delinquency court system should be cross-trained in the basics of local process, goals, key principles, and individual roles.*

Training should include opportunities to learn about the ideas and promising practices of other juvenile delinquency court systems as well as current research on effective interventions. Training should enhance the system participant's ability to

build consensus, promote collaboration within the system and within the community, and provide effective outcomes. Training should identify system barriers and review process results and goal achievements in order to identify outcomes, and to design, implement, and determine the impact of system improvements. The focus of all training should not only be on knowledge transfer, but also attaining demonstrable skills so that system participants not only know what to do, but how to do it.

D. ROLES AND RESPONSIBILITIES WITHIN THE JUVENILE DELINQUENCY COURT OF EXCELLENCE

The final section of this chapter identifies and describes the different and critical roles within the juvenile delinquency court. This section speaks to the primary roles in the juvenile delinquency court process, and is not intended to cover the roles of all of the system stakeholders, such as service providers and state youth authorities. The roles and responsibilities follow the order that generally occurs in the juvenile delinquency system, beginning with law enforcement and ending with probation. Different departments of government, or of the juvenile delinquency court, carry out these roles in different jurisdictions, and they may be called by different titles; but each of these roles should be fulfilled in order for a juvenile delinquency court to operate effectively. In order to create a juvenile delinquency court of excellence, the professionals involved in every aspect of every role must be committed to timeliness, i.e., to keeping the length of time between the alleged youth incident and the next process step as short as possible. They must also be committed to cultural understanding.

- **Law Enforcement** – Whether called police, sheriff or another title, law enforcement personnel play a key role in the juvenile delinquency court. They protect children and the community, identify problems and resources, and, as the usual first point of contact with delinquent youth, are in a position to recognize early problem behaviors of youth. Law enforcement responsibilities in the juvenile delinquency court process include:
 - In response to observation or a citizen complaint, conducting a timely preliminary investigation to determine if a law violation has occurred;
 - Identifying the juvenile offender;
 - Gathering evidence;
 - Documenting the offense in clear, specific terms;
 - Providing or referring the youth to diver-

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sion services as quickly as possible when appropriate:

- Arresting the youth, if appropriate, and presenting the youth, reports and evidence to the juvenile delinquency court and prosecutor as quickly as possible;
- Testifying in juvenile delinquency court; and
- Enforcing court orders.

• **Juvenile Delinquency Court Intake and Docketing** – In most jurisdictions the affidavit (police report) is filed with the juvenile delinquency court and this begins court involvement. At this point, the responsibilities that must be carried out include:

- Working with the prosecutor to determine immediately legal sufficiency, and whether the case will be handled formally or informally, and processing the affidavit and petition; and
- If the charge will be handled formally, setting the case for a hearing and notifying parties as quickly as possible.

In some juvenile delinquency courts, probation officers handle intake; in some juvenile delinquency courts, intake is a separate department from probation; and in some juvenile delinquency courts, intake is handled by a combination of court staff and prosecutor's staff. Different models can work equally well as long as there are consistently followed, clear guidelines specifying which cases will be handled formally; and as long as well trained staff are making the decision of which diversion resource to use.

• **Prosecution*** – The prosecutor should screen every affidavit to determine whether the allegations are legally sufficient. Once the prosecutor determines the case is legally sufficient, the prosecutor should either assess the case for diversion, or refer the case back to juvenile delinquency court intake to assess the case for diversion. (Refer to Chapter III for more information.)

- The primary duty of the prosecutor is to seek justice in light of the special interests and needs of the juvenile as well as the safety and welfare of the community;
- Juvenile prosecution is a priority requiring experienced prosecutors. Juvenile prosecutors should be selected on the basis of their skill and competence. They should have a particular interest in youth, have knowledge of juvenile law, and be trained in the development, education, substance abuse, and mental health of youth. Juvenile delinquency court cases should not be assigned to entry level prosecutors;
- The prosecutor has a responsibility to

promptly and thoroughly investigate the youth's case in order to make informed judgments on the proper course of action in the case.

- The prosecutor should be knowledgeable of all the disposition resources available in the jurisdiction;
- The prosecutor should appear as an attorney for the state in all hearings concerning a juvenile accused of an act where the prosecutor would appear if an adult committed the same act. This includes, but is not limited to, hearings for detention, speedy trial, motions, dismissal, entry of pleas, trial, waiver, disposition, post-disposition review, probation and parole violation hearings, and any appeal from, or collateral attacks upon, the decisions in each of these proceedings;
- Before the trial and adjudication hearing, the prosecutor should file all appropriate pre-trial motions needed to protect the interests of the state; and
- Because a breakdown in the exchange of discovery materials can lead to adjudication by ambush and a disposition that fails to consider important information, the prosecutor should turn over all discovery materials as defined by court rule, or as properly requested by counsel for youth as soon as possible. Where the jurisdiction provides for reciprocal discovery, the prosecutor should pursue all such relevant materials.

• **Detention Intake** – if the youth is arrested by law enforcement and brought to the juvenile delinquency court with the affidavit or warrant, the following decisions need to be made:

- Whether to release the youth unconditionally;
- Whether to release the youth with conditions;
- Whether to place the youth in non-secure detention; or
- Whether to place the youth in secure detention.

In many jurisdictions, these roles are the responsibility of probation staff. In other jurisdictions, intake departments or detention staff are responsible for these tasks. The staff making these decisions must be specially qualified to use validated risk of reoffending screening tools, and trained to deal with potentially difficult behavior.

• **Detention** – Whether operated by the juvenile delinquency court or by another public or private entity, secure and non-secure detention facilities should be components of all juvenile delinquency systems. The purpose of detention is to provide a holding place for youth who should not be released to the community pending the hearing

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process. Detainment should only be considered when a youth is believed to be a danger to self or others, or at risk to reoffend or to abscond. Detention staff must be well-trained in safety and crisis management skills. Secure and non-secure detention environments should include all of the following:²⁹

- Safe, clean and healthy environment;
- Separation of youth by gender, maturity level, and seriousness of the offense;
- Medical, substance abuse, mental health, and trauma screening;
- Medical, mental health, and substance abuse emergency services;
- Psychological evaluation and mental health treatment;
- An environment that is conducive to learning and provides for the beginning of the rehabilitative process;
- Access to mail, telephone, and visitation by family, relatives, and counsel;
- Mandatory education; and
- Recreation programming.

• **Victim Advocates** – The responsibilities of advocates for victims of crime usually fall under the auspices of either, or both, the prosecutor's office and probation. Responsibilities to victims include:

- Explaining the juvenile delinquency court process to the victim and keeping the victim abreast of where the case is in the juvenile delinquency court process;
- If the case goes to trial, preparing the victim to testify, providing a safe waiting area separate from the alleged offender, and accompanying the victim throughout the time at juvenile delinquency court;
- Encouraging the victim to file a victim's impact statement, including a request for restitution, if appropriate, and assisting with these items, if requested;
- Assisting the victim to access any victim reparation funds that may be available and appropriate;
- Assisting the victim to access any social services or victims' organizations as needed and desired;
- Informing the victim of the juvenile delinquency court's response to the extent appropriate; and
- Assisting the victim throughout the post-disposition period to collect restitution and to inform the victim of appropriate changes in case status, such as offender release back into the community.

• **Certified Interpreters** – Whenever a youth or parent understands little or no English, or is hearing impaired, a certified court interpreter should be present to translate juvenile delinquency court proceedings. A qualified interpreter must have a high level of proficiency in both English and the second lan-

guage, as well as knowledge of juvenile delinquency court processes. The court interpreter must provide interpretation in a manner faithful to all canons of the code of professional responsibility, and in compliance with all juvenile delinquency court policies regarding court interpretation.

• **Counsel for Youth**³⁰ – In order to best represent the client and to provide for the speedy administration of juvenile cases, it is the responsibility of counsel for youth to begin active representation of the client before the detention or initial hearing (see Chapter III, Section C (3), Ensuring Qualified Counsel is Available and Prepared for the Detention or Initial Hearing) and immediately following the counsel's appointment or retention. Counsel for youth must be able to explain the juvenile delinquency court process in terms the youth can understand. Whether performed by a public defender or the private bar, counsel for youth is responsible to:

- Be an advocate, zealously asserting the client's position under the rules of the adversary system;
- Be an experienced attorney in order to provide effective legal assistance. The representation of youth in juvenile delinquency court should not be an entry-level position that eventually graduates attorneys to other areas of defense work. Counsel for youth should have a particular interest in youth and family systems, focus on juvenile law, and be trained in the development, education, substance abuse, and mental health of youth. They should be selected on the basis of their skill and competence;
- Promptly and thoroughly investigate the client's case in order to be an effective advocate;
- Ensure the juvenile delinquency court has been informed of the youth's special needs;
- Be knowledgeable of all the disposition resources available in the jurisdiction;
- Appear as an attorney for the youth in all hearings concerning a juvenile accused of an act where the defense attorney would appear if an adult committed the same act. This includes, but is not limited to, hearings for detention, speedy trial, motions, dismissal, entry of pleas, trial, waiver, disposition, post-disposition reviews, probation or parole violation hearings, and any appeal from or collateral attacks upon the decisions in each of these proceedings;
- Before the trial and adjudication hearing, file all appropriate pre-trial motions in order to protect the youth's rights and preserve the fairness of the trial and adjudication hearing. Such motions may include efforts to obtain discovery materi-

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als, to suppress physical evidence and admissions, or to challenge the circumstances of a pretrial identification, etc; and

- Actively pursue discovery from the prosecutor under informal procedures, court rule, and motions practice as appropriate. Effective representation of the client's interests is frustrated when counsel for the youth is ignorant of information contained in discovery materials. Where the jurisdiction requires reciprocal discovery, counsel for youth should provide such materials as promptly as possible.

- **In Loco Parentis** – A supportive parent or legal guardian should be present at every juvenile delinquency court hearing for an alleged or adjudicated delinquent youth. Occasionally, however, an alleged delinquent youth's parent or legal guardian may be unable to provide appropriate parental support and advice during the juvenile delinquency court process, and no other relative or other adult with a positive relationship with the youth is available. In such circumstances, the court should appoint an *in loco parentis*. Examples include:

- The parent or legal guardian is part of the prosecution of the case;
- The juvenile delinquency court judge believes the parent or legal guardian is so antagonistic toward the youth as to be unable to provide support and advice (e.g., the parent immediately informs the court that he or she wants nothing further to do with the youth and does not care what happens); or
- The parent or legal guardian did not appear for the detention or initial hearing without reasonable cause, even though notice was properly served.

In loco parentis means in place of the parent. Appointing an *in loco parentis* ensures that the youth has access to substitute parental support and advice between the time of arrest and disposition. Examples of the responsibilities of this role include helping the youth maintain contact with counsel, serving as a concerned adult, visiting in detention, communicating to family members as appropriate, and identifying immediate and extended family who may be willing to step forward and support the youth through the remaining court process. The relationship between an *in loco parentis* and counsel for the youth is the same as between a parent and counsel for the youth. If the *in loco parentis* offers testimony to the court, including opinion testimony, it is subject to cross examination. The person appointed *in loco parentis* has no official role outside of the juvenile delinquency case.

The appointment of an *in loco parentis* should be rare and is presumed to be unnecessary. Juvenile delinquency court intake, probation, or counsel for the youth should make every effort to identify family or adult family friends who can provide contact and guidance to the youth if the parent or custodian cannot. If a youth in the legal custody of the child protection agency needs the appointment of an *in loco parentis* because the agency is part of the prosecution, the juvenile delinquency court judge or judicial officer should determine if there is another family member, a guardian *ad litem*, or a court appointed special advocate (CASA) already involved on the abuse and neglect case who knows the youth. If so, the juvenile delinquency court should determine if any of these persons would be appropriate to serve as *in loco parentis* on the delinquency case. The juvenile delinquency court can also recruit and train volunteers to be on call for this role.

The determination of whether an *in loco parentis* is needed, appointing an appropriate person to fill this role, and determining how long the individual should remain appointed is the responsibility of the juvenile delinquency court judge. The appointment should never last beyond disposition, because unless the youth has turned 18, the juvenile delinquency court must ensure a parent, relative, or legal guardian is in place as part of the juvenile delinquency court's disposition. A juvenile delinquency court judge or judicial officer should be able to quickly determine if an *in loco parentis* should be considered because the parent or legal guardian is part of the prosecution of the petition, or is absent from the initial hearing even though notified. If the juvenile delinquency court judge cannot immediately identify a relative or adult to serve the parental role, the judge should appoint an *in loco parentis*.

An *in loco parentis* will no longer be needed if an appropriate parent, relative, interested adult, or legal guardian becomes available after the appointment, or if the parent, relative, or legal guardian is no longer part of the prosecution's case and is able to provide support to the youth.

- **Judge or Judicial Officer**¹¹ – An elected or appointed judge, or an attorney the judge has appointed as a judicial officer, should conduct every formal juvenile delinquency court hearing. Different jurisdictions use the terms magistrates, referees, commissioners,

hearing officers, masters, and associate judges, instead of judicial officer. While in the courtroom, the responsibilities of the judge or judicial officer are to:

- Administer due process by following the laws and rules of the state and the local juvenile delinquency court;
- Ensure all parties who appear before the juvenile delinquency court receive the legal and constitutional rights to which they are entitled;
- Determine the truth of facts and ensure that the process is implicitly fair to all parties;
- Ensure the juvenile delinquency court's orders are reasonable, necessary, and supported by the evidence;
- Ensure juvenile delinquency court ordered services are appropriate to the needs of the youth, have been determined to be effective, and protect the interests of the community;
- Monitor the provision of juvenile delinquency court ordered services until all obligations have been fulfilled; and
- Act consistently in all instances pertaining to public safety and welfare.

In addition to these judicial functions, the role of the juvenile delinquency court judge includes leadership, collaborative, and advocacy components, as well as commenting on, and if necessary, drafting legislation that the judge believes is necessary to complete the work of the juvenile delinquency court.¹² These responsibilities are detailed in the *Goals and Key Principles* sections of this chapter. Some administrative juvenile delinquency court judges have responsibility for court administrative staff, probation, detention, and residential treatment centers.

Throughout the *DELINQUENCY GUIDELINES*, whenever the text says "judge," the statement includes both an elected or appointed judge and an attorney the judge has appointed as a judicial officer.

- **Security** – Whether performed by juvenile delinquency court staff or law enforcement staff, security should be sufficient so that all participants and juvenile delinquency court staff feel reasonably safe. Security screening upon entering the court building is necessary, as is courtroom security. Some juvenile delinquency courts can ensure safety with alarm buzzers in the courtroom to access security assistance outside the courtroom. Other juvenile delinquency courts need security staff in every courtroom to ensure safety.

Security staff is also responsible to ensure that an emergency response plan is in place.

This plan should provide guidance to staff and interested stakeholders regarding known hazards and emerging threats. Security staff should train all juvenile delinquency court staff and regular participants in the juvenile delinquency court system regarding the plan.¹³

- **Juvenile Delinquency Courtroom Case Management** – Case Management staff should be available in every juvenile delinquency courtroom. These staff may be referred to as bailiffs, court clerks, or court case managers. Their responsibilities are to:

- Call parties to the hearing and direct parties to the appropriate department after a juvenile delinquency court hearing (e.g., probation, fines and court costs collection, etc.);
- Ensure all required courtroom documents are available on each case, including affidavits and petitions; and
- Assist the judge before, during and after the hearing as required, including dissemination of the juvenile delinquency court's written findings and orders to parties and key participants at the end of the hearing.

- **Hearing Recording** – This role may be performed by a person who is a court reporter, or may be performed by electronic equipment.¹⁴

- **Mental Health, Substance Abuse, and Education Evaluation Clinic** – These evaluations services ideally are provided in a special juvenile delinquency court evaluation clinic that is in close proximity to the juvenile delinquency court's secure detention facility. Options for staffing the clinic include psychiatrists, psychologists, and social workers employed by, or under contract with, the juvenile delinquency court; or psychiatrists, psychologists, and social workers who are employees of the mental health, substance abuse, and education systems and assigned to this clinic. Juvenile courts must have immediate access to these evaluation services in sufficient quantity to meet the following needs:

- Emergency needs of detained youth;
- Decisional capacity evaluations for competency to stand trial;
- Forensic evaluations of youth on discretionary motions to waive juvenile delinquency court jurisdiction and transfer to criminal court; and
- Mental health, substance abuse, and education evaluations of youth as part of the pre-disposition investigation process in order to recommend treatment services needed by the youth.

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The professionals who provide these services should be well-trained in child assessment, psychopathology, substance abuse, learning delays and disabilities, and the impact of trauma and victimization; they should be knowledgeable regarding the special forensic questions raised in delinquency cases, and readily available to provide timely services.

- **Probation** – In some juvenile delinquency systems, the probation department handles everything from case intake and diversion, detention intake, courtroom case management, pre-disposition investigations, and multiple types of probation supervision. In every juvenile delinquency court, probation officers serve the role of disposition assessment and probation supervision, the primary juvenile delinquency court disposition. In addition to probation officer, they may be referred to as community service officers, community justice officers, or juvenile officers.

Probation officers are often the heart of the juvenile delinquency court operation, and must be well trained and extremely knowledgeable about juvenile law, juvenile delinquency court process, cultural issues, needs and risk screening, education systems and issues, substance abuse, mental health, family violence and other trauma issues, behavior management, liability issues, child and adolescent development, family systems, the relationship between prior victimization and offending behavior, how to identify signs of prior victimization, and many other areas. *The Desktop Guide to Good Juvenile Probation Practice* describes good probation practice as mission-driven, performance-based, and outcome-focused.²⁵ In this *Desktop Guide*, the role of juvenile probation is described as:

...a catalyst for developing safe communities and healthy youth and families...a role that can be fulfilled by:

- Holding offenders accountable;
- Building and maintaining community-based partnerships;
- Implementing results-based and outcome-driven services and practices;
- Advocating for and addressing the needs of victims, offenders, families, and communities;
- Obtaining and sustaining sufficient resources; and
- Promoting growth and development of all juvenile probation professionals.

Probation is the key resource to facilitate referral to treatment services to meet the special needs of each youth. In some jurisdictions, probation officers are employees of the juvenile delinquency court and under the authority of the presiding or administrative judge. In other jurisdictions, probation is under the authority of another state or county department. If under different authorities, it is most important that the two entities collaborate closely and that their goals and principles are in alignment.



Endnotes

¹ *Johnson v. Texas*, 509 U.S. 350, (1993).

² All states have a minimum young age of 18; 45 states establish 18 as the minimum age for jury service; and 47 states establish 18 as the minimum age for marriage without parental or judicial consent.

³ *Estévez v. Okamoto*, 435 U.S. 104, (1978).

⁴ Steinberg, L., & Scott, E. S. (2003). Less guilty by reason of adolescence: Developmental immaturity, diminished responsibility, and the juvenile death penalty. *American Psychologist*, 58, 1009-1018.

⁵ Erikson, E. (1958). *Identity, Youth and Crisis*. New York: Norton.

⁶ Sherman, L. W., Gottfredson, D., MacKenzie, D., Ed, J., Reuter, P., & Bushway, S. (1997). *Preventing Crime: What Works, What Doesn't, What's Promising*. Washington, DC: U.S. Department of Justice.

⁷ Mitchell, D. B., & Kropp, S. E. (2002). Youth violence: Response of the judiciary. In G. S. Kazdin (Ed.), *Securing Our Children's Future: New Approaches To Juvenile Justice and Youth Violence*. Washington, DC: Brookings Institution Press and Governance Institute.

⁸ Quas, J. A., Bateman, B. L., & Nunez, N. (2002). Child maltreatment and delinquency: Framing issues of causation and consequence. *Children's Services*, 5, 245-248.

⁹ Hawkins, J. D., Herrenkohl, T., Farrington, D. P., Brewer, D., Catalano, R. F., & Harachi, T. W. (1998). A review of predictors of youth violence. In R. Loeber, & D. P. Farrington (Eds.), *Serious and Violent Juvenile Offenders: Risk Factors and Successful Interventions* (pp. 106-116). Thousand Oaks, CA: Sage.

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- ¹² Zingraff, M., Leiter, J., Myers, K., & Johnson, M. (1993). Child maltreatment and youthful problem behavior. *Criminology*, 31, 175-202.
- ¹³ Loeber, R., & Farrington, D. P. (Eds.). (2001). *Child Delinquents: Development, Interventions, and Service Needs*. Thousand Oaks, CA: Sage.
- ¹⁴ Tolson, F. H., Gorman-Smith, D., & Henry, D. B. (2002). Linking family violence to delinquency across generations. *Children's Services*, 5, 274-284.
- ¹⁵ Kilpatrick, D. G., Saunders, B. E., & Smith, D. W. (2005). *Youth Victimization: Prevalence and Implications*. [NH] Research in Brief.] Washington, DC: U.S. Department of Justice.
- ¹⁶ Spillane, J. N., & Rubock, R. B. (2002). *Violent Victimization As A Risk Factor For Violent Offending Among Juveniles*. [ODJDP Bulletin.] Washington, DC: U.S. Department of Justice.
- ¹⁷ *Ibid.*
- ¹⁸ *Ibid.*
- ¹⁹ Measured by a reduction in the youth crime rate, the percentage of youth who recidivate, and a reduction in the number of instances of recidivating for youth who do recidivate. Community safety concepts noted in Maloney, D., Ranning, D., & Armstrong, T. (1988). Juvenile probation: the balanced approach. *Juvenile and Family Court Journal*, 39(3), 1-57.
- ²⁰ Measured by the percentage of restitution dollars paid and community service hours completed as compared to those ordered. Accountability concept noted in Maloney, D., Ranning, D., & Armstrong, T. (1988). Juvenile probation: the balanced approach. *Juvenile and Family Court Journal*, 39(3), 1-57.
- ²¹ Measured by using a validated instrument that defines "responsible living skills" and is administered at the point of entry and again at exit producing a percentage of youth whose skills increased during their juvenile delinquency court involvement. Competency development concept noted in Maloney, D., Ranning, D., & Armstrong, T. (1988). Juvenile probation: the balanced approach. *Juvenile and Family Court Journal*, 39(3), 1-57.
- ²² For more information on these NGJJC publications, see the contact information in Appendix A.
- ²³ The individuals who participated on the Project Development Committee are listed in the Preface.
- ²⁴ It is important to note that such activities cannot be supported with federal funds due to the requirements of 18 U.S.C. § 1913.
- ²⁵ Refer to Section B of this chapter regarding how a juvenile delinquency court judge can engage in judicial leadership and collaboration without violating judicial canons on *ex parte* communication. It is important to note that legislative lobbying activities cannot be supported with federal funds due to the requirements of 18 U.S.C. § 1913.
- ²⁶ Pennsylvania is an example of a state with a juvenile justice commission, and Louisiana and Ohio are examples of states with strong statewide juvenile and family court judge's associations.
- ²⁷ Meichenbaum, D., & Turk, D. (1987). *Facilitating Treatment Adherence: A Practitioner's Guidebook*. New York, NY: Plenum Press.
- ²⁸ Clark, M. D. (2001). Change-focused youth work: The critical ingredients of positive behavior change. *Journal of the Center for Families, Children & the Courts*, 3, 59-72.
- ²⁹ Bazemore, G., Nissen, L., & Dooley, M. (2000). Mobilizing social support and building relationships: Broadening correctional and rehabilitative agendas. *Corrections Management Quarterly*, 1, 10-21.
- ³⁰ *Supra* note 21.
- ³¹ This section was prepared by the American Bar Association, Juvenile Justice Center using the National District Attorneys Association *Resource Manual And Policy And Positions On Juvenile Crime Issues*, (July 2002), p. 4.
- ³² Roush, D. W. (1995). *Desktop Guide To Good Juvenile Detention Practice*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.
- ³³ *Supra* note 21.
- ³⁴ Edwards, L. P. (1993). The juvenile court and the role of the juvenile court judge. *Juvenile and Family Court Journal*, 43(2).
- ³⁵ *Supra* note 21.
- ³⁶ For a model Crisis Response/Emergency Operations Plan refer to <http://www.rcadyc.gov/>.
- ³⁷ In 2005, state-of-the-art juvenile delinquency courts use digital voice and image recording stored on compact discs.
- ³⁸ National Center for Juvenile Justice. (2002). *Desktop Guide to Good Juvenile Probation Practice*. Pittsburgh, PA: Author.

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The *JUVENILE DELINQUENCY GUIDELINES* is intended to be used by courts and other juvenile delinquency system stakeholders to assist their efforts to improve practice. The *GUIDELINES* is aspirational - they focus on what should be as opposed to what is. Every effort has been made to make the *GUIDELINES* practical and usable, and to ground recommendations in the most current research and promising practices available at the time of development.

Some jurisdictions are already following many of the recommendations. Some jurisdictions may find it extraordinarily challenging to follow the recommendations. Regardless of jurisdictional status and resources, it is hoped that the *GUIDELINES* will provide a common vision and motivational framework for those working toward an improved juvenile delinquency system.

As jurisdictions strive to implement the *GUIDELINES* with training and technical assistance from the NCJFCJ, juvenile delinquency system practitioners from all situations - urban, rural, suburban, and with varying degrees of resources - will be able to create and share successful implementation methods.

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The following statement was made at the beginning of each chapter of the *DELINQUENCY GUIDELINES*:

The JUVENILE DELINQUENCY GUIDELINES is intended to be used by courts and other juvenile delinquency system stakeholders to assist their efforts to improve practice. The GUIDELINES is aspirational - they focus on what should be as opposed to what is. Every effort has been made to make the GUIDELINES practical and usable, and to ground recommendations in the most current research and promising practices available at the time of development.

Some jurisdictions are already following many of the recommendations. Some jurisdictions may find it extraordinarily challenging to follow the recommendations. Regardless of jurisdictional status and resources, it is hoped the GUIDELINES will provide a common vision and motivational framework for those working toward an improved juvenile delinquency system.

As jurisdictions strive to implement the GUIDELINES, with training and technical assistance from NJTFCJ, juvenile delinquency system practitioners from all situations - urban, rural, suburban, and with varying degrees of resources - will be able to create and share successful implementation methods.

Some juvenile delinquency courts may erroneously believe that the expectations of the *DELINQUENCY GUIDELINES* are so far out of reach that they will not even try to implement them. Other juvenile delinquency courts will want to find out how they can be selected as model courts to implement the *DELINQUENCY GUIDELINES*. In the Introduction, the *DELINQUENCY GUIDELINES* stated:

It is important to note that the juvenile delinquency court judges, and other juvenile delinquency system professionals, who collaborated on the development of the DELINQUENCY GUIDELINES understand that many juvenile delinquency courts will not be able to implement all of the recommendations. All juvenile delinquency courts, however, should be able to implement some of the recommendations and show increased effectiveness and efficiency as a result. Some of the recommendations require transition funding to initially implement the practice, but then show sufficient cost reductions to allow the practices to continue without permanent cost increases. Some

recommendations require resource shifts to implement. Other recommendations can be implemented without cost.

This final chapter of the *DELINQUENCY GUIDELINES: Improving Court Practice in Juvenile Delinquency Cases* provides ideas to help juvenile delinquency courts along the journey toward becoming juvenile delinquency courts of excellence. In this chapter, a variety of topics are addressed, including judicial leadership and collaboration, goals for hearing timelines, assessing current operations for strengths and opportunities for improvement, information on caseloads and workloads, the design of management information systems in the juvenile delinquency court of excellence, and resource issues.

A. JUDICIAL LEADERSHIP AND ESTABLISHING THE COLLABORATIVE ENVIRONMENT NECESSARY FOR A JUVENILE DELINQUENCY COURT OF EXCELLENCE

1. Key Principle 1: Juvenile Delinquency Court Judges Should Engage in Judicial Leadership and Encourage System Collaboration – *The juvenile delinquency court judge should regularly convene system stakeholders and the community to promote mutual respect and understanding within the juvenile delinquency court system, and to work together to improve the system. The juvenile delinquency court judge and court administrator should engage the state chief justice and state court administrator in system collaboration.*

In addition to state and local judiciary, juvenile delinquency court stakeholders include state court administrators, law enforcement officers, detention and juvenile delinquency court intake staff, prosecutors, public defenders and the defense bar, probation officers, detention workers, substance abuse and mental health treatment providers, education administrators and teachers, workforce development professionals, child welfare workers, representatives of community agencies, crime victims, crime victim advocates, victim service providers, legislators, and the members of the community at large. If a state uses a judicial assignment system, it is important that both the judge who is responsible for assignments and the judges assigned to juvenile delinquency court are involved in juvenile delinquency court judicial leadership and system collaboration.

Juvenile delinquency court judges should regularly appear in their communities for the purpose of promoting better understanding and support. They should inform community members of the juvenile delinquency court's goals and the issues associated with youth, families and crime victims in the juvenile delinquency court

system. Judges should encourage the development of successful programs, including volunteer and faith-based programs, to assist children and families within the juvenile delinquency court. Juvenile delinquency court judges should be willing to be engaged by system participants and community members to discuss juvenile delinquency court issues and the work of others on behalf of children and families.¹

State leaders should consider creating juvenile justice commissions and juvenile court judges should consider creating statewide juvenile court judges organizations for the purpose of providing leadership and influence at the state level.⁴ Supreme court chief justices and state court administrators should be involved in juvenile delinquency court leadership and support efforts, and should empower judges at the local level to engage in leadership and collaboration activities.

2. The Juvenile Delinquency Court Judge as a Transformational Leader of Systems Improvement

Many juvenile delinquency courts will require major system improvement to implement the *DELINQUENCY GUIDELINES*. System improvement is not easy and it is not fast. It is a long-term commitment that involves multi-year and multi-systems improvement processes. Strong judicial leadership is absolutely essential for a juvenile delinquency court to undertake the challenges of implementing the *DELINQUENCY GUIDELINES*.

Transformational leadership drives meaningful systems improvement. Drawing upon the perspectives and experiences of system stakeholders, a transformational leader encourages and facilitates the emergence of a new vision – a vision of an “ideal system” that is significantly more desirable than the current system and one that cannot be approached without a fundamental shift in philosophy and organizational practice. Transformational leaders must be both creative, in order to inspire, and courageous, in order to encourage implementation. It takes courage to lead systemic improvement efforts and it requires instilling courage in others. Thus to succeed, a leader must be a visionary, a strategist, an informer, a teacher, and a motivator. Transformational leaders instill meaning in systems improvement efforts.²

A juvenile delinquency court judge who is a transformational leader exhibits the following characteristics:⁴

- Makes a personal commitment to facilitating systems improvement and accepts the inher-

- ent risk, responsibility, and accountability;
- Is creative and innovative;
- Facilitates the development of a collective vision and mission for reform;
- Convenes multiple stakeholders and treats all system stakeholders with respect;
- Creates a safe environment in which stakeholders can work actively and participate collaboratively in the reform process;
- Facilitates the collective development of improvement goals and strategies to achieve those goals; and
- Engages in outreach activities to the local community.

Judges at the local and state level have the ability, based on credibility and respect for the judiciary, to convene key players and motivate them to engage in system problem solving.

For many juvenile delinquency court judges, the role the *DELINQUENCY GUIDELINES* describes will be uncomfortable. Many juvenile delinquency court judges see their role as trying cases, not transforming the community. Yet the role of the juvenile delinquency court judge is not the role of a traditional judge. It combines judicial, administrative, collaborative, and advocacy components.³ To fulfill the mandate of the juvenile delinquency court judge, the judge must be prepared to assume new roles, many of which are performed outside the courtroom.

3. Building Juvenile Delinquency System Collaboration

Although judicial leadership is critically important to the improvement process, it is not enough. Meaningful and sustainable systems improvement can only occur through concerted collaborative efforts on the part of all system professionals. The juvenile delinquency court judge must set the lead by committing his or her time and the time of juvenile delinquency court staff to collaboration efforts; but all relevant juvenile delinquency court stakeholders must become involved and make a commitment of time, effort, and resources.

Before engaging staff from the juvenile delinquency court and stakeholder organizations in improvement efforts, it is critical that the juvenile delinquency court judge has engaged executive level decision-makers from each stakeholder organization and obtained their commitment to the effort. It is equally critical that the executive leadership of each organization expresses endorsement of the effort within their organization and describes the goal of bringing together juvenile delinquency system staff, across all stakeholder organizations, to assess, design, and

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implement system improvement.

Once all stakeholder leaders have endorsed the collaboration and selected internal staff to lead the effort, both leadership and staff should examine basic tenets about collaboration and improvement. They need to understand:⁶

- Systems improvement is a process. Like any process it is filled with stops and starts, roadblocks and challenges, diversions, and missteps. This is a normal part of the process; it is to be expected. Rather than feel defeated or frustrated by the challenges and resistance encountered along the way, the team should celebrate them and learn to use them. They are signs of improvement and evidence that the system is moving.
- Systems improvement is people-driven. Organizations and systems are not "things," they are a collection of people organized in some form for some purpose. Without people, the system does not exist. Consequently, in system improvement, "we" are changing "us." The hearts and minds of the people involved need to be engaged.
- Systems improvement is an emotional process and likely to be filled with emotional swings at the individual, institutional, and systemic levels. Expect and anticipate the emotional impact of the process and learn how to manage interactions in productive ways. This is especially true when the reforms and innovations being adopted may be perceived as threatening to people's jobs, positions, status, authority, resources, and routine.

Implementation of the *DELINQUENCY GUIDELINES* will probably mean redistribution of resources in many juvenile delinquency court systems. This dynamic must be handled with care by remaining focused on creating a system that maximizes community safety and helps delinquent youth to become law abiding citizens. As resources are redistributed, every effort should be made to redistribute staff accordingly, whenever possible. The team building required for success is an evolutionary process. The collaborative work team needs to move to a point where the group is more than the sum of its individual parts and has an identity of its own. The group needs to be able to openly discuss issues and concerns, challenge each other's core philosophies and practices, and engage in meaningful dialogue. Relationships and trust must be developed. Even with the general vision created by the executive leaders, reaching a consensus at the work team level about what should improve and how it should improve will not be an easy process. From time to time the executive leaders will need to

make resource decisions and clear roadblocks. Both executive leaders and the collaborative work teams must constantly remain focused toward better outcomes for delinquent youth and enhanced community safety.

As the collaboration moves forward, the executive level decision makers and collaboration team leaders should meet together regularly to review the work, recommendations, and outcomes of this effort, and to ensure accountability. Part of the responsibility of the executive leaders is to help staff identify and celebrate the achievement of each success along the improvement process.

If the use of collaborative teams is not an existing practice in a juvenile delinquency system, the juvenile delinquency court judge should meet with the leaders of each of the delinquency system stakeholders, begin building coalitions, and invite the leaders to join with the judge in a systems improvement effort. To succeed, the juvenile delinquency court judge must be willing to give the stakeholders a meaningful role, a strong voice, and a real opportunity to make a contribution. The judge must be inclusive and broad based, develop shared responsibility, and develop shared credit for success.⁷

4. Ideas for Judicial Leadership and Collaborations

In the final sections of this chapter, there are many examples of process improvement brought about through judicial leadership and system collaboration that have resulted in improved outcomes. Additional ideas to provide food for thought and discussion are described below.

- The local administrative juvenile delinquency court judge and local juvenile delinquency court administrator contact the state court of appeals administrative judge and state court administrator and request a meeting to discuss the timeframes that currently exist for deciding juvenile delinquency court appeals. They agree to engage prosecutors and counsel for youth in an effort to streamline the process.
- The juvenile delinquency court judge was very concerned about delinquent youth being expelled from the public school system or being allowed to stop attending without any consequence. She contacted the superintendent of schools and invited her to lunch. They reviewed data the juvenile delinquency court judge had gathered to show the extent of the problem. They agreed to collaborate in order to increase education success for delinquent youth with behavior problems by creating a specially



trained team of school staff and probation to identify and “take on” delinquent youth on probation who had been suspended or expelled and any delinquent youth returning to community schools after placement.

The superintendent assigned a district administrator who was experienced with youth with behavioral and learning issues and the juvenile delinquency court judge assigned an experienced probation officer with a background in special needs youth to lead the effort. The judge and superintendent contacted child welfare and mental health executives and convinced them to join the effort, and they assigned staff members to join the team.

Appropriate youth were identified by, and assigned to, the team. The team partnered with youth, parents, and home school staff to design a success plan for each youth. The plan provided resources to the staff of the home school to support their efforts to keep the youth in school and help the youth succeed. If one of the team’s youth is placed in detention, foster care, or correctional placement, or if the youth changes schools, the team and the plan follow the youth. The team participates in reentry planning for youth in placement to ensure a successful return to the community school after placement.

In addition to accomplishing the goal to increase education success for delinquent youth, the effort reduces the school’s expulsion numbers, increases their graduation rate, decreases the level of teacher and administrator frustration, reduces probation officer frustration, and reduces delinquency recidivism. The reduction in the number of expulsion hearings frees district staff time to participate in the project. The decreased level of teacher and administrator frustration, as well as the new skills learned from the success team, causes the number of expulsions to decrease beyond the delinquent youth involved in the project. The reduction in delinquency recidivism reduces the probation caseload, and a reduction in the amount of time spent unproductively by probation staff attempting to deal with the school problems of these youth under the prior system frees probation staff to participate in the project. Over time, the overall resource allocation of school and probation resources remains the same.

- After a detained youth attempted suicide, the juvenile delinquency court judge invited the

mental health executive to a meeting to discuss how they could work together to try to prevent this from happening again. They agreed to charge a team with creating a better system.

The team selected a screening tool capable of identifying risk of suicide and taught the detention intake staff to administer and interpret it. When a youth is found to be at potential risk of suicide, detention calls the mental health youth crisis team. The team comes to the detention center, assesses the youth, and determines whether the youth is at serious risk of suicide. If so, they arrange for the youth’s immediate transfer to an acute psychiatric care facility.

If the team does not believe the youth is at serious risk of suicide, the team designs a behavior monitoring and intervention plan for detention staff, assigns a team member to visit the youth in detention on a daily basis as long as needed to monitor the youth’s status, and to be on call in case detention staff observe the warning signs identified in the plan as indicators of escalation of suicide risk. The team member also works with counsel for youth, the probation officer, and the juvenile delinquency court judge to design a disposition plan that will provide the mental health services needed by the youth, and ensures appropriate interventions are in place when the youth is released from detention.

B. THE DELINQUENCY GUIDELINES RECOMMENDED TIME LINES FOR FORMAL JUVENILE DELINQUENCY COURT HEARINGS

Key Principle 9 states that Juvenile Delinquency Courts Should Render Timely and Just Decisions and Trials Should Conclude Without Continuances. The *DELINQUENCY GUIDELINES* sets goals for the timing of each hearing in the juvenile delinquency court. At the end of each chapter of the *DELINQUENCY GUIDELINES*, there is a detailed process chart of the steps covered in the chapter. The chart in this section depicts the time line that begins when the juvenile delinquency court holds the first hearing, and ends when the juvenile delinquency court completes the disposition or waiver hearing. It is important to point out what is not included in the chart:

- The two to five days that may be used prior to a petition being formally accepted on a youth who is not detained, during which time the decisions of legal sufficiency and whether to handle the case formally or to

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divert the case to informal resources are made are not included;

- The one to two days between receiving the affidavit and selecting the first hearing date on a case that is summoned to court are not included;
- Post-disposition review is not included due to the individual nature of the timing of post-disposition review; and
- Appellate review is not included.

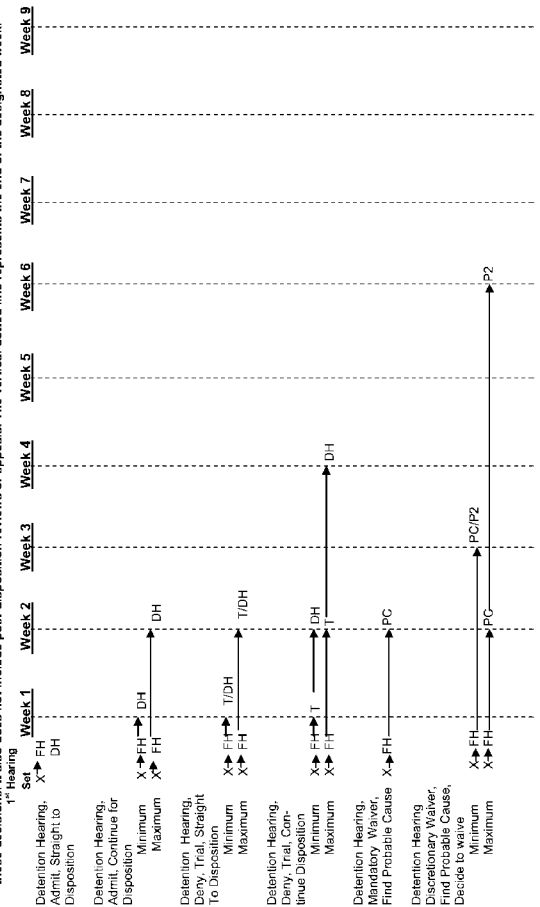
All hearings in each type of delinquency case are charted by weeks. If the goals of the *DELINQUENCY GUIDELINES* have been reached, the majority of cases in the juvenile delinquency court will be reduced in length of time to:

- One day to two weeks for a youth arrested and placed in detention who admits the allegations;
- One week to four weeks for a youth arrested and placed in detention who denies the allegations;
- One week to five weeks for a youth not detained who admits the allegations;
- Three weeks to six weeks for a youth transferred to adult court on a discretionary waiver and transfer; and
- Three weeks to 11 weeks for a youth not detained who denies the allegations.



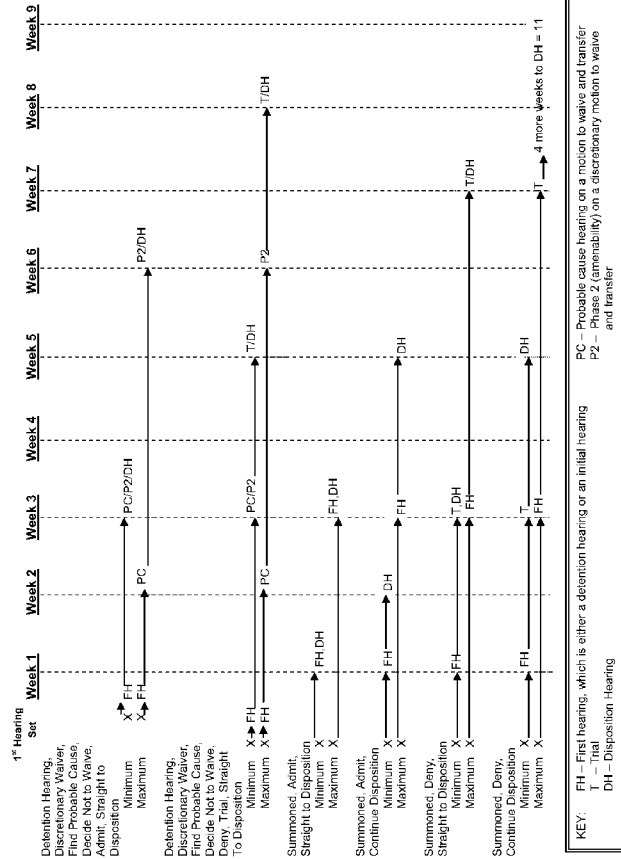
The DELINQUENCY GUIDELINES Time Line Goals for Formal Juvenile Delinquency Court Hearings

The time line starts after the decisions of legal sufficiency and formal/diversion have been made. It does not include the two to five days used to make these decisions. It also does not include post-disposition reviews or appeals. The vertical dotted line represents the end of the designated week.



KEY: FH – First hearing, which is either a detention hearing or an initial hearing
 T – Trial
 DH – Disposition Hearing
 PC – Probable cause hearing on a motion to waive and transfer
 P2 – Phase 2 (amenability) on a discretionary motion to waive and transfer

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C. ASSESSING STRENGTHS AND OPPORTUNITIES FOR IMPROVEMENT

Once the juvenile delinquency court judge has made a personal commitment to implement some or all of the principles in the *DELINQUENCY GUIDELINES*, the judge should engage the executive leadership of stakeholder organizations in improvement efforts. The juvenile delinquency court judge should request stakeholder representatives to join juvenile delinquency court staff on a team to assess the efficiency and effectiveness of the current juvenile delinquency court system. The individuals involved in this team must have the authority to make decisions of major improvement within their organization, and be willing to open up their organizations to critical review of their structures and practices. The charge of the team is to:

- Review and discuss the *DELINQUENCY GUIDELINES*;
- Reach consensus on the measurable outcomes the juvenile delinquency system should accomplish. Outcomes measure whether safety in communities is increasing by supporting and implementing both effective delinquency prevention strategies as well as a continuum of effective and least intrusive responses to reduce recidivism; whether juvenile offenders are being held accountable to their victims and communities by enforcing completion of restitution and community service requirements; and whether competent and productive citizens are being developed by advancing responsible living skills of youth within the jurisdiction of the juvenile delinquency court;
- Look at existing data to compare what outcomes the system is currently achieving as compared to the vision of success;
- Develop teams to assess critically areas of current operations that are not meeting the vision of success;
- Convene the team and executive leadership to discuss team findings and recommendations, to celebrate those areas that are meeting the vision of success, and to identify and prioritize areas needing improvement;
- Identify through the NCJFJ and other juvenile justice organizations whether there are other juvenile delinquency courts that have successfully addressed the areas that the leadership and team have prioritized for improvement. If so, learn from their success;
- Assign improvement areas to appropriate teams and reconvene 30 days later to review the team's goals, objectives, methods of measuring performance, and timelines; and
- Team leaders and stakeholder executives

continue to meet at least quarterly to monitor team progress, problem solve system barriers, adjust plans as needed, and monitor improved outcomes.

The juvenile delinquency system should be willing to share their improvement experiences with other juvenile delinquency courts.

D. CASELOADS AND WORKLOADS⁸

Key Principle 2: Juvenile Delinquency Systems Must Have Adequate Staff, Facilities, and Program Resources states in part that juvenile delinquency systems must have sufficient numbers of qualified judges, judicial officers, probation officers, case management staff, intake staff, prosecutors, public defenders, and victims' advocates to create manageable caseloads and timely process.

Many organizations have looked at the issue of determining how many cases juvenile judges, probation officers, prosecutors, and other professionals in court systems can reasonably handle. Most studies have come to consensus on several points:

- A common reaction from courts not performing well on measures of court performance is that they lack the resources necessary to perform well. Conversely, some courts perform well given roughly the same resources, leading some to conclude that resource levels do not affect performance. While the availability of sufficient resources does not guarantee good performance or positive outcomes, the lack of adequate resources will almost always hamper a court's performance.⁹
- The process of setting caseload standards must include workload. Caseload is only one part of workload. Workload includes not only time spent on cases, both in and out of the courtroom, but also non-case related activities such as evaluating aggregate results, leading and participating in collaborative efforts to improve the system, participating in training, and educating the community at large.
- Different types of cases take different amounts of time. It is not sufficient to take an overall average of hours per case, times the total number of cases. The system must determine both how much time a type of case averages, as well as what percentage of cases fall into the particular case type. Using probation as an example, there are high-intensity cases, medium intensity cases, and low intensity cases, each requiring different amounts of hours per month. In order to complete the calculation for time spent on

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caseload, you must know the percentage of cases that fall into each intensity category as well as the hour per case.

- It is not feasible to develop national caseload and workload standards because structures, goals, responsibilities, and procedures vary significantly from jurisdiction to jurisdiction. Examining and setting caseload and workload standards must take place at the local level and information developed at the national and state level must be translated to the unique context of the local jurisdiction.¹⁰
- Measuring how a person in a specific position is currently spending time is helpful in identifying areas where the position requirements can be restructured to become more time productive; however, to determine what a reasonable workload looks like, it is important to measure not what is currently happening, but what should be happening in the system you aspire to.

There are different methods of determining how much time cases and other work activities need. A totally subjective approach of isolated individuals trying to estimate time on task will usually result in over-focusing on the problem cases and overstating needed time. The generally recommended method of estimating time on task is a combination of gathering objective data through time study and weighted caseloads, and gathering subjective data using the Delphi method. The Delphi method brings together groups of experienced individuals who identify specific tasks they perform and estimate the amount of time they spend or should spend completing each task, using group process led by a facilitator.

Juvenile delinquency systems can use the following steps to determine caseloads and workloads for a particular system role, e.g., juvenile delinquency court judge, prosecutor, counsel for youth, or probation officers:¹¹

1. The juvenile delinquency court administrative judge convenes system representatives across roles and decides what changes will be made to improve the current system. A flowchart is created for the improved system that identifies the points of change between the current system and the improved system.
2. Each system representative convenes a steering committee of experienced professionals who guide the workload study of their specific role.
3. The steering committee identifies what workload components not related to the handling of cases should be included in the workload study.
4. Building from the system flowchart created in step 1, the individual steering committee designs a flowchart of their specific caseload responsibilities, as they will be in the improved system.
5. The team identifies the average amount of time required for each step in the caseload flowchart using a combination of time study and Delphi method. For the steps that are the same in the improved system as in the current system, a time study should be used. For the steps that will be changed in the improved system, the Delphi method should be used.
6. Determine the different types of cases and the average frequency of occurrence for each step in each type of case.
7. Multiply the amount of time in step 5 by the number of occurrences in Step 6.
8. Determine the percentage of each case type, as it will exist in the improved system. Start by looking at current percentages and then factor changes that will be caused by the improved system. As an example, a juvenile delinquency court now diverts 5% of cases to community diversion and handles 95% of the cases in the formal system. In the improved system, all status offenses and first time misdemeanants will be diverted. In your current system, status offenses and first time misdemeanants total 30% of all cases. Therefore, you use 30% as your projection for diverted cases in your caseload study.
9. Using the percentage from step 8, determine the number of cases that will annually fall into that case type.
10. Multiply the amount of time for each case type from step 7 by the number of cases for that case type from step 9. This gives you the total number of hours that need to be available in the system for caseload activities for this role (i.e., 10,000 hours are needed to cover all case related judicial responsibilities).
11. Through time study and Delphi method, determine the amount of time required for the non-case related items identified in step 3.
12. Add this time to the hours in step 10.
13. Determine the number of hours available annually per FTE for each specific position (e.g., if a judge gets 6 weeks of paid time off for vacation and sick leave, gets 12 holidays, and is expected to work a 40 hour work week, the judge works 218 days or 1,744 hours per year). Divide the total number of hours from step 12 by the number of hours available per year per position. This will give you the number of staff required to fulfill this role in the improved system (e.g., if 12,000 hours are needed to cover case and non-case judicial responsibilities from step 12, then 12,000 divided by 1,744 means the system needs 7 FTE judicial staff).



If your committee determines that more staff will be required in this role than dollars are available, the committee's next step is to determine if adjustments can be made in time per task that will be least likely to impact outcomes. On the other hand, if the committee determines that system improvements have reduced the amount of staff that will be needed, which is very likely to happen in some of the roles, resources have been identified that can be reallocated to another role in the system whose responsibilities have increased, instead of decreased.

Once each steering committee has completed its work, the system representatives from step 1 reconvene to discuss the results. It is highly likely that some roles will need more resources and some roles will need fewer resources. This is the process point that requires unwavering focus on the mission to create the best possible system for the community. Unless system representatives and steering committee members resist the urge to protect their own turf and inflate time needed to do their job to "protect" their jobs, and are willing to support resource shifts, embarking on a workload study will be futile. Similarly, having only those roles whose responsibilities will increase under the new system engage in the workload study produces data of minimal value because there may be insufficient dollars to enable increased resources without identifying areas that now need fewer resources. The examples in section F of this chapter clearly show how juvenile delinquency system improvements create opportunities to free resources from one area to shift to other areas and improve outcomes.

The next step in the assessment process is for the system representatives to jointly determine the transition steps from the current system to the new system, to create a transition plan, and to present the plan to the entity or entities that control the financial resources of the systems. In order to successfully accomplish the workload assessments in a systems improvement effort, the juvenile delinquency system must have strong judicial leadership, a commitment to system collaboration, and an unwavering commitment to provide the best juvenile delinquency system possible to youth and the community.

E. MANAGEMENT INFORMATION SYSTEM DESIGN AND REPORTS

Key Principles 14 and 15 of the *JUVENILE DELINQUENCY GUIDELINES: Improving Court Practice in Juvenile Delinquency Cases* state:

Juvenile Delinquency Court Judges Should Hold Their Systems and the Systems of Other Juvenile Delinquency Court Stakeholders Accountable –

Juvenile delinquency court judges should ensure that the juvenile delinquency system has measurable goals, key principles, and objectives that serve as standards against which system performance is measured, and that an annual delinquency system "report card" is made available to stakeholders and the public.

Juvenile Delinquency Court Judges Should Ensure the Court Has an Information System That Can Generate the Data Necessary To Evaluate Performance, Facilitate Information Sharing with Appropriate Agencies, and Manage Operations Information – *Juvenile delinquency court staff should regularly generate aggregate data for monitoring and managing court performance, and the judiciary and other appropriate court staff should be able to use the system to obtain case tracking and case management data on individual cases as well as manage other operation information needs such as property and evidence.*

The juvenile delinquency court of excellence designs its management information system to accomplish two primary, very important, but different purposes – individual case tracking and case management, and aggregate performance outcome data.

1. Individual Case Tracking and Case Management

The first major purpose of management information system design is to enable individual case tracking and case management. Examples of what the components of this part of the system should be able to do include:

- Accept electronic filing of affidavits and petitions, linking a new filing with any other pending filings.
- Link information on family groups, abuse and neglect cases, and any other type of petitions handled by the juvenile delinquency or family court, such as child support, domestic relations, etc.
- Schedule petitions for hearings on the assigned juvenile delinquency court judge's docket, within specific date and time parameters, and generate the summons and all other information that should be sent with the summons.
- Manage hearing schedules of judges, prosecutors, public defenders, and probation officers, to enable courtroom staff to schedule the next hearing at the end of each hearing.

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a during time open to all four parties or key participants.

- Produce juvenile delinquency court written findings and summaries at the end of each hearing from data entered into the system by the judge or courtroom staff during the hearing. Refer to the sample disposition order in Appendix E.
- Organize current individual case activity including disposition orders, services, detention records, and individual case progress records.
- Provide access to judges, probation officers, and other approved key participants, at various security levels, to current and complete information on the status and progress of each alleged or adjudicated delinquent youth and each case, including all file documents, and all hearing activity, both date and purpose.
- Link juvenile delinquency court orders of restitution, fines, and court costs to the current status of payment on these accounts.
- Archive documents.

It is important to note that this is not intended to be a complete list of the tracking and case management functions that should be part of the juvenile delinquency court's management information system capability.¹²

2. Performance and Outcome Data

The second major purpose that the management information system of the juvenile delinquency court of excellence must be designed to accomplish is to produce aggregate information. This information has two purposes:

- To measure the juvenile delinquency court's annual activity (e.g., how many complaints were handled, how much restitution was collected, how many youth were diverted). Many state juvenile delinquency court statutes require the juvenile delinquency court to publish an annual report that measures activity. (These numbers also are needed to measure outcomes but are not in and of themselves outcome measurements); and
- To measure whether or not the juvenile delinquency court is accomplishing its goals and objectives (e.g., what percentage of restitution ordered was collected, what percentage of youth were diverted and were not charged with subsequent offenses, what percentage of victims rated their court experience as positive). These percentages become outcome measures when compared with numerical goals that have been set by

the system. Now, if any, state statutes require the juvenile delinquency court to publish whether it is accomplishing its goals. Without a performance measurement system in place, the juvenile delinquency system will not know what works, for whom, and in what circumstances.

Most juvenile delinquency management information systems can report how many petitions were filed, with how many counts, and for what types of law violations; how many boys and girls committed the offenses and their ethnicity; and what dispositions the juvenile delinquency court ordered. **Relatively few systems, however, can produce all of the information needed to measure to what extent the juvenile delinquency court is progressing in achieving its goals.**

With increased scrutiny by legislatures, Congress, and other key policy makers, and with widely publicized but rare tragedies of individual offenders, juvenile delinquency courts need to be able to produce clear data about the norms of the system's performance. Without a performance measurement system in place, the juvenile delinquency court will be forever vulnerable to critics.¹³ In addition, systematic evaluation helps improvement agents increase their accountability, articulate the value of their efforts, and compare the effectiveness of different improvement strategies. Good data and performance measurement are essential for the long term expansion and sustainability of successful reform efforts. In the current fiscal environment, funding for improvements is possible only with compelling and objective evidence that improvements will achieve concrete and favorable results to enhance community safety by changing the law breaking behavior of delinquent youth.¹⁴

The juvenile delinquency court judge should lead a collaborative effort of all delinquency system stakeholders to establish and articulate clearly delinquency system goals. The juvenile delinquency court and each system stakeholder should subsequently establish aligned goals and objectives so that the juvenile delinquency court and all system stakeholders are moving in the same direction and can measure and report progress. The juvenile delinquency court should measure the outcomes of all routinely court ordered services to ensure they are effective. Examples of the type of data that the aggregate part of the juvenile delinquency court management information system should be able to provide includes:

- The amount of time between each hearing or process step, the total time from affidavit to disposition and from disposition to case



closure, aggregately and by judge to determine if the system is timely;

- The number of, lengths of time, and reasons for continuances, aggregately and by specific judge, prosecutor, and public defender which are components that determine whether the system is timely;
- Comparison of detainment and court-ordered dispositions for youth with similar charges and characteristics, aggregately and by detention intake staff and judge to determine whether the system is just;
- The percentage of cases diverted to informal resources that never return to the court system after completing the diversion intervention, and of those that do return, analysis by type of offending behavior, length of time between completing diversion and return to the system, service intervention, and service provider to determine if diversion is successful and for whom;
- Who is filing status offenses and for what reasons to determine if the resources of the juvenile delinquency court are being used appropriately;
- The percentage of youth who are adjudicated on one petition but never return to the juvenile delinquency court system after completing their court-ordered disposition, and of those who recidivate, analysis by type of offending behavior, length of time between completing disposition and return to the system, and what service interventions and service provider were used to determine if the system is preventing recidivism;
- The percentage of youth brought to juvenile detention but not admitted, who brought them, why they were not admitted, and an analysis of whether those youth eventually ended up in detention prior to completion of the disposition hearing, and if so, why, to determine if resources are being used efficiently;
- Analysis of whether disproportionate minority contact is occurring at any juvenile delinquency court decision point to determine if the equitability of system decision making processes need to be further explored;
- Analysis of the number of offenses by number of offenders to determine the percentage of youth responsible for the majority of offenses and their characteristics to determine where the system's resources are needed most;
- Cohort data on specific groups of youth, for instance, of youth who were eight to 10 years old when they had their first juvenile delinquency court contact, how many were also abused and neglected, what was their

offending behavior, who filed the petition, what was the juvenile delinquency court's intervention, and the cohort's rate of recidivism to understand the characteristics of the youth the system serves; and

- Comparisons of recidivism by risk of reoffending, and disposition intervention to determine what works for whom.

It is important to note that this is not intended to be a complete list of the aggregate outcome data that should be available through the juvenile delinquency court's management information system.³

3. Juvenile Delinquency Court Report Cards

The DELINQUENCY GUIDELINES recommends that the juvenile delinquency court produce an annual "Report Card" that measures progress toward goals. The juvenile delinquency court should select several goals and objectives that reflect the overall goals of the court, as well as goals related to improvement initiatives. Examples of overall goals are:

- *The juvenile delinquency court has increased safety in communities by supporting and implementing both effective delinquency prevention strategies as well as a continuum of effective and least intrusive responses to reduce recidivism, as measured by:*
 - The juvenile crime rate;
 - The percentage of youth who recidivate; and
 - A reduction in the number of instances of recidivating for youth who do recidivate.
- *The juvenile delinquency court held juvenile offenders accountable to their victims and community by enforcing completion of restitution and meaningful community service requirements, as measured by:*
 - The percentage of restitution dollars paid as compared to those ordered;
 - The cost of collecting the restitution dollars and net proceeds;
 - The percentage of community service hours completed as compared to those ordered; and
 - The percentage of victims satisfied.
- *The juvenile delinquency court helped develop competent and productive citizens by advancing the responsible living skills of youth within the jurisdiction of the juvenile delinquency court, as measured by:*

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- Increased skill levels of youth at the end of their informal or formal juvenile delinquency court involvement (as measured by a validated pre- and post-test of specified skills);
- Increased school attendance; and
- Increased resistance to drugs and alcohol.

Examples of improvement initiative goals that a system might select for focus include:

- *Are more youth being diverted to the informal system and fewer youth being handled by the formal system*, as measured by:
 - The percentage of legally sufficient affidavits handled informally and formally this year as compared to previous years or to the goal set by the juvenile delinquency court.
- *Are the youth diverted to the informal system being diverted successfully*, as measured by:
 - The percentage of informal diversions not successfully completed (successfully completed defined as meeting the stated expectations); and
 - The percentage of successfully diverted youth who recidivate within 12 months.
- *Is the secure detention population decreasing because more youth are being successfully handled in non-secure detention facilities and has this either maintained or decreased costs*, as measured by:
 - Comparison of number of youth in secure detention;
 - Percentage of formal petitions detained;
 - Number of secure detention diversions who subsequently end up in secure detention during the course of the court's handling of the petition; and
 - Total costs of detention and detention alternatives as compared to a prior period of time.
- *Are fewer continuances being granted and is this resulting in a more timely system*, as measured by:
 - The percentage of cases with continuances;
 - The median and range of number of continuances on cases with continuances; and
 - The median time between the petition

filing and disposition as compared to a prior period of time.

The report card information should not be interspersed with the facts and figures of the juvenile delinquency court's activity as reported in the annual report. The report card should either be a separate report, or should be the first section of the annual report in order to give it the appropriate emphasis and keep it from getting "lost" in pages of numbers. Ideally, the report card should be two to four pages, limit its reporting to six to eight primary measures, and report the data through easy to read graphs that show performance over time.²⁶

In addition to the summarized Report Card that is distributed to the public that highlights the most important outcomes, the juvenile delinquency court judge and stakeholders should regularly look at more detailed information to measure outcomes and progress toward goals such as:

- Percentage of youth successfully completing each disposition category, including probation, placements, and other frequently used dispositions; and
- Percentage of youth who recidivate while under probation supervision.

F. FINDING THE RESOURCES

A juvenile delinquency court may hesitate to move forward in implementing the recommendations of the *DELINQUENCY GUIDELINES* because the court assumes that significant additional resources will be required. The *DELINQUENCY GUIDELINES* states throughout this book that some of the recommendations require initial transition funding to implement the practice, but then show sufficient cost reductions to allow the practices to continue without permanent cost increases. Some recommendations require resource shifts to implement. Other recommendations can be implemented without cost. It will not be an easy task to implement these recommendations without adding new resources, but it can be substantially done with reprioritization and working through some difficult decisions. An example of a court that has literally done more with less is the Clark County Department of Juvenile Justice Services in Las Vegas, Nevada. Their experience has been described in *Resource Reallocation: The Clark County Experience*.²⁷

Throughout the chapters of the *DELINQUENCY GUIDELINES*, examples of ways to implement improved practices without long term increased system costs have been given. Those examples are consolidated in this section of the last chapter of the *DELINQUENCY GUIDELINES*.



1. Freeing Resources for Reallocation by Controlling the Number of Formal Cases

One study in the 1970s revealed that in a particular juvenile delinquency court, 80% of the offenses were committed by 20% of arrested youth.¹⁶ A more recent study in 1999 showed that in another juvenile delinquency court jurisdiction, 60% of arrested first offenders did not return on a subsequent offense, 25% of arrested offenders returned on a second or third offense, and 14% of arrested offenders returned for four or more offenses.¹⁷ When a juvenile delinquency court can identify, using a validated intake screening tool, those youth who are *not* likely to reoffend, and divert them from the formal system to informal diversion, a significant amount of juvenile delinquency court resources will be freed for reallocation. These resources include docket time, intake and docketing staff resources from fewer new formal petitions, reduced demands on prosecutors and counsel for youth, and reduced demands on probation. Well-designed informal diversion holds youth accountable for their offending behavior yet is significantly less expensive than formal case processing. Some of the saved resources can be reallocated to fund and expand diversion options, which will enable even more youth to be diverted from the formal system. Other saved resources can be reallocated to the formal system to improve outcomes.

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Key Principle 6 states: Juvenile Delinquency Court Judges Should Ensure Their Systems Divert Cases to Alternative Systems Whenever Possible and Appropriate – *Juvenile delinquency courts should limit formal processing of petitions to cases where it is apparent that law enforcement diversion, prosecutor diversion, or juvenile delinquency court diversion to community services, has failed to protect, or will be ineffective in protecting the community from significant risk of harm.*

Juvenile delinquency courts should encourage law enforcement officers and prosecutors to consider diversion for every status offender, every first-time and non-violent misdemeanor offender, and other offenders as identified by a validated risk of reoffending screen as low risk to reoffend. Juvenile delinquency court judges should engage community members, law enforcement officers, and the prosecutors to develop diversion programs, including dispute resolution alternatives. Juvenile delinquency court judges should participate in the creation and ongoing monitoring of these programs to ensure that they are successfully diverting appropriate alleged juvenile offenders.

Collaboration between the juvenile delinquency court, law enforcement, prosecution, and community services can provide a broad range of

informal programs needed to successfully divert all but the more serious charges. Examples of practices that can increase the number of cases successfully handled by informal diversion resources include:

- Many community law enforcement agencies have committed to the concept of community oriented problem solving (COPS). These law enforcement agencies include as part of their mission the responsibility to get to know members of the community using methods not necessarily considered "traditional." Congruent with this method of policing is operating youth diversion programs, where community police interact with at risk youth in activities such as washing police cars, cleaning up public community areas, and performing meaningful community service activities for needy members of the community in lieu of formal referrals to the juvenile delinquency court. These programs can be very successful in holding low-risk youth accountable for offenses in an informal way and helping youth to reconnect in a more positive way with their communities.
- In Cook County (Chicago, Illinois), the prosecutor's office is responsible to screen all affidavits for legal sufficiency and to divert all appropriate cases from the formal system. The prosecutor uses victim-offender conferencing as a diversion option. The prosecutor also uses mediation to divert formal action on youth who are acting out in community placements.
- Many community programs are funded through a variety of resources to provide services to at risk youth. When the juvenile delinquency court and these services collaborate, the juvenile delinquency court increases resources to divert youth from the formal system, and the services save resources they would have used on marketing and recruitment to identify youth needing their services.
- In Lucas County, Ohio (Toledo), mediation has been used since 1991 to meet the demand of status offense cases brought to the juvenile delinquency court. The settlement rate has consistently exceeded 90% and has reduced the percentage of adjudicated status offenders from 26% to 5%. The percentage of status offenders placed on probation fell from 19% to less than 1%.
- Lucas County also uses mediation as an informal method to divert truancy cases. Early identification of truancy and using mediation to improve the lines of communication between teachers and parents of chil-

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dren who are excessively absent from school results in a more positive relationship between the family and the school, resulting in better school attendance.

- Youth courts operate on the premise that the judgment of a juvenile offender's peers may have a greater impact than the decisions of adult authority figures. Therefore, if other teens question and confront an offending youth's behavior and attitudes, there should be a substantial rehabilitative effect. By integrating teen offenders into the jury after they have completed their sanctions, they are helped to reintegrate into the prosocial community. Youth courts save juvenile delinquency court resources because they handle a substantial number of youth offenders at relatively little cost due to using primarily volunteer youth and adults.
- In Marion County (Indianapolis, Indiana), dispute resolution alternatives were first used within the formal juvenile delinquency court system. They were subsequently transitioned to the school, community, and police as an informal intervention to prevent cases from entering the juvenile delinquency court system as filed affidavits.
- The State of Oregon has 26 Community Dispute Resolution Centers in 20 counties. The centers are used as part of a graduated response effort at the front end of the juvenile delinquency system to divert cases. Early data shows a reduction in recidivism between 79% and 65% one year after completion of the program.⁴⁶
- Connecticut has established a statewide Juvenile Mediation Program for minor delinquency cases. Probation officers, trained to maintain a neutral facilitator role, serve as mediators to assist parents and children in resolving the interfamily conflicts underlying the problematic behavior. Communications during the process are strictly confidential with only the terms of the agreement presented to the juvenile delinquency court judge. An evaluation of the first year of the program found that 85% of the minor delinquency cases brought to this program were resolved through mediation.⁴⁷
- Juvenile delinquency courts or community organizations can use community volunteers in Better Business Bureau arbitration model dispute resolution alternatives, and students at local colleges of law can provide informal mediation as volunteers.

When the juvenile delinquency court, key stakeholders, and community leaders work together and create community resources for diversion to informal resources, juvenile delin-

quency courts can conserve more expensive resources to provide more comprehensive services for more serious cases.

2. Freeing Resources for Reallocation by Controlling the Detention Census

Due to the physical features of secure detention and the staffing demands to ensure youth safety, secure detention facilities are expensive to operate. Several studies have found evidence that detention rates vary in direct proportion to the availability of detention beds.⁴⁸ Reductions in detention population can be accomplished while still providing community safety when juvenile delinquency courts, and the intake and detention facilities that support them, have processes in place to ensure that only those youth who require secure detention are entered into secure detention, and that these youth are released appropriately in a timely fashion.⁴⁹ Controlling detention intake, and thereby reducing the necessary bed capacity of a juvenile detention facility, can save significant costs in staffing, as well as eliminate the cost of expanding existing detention facilities. Juvenile delinquency systems can manage their detention population without putting the community at risk, without building bigger facilities, and without filling every available secure detention bed.

An effective system to manage secure detention intake and a system to ensure that detained youth are released in a timely fashion will make the most significant impact on keeping the detention population within capacity. This can be accomplished by:

- Using validated risk of reoffending screens at detention intake to determine which youth can be safely released or diverted to non-secure options. In 1992 in Multnomah County, Oregon (population 650,000) the average pre-and post-adjudication detention population was 96 youth, approximately 75% of whom were probation violations. After implementing a detention risk assessment and other recommendations of the *DELINQUENCY GUIDELINES*, the daily average was reduced to 22 youth.
- Setting a maximum acceptable secure detention daily population; communicating the number of youth in detention along with the number of openings in the various non-secure detention options daily to judges and probation officers; ensuring less expensive non-secure options are available with sufficient capacity so that some openings always exist and regularly reinforcing to all juvenile delinquency court staff the judge's expectation to keep detention within the estab-



- lished acceptable population boundary.
- Involving representatives of juvenile delinquency court divisions, detention, law enforcement, victim advocacy groups, child welfare agency, prosecution, counsel for youth, and the community in examining an overcrowding problem and creating a continuum of options to solve the problem.
 - Ensuring that no pre-disposition youth is held in detention without a timely pending court date.
 - If statutes allow detention to be used as a disposition consequence, having clear guidelines regarding when it is appropriate to use detention in this manner, for how long, and requiring that the juvenile delinquency court order specifies a reasonable end date for the detention.
 - Holding weekly meetings led by the administrative judge and including invited representatives of all pertinent system participants, including judicial officers, probation officers, detention intake staff, detention management staff, prosecutor, counsel for youth, child welfare representatives, and school administrators, to review any youth who is in detention post-adjudication. The purpose of the review is to keep everyone focused on this high priority issue, to ensure that there is a valid reason to continue to hold every youth, and to ensure that systems involved in setting up disposition services are acting in a timely fashion, so that no youth remains in secure detention longer than is absolutely necessary. Ancillary benefits of this process are helping participants increase their understanding of the type of youth who should be held in secure detention, as well as improving inter-system relationships and collaboration.
 - Developing a continuum of options to secure detention that will enhance community safety, keep youth who need crisis mental health or substance abuse detoxification facilities out of secure detention, help youth build skills, and conserve resources. Examples of continuums that can reduce the detention population, maintain community safety, reduce costs, and thereby release funds for reallocation, include:
 - Lucas County Juvenile Court (Toledo, Ohio), an urban and suburban area with a population of approximately one-half million has a detention facility that could house 125 youth, however, it averages a daily population of 60. This enables three units to remain closed at significant savings. A portion of these savings fully funds a three-tiered system of alternative

detention levels. When a youth is arrested and brought to the detention facility, a risk of reoffending screen is completed which places the youth in one of three levels:

Level 1 is secure detention.

Level 2 is a detention reporting center. Youth in school are required to report to a center 34 hours a week, and youth not attending school are required to report to the center 51 hours a week. While at the reporting center, youth are involved in structured programming that includes a "thinking error" behavioral management program, tutoring, job readiness, basic living skills, community service, recreation, and drug testing.

Level 3 is home detention. Youth have a minimum of two surveillance contacts per day and six hours of weekly programming at the detention reporting center.

Level 2 and level 3, referred to as community detention, together average a cost that is less than one-third the cost of Level 1. Level 2 and Level 3 options have a capacity of 55 youth per day. In 83% of cases, youth successfully completed all three requirements of the community detention program which are: 1) appearing at all juvenile delinquency court hearings as scheduled; 2) not engaging in behavior that results in additional charges while in community detention; and 3) not exhibiting behavior in community detention that would require placement into secure detention.

- The Circuit Court of Cook County, Juvenile Delinquency Division (Chicago, Illinois), a very large urban juvenile delinquency court, decided it needed alternatives to secure detention when the 500-bed detention facility was consistently running at 800 youth per day. This jurisdiction has a population of approximately six million. With assistance from the Annie E. Casey Foundation, they instituted a continuum of options to secure detention that resulted in reducing the secure detention population to an average of 475 youth per day. When the grant ended, more than enough resources were being saved annually from reduced secure detention staffing costs to continue to support the cost of the continuum of options.

A risk of reoffending screen is used at detention intake to determine which

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option should be used. As in Lucas County success is defined by three factors: 1) appearing at all juvenile delinquency court hearings as scheduled; 2) not engaging in behavior that results in additional charges while in community detention; and 3) not exhibiting behavior that would require placement into secure detention. The options included in this continuum and the percentages of youth who successfully complete each alternative to secure detention are:

Juvenile Delinquency Court Notification – the focus of this intervention is to keep out of detention those youth who do not appear for juvenile delinquency court, have arrest warrants issued as a result, and are usually held in secure detention after the warrant has been served. Many of these youth are in this predicament because of a lack of discipline by parents or youth in managing their appointments and obligations, as opposed to intentionally ignoring the juvenile delinquency court. Additional written and telephone reminder notices to all youth in advance of every pre-adjudication court hearing have reduced the number of youth who are placed in secure detention for this reason.

Community Outreach Supervision – Ten hours of random direct supervision contacts are made with youth by agencies within the community. Success rate is 94%.

Home Confinement – Youth receive two random home visits by a probation officer every three days during the evening and weekend, as well as random telephone voice verification approximately five times a week. Success rate is 94%.

Evening Reporting Center – Home confinement is combined with a requirement to report to a center five days a week from 4:00 P.M. to 9:00 P.M. There are five centers in different areas of the city operated by community organizations. Success rate is 95%.

Electronic Monitoring – Youth are placed at home on electronic monitoring supervised through collaboration between probation and the sheriff's office. Success rate is 96%.

Staff-secure Shelter – These shelters are designed for youth who are pending adjudication and disposition, and for youth awaiting non-secure placement.

The shelters are operated by community agencies. Success rate is 96%.

- A study in North Carolina examined 19 alternatives to detention programs around the state, both in cities and rural areas.³³ All programs included careful screening for admission, intensive monitoring and supervision, small caseloads with individualized attention, strict rules for compliance and curfew, contacts at nights and weekends, verification of compliance at home and school, inclusion of supportive community resources, and rapid placement into secure confinement if needed.

The study found the programs to provide less restrictive options to secure detention in a cost-effective manner without compromising public safety. Over 75% of the youth in the alternative programs successfully avoided secure detention. Of the less than 25% of youth that ended up in secure detention, less than 5% committed new offenses while in the program. The remainder failed due to technical program violations.

- Using family conflict resolution to create a release plan for youth being held in secure detention on domestic violence charges. This empowers the family in crisis to identify and select, with the approval of the juvenile delinquency court judge, the conditions of the child's release from detention and to create plans that will prevent future acts of violence.

In addition to these examples that control the detention census, for youth who are in detention between the time that the petition is filed and the juvenile delinquency court finalizes disposition, decreasing the length of time of the hearing process decreases the number of detention bed days, and therefore reduces the detention census.

3. Freeing Resources for Reallocation by Reducing Paperwork

The volume of paper that goes through most juvenile delinquency systems is huge. If a juvenile delinquency court can reduce this volume, it saves on paper expense, copying expense, and on space if files are maintained by hard copy instead of electronically, and reduces resources needed for records staff. In addition to reducing the number of formal cases, which was discussed in subsection 1 of this Section, and also results in fewer petitions to docket, issue summonses, and process findings and orders, other examples of practices that can reduce paperwork include:



- Issuing only one warrant (writ) or one probation or parole violation at any given time on a youth, as opposed to multiple warrants and multiple probation violations simultaneously.
- Using one filing with multiple counts as opposed to multiple individual filings for related incidents. This reduces the amount of paperwork flowing through the system and reduces instances of multiple concurrent warrants. When this system is used, it is important to track both filings and counts per filing in the juvenile delinquency court's management information system.
- Police serving the summons. In some jurisdictions, as soon as the police complete their investigation and decide to file an affidavit without a request to detain the youth, the police officer assigns the initial juvenile delinquency court date using a predetermined system provided and approved by the juvenile delinquency court.⁴⁹ Police give the parent and youth written notice of the court date. This reduces the amount of time between the time the charge is filed and the first court date, and eliminates court resources used for setting initial hearings and handling service of the summons. Police are willing to serve this role because it enhances the impact on the offending youth by significantly reducing the amount of time between the offense and the juvenile delinquency court's response.
- Courtroom equipment has direct access to the juvenile delinquency court's management information systems and can select the next available juvenile delinquency court date given certain parameters at the end of each hearing. The management information system generates all needed paperwork, including the written juvenile delinquency court findings and orders for immediate distribution to parties. The written findings and orders serve as notification of the next hearing date and time and no additional service is required. The information system archives the information eliminating the necessity of further handling or recording of the paperwork.
- Recording hearings by using the most current technology. If a case goes to the court of appeals, the record is transmitted electronically.

4. Reducing Demands on Docket Time

Docketed hearing time impacts the number of judges and judicial officers, courtroom support

staff, security personnel, prosecutors, and counsel for youth needed by a juvenile delinquency court. Reducing the amount of docket time required in a juvenile delinquency court system can either enable current staff to have the time to meet the recommendations of the *DELINQUENCY GUIDELINES* or it can reduce staffing needs in some areas to allow reallocation of resources in other areas. Examples in the prior subsections of this section that also reduce demands on docket time include reducing the number of formal cases and using dispute resolution alternatives instead of trials. Other examples of how juvenile delinquency courts can reduce the amount of docket time needed to handle delinquency cases include:

- Eliminating unnecessary hearing continuances, which reduces the number of hearings per case (and the length of time a detained youth is in detention) by:
 - Using the juvenile delinquency court's management information system to manage docket time, not only for the judge, but also the prosecutor, public defender, and probation officer to ensure that conflicting hearings are not set.
 - Setting subsequent hearings at the end of each hearing, with all parties and key participants committing to the time and date and then holding parties and key participants to their commitment.
 - Consolidating all pending petitions when a new petition is set for the first hearing so that multiple hearings on the same youth, on different petitions, and on different dates, are not necessary. Although an individual hearing will require a longer setting, the sum of docket time when petitions are consolidated is less than if they are held separately. In addition, the number of times parties and key participants must come to the court and the time spent on travel to and from the juvenile delinquency court are reduced.
 - Assigning two public defenders and two prosecutors to each juvenile delinquency courtroom. While one case is being heard, final preparation is being completed on the next case. This practice eliminates unnecessary continuances because counsel is not available, enhances the flow of cases, and allows for time specific case calendaring. It increases the number of cases that can be heard in a day, because it reduces judicial courtroom "down time"—time when the juvenile delinquency judge is waiting for a case to be called. When the number of

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formal cases is reduced by diversion to informal resources, fewer cases require formal juvenile delinquency court resources because the front door is managed so that only the more serious cases are handled formally. The juvenile delinquency court needs fewer hearings and fewer courtrooms, and has higher productivity per courtroom. Overall, no additional prosecutors or public defenders were required when the Circuit Court of Cook County, Juvenile Delinquency Division (Chicago, Illinois) implemented this procedure.

- Implementing systems that allow counsel to become engaged in advance of the initial hearing, thereby preventing the need to continue a case for arraignment or first appearance of counsel. This method potentially saves one hearing on every new petition (see the next subsection).
- When a youth is adjudicated and the judge anticipates that the disposition will not be removal of the youth from the home, instead of referring the case to probation for investigation and continuing the case for disposition, the juvenile delinquency court judge refers the case to the probation department without setting a separate disposition hearing. The probation department has a structured process using validated screening and assessment tools and structured guidelines that determines the probation response. The probation plan is forwarded to the prosecutor, counsel for the youth, and the juvenile delinquency court judge for review and determination as to whether post-disposition review is needed. Because judges and hearing officers participated in developing the system and are confident that the design of the system will result in good decisions, they do not feel it necessary to have another hearing to approve probation's recommendation. In a jurisdiction with a population of one-half million, this practice has eliminated the need for 900 additional juvenile delinquency court hearings per year.
- On discretionary motions to waive juvenile delinquency court jurisdiction and transfer the case to the criminal court, some juvenile delinquency court systems use the time between the detention hearing and the probable cause hearing to both prepare evidence for probable cause and to conduct social, physical, and mental evaluations. This requires only

one hearing which is bifurcated into the probable cause phase and the retain or waive phase. If a juvenile delinquency court's percentage of denying motions to waive juvenile court jurisdiction and transfer to criminal court is low, this system saves the setting of two separate hearings and conserves docket resources. Although the one hearing will require a longer setting, the sum of docket time will be less than if two separate hearings are held. In addition, the number of times parties and key participants must come to the court and the time spent on travel to and from the juvenile delinquency court is reduced.

- In systems with *De novo* hearings, eliminating the possibility that two trials could be necessary. This can be accomplished by implementing a pretrial conference system that requires parties to come together for a settlement conference. If a case results in a settlement, the parties present the settlement to the juvenile delinquency judicial officer on the same day as the settlement conference. If the parties cannot settle a case, it is then scheduled for a trial before a juvenile delinquency court judge for a date and time specific hearing with an appropriate number of hours allotted on consecutive days. This eliminates the possibility of both a trial before a judicial officer and a trial before the judge.

5. Finding the Resources To Provide Counsel for Youth on Every Formal Case

Key Principle 7 states Youth Charged in the Formal Juvenile Delinquency Court Must Have Qualified and Adequately Compensated Legal Representation. *Alleged and adjudicated delinquent youth must be represented by well-trained attorneys with cultural understanding and manageable caseloads. Juvenile delinquency court administrative judges are responsible to ensure that counsel is available to every youth at every hearing, including post-disposition reviews and re-entry hearings.*

On the rare occasion when the court accepts a waiver of the right to counsel, the court should take steps to ensure that the youth is fully informed of the consequences of the decision. A waiver of counsel should only be accepted after the youth has consulted with an attorney about the decision and continues to desire to waive the right.

This recommendation is anticipated to be one of the more controversial recommendations of



the *DELINQUENCY GUIDELINES* because juvenile delinquency systems may believe they simply do not have the resources to comply. In addition, juvenile delinquency court personnel have sometimes perceived that when counsel represents youth, the court process is delayed and made more cumbersome. In contrast to this perception, juvenile delinquency courts have found that providing qualified counsel facilitates earlier resolution of summoned cases.²⁹

When juvenile delinquency courts do not create systems that enable counsel to be appointed and engaged in advance of the initial hearing, they cause additional unnecessary hearings to be set. Families who can afford private counsel do not have these barriers and rarely appear at the first juvenile delinquency court hearing without prior consultation with counsel.

The two reasons that juvenile delinquency courts who implement the recommendations of the *DELINQUENCY GUIDELINES* will be able to find the resources to meet this key principle have both been discussed in previous subsections:

- Significantly reducing the number of formal petitions, and consequently significantly reducing the number of cases where the appointment of counsel is needed.
- By implementing the resource saving processes described in *Section 4: Reducing Demands on Docket Time*, the court further decreased the number of times counsel must appear on each case.



When a juvenile delinquency court improves its system in these ways, there is a strong likelihood that existing resources for appointment for counsel for youth can handle a greater percentage of formal cases with reduced caseloads that allow a higher degree of quality. An example of a court that has successfully made this transition is one of the largest juvenile delinquency courts in the country, Circuit Court of Cook County in Chicago, Illinois.

6. Reducing Demands on Probation Resources

A high percentage of juvenile delinquency cases use the resources of the probation department. If probation officers do not have caseloads that allow them to perform substantial probation work, the juvenile delinquency court will not be able to accomplish the recommendations of the *DELINQUENCY GUIDELINES* regarding probation. Juvenile delinquency court probation departments that have high officer caseloads resulting in once a month meetings with probationers, do not change youth behavior nor significantly impact recidivism.

One of the solutions to this resource problem is the same as mentioned in most of the prior resource sections - if a juvenile delinquency court manages intake and diverts most status offenses and first time non-violent misdemeanors to informal community resources, the demand on probation services will be significantly reduced. Probation officers can then focus on the 20% to 40% of youth who are responsible for 60% to 80% of law violations, instead of expending resources on youth who would not recidivate, even if not placed on probation.³⁰ These probable non-recidivating youth can be identified with a good degree of accuracy when juvenile delinquency systems use a validated risk of reoffending screening tool at intake, and divert those youth who score as low risk to reoffend to community resources. When juvenile delinquency court dockets are so full that in many less serious cases a 10-minute hearing occurs and ends with case closure, the court cannot expect to change youth behavior or impact recidivism. Less expensive informal systems can both ensure that these youth are held accountable for their offending behavior and ensure that service needs are identified and met.

Another way of freeing probation officer time to do substantive probation casework that has already been mentioned is by referring the case to the probation department without setting a separate disposition hearing on non-placement cases (see subsection 4). Additional practices to consider to free probation time to do substantive probation casework include:

- Not requiring probation officers to attend lengthy probable cause hearings on motions to waive juvenile delinquency court jurisdiction and transfer to criminal court. Generally the probation officer's presence is not needed, unless he or she is required to testify, or unless the case is a discretionary waiver and the necessary evaluations are available to move directly into the second phase of the proceeding if probable cause is established. Probation can convey any needed information to the juvenile delinquency court judge by written report or electronically through the court's management information system.
- Not requiring probation officers to attend trials. Generally, the probation officer's presence is not needed, unless she or he is required to testify, or unless the case will move immediately into the disposition phase if the youth is adjudicated. In many instances, the probation officer can convey disposition recommendations by written report or electronically through the court's management information system.
- Managing the docketing process through the

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management information system, so that probation officers have assigned days in juvenile delinquency court (i.e., scheduled one day a week) so that they can spend more time in the field and plan their time more efficiently.

- Management information systems, directly accessible by the juvenile delinquency court judge or hearing officer, that routinely convey probation reports and recommendations to the judge in most cases. This system releases the probation officer from needing to be in the courtroom unless there is a specific reason requiring the probation officer's presence (e.g., the recommendation is placement, or parties disagree with the probation recommendation).

Some juvenile delinquency courts may not consider these opportunities because they are foreign to current jurisdictional practices. However, if a juvenile delinquency court desires to conserve system resources and stretch the resources it has to produce the most impact, it should objectively evaluate the benefits of having probation officers in the courtroom as observers for extended periods of time as this can consume as much as 40% of a probation officer's time.

7. Decreasing Costs of Care

When the juvenile delinquency court diverts less serious youth to informal resources, the result will be that a higher percentage of the youth who appear before the formal delinquency court will have significant service needs. Consequently, it is important for juvenile delinquency courts to look for opportunities to decrease the cost of providing needed care to delinquent youth. Examples of ways to provide positive youth outcomes while reducing costs include:

- When sex offenders with high-risk characteristics are identified early, using group therapy and day treatment programs can be effective in changing behavior, as well as effective in providing community safety and avoiding the high cost of residential treatment.
- Using day and evening treatment centers for youth needing substantial levels of supervision instead of more expensive residential placement.
- Using day and evening treatment centers as a step down option for residential care to reduce lengths of stay in more expensive residential placement.
- Ensuring that when the juvenile delinquency court orders the placement of a juvenile offender outside of the home, the judge has

carefully considered whether this option, the most restrictive and expensive of disposition options, is necessary. According to the NCFJC publication, *The Role of the Juvenile Court in Reentry*:

Due to the absence of alternatives, many juvenile justice systems have historically relied on social control through the use of restrictive out of home placements for chronic or serious offenders. But studies have shown that juvenile facilities are housing many youth who pose no significant threat to community safety and who could be managed as effectively in less restrictive and less costly programs.

- Establishing a specialized mental health docket; for example the juvenile mental health court in Santa Clara County (San Jose) California was established through the realignment of existing resources and did not require significant new financial resources or personnel for its operation.²⁸ It was modeled after a program in Milwaukee, Wisconsin that was able to reduce the average cost per mentally ill juvenile offender from more than \$6,000 per month to less than \$5,200 over a six year period.
- Using less expensive wrap-around services instead of placement. Juvenile delinquency courts that have successfully implemented wrap-around service collaborations and pooled funding for youth with multiple needs and multiple system involvement include:
 - Marion County Juvenile Court in Indianapolis, Indiana has involved the juvenile delinquency court, child welfare agency, mental health department, corrections department, and education system in pooled funding since 1995. The Indiana University School of Education found that youth involved in the project demonstrated improved behavior over time and function better in the home, school, and community. The care management organization reports 80% of participating children demonstrated improvement in functioning.
 - Milwaukee County Juvenile Court in Milwaukee, Wisconsin has implemented Wraparound Milwaukee, which involves juvenile justice, child welfare, and education systems. The 2002 Annual Report states that youth enrolled for one year or more functioned better in school at home, and in the community upon disenrollment; re-offense rates continued to



drop even up to three years after leaving the program; the average number of youth in costly restrictive residential treatment placements dropped in 2002 from 80 placements at the start of the year to only 42 youth at the end of 2002; and the average monthly cost to serve a youth was only \$4,550 per month compared to over \$7,300 per month if that youth was in a residential treatment placement, or over \$6,000 per month if that youth was in a juvenile correctional facility.

- Hamilton County Juvenile Court in Cincinnati, Ohio has collaborated with the child protection agency, the mental retardation and developmental disabilities board, the mental health agency, and the alcohol and drug addiction services agency to use pooled funding for multiple-system youth since 1995. The system has maintained funding for this population at the same actual dollar amount over nine years without reducing the level of service or outcomes.

8. Finding New Funding Streams

With resources shrinking and competition for those resources increasing, it is difficult for juvenile delinquency courts to find new funding streams. Suggestions for exploring new revenue possibilities include:

- **Government Grants** – Juvenile delinquency courts should stay abreast of government grant opportunities, federal, state, and local. They should engage in collaborations with other organizations that serve delinquent youth and apply for available funding. It is always important when applying for grants, whether government or foundation, to ensure that the project will be able to become self-sustaining when the grant money ends.
- **Private Charity Foundations** – Although some private foundations may fund significant juvenile delinquency court system improvement initiatives, many private foundations are reluctant to fund government initiatives, and are not willing to fund operating costs. Juvenile delinquency courts are likely to be most successful in tapping into private foundation grants if they develop initiatives in collaboration with non-profit service organizations. For example, if a juvenile delinquency court wanted to increase informal diversion options or create community operated options to secure detention, the court could collaborate with one or several non-profit organizations that possess the

knowledge and skills needed to provide the service or that already provide a similar service but would need to expand capacity. The non-profit organization, with the support of the juvenile delinquency court judge, could apply for start-up or bridge funding from private charity foundations to begin the effort, with long-term funding provided by the savings the juvenile delinquency court generates over time.

Another possible method of tapping into private charity foundation funding might be to create a "Friends of the Court" organization, separately incorporated, that could identify needs of delinquent youth which private charity foundations would consider funding.

- **Assessing Costs to Parents** – In all states, the parents of a delinquent youth can be held liable for the costs of confinement and the costs of services provided to their child. These costs can include child support while in a placement, costs of probation supervision, costs of treatment or other services, cost of transportation to treatment or services, court costs, and legal fees. It is important for a juvenile delinquency court to monitor the amount of revenue generated from assessing costs to parents, as compared to the costs to the court to generate the revenue, to ensure cost effectiveness.
- **State and Local Bar Associations** – Many states and communities have bar associations that raise funds and provide volunteers to support projects related to the law. Juvenile delinquency courts could tap into these resources, not only to recruit volunteer lawyers to represent delinquent youth or to volunteer as mediators, but also as a funding source for applicable projects.
- **Law Enforcement Sales of Confiscated or Unclaimed Property** – In some communities, law enforcement agencies may commit to donating a portion of its sales proceeds to fund initiatives that reduce juvenile delinquency.
- **Donated Jury Fees** – In some communities, the jury commission offers jurors the opportunity to donate all or part of their jury duty compensation to fund initiatives that reduce juvenile delinquency.

G. FINAL COMMENTS

Various stakeholders involved in abuse and neglect system reform through the National Council of Juvenile and Family Courts Judges Victims Act Model Courts Project have made the following comments:

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- It is the judge who brings us to the table and enables us to work together. He is always the one who stresses that we are there to make improvements for kids...he genuinely cares about the lives of the children that come to the court system and expresses that concern to others to get their buy-in. He has the ability to get people to feel good about improvement, that what they are doing is important, and that it matters.
- A lot of our collaboration success has to do with our judge...because we have a judge leading our committee, our work has some weight in the community...more than any other committee would. It is the judge's leadership style that makes us all want to be there and be a part of it.
- The judge can bring major stakeholders to the table. She has the authority of the bench.
- There is a lot of respect for the court and the power of the court...and the court has high expectations for all of the stakeholders involved...this is the only way we can accomplish these kinds of reform.

Endnotes

- ¹ Refer to Section B, of this chapter regarding how a juvenile delinquency court judge can engage in judicial leadership and collaboration without violating judicial canons on *ex parte* communication. It is important to note that legislative lobbying activities cannot be supported with federal funds due to the requirements of 18 USC § 1913.
- ² Pennsylvania is an example of a state with a juvenile justice commission, and Louisiana and Ohio are examples of states with strong statewide juvenile and family court judge's associations.
- ³ National Council of Juvenile and Family Court Judges (January 2009). *Child Victims Act Model Courts Project Status Report 1999*. Technical Assistance Bulletin, IV(1). Reno, NV: Author.
- ⁴ *Supra* note 3.
- ⁵ Judge Leonard Edwards (1992). The juvenile court and the role of the juvenile court judge. *Juvenile and Family Court Journal*, 44(2), 25.
- ⁶ Dolbin, S. A., Gatowski, S. I., & Maxwell, D., (April 2004). *Building a Better Collaboration: Facilitating Change in the Court and Child Welfare System*. Technical Assistance Bulletin, VIII(2). Reno, NV: National Council of Juvenile and Family Court Judges.
- ⁷ In addition to the resource referenced in note 3, another excellent resource is the curriculum published by the National Council of Juvenile and Family Court Judges entitled *Court, Agency and Community Collaboration* (2009). The curriculum content applies equally well to facilitating improvement in the juvenile delinquency court system as in the abuse and neglect system.
- ⁸ Resources used for this section include:
- Dobson, S. A., & Gatowski, S. I. (January 2001). Judicial Workload Estimates: *Reaffirming the Concept of Judicial Work*. Technical Assistance Bulletin, VI(1). Reno, NV: National Council of Juvenile and Family Court Judges.
 - Ansooshepoor, H., Durbin, M., Flango, V. E., Gatowski, S.I., Hardin, M., Hemick, V., Lukowski, G., Montsberry, M., Rubio, D., Stetee, M. W., & Ucker, B. (2004). *Building A Better Court: Measuring and Improving Court Performance and Judicial Workload in Child Abuse and Neglect Cases*. ABA Center on Children and the Law, National Center for State Courts, & National Council of Juvenile and Family Court Judges.
 - American Prosecutors Research Institute (2002). *How Many Cases Should a Prosecutor Handle? Results of the National Workload Assessment Project*. Alexandria, VA: Author.
 - Griffin, P. & Toiber, P. (2002). *Desktop Guide to Good Juvenile Probation Practices*. Pittsburgh, PA: National Center for Juvenile Justice.
- ⁹ *Supra* note 8.
- ¹⁰ *Supra* note 8.
- ¹¹ The National Center for State Courts conducts on site workload evaluations. For contact information, see the appendices.
- ¹² The National Center for State Courts Technology Services has produced detailed juvenile function requirement standards which are accessible in both PDF and Word format on their website: www.ncsconline.org.
- ¹³ Maloney, D., & Harp, G. (2003). *Measuring Impact: The Next and Necessary Step*. Alexandria, VA: American Prosecutors Research Institute; also refer to *Performance Measures for the Juvenile Justice System: A National Demonstration Project*. Alexandria, VA: American Prosecutors Research Institute & National Center for Juvenile Justice.
- ¹⁴ *Supra* note 5.
- ¹⁵ *Supra* note 11.
- ¹⁶ Samples of report cards can be obtained from Allegheny County Juvenile Court, Pittsburgh, Pennsylvania and the South Carolina Department of Juvenile Justice. It should be noted that these report cards follow some, but not all of the recommendations in this section of the *DELINQUENCY GUIDELINES*.
- ¹⁷ Lowe, C. S. (2004). Resource Reallocation: The Clark County Experience. *Juvenile Sanctions Center Training and Technical Assistance Program Bulletin*, 2(1).



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¹⁸ Hamilton County Juvenile Court, Cincinnati, Ohio.

¹⁹ A study of the population of Maricopa County in Phoenix Arizona captured the complete juvenile court caseloads of more than 150,000 youth born between 1962 and 1977, youth who reached age 18 between 1980 and 1995. As reported in: Snyder, H. & Schmandt, M. (September 1999), *Juvenile Offenders and Victims: 1999 National Report*. Pittsburgh, PA: National Center for Juvenile Justice.

²⁰ Umbesi, M., Cortes, R., & Vas, B. (2001) Juvenile Victim Offender Mediation in Six Oregon Counties. Salem, OR: Oregon Dispute Resolution Center; as reported in: National Council of Juvenile and Family Court Judges (2005). *Guidelines: Sanctions for Juvenile Offenders: A Program Model and Planning Guide*. Reno, NV: Author.

²¹ D'Amico, S.A. (1986). The development and evaluation of a court-connected juvenile mediation program. *Juvenile and Family Court Journal*, 37(5), 7-13.

²² Kramer, J. H. & Stoffensmeyer, D. J. (1978). The differential detention/filing of juveniles: A comparison of detention and overcrowded courts. *Pepperdine Law Review*, 3(3), 795-807. Lerman, P. (1977). Discussion of differential selection of juveniles for detention. *Journal of Research in Crime and Delinquency*, 14(2), 166-172. Fawcok, E. J. (1977). Differential selection of juveniles for detention. *Journal of Research in Crime and Delinquency*, 14(2), 152-165; as referenced in National Research Council and Institute of Medicine (2001) *Juvenile Crime, Juvenile Justice*. McCord, J., Widom, C. S., & Crowell, N.A. (Eds.). Washington, DC: National Academy Press.

²³ In 1998, overcrowding in public detention centers was the norm rather than the exception, with 70% of publicly held juveniles in facilities operating above their rated capacities. Most detainees were held for very short periods in connection with nonviolent and often minor offenses. Historically, juveniles have often been held in secure detention for reasons having nothing to do with risk of recidivism or absconding. Some states allow secure detention to be used as a dispositional order. This further exacerbates over-crowding.

²⁴ Land, K., McCall, P. L., Williams, J. R., & Ezell, M. (1992). Intensive supervision of status offenders: Evidence on continuity of treatment effects for juveniles and a "Hawthorne Effect" for contractors. In J. McCord & R. Tremblay (Eds.), *Preventing Antisocial Behavior: Interventions From Birth Through Adolescence* (pp. 339-349). New York: Guilford; referenced in National Research Council and Institute of Medicine (2001) *Juvenile Crime, Juvenile Justice*. J. McCord, C. S. Widom, & N. A. Crowell, (Eds.). Washington, DC: National Academy Press.

²⁵ See Chapter IV, Section C(1) for details regarding how such a system can work and preserve prosecutorial review, informal diversion and one youthful judge.

²⁶ A study in Lucas County Juvenile Court determined that when counsel was present at the initial hearing (does not include retention hearings), 78% of cases were resolved at that hearing. Consequently, no additional docket time was required. Because fewer hearings needed to be scheduled, the juvenile delinquency court was able to meet docketing time frames as required by the state Supreme Court without adding additional staff. As reported in the *2001 Annual Report*, Juvenile Division of the Lucas County Court of Common Pleas, Toledo, Ohio.

²⁷ *Supra* notes 17 and 18.

²⁸ Amendondo, D. F., Kuntz, K., Soto, L., Colin, E., Omellas, J., Davilla, R., Edwards, L. P., & Human, E. M. (Fall 2001). Juvenile mental health court: Rationale and protocols. *Juvenile and Family Court Journal*, 52(4), 1-19.

Core Strategies

Boiled down to its essence, the purpose of Juvenile Detention Alternatives Initiative (JDAI) is to demonstrate that jurisdictions can safely reduce reliance on secure detention. It also tests the hypothesis that detention reforms will equip juvenile justice systems with values, skills, and policies that will change results in other components of the system, such as commitments to youth corrections facilities. JDAI has four basic objectives:

- To eliminate the inappropriate or unnecessary use of secure detention;
- To minimize re-arrest and failure-to-appear rates pending adjudication;
- To ensure appropriate conditions of confinement in secure facilities; and,
- To redirect public finances to sustain successful reforms.

JDAI sites pursue eight interrelated strategies to accomplish these objectives:

1. **Collaboration** between the major juvenile justice agencies, other governmental entities, and community organizations. Without collaboration, even well designed reforms are likely to flounder or be subverted. A formal structure within which to undertake joint planning and policymaking is essential.
2. **Use of accurate data**, both to diagnose the system's problems and proclivities and to assess the impact of various reforms, is critical. Without hard facts, myths and anecdotes will rule the system and preclude agreement on key aspects of policy and practice.
3. **Objective admissions criteria and instruments** must be developed to replace subjective decision making at all points where choices to place children in secure custody are made.
4. **New or enhanced non-secure alternatives to detention** must be implemented in order to increase the options available for arrested youth. These programs must be careful to target only youth who would otherwise be locked up. Whenever possible, they should be based in those neighborhoods where detention cases are concentrated and operated by local organizations.
5. **Case processing reforms** must be introduced to expedite the flow of cases through the system. These changes reduce lengths of stay in custody, expand the availability of non-secure program slots, and ensure that interventions with youth are timely and appropriate.
6. **Special detention cases**—youth in custody as a result of probation violations, writs and warrants, as well as those awaiting placement—must be re-examined and new practices implemented to minimize their presence in the secure facility.
7. **Reducing racial disparities** requires specific strategies (in addition to those listed above) aimed at eliminating bias and ensuring a level playing

field for youth of color. Change in this arena also requires persistent, determined leadership because the sensitive nature of these discussions and changes frequently provoke defensiveness and avoidance.

8. **Improving conditions of confinement** is most likely to occur when facilities are routinely inspected by knowledgeable individuals applying rigorous protocols and ambitious standards. Absent of this kind of consistent scrutiny, conditions in secure facilities are unlikely to improve and often will deteriorate.

Mr. SCOTT. Dr. Osofsky.

TESTIMONY OF HOWARD J. OSOFSKY, CHAIR, LOUISIANA STATE UNIVERSITY HEALTH SCIENCES CENTER, DEPARTMENT OF PSYCHIATRY, NEW ORLEANS, LA

Dr. OSOFSKY. Chairman Scott, thank you for the opportunity to be here and testify to the Committee. In addition to being the Chair of Psychiatry at LSU Health Sciences Center and Co-Director of the Louisiana Rural Trauma Services Center, since Hurricane Katrina, the State asked me, "in my spare time," to be the Clinical Director of Louisiana Spirit, the crisis counseling and our regular services counseling provided under the Stafford Act. I also would like to say that, as we try to assist the community in rebuilding infrastructure, I am grateful to our faculty. Even with pay cuts, with furloughs, with still no offices, we've been able to retain almost all of our faculty and add new faculty. And at the time when the Federal Government did its survey, whereas prior to the hurricane we were probably 8 percent of the psychiatrists in the City; since the hurricane, when they did the survey, we were probably a minimal of 60 to 70 percent, and with other mental health professionals on our faculty. We have retained full resident training, child resident training, psychology training, social work training; and, as I said, I'm truly grateful for the people who work with us in, what I know is our current difficult environment.

Although I will not reiterate what's been stated before, as a member of the Board of the New Orleans Police and Justice Foundation, I'm certainly aware and appreciative of the efforts that are being made throughout our city with the support of our Federal Government.

Let me just focus briefly on the mental health perspective. Many problems are apparent. The slow recovery of our community with overcrowding, economic loss, difficulty in rebuilding, and concerns about safety, contribute to demoralization. Although, we recognize the importance of family structure and support, members of the community at large, including First Responders, are living with ongoing family stresses and what is clearly apparent, is an increase in family conflict and divorce.

At the present time, actually, our department, without full funding, is working in the police districts, in firehouses, in EMS headquarters, and also providing confidential offsite services at no cost to First Responders and their families to try and help. We certainly have a very high percentage of appreciation and response involving these service.

I would also mention as a contributor to stress, that drugs are a significant problem in our community. I would even say that based on one of the NIDA grants in the community it's apparent that drug dealers have returned with purer and less-expensive drugs. There is the issue of competition; the fewer number of people available to buy drugs has been an important factor. A high percentage of arrests are drug-related, compounded by anger, retaliation, and the other issues that are inherent within the drug trafficking system. Police officers not only face stresses in their daily work, but increased danger related to the violent crimes and frequent drug-related crimes. Further their commitment to fighting

nightly crimes and other responsibilities makes it less likely they can be involved in preventative measures, such as picking up young people who are inappropriately on the street at night and who should be taken to the curfew center.

The need to rebuild mental health infrastructure is critical. There is a desperate need for a crisis intervention unit, inpatient psychiatric beds, especially those that can address co-occurring disorders of substance abuse and mental health, and an appropriate system of care within the community. Our somewhat reduced police force picks up a greater percentage of patients who are suicidal or severely mentally impaired. They frequently need to drive 30 minutes to an emergency room and then wait a minimum of 1 hour, sometimes as long as 5 hours, for transfer. At times, officers and emergency medical technicians report not only the demoralization, which we're hearing a great deal about, but demoralization relating to some of these issues and how they can face them.

Sending patients to other parts of the State, as is often proposed, is not an answer. Without a system of care and full family participation, the likelihood of recidivism is much greater. It is very important that zero tolerance be maintained. However we must address the problems of community recovery meeting the needs of young people in our community who have endured much trauma.

Together with schools, our department has now completed over 10,000 evidence-based needs assessments, helping schools with returning students of all ages in Orleans Parish, St. Bernard, and Plaquemines Parishes. Although resilient, in some areas as high as 45 percent of the children and adolescents meet the cutoff scores for mental health services on these evidenced-based measures. With the younger children, whose parents complete the measures, over 30 percent of the parents request help for their children and themselves.

Family-based services are crucial at this time. A considerable number of adolescents are living on their own, away from home, away from parents, in order to be back in the community and attend schools. They are living on their own frequently as a result of overcrowding in trailers and parents not being able to return because of employment issues and housing issues, both of which result in inadequate supervision. With overcrowding, children and adolescents are also exposed to more fighting and family disputes.

Adolescents have described being unable to talk to parents who are themselves overwhelmed or with other adults who may also be stressed.

Returning students are often in reconstituted schools with fewer consistent friends and also fewer teachers whom they know from the past. Rival groups of children and adolescents are frequently brought together under one roof with little to do after school or on weekends in devastated areas. I can tell you about the numbers of students, excuse me, adolescents where their activity at night can be driving a car up and down the street in devastated areas, with really very little for them to do as far as services, normal activities.

Take a look at this and the use of drugs, alcohol, and risk-taking behaviors. Schools have reported an increase in fighting, bullying, and have described their concerns about risk-taking behaviors.

There are very few programs planned for the summer because of limited resources.

There is a need for the development of positive programs such as the Youth Leadership Program that Judge Gray and the Sheriff and our department worked on for a number of years with students on the brink of disaster, who were being expelled from schools, even from alternative schools.

We also have an extremely positive Youth Leadership Program, with ordinary students helping them to help other students help others in the community, do service; and in the process, to function much better in school in their families, and in the communities.

There's also the Cops for Kids Program, with which we've worked actively for years in the summer; but, again, with reduced funding and numbers for students—

Mr. SCOTT. Did you say Cops for Kids?

Dr. OSOFSKY. Cops for Kids. It's a collaboration between the New Orleans police department, our department, teachers, and New Orleans Police and Justice Foundation, to help young people who normally lived in housing developments to have better summer experiences, learn to trust the police, have different types of activities and counseling—with again, excellent results.

Mr. SCOTT. And if you could summarize.

Dr. OSOFSKY. Okay. Unless we address prevention and early intervention, we will not allow our youth to fulfill their potential. In both the short- and long-term, lack of attention to prevention and early intervention activities will contribute to delinquency, crime, substance abuse, and violence. Thank you very much.

Mr. SCOTT. Thank you.

[The background information of Mr. Osofsky follows:]



**Katrina's Children:
Social Policy Considerations for Children in Disasters**

Joy D. Osofsky, Howard J. Osofsky, and William W. Harris

Abstract

Hurricane Katrina resulted in a disaster of proportions not previously known in the United States. The traumatic experiences of children and families during Hurricane Katrina, the flooding that resulted from the breach of the levees, the evacuation, and the aftermath are unprecedented. In responding to the enormous mental health needs of children post-Katrina, the Trauma Team of skilled mental health professionals from the Louisiana State University Health Sciences Center (LSUHSC) Department of Psychiatry provided crisis intervention and services. This paper discusses the work of the LSUHSC Trauma Team and provides a snapshot of the current mental health status of several thousand children and adolescents in post-Katrina New Orleans (not including those who were still displaced). Almost one half of the 4th to 12th grade students and over one quarter of younger children (based on parental report) met criteria for mental health services, based on the number and severity of their behavioral symptoms. Children who were separated from their parents or who had experienced previous trauma or loss were most likely to meet criteria. Ongoing risk relates to poverty, slowness of recovery, job loss, and family problems. Recommendations for rapid deployment of mental health services to children are provided, based on the Trauma Team's experiences. Educational efforts, school-based services, after-school care, resilience-enhancing programs, and community-building strategies are also discussed. Most important, a clearly articulated national disaster plan for children and families is urgently needed. This plan should be trauma-focused and based on developmental principles, research, and lessons learned from this and prior disasters. Knowledge gained from this disaster can aid in understanding and meeting the needs of children and families impacted by disasters, promoting resilience and self-efficacy, and providing evidence-based therapeutic services.

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From the Editor

Certainly the destruction caused by Hurricane Katrina and the flooding resulting from breakage of the levees in New Orleans was one of the greatest disasters and human tragedies in generations. As developmental scientists, it behooves us to consider how the consequences of such a disaster may differentially impact children. Joy and Howard Osofsky and William Harris do just that in the current issue of the *SPR*. There has been a lot of public attention to relief efforts but few have focused specifically on children and families. The one exception that I know is the fall issue of APA's Division 37 newsletter, *The Advocate*, which also addresses Katrina.

The authors begin by documenting the human dimensions of this tragedy. It is difficult to fathom what a devastating event this disaster was. Anyone who has since visited New Orleans can attest to its magnitude and to the toll on human displacement and suffering. What is especially important when addressing implications for children are the policy recommendations that are specific to children of different ages. That is one main goal of the current issue of the *SPR*.

This article provides statistics on the number of children of different ages showing behavioral symptoms of trauma that required some type of mental health services. This number varies from one quarter to one half of children! Obviously the demand for services and the drain on available resources was substantial. The authors argue that this country needs a national disaster plan that includes provisions to meet the needs of children and families. This disaster provides considerable information on lessons learned. For example, response to such an event requires a multi-pronged and multi-level approach. Education on preparedness is one piece, as is capacity for response from schools, after-school programs, and community organizations. A national plan also needs to be based on what we know from research about the development of children and the impact of events such as separation from parents.

The article also makes clear that risk factors related to poverty and the disadvantaged lives of many who experienced this disaster made the impact far worse than might otherwise have been the case. In fact, the aftermath of Katrina is an astounding example of what happens when a nation and a community allow poverty and disadvantage to fester unchecked. I would argue that Katrina should provide a much wider wake-up call than the need for a national disaster plan, although of course that is also needed. The consequences of poverty and inequality are pervasive and affect us all, not just the victims. This point could not have been made more effectively than by the aftermath of Katrina. Now, almost a year and a half later, we as a nation are still trying to cope with the consequences. Yes, Katrina demonstrates convincingly the need for a national disaster plan, a plan that attends to developmental needs. It also demonstrates the need to work harder as a nation to reduce poverty and disadvantage, especially in children and families.

Lonnie Sherrod, Ph.D., Editor
Fordham University

Katrina's Children: Social Policy
Considerations for Children in Disasters*

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Hurricane Katrina resulted in a disaster of proportions not previously known in the United States. The winds and flooding resulted in the evacuation and destruction of 80% of New Orleans. In neighboring St. Bernard Parish, 95% of the homes, schools, and businesses were destroyed by the flooding. Hurricane Katrina displaced 650,000 people from their homes in Louisiana alone and many more were displaced from Mississippi and the Gulf Coast. Additional children and families in Louisiana and Texas were affected by Hurricane Rita in subsequent weeks. Not only were homes destroyed by the wind and flooding, but 875 schools in Louisiana were also damaged and 40 were totally destroyed. The experiences of children and families during Hurricane Katrina, the flooding that resulted from the breach of the levees, the evacuation, and the aftermath are unprecedented. One major lesson learned is that our country has no clear disaster plan for children.

Think for a moment of what it was like for the children, many of whom had previously experienced hurricanes. As with past hurricanes, if families evacuated, they left their homes with a day or two of clothes and supplies—obviously inadequate for this disaster. If, consistent with prior experience, they did not leave, they experienced a terrible nightmare—overwhelming flooding, witnessing death, seeing their homes and community destroyed, and being trapped in shelters of last resort (the Superdome and New Orleans Conven-

tion Center) in stifling heat, without communication, electricity, and adequate sewerage and food and water for days. Family members were separated from one another, often being put on buses or planes alone and having no idea where they were going. Even one fifth of children under the age of 10 were separated from their parents (as estimated from our survey of post-Katrina children in New Orleans).

What followed the hurricane, for both children who left New Orleans and those who did not, was living in overcrowded homes and trailers, moving frequently, being separated from relatives and friends (and often not knowing where they were), having unemployed and distressed caregivers, and having inadequate money, clothing, and food. Essentially, children were torn away from everything familiar in their lives, from support and stability. Both during the crisis and the slow and limited recovery, children learned that many of the adults around them had no clear plan for achieving safety, stability, recovery, rebuilding, and re-establishing all that was familiar. The traumatic events experienced by these children are unprecedented in this country.

Children's Plight in New Orleans Before and After Katrina

Children in Louisiana were not faring well even before the hurricane. Louisiana ranked 49th in the United States (and Mississippi ranked 50th) of the 50 states on measures of child well-being (Annie E. Casey Foundation, 2005; Kids Count). Within the city of New Orleans, 30% of children were living in poverty, including 43% of the children under 5 years of age in 2000 (US Census Report, 2000). Two thirds of families living below the poverty level were headed by a single mother. Children who live in poor and in single-parent families have experienced more trauma than children whose families are more advantaged, placing them at risk for even more negative outcomes.

Following the landfall of Hurricane Katrina on August 29, 2005, and the subsequent flooding of nearly 80% of the city, the demographic and social characteristics of the city changed. Recent statistics from the U.S. Census Bureau (Lyman, 2006) indicate that the population of the New Orleans Metropolitan area dropped from 1,190,615 people in August 2005 to 723,830 in December 2005. In December 2005, it

*Appreciation is expressed to the Trauma Team staff in the Department of Psychiatry at Louisiana State University Health Sciences Center in New Orleans and to Anthony Speier, Ph.D., Disaster Mental Health Director for the Department of Health and Hospital's Office of Mental Health and Program Director for Louisiana Spirit. Corresponding author: Joy D. Osofsky, Ph.D., Professor of Pediatrics and Psychiatry, Louisiana State University Health Sciences Center, 719 Camp Street, New Orleans, LA 70130; josofo@lsuhsc.edu.

was estimated that approximately 181,400 individuals had returned and were living in Orleans Parish (City of New Orleans Emergency Operations Center, 2006).

We still are not sure how many children are in New Orleans or how many are returning (although estimates should become more accurate as 2006-2007 school enrollment figures are available). It was initially expected that there would be approximately 34,000 children in New Orleans Public Schools by January 2007. This number included students in the Recovery District Schools, the 102 underperforming schools in New Orleans pre-Katrina over which the State Department of Education assumed control in 2005. It did not include students in charter schools, parochial schools, or independent schools. More recent estimates indicate that this figure may be an overestimation; current data suggest approximately 25,000 students will have enrolled in public schools for the fall semester with some increase in numbers expected prior to the spring semester. Providing classrooms, teachers, and services for even the 25,000 is proving to be a challenge.

The child care situation is similar. It is critical to provide support for young children and their parents and to allow parents to be able to go to work to support their families. Pre-Katrina, 271 child care centers were operating in New Orleans, including Head Start and Early Head Start. As of July 2006, 58 child care centers were open, one fifth of the pre-Katrina total. Few are providing extended hours for working parents. Pre-Katrina, 2,618 children ages three and four and 204 toddlers were enrolled in 32 Head Start and Early Head Start Centers. Currently, only 700 children, ages three and four, and 72 toddlers are enrolled in nine Head Start and Early Head Start Centers (again, about one fifth to one fourth of the pre-Katrina enrollment; in St. Tammany Parish, just outside of New Orleans, without additional funding, enrollment in Head Start following the hurricane was about 50% higher due to the number of displaced children). Discussions are underway to establish addi-

tional Head Start and Early Head Start centers in New Orleans as part of a unified, comprehensive school plan. Replacement of over 200 child care centers is a huge task.

The need for additional schools and child care centers is paralleled in the housing sector. Children in New Orleans are living in crowded apartments and houses, and many are still in trailers. Due to the extent of the devastation and slowness of recovery, many children are still displaced and unable to return.

The Experiences of the Children of Katrina

The experiences of the children and youth of New

Orleans have been documented through our work in the field. The Trauma Team from the Louisiana State University Health Sciences Center (LSUHSC) Department of Psychiatry provided crisis intervention and services immediately through the National Child Traumatic Stress Network Center, the Louisiana Rural Trauma Services Center, and faculty in the department skilled in working with children, youth, and families who have experienced trauma. Reports from their experiences are presented, as well as the re-

The experiences of children and families during Hurricane Katrina, the flooding that resulted from the breach of the levees, the evacuation, and the aftermath are unprecedented. One major lesson learned is that our country has no clear disaster plan for children.

sults of a survey.

Reports From the Trauma Team in the Field

Our experiences with children and parents following Katrina as part of a Trauma Team bring the situation into focus. They also may help in designing a national plan for responding to children and families in the wake of future disasters. In the immediate aftermath, many children who had been displaced appeared dazed or listless. Younger children, especially, demonstrated regressed, clingy, and anxious behaviors. Some children (even older children) whose homes had been destroyed appeared to use magical thinking to fill in gaps in understanding, repeatedly telling us and parents "It will be all right. We can go home and sweep up the floor and it will be ok." Older children worried about themselves, their futures, their friends, parents, and other family members (for example, whether they would ever see their grandma again, whose home they

went to for every Sunday supper).

First responder parents—who had experienced so much themselves and had lost their homes, and did not know the whereabouts or safety of their family members—described conflicted loyalties between their jobs and family responsibilities. They even worried about how to provide funds to family members when they were finally paid. A mother of a teenager, who was quadriplegic from a previous accident fell to her knees praising the Lord when she recognized us and pleaded for help from us and the police to go back to her flooded home for her son's mechanized wheelchair. He was currently bedridden in a relative's home and could not be moved or obtain the medical care that he needed. A child, initially described as doing well, would not go out or go to school; he described how guilty he felt now, that he pleaded with his father to evacuate—and then his father was killed in an accident during the evacuation. A disorganized, aggressive 5-year-old child had been separated from two loving foster parents and was not able to be reunited with them. We know how important it is for resilience, especially for younger children, to have the consistent support and protection of parents and caregivers.

In the fall and early spring of 2006, as children returned to the New Orleans Metropolitan area, some described being called "trailer trash" when they enrolled in other schools and were teased about not having a permanent address, home, or adequate clothes. A five-year-old, whose protective and well-meaning older brother described him as doing fine, sadly told us that the children in the new school and community did not like him. One bright 13-year-old told us about needing to be brave, but that she was not certain she could be that way much longer. Her family had lost their home and all possessions; her parents could not live together; and her father had no job. She frequently cried but tried to do it when she was alone.

In December 2005, just before Christmas, a griev-

ing grandparent wanted to know whether to take her young grandchild with her—she needed to identify the child's dead mother and see their destroyed home. Trembling and experiencing suicidal thoughts, she worried about whether she could be strong enough for her grandchild when she was so shaken that she could barely stand. Parents and children described their panic at evacuation sites, hot and exhausted, crowds milling about, some separated from one another, and frantic about when, where, and if they would be reunited.

Children and adolescents in crowded quarters, many in trailers, experienced parents who were fighting or no longer wanted to live together. Children who had lived in inner city neighborhoods in New Orleans, often in an environment of violence and drugs, lost even those routines and had no place to live. Children and adolescents were living with friends and relatives because devoted parents, who could not return, wanted them to be in schools with their friends. Children, who had temporary declines in school performance due to trauma and displacement, now feared being labeled as dumb because of needing remediation after having been in several schools since their displacement. High school students, who lost their senior year, worried that they had no future. They had not completed student loan forms for college before the hurricane; their academic performance had declined; they felt ill prepared for examinations and applications; and they worried about whether they would be able to go to the college they desired. They worried about the needs of their parents and whether they should even be leaving home to go off to college. They also worried about financial issues related to college and whether the part-time job they counted on to help support them would still be available.

A few examples of the remarkable resilience of children and families to cope in the face of adversity should also be noted. We think of a young father, who in comforting his two-year-old bewildered son explained the loss of their home as follows: "Remember

Some children (even older children) whose homes had been destroyed appeared to use magical thinking to fill in gaps in understanding, repeatedly telling us and parents "It will be all right. We can go home and sweep up the floor and it will be ok."

when your toy broke last year? Well, now, it is a little like that as our house is broken and can't be repaired." There was also the first responder, who initially tearfully pleaded, "Make it go away." She talked sadly about how much she missed her flooded home and being able to take care of her children, even missing doing the washing and ironing. She then drew on the words of Martin Luther King and her religious grounding to move forward and bring her family together. High school seniors wanted to graduate with their classmates even if their school could not reopen. Students sufficiently symptomatic to qualify for mental health services frequently described their first concern as "how can I rebuild my community?" Adolescents in our Youth Leadership Program, carried out collaboratively with St. Bernard Parish Unified School in the summer of 2006, developed supportive programs and services for newly returning students and younger children.

*Survey of Children and Adolescents in
New Orleans Post-Katrina*

In responding to the enormous needs of children in the aftermath of Hurricane Katrina, the Trauma Team of skilled mental health professionals from LSUHSC Department of Psychiatry provided crisis intervention and services immediately through our National Child Traumatic Stress Network Center, the Louisiana Rural Trauma Services Center, and faculty in the department skilled in working with children, adolescents, and families following trauma. The goal was to do what we could to help with the short-term needs for stability and re-establishing safety, routines, and a sense of normalcy in a now abnormal environment. Mental health professionals worked in unconventional ways (outside of offices doing whatever was needed) with families and children on the streets of the Metropolitan New Orleans area, in shelters, and on the cruise ships that were docked temporarily at Julia Street Harbor. The cruise ships housed first responders, 80% of whom had lost their homes but still had to work in New Orleans. Quickly established makeshift offices and playrooms

First responder parents who had experienced so much themselves, had lost their homes, and did not know the whereabouts or safety of their family members, described conflicted loyalties between their jobs and family responsibilities.

were put in place on the cruise ships. Working with SAMHSA volunteers and with Louisiana Spirit Crisis Counselors, much was accomplished in the immediate aftermath by providing psychological first aid, a basic intervention strategy designed to reduce initial distress caused by traumatic events and foster short- and long-term adaptive functioning (NCTSN, 2005), and other crisis intervention services. The LSUHSC Department of Psychiatry also provided more intensive evidence-based screening, evaluation, and therapeutic services as needed. More extensive and comprehensive resilience building interventions and therapeutic services were planned and implemented to prevent serious long-term problems.

The LSUHSC Department of Psychiatry faculty used the National Child Traumatic Stress Network Screening Instrument, which was modified collaboratively with reopening schools to learn more about experiences and reactions of the returning children and adolescents to the New Orleans Metropolitan area. The initial research included a cross section of all children affected, primarily those returning to the most heavily impacted areas. It was designed to help in the development of responses to needs, including resilience building and therapeutic services. The assessment, which allowed children and adolescents to describe their experiences during and after the hurricane and to report their symptoms, was completed by 2192 children, all of whom had been displaced and were currently in 4th through 12th grades in Orleans Parish, St. Bernard Parish (almost completely destroyed by the hurricane), and St. John the Baptist Parish. The sample was 48% Caucasian, 42% African American, and 4% Hispanic, with the remainder representing other ethnic and racial groups. The majority of the children (56%) were living with both parents; 36% were living with either mother or father.

One third of these 4th through 12th grade students said that they had been separated from their caregivers during or after the hurricane. The children and adolescents reported that they attended as many

as nine schools since the hurricane (with the average being two schools). Almost all (95%) saw damage to their homes and neighborhoods; 75% reported losing personal belongings. In addition, one third reported being separated from a pet. One fifth reported that a family member had been injured and 15% reported that a family member had been killed. Almost one half said that one of their parents was unemployed as a result of Hurricane Katrina.

About one half of the children and adolescents met the cut-off for referral for mental health services. Common symptoms were depression, loneliness (many missed friends), sadness, and anger (one third of the respondents). Similar percentages of children reported feeling upset when thinking about Hurricane Katrina and tried not to think about it, said that nothing was fun anymore, and that they had difficulty concentrating. Twenty-seven percent reported increased headaches or stomachaches. Almost one half worried about what might happen; with many living in devastated areas and with hurricane season approaching, these worries were not surprising.

Children who have experienced previous trauma or loss are at higher risk for mental health problems than those who have not experienced trauma or loss (Bowby, 1973; Loar, Wolmer, Mayes et al, 1997; Osofsky, 2004; Pynoos, 1993; Pynoos, Steinberg, & Goenjian, 1996; Voget & Venberg, 1993). Thirty-seven percent of the children and youth in New Orleans reported previous trauma or loss. (This figure is likely to be an underestimate because many of the children and families who were still displaced and did not have the resources to return to New Orleans may represent an even higher risk group.) Children reported trauma symptoms consistent with depression and posttraumatic stress disorder (PTSD). Symptoms were higher

among children separated from caregivers during the evacuation and displacement.

Parent reports were obtained for 787 children in Head Start, pre-kindergarten, and grades 1 through 3.

These children were unable to fill out the screener themselves so it was modified to have their parents complete the forms. Parents reported that their young children attended as many as four schools or centers because of the displacement, the average being two. Many lived in at least one shelter and some were in many shelters. About 1 in 10 were still living in shelters half a year after the hurricane.

When children returned, they had to live in trailers, tents, or crowded quarters with relatives or friends. One fifth of the parents reported that their young children were separated from them during the storm. About 1 in 10 of

the young children witnessed the injury of a family member. A previous trauma or loss was described for the child by 16% of the parents (this figure is likely an underestimate).

Recognizing that younger children may have fewer symptoms, and that parents consistently tend to underreport their children's trauma exposure compared with direct child reports, it is striking that 27% of the parent reports indicated their children met the cut-off qualifying for mental health services. The primary behaviors reported, quite understandably, were clinginess and separation anxiety. Children exhibited both PTSD symptoms and depressive symptoms. Over one third of the parents reported that they would like their child to speak to a counselor. Parents understood that even young children are affected by trauma; a high percentage of parents requesting help may also relate to their own stresses and desire to talk to a counselor.

Students sufficiently symptomatic to qualify for mental health services frequently described their first concern as "how can I rebuild my community?"

Children with previous trauma or loss, or an earlier history of problems, are at higher risk to show symptoms of traumatic stress, depression, anxiety, or other mental health problems.

Common symptoms reported in over 30% of the children were depression, loneliness (many missed friends), sadness, and anger.

While this data provides a snapshot of the mental health status of returning children to the greater New Orleans area, it does not tell us how displaced children are doing in their new environments. Some families would like to return but continue to have economic difficulties and live in crowded environments. Children living in these difficult situations miss their friends and familiar environment and may be doing worse. In contrast, others, if their families have relocated successfully, may be adapting well and doing better.

One year after the disaster, it is clear that families and communities will never be the same and that culturally sensitive prevention and intervention efforts are needed to support children of all ages and their caregivers. Without developmentally appropriate, trauma-focused resilience building support and therapeutic services, both the short- and long-term emotional and social well-being of children may be in jeopardy.

Unfortunately, disaster emergency agencies, while well meaning, still fail to understand and, at times, respond appropriately to the impact of the trauma on children and families. For example, because of limitations of the Stafford Act, FEMA specifies that paraprofessionals—not mental health professionals—provide needed trauma-informed services. This grossly underestimates the magnitude of the mental health problems resulting from such a devastating hurricane and the services needed. Another example relates to the crowded trailer communities that are being put in place without adequate community space to congregate, play areas for children, and convenient access to services such as grocery stores and schools. Although the intent is for these living arrangements to be temporary, the reality is that for many families, trailers will be their homes for an extended period of time because of the extensive devastation caused by the massive hurricane and flooding. The trailers are small and cannot withstand major thunderstorms. Families, already stressed, have little personal space. There are already reports of domestic violence, adolescent fights, and sexual assaults in the trailer parks. What is still continuing for many families is the oppressive poverty, lack of financial and other resources, and lack of jobs.

Responses to Disaster and Trauma

What is known about how children and youth respond to disasters and trauma? First, developmentally specific responses to disasters and trauma vary for children of different ages. Younger children commonly express new fears, separation anxiety, clinginess, and show regressive behaviors. School age children frequently describe difficulty concentrating or having fun. Learning and behavioral problems may be noted in school with aggressive behaviors and withdrawal frequently reported. Adolescents are at particularly high risk as their reactions can include increased risk-taking behaviors such as fighting, substance and alcohol abuse, heightened sexual activity, and suicidal thoughts.

Second, children appear more vulnerable if they have experienced previous trauma, loss, or mental health difficulties.

Third, children with greater proximity to the event and those who experience direct traumatic impact are more likely to demonstrate a greater number of symptoms and distress. Fourth, the types of worries reported include those centering on safety and security, loss of friends, adjustment to new schools, missing relatives who used to live nearby, and residence in new communities.

Fifth, if parents or caregivers are not doing well due to the circumstances of their own lives, depression, other mental disorders, or prior exposure to violence, children and adolescents may experience increased distress and symptoms (even though they sometimes mask their stress). With stress, depression, anxiety, and other problems, parents may be less emotionally available to the children (Beardslee, Keller, Lvaori, Klerman, Dorer, & Samuelson, 1988; Shalev, Freedman, Peri et al., 1998; Silverstein, Augustyn, Cabral, & Zuckerman, 2006). Parents have reported that because of what they have experienced, they do not have energy for their children. It is crucial that support and services be provided for parents and other adults in children's lives, such as teachers, to build resilience in children.

Data from a number of studies demonstrate higher incidences of emotional, behavioral, developmental,

About one half of the children and adolescents met the cut-off for referral for mental health services.

and academic difficulties following trauma exposure (Cicchetti & Toth, 1997; DeBellis & Van Dillen, 2005; Eckenrode, Laird, & Doris, 1993; Garbarino, Eckenrode, & Powers, 1997; Fullerton & Ursano, 2005; Osofsky, 1997; 1999; 2004; Molicca, Cardozo, Osofsky et al., 2004; Pynoos, Steinberg, & Piacentina, 1999; Goenjian, Walling, Steinberg et al., 2005; Pfefferbaum, Nizon, & Krug, 1999a; 1999b). The literature on complex trauma, including natural and manmade disasters, terrorist attacks, wars, and non-war violence, consistently describes immediate needs and longer-term reactions and documents a range of outcomes that include expectable stress reactions and elevated behavioral and mental health difficulties. Surveys of 8,226 children and adolescents carried out six months after 9/11 focused national attention on the impact of trauma exposure on children. Data showed considerably elevated rates of mental health problems, including PTSD, major depression, separation anxiety, agoraphobia, conduct disorder, and alcohol use when compared with nationally established prevalence figures (Hoven, Duarte, & Mandell, 2003; Schaffer, Fisher, Dulkan et al., 1996). The New York Survey data further indicated that nearly two thirds of children had experienced exposure to trauma prior to 9/11 and that such exposure contributed to current symptoms. In the disaster literature, the level of symptomatology is associated with the presence of physical injury, fear of death, and property loss (Assanangkornchai & Tangboonngam, 2004; Briere & Elliott, 2000). Increased symptoms are associated with degree of personal and economic loss, proximity to the event, displacement, a lessened sense of self efficacy, psychosocial resource loss, feelings of being out of control, lack of knowledge about coping with the crisis, and a relative lack of family and community support. This work is consistent with the assumption of Hobfoll's stress theory (1989), positing that a real or potential loss of resources is a major stressor contributing to negative outcomes.

The limited literature on reactions of children after hurricanes and flooding is particularly relevant to understand the aftermath of Hurricanes Katrina and Rita for children. Previous exposure to trauma predicts increased symptoms following a hurricane (Sutker, Corrigan, Sundgaard-Riise et al., 2002; Smith & Feedy, 2000). Living in shelters and under stress for an extended period of time further predicts

increased emotional difficulties (Gittelman, 2003). Higher incidences of PTSD, major depressive disorder, and symptoms consistent with both disorders are seen following hurricanes and flooding (North, Kawasaki, Spitznagel et al., 2004; Norris, Murphy, Baker et al., 2004). Common symptoms of anxiety, sadness, numbness, anger, disorientation, grief, and overwhelming loss of control also are evident (Shelby & Tredinnick, 1995). This literature, especially related to the impact on children, provides a more complete perspective on factors that contribute to resilience and, alternatively, those that may lead to more symptomatic and problematic reactions.

La Greca, Silverman, and Vernberg et al. (1996) and Vernberg, La Greca, and Silverman et al. (1996) used an integrative conceptual model to examine the emergence of PTSD symptoms in 568 elementary school children three months after Hurricane Andrew and also examined symptoms of posttraumatic stress in 3rd through 5th grade children during the school year after the hurricane (assessing 442 children at 3, 7, and 10 months post-disaster). They found, first, that this conceptual model may be helpful in organizing research and intervention efforts post-disaster and, second, that although symptoms of PTSD declined over time, substantial symptomatology was evident 10 months after the disaster. Bokszezanin (2002) examined the impact of the 1997 flood, which was the most devastating natural disaster in Poland, on 335 students ages 11 to 20. The research was done 20 months following the flood to determine the longer-term effects. The results from the questionnaires concerning their experiences and reactions indicated that extent of exposure to the disaster was a strong predictor of symptoms of PTSD, depression, and feelings of loneliness. More negative effects were found in those who had experienced great danger or losses. Russoniello, Skalko, and O'Brien et al. (2002) examined the impact of Hurricane Floyd. In their study of 150 fourth grade students six months following the hurricane, they found more symptoms of posttraumatic stress in children who were directly impacted and displaced by the flooding. Although many of these children came from distressed environments with extreme poverty, the impact of previous trauma experienced was not measured in this study. Chemtob, Nakashimo, and Hamada (2002) used school-based community-wide

Commentary

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Osofsky and her colleagues have seized the opportunity presented by the awful "experiment of nature" that was Hurricane Katrina to explore the traumatic impact of catastrophe. We can all thank the Osofsky group for this effort. Reading the report reminded me of an earlier time when I found her group useful in sorting out issues in what might be called "developmental sociopathology" (as a play on "developmental psychopathology," with the change from "psycho" to "socio" indicating the opportunity to learn about how normal social settings function from examining the developmental consequences of abnormal social settings).

Back in the late 1980s I traveled to Thailand to visit Cambodian refugee camps, camps that were created to deal with the displacement of Cambodians during the barbaric Khmer Rouge regime—which was responsible for the death of nearly one in five Cambodians during a period of less than a decade. I was struck by the stressful nature of the social environment in the camps—owing in part to the high levels of trauma among parents who had escaped from Cambodia. A recent survey of the camp's mothers had revealed that 50% were seriously depressed. Why would they not be, with the unstable living arrangements, the legacy of trauma among them and their children, the disappearance of men to either go back into Cambodia to fight or to seek economic advancement elsewhere, and the highest level of violence directed at women? Such a high level of maternal depression meant, of course, as it usually does, serious risk of neglect and abuse to children.

And indeed children were suffering from the psychological unavailability of their mothers: they were prone to drowning in irrigation ditches, being burned in fires, getting run over by trucks operating in the camps, and being injured playing with guns and military ordnance. I had a strong sense of *deja vu* as I walked through the camps that stayed with me as I traveled back home. Upon my arrival I was searching for a framework within which to understand how this high-stress environment affected the long-term development of kids growing up there when I returned to the United States. The proverbial light bulb went off when I read a report from Joy Osofsky's group about maternal depression in New Orleans public housing projects. The key finding was that 50% of the mothers were seriously depressed. I realized that my own *deja vu* derived from my professional experiences in Chicago public housing projects. The conceptual juxtaposition of these two socially toxic environments was made possible by Osofsky's work, and explicating the parallels between "war zones at home" and "war zones abroad" became part of my intellectual mission. The new work on the traumatic effects of Hurricane Katrina bring new focus to those same comparative concerns that motivated me years ago.

Much was made of American shock at the thought that we were witnessing displaced persons and internal refugees in the wake of Hurricane Katrina. Getting beyond the narcissistic wound to America's sense of superiority, the phenomena illuminated by Osofsky's work once again offers us an opportunity to undertake a comparative examination of the role of poverty and racism in the playing out of kids' lives, another example of developmental sociopathology at work. For in my own international work I have seen these same influences at work in war zones and social catastrophes around the world. Exploring the how and why will occupy us for years to come. But having this work by Joy Osofsky and her group advances that work in important ways, and once again I am grateful to her for her insightful leadership in providing it.

screening of 4258 2nd through 6th grade students to assess the impact of Hurricane Iniki two years after the storm. They reported persistent posttraumatic symptoms as well as beneficial effects of structured individual and group treatments.

Resilience and Recovery After Trauma

Not all children and youth experience distress, symptoms, and worries; even those who do may experience a reduction in them, based on time since the event and support from parents and other caring adults. Programs are needed to foster resilience and recovery. For adolescents, being a part of the recovery, building support in communities, and having responsibility for outcomes is very important. School age children depend not only on parents but peers to help them gain a sense of normalcy. Younger children are in some ways more protected as they may have a limited understanding of the scope of the disaster; however, they can also be more vulnerable as they depend on adults and often reflect their securities and insecurities.

Despite the difficulties, most children and adolescents cope successfully and demonstrate adaptive skills following traumatic exposure. Masten describes the "ordinary magic" of resilience (Masten, 2001) and Benight and Bandura (2004) refer to such responses as defining "self-efficacy." Strategies to enhance resilience and positive coping have been described by these and other authors (Norris, Friedman & Watson, 2002; Wadsworth, Gudmundsen, Raviv et al, 2004).

Lack of Response to the Katrina Disaster

Why were so many children and families in the United States left so vulnerable in the wake of a major hurricane? Why did this happen? Several conditions are relevant—one that relates to the approach of our country to disaster planning, another to racism and discrimination, and yet a third to the situation in New Orleans and Louisiana.

First, our country does not have a clear, articulated plan for children and families that can be implemented when a major disaster strikes. In planning for communities and special needs populations, the developmental needs of children receive little focus. Only recently has more attention been paid to children's developmental needs in first responder training and in psychological first aid (NCTSN, 2005).

Second, the history of New Orleans is relevant. Hurricane Katrina did not discriminate, as she devastated poor, middle class, and upper class neighborhoods in her path. The images that the world viewed in horror were of people neglected, suffering, and dying in and around the Convention Center, most of whom were poor and African American. While culturally rich, New Orleans is a predominantly poor community, with a majority of its citizens African American.

The history of racism and poverty in New Orleans and the Gulf South and the apparent tolerance of these conditions nationally is part of the story. Until relatively recently, segregation and overt discrimination were experienced by many African Americans in the community. With court decisions outlawing segregation and many forms of discrimination, more mobile citizens were able to leave inner cities for better neighborhoods, homes, and schools. As a well-known African American leader in New Orleans pointed out, people leave not because they have forgotten the injustices they experienced in growing up, but because they remember them every day. Yet, while the opportunities were just and long overdue, for those remaining in impoverished inner city neighborhoods, supports and options were, if anything, even more limited. These individuals were more likely to seek shelter at the Superdome and Convention Center. Referring to racism in New Orleans, Brett Anderson, food critic for the *Times Picayune*, stated, "It's an awful legacy, and it's left wounds that haven't healed, but it is—like the receding coastline that has made the city so vulnerable, and the Corps of Engineer's flawed levee system—a problem whose roots extend deep into the country's history, not just the city's. Yet, people (nationally) didn't see their own country when they saw those images" (*New York Times*, September 4, 2006, article by David Carr); it was too alien to them.

Third, New Orleans citizens, like many others in hurricane-prone areas such as Florida, do not regularly evacuate for hurricanes. There are many false alarms and people feel safe in their homes with enough water, flashlights, and sometimes generators. Even with a mandatory evacuation, some prefer to ride it out. As noted, others, due to poverty, illness, and lack of transportation, cannot evacuate if they do not have money to buy a ticket or gas, or find some other way to evacuate. Many citizens evacuate to a shelter of last

Commentary

Christina W. Hoven and Judith Wicks

Based on Hurricane Katrina, the *Social Policy Report* by Osofsky, Osofsky, and Harris, delineates important policy gaps addressing the psychological impact of disasters on children, identifying a coherent, developmentally appropriate approach for policy. The authors also make a substantial contribution to the disaster planning discourse by outlining programs based on children's developmental levels and suggest a number of approaches, including the training of all levels of first responders and service providers in applying developmentally grounded approaches to children following traumatic events.

Hurricane Katrina provided the most severe, direct disaster exposure to the largest number of children at any single time in American history. However, preliminary research findings regarding psychological sequelae in the exposed are consistent with other major disasters, like the Oklahoma City bombing in 1995 (Pfefferbaum et al., 2003) and the 2001 attack on the World Trade Center (Hoven et al., 2005). Yet, in spite of accumulated evidence over these 10 years, the authors demonstrate that the United States has lacked and continues to lack national, state, or local disaster plans adequate to meet the child mental health consequences of Hurricane Katrina. Unfortunately, such important policies have still not emerged. Thus, this paper now joins other calls for corrective post-disaster action based on the development of sound child-focused policy (Hoven 2002).

As in other post-disaster assessments, family factors such as death of a family member, injury to a family member, and separation from a family member were also found to be associated with heightened risk for mental health problems following Hurricane Katrina. As the authors note, responding to disaster-exposed children requires designing interventions that meet their particular needs. Young children are cognitively and physically vulnerable. Children may neither understand the extent of risk nor have motor skills enabling escape from a hazardous situation. Most children are dependent on their parents, but adolescents have slightly higher levels of independence and can be called upon to share adult responsibilities in the home by caring for siblings, preparing meals, doing general housework, or caring for sick family members. Thus, focusing on the well-being of entire families constitutes an appropriate post-disaster child mental health policy.

We particularly endorse the authors' recommendation for additional research related to the psychological effects of disaster and support the suggestion that such research can contribute to better prepare for disasters and their aftermath. In this regard, we believe a key area of disaster research, currently absent, is the collection of pre- and post-disaster data to help drive policy and to refine the focus of post-disaster interventions. Due to the current lack of pre-disaster information, post-9/11 and post-Katrina data have been sorely deficient in helping us understand specific disorders, especially their developmental pathways. Longitudinal research with representative samples, examining the full range of different types of disasters (e.g., flood, hurricane, tornado, terrorism, fire) is needed. The authors' laudable advocacy of developmentally appropriate disaster interventions for children remains incomplete since pre-disaster levels of psychopathology are seldom available, precluding comparative assessment of post-disaster status. Lacking knowledge of pre-disaster vulnerabilities significantly compromises successful post-disaster policy and intervention. Furthermore, our understanding of possible mediating effects of commonplace disaster preparedness, including knowledge, awareness, and risk assessment is currently based largely on conjecture. Though called for in recent literature, pre- and post-disaster assessments on the same individuals, over time, addressing these important phenomena, have not been undertaken. This woeful lack of information will continue to limit the utility of any new post-disaster child mental health policy, even one designed to be developmentally appropriate, because without such information, policy will necessarily be incomplete.

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resort as happened for many New Orleans citizens who went to the Superdome. When Hurricane Katrina hit and breached the levees, known by the Army Corps of Engineers to be inadequate for a Category 3 Hurricane, no plan was in place to prepare and protect the city. This hurricane blatantly and boldly showed the years of neglect and total lack of planning at all levels—governmental, institutional, community (both official and unofficial)—that contributed to the worst disaster in our country’s history. Despite this failure at all levels, one must be careful not to merely assign blame and not focus sufficiently on lessons that can be learned from this terrible disaster.

While neither local, state, nor national officials prepared for or responded adequately to the disaster caused by Hurricane Katrina, this is the first time in the United States that a major city and region has experienced the immense devastation that resulted from Hurricane Katrina. Leadership failures at all levels are contributing to the continuing slow and disorganized response in developing a plan for the city and region, helping children and families restore their homes and lives, and providing greater environmental safety and a secure levee system that meets international standards. We must move forward constructively to prepare better for the next time so that local, state, and national officials can reach out with available knowledge to help children and families.

Recommendations

National Disaster Plan for Children, Youth, and Families

Our experiences following Hurricane Katrina strongly support the importance of our country having a clearly articulated disaster plan for children and families. This disaster response plan and policy should be based on lessons learned from prior experience and needs to be based on sound developmental principles. A major priority for planning is ensuring that children are evacuated safely with their parents or caregivers. Separation of children and parents may at times be crucial for child safety and survival; however, the at-

tachment literature is grounded on the potential deleterious implications of these separations. Special needs populations, such as children in foster care and those with developmental or medical disabilities, should be specifically addressed. We also need to recognize the need to re-establish routines providing safety, support, and stability for children as soon as possible after the immediate disaster.

Training of first responders, health and mental health providers, crisis responders, and volunteers should include trauma-focused, developmentally grounded components relevant to their backgrounds and roles. A family-centered approach is critical in shelters. Plans need to be in place to ensure the safety and knowledge of whereabouts of families. Mental health professionals with child- and trauma-focused

experience are required to respond to major disasters. In addition to rotating shifts of volunteers, priority should be given to rebuilding infrastructure with providers who can be consistently available for the long run. These providers need to be comfortable working not only in traditional office settings but also in the field and on the front line. Services should be provided collaboratively with schools, community agencies, and other settings where children and families spend time. In sum, trauma-focused and developmentally informed considerations are crucial in formulating disaster plans that address the needs of children. It is required that the funding for the planning and response be provided federally and administered locally. It is also crucial to consider that when disaster strikes, for those already living in poverty, more resources and services are needed to meet their needs. In the aftermath of a disaster, policies are needed to help support children and adolescents build resilience and self-efficacy to prevent scarring that limits developmental functioning and achievement of potential.

State and Local Educational Plans

Educators need to develop plans for the provision

Our experiences following Hurricane Katrina strongly support the importance of our country having a clearly articulated disaster plan for children and families.

In sum, trauma-focused and developmentally informed considerations are crucial in formulating disaster plans that address the needs of children.

Perils and Promise for the Mental Health of Children and Families Post-Katrina*
 Cheryl A. Boyce, National Institute of Mental Health, National Institutes of Health,
 Department of Health and Human Services

The wake of Katrina left not only overwhelming and unforeseen physical damage to the Gulf Coast region, but also short- and long-term effects on the mental health of a diverse population of children and their families (e.g. Golden, 2006; Kessler, Galea, Jones & Parker, 2006; Madrid, Grant, Reilly, & Redlener, 2006). Previous research from natural disasters and terrorism predicts the adversities that children and families face post-Katrina, as well as the need for increased culturally relevant mental health services among those with various levels of pre-disaster functioning (e.g. Freddy, Kilpatrick, & Resnick, 1993; Pfefferbaum, 1997, 2003; Norris, Friedman, Watson, Byrne, Diaz, & Kaniasty, 2002a, 2002b; Ozer, Best, Lipsey, Weiss, 2003; Rabalais, Ruggiero, Scotti, 2003; Rubonis & Bickman, 1991; Stuber, Galea, Boscarino, & Schlesinger, 2006). In this *Social Policy Report*, Osofsky, Osofsky, and Harris (this issue) summarize the potential traumatic effects to children who survive disasters, but also the hope and resilience demonstrated by children and their families throughout the region.

Research, planning, and policy for the Katrina disaster received a boost before the fact as a result of responses to the events of September 11th, 2001. The Institute of Medicine provided guidance for a public health strategy in a report that addressed the psychological effects of terrorism and intervention options through recommendations for the training and education of service providers, appropriate guidelines for the protection of service providers, and public health surveillance for factors related to psychological consequences (Butler, Panzer, Goldfrank, 2003). A conference sponsored by the National Center for Disaster Preparedness (2003) in New York also challenged the public health system infrastructure to prepare for the needs of children who experience disasters. Collaboratively, NIMH; the U.S. Departments of Defense, Justice; Veterans Affairs; and the American Red Cross held a workshop to reach consensus on best evidence-based practices for early psychological interventions for mental health and mass violence (NIMH, 2002). In 2003, The National Advisory Committee on Children and Terrorism (NACCT, 2003) made similar recommendations to the Secretary of the U.S. Department of Health and Human Services (DHHS) regarding the need for a comprehensive public health strategy, including plans for prioritized funding decisions, oversight, and new pediatric and psychosocial initiatives as an essential part of the American national security response to terrorism. Unfortunately, Hurricanes Rita and Katrina caused damage in 2005 before many recommendations could be fully evaluated and implemented within public health systems.

The investment in research and program responses to disasters across federal agencies has been unprecedented (e.g. Rapid Assessment in Post-Impact Disaster [RAPID] Research Grant Program, NIH, 2006; U.S. Department of Homeland Security [USDHS], 2006). For example, The National Institute of Mental Health within the National Institutes of Health, DHHS, has provided grant support for time-sensitive research on response to recent disasters, which has included attention to mothers and infants (Buekens, Xiong & Harville, 2006), children's behavioral and academic functioning (Kelley, 2006), health disparities, and serious mental illness (e.g., Kessler, Galea, Jones & Parker, 2006). The Substance Abuse and Mental Health Services Administration's Center for Mental Health Services (SAMHSA CMHS), in partnership with Federal Emergency Management Administration (FEMA), awarded over \$100 million in funds to administer crisis counseling programs in the aftermath of Hurricanes Katrina and Rita (USDHS, 2006).

The promise of the resilience observed so far in children who survived Katrina's wake has yet to be fully realized in the long term, but the hope and spirit of the survivors in the Gulf Coast region remains strong. To avert the future perils of disasters that threaten the mental health of children, research and subsequent implications for mental health will need implementation, monitoring, and evaluation for effectiveness within a culturally and developmentally sensitive context. As Osofsky and colleagues note, these include real-world settings, such as early care and education programs (e.g., Head Start, Early Head Start), schools, and other community-based outreach efforts. While we cannot predict with certainty when and where the next disaster may strike, we have a knowledge base that can inform future preparation, preventive interventions, and treatment for the mental health of children through research and health policies. Although adversities continue, we can reward the resilience of the children and families of the Gulf Coast region with our best efforts to improve their lives in the present and protect their hopes for the unpredictable future.

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of elementary, junior, and high schools for children and youth after disaster. The same is true for child care centers, including public and private preschools. Centers and schools need to be reopened as rapidly as possible.¹

Education is needed for school and child care personnel on the impact of trauma on children and adolescents, recognition of red flags, effective interventions and resilience building, and availability of services.

Educational policy should address the needs of providers, including teachers and first responders, and recognize that they and their families may have been traumatized, experienced vicarious traumatization and compassion fatigue, and that self care is essential.

Classroom and after-school programs need to be developed immediately to support displaced children with their academic and social needs and to build resilience and self-efficacy.

Post-disaster, adolescents are especially vulner-

able to alcohol and substance abuse and risk-taking behaviors with ongoing personal and family stress. Programs are needed to raise awareness and provided needed supports.

Conclusion

In this paper, we have described many of the developmental considerations that need to be taken into account in helping children, adolescents and families during and after a disaster. The success of a disaster plan for children is predicated on preparation, which includes training at all levels, to build capacity to be able to implement such a plan at the time of a disaster. As mentioned previously, we have sound scientific knowledge about the developmental needs of children and families; however, science can only go so far. The knowledge resulting from the trauma literature and from lessons learned from 9/11, previous disasters, and traumatic events are not enough if the political decisions are not made to develop and fund adequate plans to meet the needs of children and families. Decisions are required about how to best allocate scarce federal resources to support the necessary local infrastructure and capacity building that includes both extensive training and development of services.

We have learned much in the first year post-Katrina about the current and long-term needs of children, adolescents, and families. We also recognize the continuing need for research related to disasters,

to the developmental and emotional needs of children impacted by disasters, and the most effective resilience building and therapeutic services for children and families. While many believe that the devastation caused by Hurricane Katrina is over, it is not. Recovery is slow, and for the hundreds of thousands of children and families traumatized by the loss of homes, loved ones, and communities, the impact will be with them for the rest of their lives and perhaps will continue for generations to follow.

But the trauma resulting from Hurricane Katrina does not have to preclude resilience and strength. Developmentally appropriate supports and services can aid greatly in the psychological rebuilding, while the physical rebuilding and recovery of the region occurs. We have the opportunity to utilize the knowledge gained from this unprecedented natural and man-made disaster to recognize the important, and often unmet, needs of children and families at such times of overwhelming difficulty. Research coming out of this disaster is not just academic, but can be used as lessons learned to guide more effective ways to prepare and support children and families in future disasters. Hopefully, in addition to the increased knowledge that can be learned from this devastating hurricane, there is the political will to move the process forward and finally develop a national disaster plan for children and families.

Endnotes

¹For an excellent resource on young children, see ZERO TO THREE Policy Center Fact Sheet, Hurricane Relief for Infants, Toddlers, and Their Families, September 2005.

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Howard J. Osofsky, M.D., Ph.D., is a psychiatrist, psychologist, psychoanalyst, and Professor and Chair of the Department of Psychiatry at LSU Health Sciences Center and John and Kathleen Bricker Chair of Psychiatry. He has developed behavioral health and psychosocial preparedness programs both for first responders and mental health professionals to improve responses following disaster, terrorism, and complex emergencies. In 1998, he received the first award as Best Department Chair by the American Academy of Child and Adolescent Psychiatry in recognition of his efforts for children and adolescents. In 2002, he was awarded the Medal of Honor by the Mayor of New Orleans for his work with the police and community. In the aftermath of Hurricane Katrina, he was asked to be Clinical Director for Louisiana Spirit and to provide services for first responders and their families in Metropolitan New Orleans. On August 29, 2006, he was honored with a Proclamation from the New Orleans City Council recognizing his work helping children and families in the aftermath of Hurricane Katrina.

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Purpose

Social Policy Report (ISSN 1075-7031) is published four times a year by the Society for Research in Child Development. Its purpose is twofold: (1) to provide policymakers with objective reviews of research findings on topics of current national interest, and (2) to inform the SRCD membership about current policy issues relating to children and about the state of relevant research.

Content

The *Report* provides a forum for scholarly reviews and discussions of developmental research and its implications for policies affecting children. The Society recognizes that few policy issues are noncontroversial, that authors may well have a "point of view," but the *Report* is not intended to be a vehicle for authors to advocate particular positions on issues. Presentations should be balanced, accurate, and inclusive. The publication nonetheless includes the disclaimer that the views expressed do not necessarily reflect those of the Society or the editors.

Procedures for Submission and Manuscript Preparation

Articles originate from a variety of sources. Some are solicited, but authors interested in submitting a manuscript are urged to propose timely topics to the editors. Manuscripts vary in length ranging from 20 to 30 pages of double-spaced text (approximately 8,000 to 14,000 words) plus references. Authors are asked to submit manuscripts electronically, if possible, but hard copy may be submitted with disk. Manuscripts should adhere to APA style and include text, references, and a brief biographical statement limited to the author's current position and special activities related to the topic. (See page 2, this issue, for the editors' email addresses.)

Three or four reviews are obtained from academic or policy specialists with relevant expertise and different perspectives. Authors then make revisions based on these reviews and the editors' queries, working closely with the editors to arrive at the final form for publication.

The Committee on Child Development, Public Policy, and Public Information, which founded the *Report*, serves as an advisory body to all activities related to its publication.

Mr. SCOTT. Reverend Raphael.

**TESTIMONY OF JOHN RAPHAEL, PASTOR, NEW HOPE
BAPTIST CHURCH, NEW ORLEANS, LA**

Reverend RAPHAEL. Good afternoon. I am honored this afternoon to have the opportunity to speak to this Committee concerning this important matter. Hurricane Katrina and subsequent flooding of New Orleans did at least two things to us in the city. First of which although shamefully revealing if responded to in an inadequate matter can result in New Orleans becoming a perfect model of all that is great in America. The second of which has intensified pre-Katrina problems and if not responded to adequately, will result in New Orleans becoming a perfect model of all that is wrong with America.

The first thing that Katrina did was expose years of neglect in areas already mentioned today, such as education, housing, job opportunities with livable wages, and most onerous, among other things, adequate flood protection. While most of the New Orleans pre-Katrina problems were not unique to our city, what is unique is the level of national and indeed international compassion and concern both for our city and its citizens in response to the Katrina catastrophe. I pray that the heart-felt concerns of your constituents across America will serve as the impetus for Congressional Commitment to provide the resources to bring New Orleans, not back to its pre-Katrina condition, but forward to its post-Katrina potential.

But while this city without the experience of Katrina may have been able to continue for many years, continue to limp socially, educationally, and economical, while garbed in the Mardi Gras masquerade of a city in which all was well. The social aftermath of Katrina has produced a paralyzing hopelessness upon a large portion of our population. The communities of New Orleans which have been most affected by violent crimes are, to a large degree, populated by individuals whose frustrations are reflected in the recently reported statement of one of our trailer-bound senior citizens. Her disheartening declaration was that "Sometimes I feel that I am in the world all by myself."

I have personally seen to far too many murder scenes on the streets of New Orleans where the response at the scene always seems to be the same: a family member of the victim, broken-hearted and distraught, crying out for someone to step forth and tell what happened, while the dispassionate crowd stands by tearlessly and silently until the body is taken away. A great number of those homicides have occurred in the middle of the day and in highly populated residential areas in New Orleans.

And it has been my observation that both the boldness of violent offenders and the lack of response by witnesses, somehow is connected to, among other things, the perception that the lives of certain members of our communities are not valuable. Although this toxic and self-devaluing perception is one which finds its roots in a long-ago ended slave-driven economy and, more recently, for years, been nursed on the pads of social neglect, the initial response, or rather lack of response to Katrina victims has injected it with new life. The inhumane intense observation without imme-

diate action suffered by the economically disenfranchised of our city, most of whom were African Americans, declared dishonestly, but distinctly, to those individuals that their lives were of little or no value.

The failure to provide or at least to promise hope of adequate housing and economic opportunities for the poorest of those affected by Katrina perpetuates the perception that those individuals are of little or no value. And as a consequence of this perception of devalued lives, among other factors, far too many individuals have been violently destroyed by offenders and discounted by witnesses.

As a former police officer for many years in the city of New Orleans, I am abundantly aware of the need for well-trained, well-equipped, well-paid law enforcement officers in the battle against crime. We are all in agreement that funds are needed for an adequately staffed and properly functioning District Attorney's office. We all recognize the need for a firm, but fair, court system.

But along with addressing these needs, it is imperative that we recognize that a hopeless community will cripple even—efforts of even the best-paid cops, the best-prepared prosecutors of criminal cases, and the best-principled courts. A hopeless community is an uninvolved community. An uninvolved community provides the breeding ground for uninhibited criminal—criminal activity. There are many across our city who recognize that a great deal of the responsibility for providing a solution to the crime and violence in our communities rests upon us, and many have moved far beyond simply complaining about the predicament to confronting the problem.

Both religious and community groups, often at the risk of life and limb, have actively gone into the most dangerous communities in New Orleans in an attempt to provide hope for the hurting, help for the struggling, and alternatives for those engaged in criminal life styles. We have attempted to provide remedies for self-inflicted social wounds, to generate neighborhood concern, to develop relationships between police and community, and to encourage witness involvement in the prosecution of offenders. However, as long as citizens are faced with inadequate or no housing, inadequate paying jobs, or no job at all, with few job-training programs, with an inadequate education system, and virtually no recreational programs for our children, with inadequate physical and mental-health services, and with insufficient drug rehabilitation facilities, drug dealers will continue to justify dispensing death on our streets, mothers will continue to bury their sons and daughters, children will continue to die before they discover what living is all about, and New Orleans will continue to cling to the title of "Murder Capital of our Country."

Again, in closing, I know that our city is only one of many in America facing similar social ills. But I'm convinced that the good will of our neighborhoods across this country, our own determination to prevail, your commitment to this task, and the help of God, provides us with a unique opportunity for us to prove that just as we are a Nation that can lift mankind from the depths of pain and poverty around the world, then we are more than qualified to do the same here. Thank you.

Mr. SCOTT. Thank you. Reverend Raphael, I know it was quite a challenge for a Baptist minister to keep it within the allotted 5 minutes. I was hoping I wouldn't have to give you the touch. [Laughter.]

I appreciate your testimony, particularly the part where you mentioned that I was here back in September—August or September of last year.

Reverend RAPHAEL. Yes, sir.

Mr. SCOTT. So a lot of people are familiar with your work. Thank you.

[The background information of Mr. Raphael follows:]

BACKGROUND INFORMATION OF JOHN RAPHAEL

U.S. House of Representatives
Committee on the Judiciary

Subcommittee on Crime, Terrorism and Homeland Security

Field Hearing in New Orleans, Louisiana

on

The Katrina Impact on Crime and the Criminal Justice System in
New Orleans

Tuesday, April 10, 2007

Reverend John Raphael
Pastor, New Hope Baptist Church
New Orleans, Louisiana

Renetta Burrell Perry

On the opening page of New Hope Baptist Church's website there reads a small passage: "On Sunday March 4th, after we departed the sanctuary after our weekly worship service, bullets hit the church building and members ran for cover. The shooting shook us all up, but thank God no one was injured. After the excitement settled we discovered a bullet shell on the church's doorstep. The crime and violence that have plagued the streets of our city managed to make its way to the doorsteps of the church. Nevertheless, we still have hope." The recurring theme of hope is not coincidental at the historic New Hope Baptist Church set in uptown New Orleans where crime is commonplace and hope is dismal at best. It has for years, through the relentless struggle, sweat and sometimes tears of their devoted leader, Pastor John C. Raphael, been the norm. From the innovative, yet gut wrenching signs that loom over the city and line the streets along Martin Luther King, Jr. Blvd. and the surrounding areas declaring ENOUGH, to his presence and participation at the countless community marches against violence, to his eloquent speeches which conjure up feelings and emotions reminiscent of those delivered only by Dr. Martin Luther King, Jr. himself, Pastor Raphael has emerged as a passionate and powerful leader in New Orleans' most desperate fight - the fight to save African-American lives and diminish the cycle of violence that still plagues us. This fight, says Pastor Raphael, is one that is going on in our community and will have to be won in our community by the people in our community. But he sees it as an opportunity rather than an obstacle, a challenge rather than a chore. Perhaps it is his work at NOPD as a young, committed officer where he headed the Crime Stoppers division that provided his resilience, strength and love of community. Or maybe it was through his divine calling into the ministry in the mid 1980s that helped to mold this courageous forerunner, but whatever the case, Pastor Raphael is determined to build relationships and bridge the gap between law enforcement and the community and consequently between the lost and the saved. "My main motive is that people are not only dying, but they are dying and going to hell. When I was a child everyone went to church. Now people are not even going to church," he says, adding that the disparity in the upbringing of our children has played a major role in the breakdown of the community. As for the ongoing feud between the community and the law, Pastor Raphael suggests that the underlying problem is the collective absence of accountability. "We've lost something in the black community," he observes. "It has become every man for himself. We have to establish the value of a black life when it is taken by another black person." That value of life, like the recurring theme of hope, is paramount in Pastor Raphael's ministry. It is this simple, yet complex moral issue that sets this pastor apart. He often walks the streets in his church's community, believing that this is the best way to get to know the citizenry thus establishing those much needed relationships. Many times he stands alone holding his "ENOUGH" sign. He jokes that sometimes he has to question himself for holding post on a neutral ground in the heat of the summer, or for setting up residence on the ground for days in the dead of winter, but he quickly remembers that it is on these streets that souls and lives can be saved. He pleasantly recalls a day when the heat was particularly overwhelming. As he stood quietly, observing a feud between African-American males, the occasional glimmer of hope that he strives daily to extract from the gloom was manifested. The youngsters dropped their quarrel in the presence of the determined, yet non-judgmental preacher and offered him some water. This act, says Pastor Raphael, is reassurance that people will respond. It is proof he says, that what is sometimes communicated in the media and by word of mouth is the misconception of despair and fear. "There are folks out there who still respect the church. There are folks out there who will respond. Perception is real to people. We have to go out of our way." Pastor Raphael adds that his church is not bound by what has become commonplace in today's congregations: the big business of church. He is more concerned with people. He is overjoyed when hardened "thugs" come down the aisle, faces adorned by tattooed teardrops, giving their lives over to Christ. He is overjoyed when he sees a mixture of high-end suits and "hood gear occupying the benches on any given Sunday. And he is overjoyed when through his work with the National Baptist Convention of America's Foreign Mission; he visits Africa and helps to oversee progress with schools and churches in grossly impoverished areas of that continent. But he still sees the opportunity for more work, more challenges. In a recent sermon to his congregation, Pastor Raphael inverted the vastly referenced mantra of the Civil Rights Era. Instead of rhetorically stating that We Shall Overcome, he asked his congregants, "Shall We Overcome?" He submitted to them that if we should overcome, it will be because we have risen to the calling of the church. Using the analogy of seeing the light in darkness, and relating the city after Katrina as a city in the dark, the pastor observes, "At midnight, I should be able to see your light. If I can't see your light in the darkest of darkness, then something is wrong." The light, says Pastor Raphael, should come from those who have been enlightened. He adds, "The church is almost getting like the world, but we are [one of the only entities] that can do something for nothing. We are mandated to do that. People in the

community do not share enough common pain. We don't have enough fellowship. My frustration is that I know something can be done. After Katrina, we should have had some major spiritual response. The church has a great opportunity to step up and respond. This city can change. We can step up and be a model for other cities." New Hope Baptist Church continues its commitment to the community and its citizens through a plethora of services. Post-Katrina, they are even more committed to creating innovative ways for New Orleanians to return to the City and to take advantage of major opportunities. "This is a once in a lifetime opportunity that many of our folks are missing out on and others are taking advantage of." He warns that the "window of opportunity" is closing, therefore he and his congregation are steadfast in their approach. After Katrina, when crime hit an astonishing spike, Pastor Raphael prayed. He asked for several weeks, why the city had gone back to the same pattern of crime. He finally got his answer: it is because the church has gone back to their same pattern. When bullets hit his church earlier this month, he was reminded again of the importance of the church and its calling. He speaks of the church's job to evangelize. This is his goal. "We need a revival; a repentance," he says with a renewed sense of motivation. "We still have hope!"

Pastor John C. Raphael Hope

“ENOUGH IS ENOUGH!!!”

OUR MESSAGE:

- **Enough** young men and ladies have died at the hands of other young men and ladies.
- **Enough** young men and ladies are crowding our jails.
- **Enough** young men and ladies have had their lives destroyed by drugs.
- **Enough** mothers and fathers have had to bury their children.
- **Enough** opportunities have been missed in the community during this time of rebuilding and renewal in our city.

OUR MOTIVE:

- **We care** because it is **OUR** children who are being killed.
- **We care** because it is **OUR** children who are doing the killing.
- **We care** because it is **OUR** people who are bearing the grief of burying a murdered family member.
- **We care** because it is **OUR** children who are crowding our jails.
- **We care** because it is **OUR** fathers, mothers, sisters, brothers, sons, and daughters whose lives are being destroyed by drugs.
- **We care** because it is **OUR** seniors and children who live in fear in our own communities.

OUR MISSION:

- **We will** declare to the young men and ladies of our city that we care and the **“Enough is Enough.”**
- **We will** demand the establishment of drug rehabilitation facilities in our communities.
- **We will** demand quality schools, recreation centers, GED programs, job training and other social programs needed in our communities.
- **We will** inform our communities about employment, housing and other opportunities, which are currently available during the rebuilding process in our city.

Mr. SCOTT. Professor Scharf.

**TESTIMONY OF PETER SCHARF, RESEARCH PROFESSOR OF
CRIMINAL JUSTICE AND EXECUTIVE DIRECTOR, CENTER
FOR SOCIETY, LAW AND JUSTICE AT TEXAS STATE UNIVER-
SITY**

Mr. SCHARF. I'm so honored to be here. In preparing with Chief Counsel Bobby Vassar, and listening to your questions, I'd like to think "What are the concerns of the Committee?" This is an incredible opportunity to re-invent criminal justice support in this country. One question is: What's driving the murder epidemic here and elsewhere? Murder rates are up 4 percent in the first half of 2006, and this is not the only city that's experiencing a rise in murder risks.

And the second question is a question of evidence: What's our best shot.

And as I thought about that as homework for my testimony, I read the Challenge of Crime in a Free Society, written in 1968, funded by President Johnson.

And the same issues he dealt with there are part of education versus cops versus prosecutors was evident in those discussions here and the answer to both. And then this question that I think has been repeated through the years is the question—is the question of accountability. And I think there are two issues: One, will money get to the end user? And the second question is the issue of outcomes. If we invest in a particular strategy, what is the return on investment of any of these strategies? And I want to make a case in that the direction, that funding in criminal justice and in New Orleans, is a rational investment. Somebody, a wise man, once said, "Start with what we all agree on." What do we all agree on? One, that we had an experience here in New Orleans, and we had it all through the United States in 1990's, where you had an increase in Federal funding and the "Cops More" program and the murder rates went down. People forget, the murder rate for 1994 the Len Davis year which was at 88/100,000 the total was 424. In 1999, it was 162, exactly what it is now except that New Orleans had 480,000 population. So, under the Pennington Plan, in which Linder created a terrific strategic plan, they reduced the murder rate 60 percent. In fact, among all the cities, the decreases were highest in New Orleans.

So, right now, we're embarrassed and all that. In fact, we had the steepest decline in the 1990's. If you look at surveys done, at that time the people loved the place; they wanted to take their wives and their husbands out to dinner; and there was a completely different perception of safety than there is now. That was about 7 years ago. What we've done research on is what happened in the '90's, and the answer is "We don't know." We don't know the specifics, but we know one thing: That if you have a coherent strategic plan, if the organization works together, it becomes a crime-fighting system, not a bunch of different agencies doing their own thing. And Jim Letten rightfully made that point. In fact, this isn't nuclear science. You can reduce down the murder rate. New Orleans did it. 40 of the top 80 cities, in fact, produced those kinds of results.

The major issue in New Orleans: Okay, let's be realistic. Things right now are horrible. Jim Letten commented that we have 60 homicides with only 100 days through April 10 in the year. That means a person dies here between every 1.7 days and 1.8 days. And with 220,000 people, or 240,000 people, that's absolutely horrific. It's double Richmond's rate. Richmond is about 43/100,000. For the past 9 months, we might hit 90 per hundred thousand. New York at 6.5. So there's no way to explain this, there's no way to deny it. There's been a problem.

Mr. SCOTT. Can you say those numbers again?

Mr. SCHARF. The issue, I think, that cuts to the heart of the testimony, is the main question: We face what's going on here? And we have had three theories expressed, and they're different. And I think if you build national policy as the policy of New Orleans, you have to sort through these different theories. One is we have the worst under-class, if you want to call it that, violent, drug-infested, low moral values, low education, in the history of the earth. And this is a person-focused theory. The other theory, the second theory is that the criminal justice system is broken. And the reason that the group that Mr. Raphael discussed, will not want to go in that profession, if you want to call it that? One, the system doesn't work. And if that's the theory, then you have different remedies compared to the first theory. The third thing: We're actually doing research on the relationship between migration and the rise of crime in New Orleans, and this theory deals with destabilization, in fact, from Hurricane Katrina. Consider these points: What happened was the drug dealers went to West Houston and became closer to the drug supply. They learned some nasty habits from much more sophisticated Houston murderers or example, drive-bys. They come back without parents and grandparents. It's destabilization. And they also find drug competitors in a city where they used to have a monopoly in dealing drugs. So there's some truth in this in theory. And these theories dictate how we proceed, I think, affects what we do.

The other area we did research on, and this was funded by the Department of Justice, is the cost of crime. We partnered with the National Institute of Justice and Michael Geerkin, who worked on this. A murder is worth a million dollars. And what they would define as the value if a young person is shot and sits in a wheelchair the rest of his life, it's \$2 million. If you take the 161 murders from last year and you say there five to one wounded in action to killed in action, the total cost of violence could be half a billion dollars; and that's without the exodus of brains, tourists, and business to add to all this. You know, you could be talking as an investment loss of close to a billion dollars. What do I recommend you think about? Okay, one, there's a disproportionate underinvestment in this violent crime problem in the sense we went from \$4.2 billion to a \$1.2 billion in Federal criminal justice expenditures, and one factor is we're under-resourced to deal with the depth of the problems we face.

The second issue what do we do with the money? One thing to insist on, and people may be uncomfortable with this for the community get this money, you need a coherent business plan to effectively use funding of the criminal justice system. And you have a

coherent plan which builds on evidence also has outcomes defined. And you can measure the outcomes. And if we don't have that, we're going to continue to remain where we're at.

The third thing to think about and this is very complex—addresses the Katrina issue: Crime is mobile. We tend to think about city crimes as, for example, New Orleans crime. Well, Jefferson Parish is up. We probably have about 10 times compared to most cities, and that is the truth of it. And it's a complex dynamic that we don't understand, that deals with the migration and the destabilization of drug traffic, and many deaths in a number of cities, including New Orleans. Fourteen-year-old murderers come back without parents and get caught up by the gun and drug culture.

The other area is this—I think we have to get better. And this was true in the Challenge of Crime in a Free Society book in 1968—we need to improve markedly. This is, by the way, the root of LEAA. May be this is where we're at. And what LEAA really did in that study was they built capacity, criminal justice capacity. So, you know, to be honest, to fight the murder problem, you have to fight your own organization. We are the problem. It's us. It's the organization. And we have to improve capacity. This is true, in fact, in any of the top 15 murder risk cities in the United States. It's true in Newark. It's true to Detroit. It's true in many cities. It's due highly to increased capacity, so the people are able to deal with this terrible threat of murder.

The way through the wall I think basically what the House of Representatives can do is this: I mean, work with us to build a plan. Work with us to rebuild New Orleans as living place, and certainly, the NO Crime Summit does a great job with ideas as how to do this.

Work to build a metrics to prove we will deliver what we say we deliver, and help us develop both community capacity, criminal justice capacity.

And the last issue is the question of should we build parks, schools, or perhaps fund more police officers? I think you ought to build both capacities. I think if you don't fund both community and law enforcement agencies, you risk having a bias in one direction. Focus on early intervention, as Judge Gray suggested. Focus on police capacity, as Jim Bernazzani very articulately suggested. And focus on correctional treatment, so when the offenders come out, they don't come back again. I'm honored to be here. Thank you very much.

Mr. SCOTT. Thank you very much, Professor. Could you just repeat the numbers of the murder rates?

Was it 6 in New York per 100,000?

Mr. SCHARF. New York had 539 murders for 8.1 million people, and it comes out to just about 6. For the last 9 months, we're hovering about 90 murders per 100,000. And we take the numbers from here as a statistic—I mean, you know, if you kill somebody every other day—somebody's murdered, well, more than every 2 days, you're, you know, at 223,000 people you're close to 100 for every 100,000 persons.

And it's right now about this rate—it's a murder every 1.8 days; so, you realize—these are the best numbers we have, and a professor from Tulane puts the murder rate at 96 per 100,000. The

cautious number is somewhere between 85 and 90 per 100,000 persons, going back 9 months.

Mr. SCOTT. Thank you. Judge Gray, could you say a word about what's going on with the issue of the defense problem? Is that being solved, or is that still ongoing?

Judge GRAY. There's still a lot of work that needs to be done. You know, I assume from the statewide—the Indigent Defender's Office statewide, before the storm, they were having some serious problems. One of the criminal judges here was holding them in contempt, brought them to court around their representation after the storm, as is natural. A lot of their people didn't return. Their funding was cut; and, so, they're struggling with trying to figure out how to fund the system so that it can provide the numbers of persons that they need in order to function in both the Criminal Court and the Juvenile Court. They are working through anticipating some funding coming out of the legislative session, I believe, this year, which will give them some relief. But it's still a big issue on how to adequately fund the indigent defender system in the State.

Mr. SCOTT. In your court, if a juvenile is being tried as an adult, do they come to your court.

Judge GRAY. Yes. In our court every child, whether they're being tried as an adult or not, if they're tried—if they're charged and brought to court, under our law, they have to have a lawyer.

Mr. SCOTT. And can you say a word about whether we ought to be increasing or decreasing the number of juveniles being tried as adults?

Judge GRAY. I believe that we should not be increasing. That goes back to my statement about insanity. I am confused about why we think we should send young people—all the evidence we have about their brain—brain development that came out—that has come out recently, why we think we ought to send young people to a system that doesn't work for adults. It would be one thing if we were able to get adults in the system, get them out, and have them not re-offend. That's just not our experience. What we know about sending kids to the adult system is that, when they are released, they generally re-offend earlier, they re-offend at more severe levels. And, so, sending them to the adult system does not help the community because it doesn't make them safer, and it really doesn't help the children either because they become bigger and badder criminals.

[The prepared statement of Mr. Scharf follows:]

**The Role of Integrated Federal Early Intervention, Policing, and
Correctional Policies in Reducing Homicide and Violent Crime
Risks in U.S. Urban Communities:
*Katrina Impact on Crime and the Criminal Justice System in
New Orleans***

Written Testimony Presented to

The Subcommittee on Crime, Terrorism and Homeland Security of the
Committee on the Judiciary, U.S. House of Representatives
New Orleans, Louisiana - Representative Bobby Scott, Chairman and Mr.
Bobby Vassar, Chief Counsel House Judiciary Subcommittee on Crime,
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I. Introduction and Credentials

The witness, Dr. Peter Scharf was recently appointed Research Professor of Criminal Justice and Executive Director of the *Center for Society, Law and Justice* at Texas State University. Prior to coming to Texas State University he was for 13 years Executive Director and Founder of the *Center for Society, Law and Justice* at the University of New Orleans at the University of New Orleans and is currently involved with a national FBI project to introduce intelligence led policing ideas to New Orleans area and other jurisdictions.

Prior to joining UNO in 1995 he served as the *Director of Technology and Technical Assistance* at the Police Foundation in Washington D.C. where he helped found the *BJA Community Policing Consortium*, developed the *Risk Assessment Management System* and served as a primary consultant to the *Governor's Report on the Crown Heights Civil Disorder*.

Dr. Scharf received his doctoral degree from Harvard University (Lawrence Kohlberg dissertation advisor-"Moral Atmosphere in the Prison") and is the author of eight published books and numerous other publications, including *Badge and the Bullet*, *Towards a Just Correctional System*, etc.

The *Center for Society, Law and Justice (CSLJ)* has managed over 8 million dollars in projects funded by the Department of Justice including *Managing Criminal Justice Technologies*, *Art of Performance Measures*, *Gunshot Detection*, *PSN Assessment of the EDLA*, *Managing Law Enforcement Integrity* and a study of PREA prison rape risk factors.

Dr. Scharf has been the subject of major media coverage related to New Orleans including PBS, NPR, BBC, NBC, ABC Nightline, NY TIMES, WA POST, Gambit Weekly, Times Picayune, CBS, Danish, German, Italian TV, TIME, etc. He is currently conducting research related to the New Orleans Crime Migration and another project related to new technologies with the potential of reducing homicide risks.

A resume follows in **Appendix A**.

II. Executive Summary

This is formal testimony to be presented orally to the Crime Sub-Committee on April 10, 2007 at 10:00 am in New Orleans Louisiana. The focus of the witness statement will be on national and New Orleans homicide patterns and violent crime trends. It is the thesis of this testimony that an integrated evidence-based strategy to reduce violent crime can in cities such as New Orleans help incrementally reduce the human life, economic and social costs that follow acts of murder and violence. In this effort it is essential to integrate early intervention, law enforcement, and correctional resources in a comprehensive effort to reduce homicide and violent crime. While, evidence as to which specific programs work to reduce violent crime is limited, it is clear that murder in New Orleans (and other high murder rate cities) represents a solvable problem. It is however a coordinated effort of expansion of our knowledge base related to murder, our resources, as well as local accountability, coordination and discipline.

What are the causes of ascending murder rates in New Orleans and other urban areas and how might crime control policy address these disturbing trends? While, the subject has been a public one since the publication of *Challenge of Crime in a Free Society* almost forty years ago (and its focus upon poverty, poor education and racial conflict as the sources of violence in our society), the causes of violence (especially in a city such as New Orleans) remain elusive. As Professor Sherman of the University of Pennsylvania has noted intuition and science may diverge as he notes, "(many believe that) the more police we have, the less crime there will be. While citizens and public officials often espouse that view, social scientists often claim the opposite extreme: that police make only minimal contributions to crime prevention in the context of far more powerful social institutions, like the family and labor markets." Where lays the truth? In attempt to respond to these questions with a particular focus upon New Orleans the following issues guide this witness's testimony.

- Why is murder in the U.S. increasing?
- Why does New Orleans have an extremely high homicide rate relative to the late 1990's and compared to other cities?
- Which factors are most important in helping interpret New Orleans violent crime and homicide trends?

- How might integrated early intervention, policing, and correctional federal initiatives respond to needs evident in New Orleans and other high violent crime cities?
- How might these new policies, strategies, and programs in New Orleans and other high risk cities be most effectively implemented?

As of the end of March, 2007 the City of New Orleans which Census experts believe has 223,000 residents has had 154 murders in 9 months or an extrapolated 12 month murder rate of over 90/100,000 population (15 times that of New York), a rate unprecedented among even the most violent U.S. cities. Law enforcement realities and values reflect a "tale of two cities" in this regard. While U.S. cities as a whole have experienced down-turns since the 1990's, there are:

- 1) Approximately 15 cities with high murder rates (averaging homicide rates of 30/100,000 persons or higher over a five year period);
- 2) These cities have homicide rates averaging approximately 7 times higher than other comparable size cities; and
- 3) Account for approximately 2% of the population of the United States and 15% of its homicides.

Despite the recent surge in murder in these cities in the United States, exemplified by New Orleans there is little agreement about what works to control violent crime especially murder, there is a pressing need to define strategies, tactics and policies useful in abating this trend.

Homicide trends in U.S. cities (and New Orleans) peaked in the late 1980's and early 1990's (New Orleans homicide total in 1994 was 424 (or 84/100,000 persons) and then declined in many large cities in the late 1990's only to rise in the last several years. New Orleans for example decreased its homicide total from 424 in 1994 to 162 homicides in 1999 following implementation of a strategic plan adopted by the city. Since 1999 the murder rate, controlling for population, has more than doubled.

How might we understand and respond to these trends?

III. Summary of Opinions

Testimony presented for the Crime Sub-Committee of the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security consideration is summarized below:

1. Murder rates in the U.S. have started to increase following declines over the previous decade. The latest Uniform Crime Report (UCR) suggests homicides, assaults and other violent offenses surged by nearly 4 percent in the first six months of 2006 compared with the same time period in 2005 (Department of Justice, 2006). This pattern suggests to experts in the field "an early warning system" related to a resurgence of violent crime and murder risks;
2. Federal policies and strategies have been attributed to reductions in homicide by some researchers. However research to establish these links is needed to reach a firm conclusion. Peaks in federal funding (both law enforcement and educational and social services) in the late 1990's closely correspond to lows in homicide rates in many but not all cities. The rise in homicides in New Orleans followed declines in Federal COPS, Educational, Social Services and BJA support;
3. Cities which have achieved major reductions in homicide appear to share some common elements in their strategies including a city-wide focus, use of new tools and technologies, *counter to conventional wisdom* strategies- e.g. NYC reduced jail cells and homicides and a strong executive value commitment to reducing violence.

Many of the cities which have reduced homicide risks involved their strategy all major components of government including education, health, emergency services, housing and social welfare to reduce violent crime and homicide risks.

There is a need, however, to define with some precision programs that have demonstrated success in reducing violent crime and homicide. Many of the specific strategies which claim success have not been evaluated using evidence based criteria. The assumptions that police interventions (Community Policing, COMPSTAT, MDT's in patrol cars, etc.) for example, helped produce the declines in New York City and similar programs in Chicago and Boston have been challenged by some researchers. The ability to develop responsive policies designed to reduce homicide risks may be limited given the need to validate particular seemingly successful homicide reduction strategies;

4. It appears that there are emerging almost two very different criminal justice "cultures" related to the management of urban homicide. In many communities according to the most recent Uniform Crime Report (UCR) figures, homicide is a very rare and often reflects personal and idiopathic (unique) patterns emerging out of relationships, anger or jealousy

(Department of Justice, 2006). In a very few U.S. cities (New Orleans being an extreme example) children walking to school become used to walking around violent crime scenes and are communities which "trauma pants" are a routine, if not every day, part of urban life. It may be that these different criminal justice cultures require quite different policy responses, varying with their different circumstances;

5. New Orleans rate of homicide per capital has increased in the past 7 years from a rate of approximately 34 homicides per 100,000 persons to one that approaches 90 per 100,000 persons annualized over the past nine months. During 2006 homicide totals increased from 17 in the first quarter of the year to 53 and 52 in the last two quarters and 50 in the first quarter of 2007. The rate of increase is startling given continued declines among other high homicide rate cities.

The homicide rate in New Orleans over the past year exceeds any U.S. city with a rate 15 times that of NYC, 7 times Boston and higher than other cities with comparable risks. Largely African-American cities such as Cleveland with poverty and educational patterns have homicide rates that are 3-5 times lower than New Orleans. There are few cities over the past two decades with sustained homicide rates as high as New Orleans;

6. Theories about the characteristics associated with the murder rate in New Orleans includes concepts related to the highest risk population, the effects of Hurricane Katrina and weakness in the local criminal justice system, including police, district attorney and court systems. Specific theories which have been tendered as to why the New Orleans murder rate is so high and why it is increasing include:
 - Hard core underclass which has persisted for decades;
 - Long-term educational, parenting, vocational and other deficits;
 - A crimogenic (criminal thinking) culture pervasive in a small sub-segment of the community;
 - De-stabilization of drug trade following Katrina due to new competitors and changes in drug supply chain;
 - Loss of capacity within New Orleans Police Department (NOPD), New Orleans District Attorney (NODA) and the courts exacerbated by Hurricane Katrina;
 - Ineffective policing strategies and tactics;
 - Community cultures which have stigmatized cooperating with police and witnessing in criminal cases;
 - Ineffective prosecution by NODA; and

- Ill advised arrest strategy clogging courts and resulting in "Section 701" (mandatory 60-day limit to file charges) releases.
7. The homicide pattern and the perception of risk have affected many areas of life in New Orleans including economic investment, perceptions of well being, tourism, etc. Assuming a public cost of \$1,000,000 per homicide (prison expenses, lost income, family support) and \$2,000,000 for life long costs resulting from a shooting, the total direct costs from a homicide and disabling may exceed a half billion dollars for 2006. Young African-American males in high risk neighborhoods have been observed to have mortality and morbidity rates from gunfire approaching those incurred by combat troops in the Vietnam and Iraq wars. Also, indirect costs incurred from the high murder rate such as losses in investment, tourism and skilled workforce may dwarf these direct costs. Given these costs the argument for a reasonable return on a Department of Justice investment in new programming targeted at reducing homicide is an obvious one to make;
 8. A number of local proposed solutions to New Orleans murder trends have not to date been reflected in a substantial reduction in the homicide rate, including: the use of National Guard, and State Police support, vows of cooperation between District Attorney and New Orleans Police, check points, use of Orleans Parish Sheriff's Office deputies and recently, increase of federal agents and task forces and movement of drug and gun related violent crime cases to the U.S. Attorney's Office;
 9. Key in this witness's opinion as to how federal support could help reverse the troubling increase of homicide risk in the city (and other cities facing similar realities) identify evidence based strategies, programs and technologies which have been documented as effective in other cities with high homicide risks and support their use in high homicide risks cities. These include early intervention programs targeted at youth at the margins of violent crime activities, new policing and correctional strategies supported with strong accountability performance measures, as suggested below:

Table 1: Suggested Reducing Homicide in Urban Communities Policy Framework

<i>Component</i>	<i>Objective</i>	<i>Performance Measure</i>
<i>Early Intervention</i>	Identify and divert from violent crime	Reduction in progression of highest risk individuals
<i>Law Enforcement/DA</i>	Proactive community patrol and investigation (and prosecute known offenses)	Increase community presence and effective response to violent crime incidents
<i>Corrections</i>	Re-educate and enhance employability of offenders	Increases in re-entry outcomes

It should be noted that a substantial increase in the amount of Federal criminal justice support may be essential for this initiative to be successful in reducing homicide risks in the highest risk cities;

10. An integrated city wide solution including evidence-based early intervention, (substance abuse, relapse prevention, anger management, cognitive life skills, character education, etc.) law enforcement and correctional strategies may be needed to reverse the troubling homicide trends observed in New Orleans and other communities at risk in terms of violent crime. Targeting these resources at youth most at risk of becoming involved in violent crime activities for this approach to be effective. In New Orleans there may be fewer than 3,000 youth at risk of becoming a victim or perpetrator of a gun related crime and an equal number at the margins of these activities;
11. It is important to have federal policies which consider violent crime risks as regional rather than local. The migration of criminals from New Orleans to Texas and back suggests complex and interdependent migration which needs to be more completely understood. The rise in homicide rates in Jefferson Parish and other I-10 communities suggests the need for policies which consider the implications of crime displacement and the need for regional information sharing.
12. Major national policy goals to reduce violent crime should include supporting highest risk cities with coherent action plans which should support city efforts to:
 - Develop community level anti-violent crime enterprise plans involving different units of government responsible for management of violent crime risks;
 - Improve capacity of community to respond to violent crime risks;
 - Increase both general and specific deterrence to levels commensurate with the crime risk threat; and
 - Create and implement programs responsive to requirements of deterring highest risk groups from violent crime.

New ideas are essential to dealing with the complex violent crime and homicide trends faced by New Orleans and other communities, for example:

- Strong educational, health and vocational opportunities;
- Innovative gang and drug risk reduction initiatives;
- New “early intervention” treatment models appropriate to the highest risk in terms of violent crime groups-cognitive substance abuse, anger management, moral development, cognitive life-skills models need to be

explored; and broader vocational, educational, civic, drug prevention models for young people at the margins of the highest risk groups;

- Improved regional information sharing;
- Intelligence led policing focused upon regional crime problems;
- New integrated sensor public safety "solutions";
- Tests and (if justified) extensions of programs such as CEASEFIRE;
- Homicide investigation improvement and technologies;
- Effective correctional triage, transition to community

In considering these approaches it is essential that *performance measures* be established to identify outcomes from these investments and that *evidence-based research* strategies be implemented to identifying the most promising approaches to the reduction of violent crime risks.

IV. Evidence Based Foundation to Testimony: National Perspective

Murder Trends and Patterns

Murder is one of the most complex and yet corrosive of crime trends affecting society. What explains city and national changes in murder rates and patterns? What are the specific Federal models which have suggested promise in reducing violent crime and murder risks? What are the realities of murder and violent crime in highest risk cities and in other communities less affected by murder and violent crime?

Since the mid 1970's there has been a pattern of cyclic change among U.S. cities with steep rises in the late 1980's and then declines in the 1990's. In the late 1980's there were strong increases in urban homicide trends in which guns appeared to be increasingly preferred as the means of homicide, regardless of whether the homicide rate in a city was increasing or decreasing.

In the mid 1990's the impact of the increase in federal funding (social service and law enforcement) and other trends were coincidental with decreases in many cities of homicide reductions. Police tactics, funding, policy changes, and correctional incapacitation as well as other factors such as reductions within highest risk birth cohorts have been credited with these decreases.

The situation we now face is not encouraging. The FBI's latest Uniform Crime Report in 2006 suggests homicides, assaults and other violent offenses surged by nearly 4 percent in the first six months of 2006 compared with the same time period in 2005 following an increase during the previous year represents the largest increase in violent crime risk in 15 years (Department of Justice, 2006).

The Tale of Two Law Enforcement Cultures

There is broad variation among cities in terms of homicide. Among cities with the highest homicide rates are the following cities: see **Table 1** on the following page:

Table 2: Homicide in Major US Cities

Rank	City	Homicide Rate					
		2005	2004	2003	2002	2001	2000
1	New Orleans, LA	73.6*(8 months)	54.8	56.8	53.3	43.8	42.4
2	Compton, CA	67.1	41.7	46.0	55.6	49.2	48.1
3	Gary, IN	58.0	52.6	66.2	58.4	79.8	65.2
4	Birmingham, AL	44.3	24.3	35.0	26.8	30.1	32.5
5	Youngstown, OH	43.7	28.0	23.2	40.2	41.5	39.0
6	Richmond, VA	43.0	47.7	48.2	39.5	35.9	36.9
7	Baltimore, MD	42.0	43.4	42.3	38.3	38.7	40.1
8	Camden, NJ	41.2	61.2	51.0	41.3	31.3	30.0
9	Flint, MI	40.1	38.4	31.2	24.0	32.8	28.8
10	Detroit, MI	39.3	40.5	38.5	42.3	41.5	41.6
11	Richmond CA	38.8	35.3	38.3	29.2	18.1	29.2
12	St. Louis, Mo.	37.9	32.5	21.0	31.9	42.5	35.6
13	Trenton, NJ	36.2	21.1	15.2	22.2	15.2	16.4
14	Washington, DC	35.4	35.7	44.7	46.4	40.3	41.8
15	Newark, NJ	34.5	30.7	29.6	23.8	32.9	21.2

Among the largest cities in the U.S., New Orleans ranks first in 2005 with New York City having a per capita homicide risk approximately 11 times lower than New Orleans.

Table 3: Homicide in Large U.S. Cities

<u>City</u>	<u>2005/6* Homicides</u>	<u>Population</u>	<u>Per Capita Homicide Rate</u>	<u>National Ranking</u>
New York, NY	539	8,115,690	6.6	above 100
Los Angeles, CA	489	3,871,077	12.6	74
Chicago, IL	448	2,873,441	15.6	49
Philadelphia, PA	377	1,472,915	25.6	19
Detroit, MI	354	900,932	39.3	10
Houston, TX	334	2,045,732	16.3	47
Baltimore, MD	269	641,097	42.0	7
Phoenix, AR	220	1,466,296	15.0	50
Dallas, TX	202	1,230,303	16.4	46
Wash, DC	195	550,521	35.4	14
New Orleans, LA*	161	223,000	72.9	1

**The Control of Urban Murder and Violent Crime Patterns:
What is Presumed to Work?**

There is great controversy as to the best methods for reducing murder risks and the question of whether public policy can affect these risks. Community psychologists such as Toch (1988), Goldstein (1989), Scharf (1987), Fabiano, etc. have focused upon reasoning processes as a causal link to violent behavior. Programs that have implemented these approaches report modest gains in the small populations where these approaches have been attempted. In the 1970's-1980's federally sponsored law enforcement approaches such as targeted intervention, VICAP and SHOCAP focused upon identifying the highest risk and most dangerous offenders-building upon the theories of Wolfgang (1973) and others emphasizing the unique characteristics of repeatedly violent offenders. Community Policing, "Broken Windows," approaches in the 1990's tended to target neighborhoods and community norms as an approach to control violent crime. The most recent Project Safe Neighborhoods (PSN) initiatives designed to

manage violent crime risks focused upon cooperative relationships between homicide investigators and district attorney efforts to respond to violent crime. Andrews et al (1990) meta-analysis approach has identified potentially effective correctional treatment and risk identification models targeted at high risk for violence offenders.

Of great interest to policy makers are the observed policy related reductions in violent crime in many larger cities achieved in the late 1990's. What is it that characterizes cities that have been able to achieve sustainable reductions in homicide risks over time? Cities such as New York (went from 2274 in 1990 to 539 homicides in 2005); Boston (191-67) and Chicago (900-430) provide examples of cities which have reduced their homicide risks substantially over a fifteen year period.

There is, however, controversy regarding the most effective specific prevention, law enforcement and strategies to manage homicide threats in high homicide rate cities. Solutions tendered by practitioners range from enhancing the ability to efficiently investigate, solve and clear homicide cases, and to enforcing urban gun control policies for example:

- improving homicide investigative strategies;
- saturation of crime hot-spots stemming from crime analysis data;
- proactive focus on street drug traffic and gang activity;
- implementation of community policing/broken windows policing strategy;
- specialized programs such as CEASEFIRE-Boston, High Point/NJ both using David Kennedy's model (John Jay-CUNY);
- New technologies-gunshot detection, video safety networks, etc.;
- Information sharing/data integration technology such as New York Police Department's Real Time System.

In thinking about the reductions in violent crime in the 1990's it is important to note differences as well as similarities among cities as well as the specific methodologies used. The strategies in New York, Newark, Boston and Chicago differed along with personalities and circumstances.

Research related to specific strategies may be instructive in guiding public policy related to the control of violent crime. Rosenfeld, Fornango, and Baumer (2005) conducted an analysis on the CEASEFIRE program of Boston, and the COMPSTAT

program of New York and other cities, and then a vertical prosecution incapacitation strategy to see if these programs affected the drop in homicide rates experienced in the 1990's.

The impact of CEASEFIRE was found to be statistically indeterminate given the small number of youth firearm homicides in Boston. Rosenfeld, Fornango, and Baumer (2005) found that the decline in homicide rates compared to other large cities was not atypical. Similar declines in homicide rates were found in other large cities without a program similar to COMPSTAT, such as San Francisco, Houston, San Diego, and Los Angeles with gains reported for some of the incapacitation programs

Caveats on the Control of Violent Crime in the 1990's

In considering the lessons learned from the declines in the 1990's, it is important to recall that Blumstein (1995) and other criminologists predicted a rise in crime rates for the mid to late 1990's; however, the U.S. led a decline in crime rates for that time period. The Northeast experienced the largest crime drop, while the Midwest experienced the lowest (Levitt, 2004). For persons less than 25-years-old, homicide rates fell 24.2%; for persons 25-years-old and older, homicide rates fell 18% (Blumstein & Rosenfeld, 1998).

Beyond the impact of policing strategies researchers cite several broad factors that are deemed responsible for the decline: improvements in educational opportunity and job markets, declining crack-cocaine markets, aging of the population, tougher gun control laws, economy increases, increases in the amount of police, and increased use of incarceration.

Levitt (2004) proposes several factors that contributed the most to the decline in crime rates were increases in number of police, increasing prison population, and decreasing drug market. The amount of police officers increased by 14% in the 1990's, which can explain between one-fifth and one-tenth of the decline in crime (Levitt, 2004). The 1990's saw the birth of the "three-strike you're out" laws, which gave life sentences for persons convicted of their third felony. By imprisoning offenders, they are removed from the streets, thus unable to commit more crimes.

Homicide rates mirrored the rise and fall of the crack-cocaine market; "As crack ebbed from 1991 to 2001, young black males experienced a homicide decline of 48%, compared with 30% for older black males, 42% for young white males and 30% for older white males" (Levitt, 2004, 181). Also, Blumstein (2002) cautions that seemingly broad changes in the homicide rate may attributed to changes in behavior (crack and gun related) among a small percentage of African American youth should not go un-noticed. These trends should be viewed within the highly emotional debate involving differential sentencing of crack and white powder cocaine defendants.

Blumstein and Rosenfeld (1998) cited economic expansion as a prominent factor in the decline of homicide rates. In the 1990's, America experienced a drop in unemployment rates that had not been seen since the 1970's. Also what is the importance of factors in reducing homicides such as unemployment rate, homicide investigative capacity, number of officers, clearance rates for homicide, conviction rates for homicide, proportion of homicides drug and gang patterns, violent crime rate, gun control policy, etc.

The evidence from the decline in murder in the 1990's suggests more promise than certainty to policy makers concerned with policy solutions rather than an easy to replicate policy template. As one leading law enforcement executive (Dr. Lee Colwell) in reading a draft of this document, commented," while it is obvious that all the efforts of major cities had an impact upon violent crime, it is far less certain as to which components of change exerted the greatest impact."

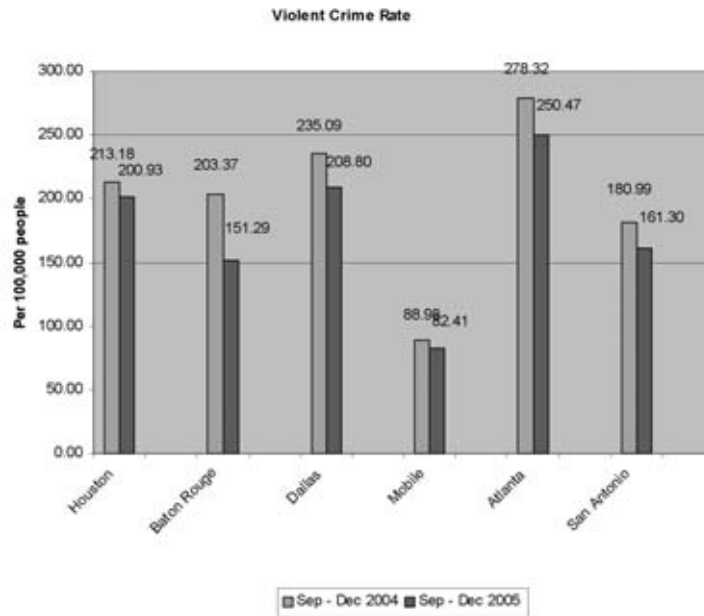
V. Foundation of Testimony: The New Orleans Murder Characteristics

New Orleans has had a chronically high murder pattern for the past two decades. Murder rates rose through the late 1980's and early 1990's peaking with an astronomical 424 murders in 1994. Beginning in 1996 a city-wide campaign targeted at violent crime, supported by a strong strategic plan, strong consultants, a tight COMPSTAT process and supported by COPS (COPS Universal Hiring and COPS MORE) resources, the city reduced its murder count by more than 60% to 162 murders in 1999-a rate of roughly 34/100,000 persons. From 1999-2005 the murder rate using an estimate of 223,000 persons increased by more than 80%. Following Hurricane Katrina, New Orleans has experienced an epidemic in violence with murder rates approximating 93/100K since July 1, 2006. New Orleans stands alone in terms of risks of homicide among U.S. cities.

Hurricane Katrina and Murder Trends in New Orleans

Hurricane Katrina in late August, 2005 resulted in the forced evacuation of the New Orleans population to many cities around the country, causing great concern in media and law enforcement circles. A January, 2006, article in the *Houston Chronicle* titled "New Orleans Gang Wars Spill into Houston Area," New Orleanians are held responsible for several homicides as well as increases in other violent crime. For example, a criminal such as Ivory "B-Stupid" Harris, who had been arrested over 19 times (including 2 murder charges) in New Orleans prior to the hurricane, was wanted in Houston for his involvement in several murders in November after the hurricane (Bryant and Khanna, 2006). The rate of homicide in Houston went from 2.53 per 100,000 in the fourth quarter of 2004 to 3.19 per 100,000 in 2005 suggesting a small increase in crime risk in evacuation cities, a pattern much overblown by the media.

Figure 1: Violent Crime Rate



Re-Migration to New Orleans

Since Mid 2006, the return to New Orleans of the highest risk evacuees has been not without consequence as well. In April, 2006, there was great community shock when thirteen homicides were recorded in the city with about 200,000 people, which was thought to have reduced crime following the storm. In June a quintuple murder of teenagers occurred, victims of what appears to be a resurgence of violence; a violence that has intensified as the highest risk individuals have returned to New Orleans where new drug groups (Asian and Hispanic) are operating in the city and public and social services, which might mitigate the effects of this re-migration, have been reduced. By years end (2006) the overall 2006 murder rate (assuming the Census estimate of about 223, 000 persons) was 72/100K persons-highest in U.S. but disturbingly 93/100K for the months from July, 2006-March 2007. Theories as to why the Re-Migration to New Orleans increased crime risks-a reality which seemed to come as a surprise of the

leadership in the city- includes: new drug distribution patterns, changes in drug group competition, changes in familial and neighborhood support as well as declines in criminal justice capacity are a few of the factors which have been offered to explain the changes in the migration and need to be confirmed through careful research.

A City in Crisis: Murder Realities in New Orleans as of April 10, 2007

The following are Homicide totals for New Orleans from 2000 through March 2007.

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
January	10	13	15	25	18	19	4	18
February	20	16	14	18	21	23	6	12
March	21	12	17	26	16	23	7	20
1st Q Total	51	41	46	69	55	65	17	
April	16	17	16	30	24	21	12	
May	26	23	21	24	23	23	13	
June	24	28	29	23	23	25	14	
2nd Q Total	66	68	66	77	70	69	39	
July	20	29	18	20	32	35	22	
August	11	15	33	20	20	38	10	
September	19	19	19	25	24	2	21	
3rd Q Total	50	63	70	65	76	75	53	
October	10	11	19	23	22	6	16	
November	11	13	28	18	23	1	17	
December	17	16	29	23	19	2	19	
4th Q Total	38	40	76	64	64	3	52	
Totals	205	212	258	275	265	207* 8 months	161	

As indicated in the **Table 4** murder risks have increased substantially during the present decade. The rate of murder in 2007 with a population base of 223,000 people suggests the following trends:

- The murder rate has since the beginning of 2006 through each quarter and levels out at a very high total in first quarter 2007;
- The comparison of first quarter 2006 to first quarter 2007 is as follows:

Table 5: First Quarter 2006 to First Quarter 2007

<u>Year/Month</u>	<u>January</u>	<u>February</u>	<u>March</u>
2006	4	7	6
2007	18	12	20

- The murder rate from 2003-2005 (8 month extrapolation) places the city the highest among U.S. cities;
- Since July 1, 2006 the city is at least more than 20% above in terms of homicide rate, any other U.S. city.

In interpreting the trends observed in New Orleans, observers have disagreed on the role of the criminal justice system. During 2006 there were 161 murders and but one conviction with many cases not filed following "Section 701" (60 day mandatory release in the absence of charges) releases even in first degree murder cases. Gaps between murders (161) and clearances (68) and charges (17) were also troubling. The total of 2 trials and 1 conviction is troubling as are the handful of convictions for murders which occurred from 2004 on-ward. The roles of the police and courts have also been linked to the high murder rate in New Orleans. Police attrition due to activity during the storm, retirements, tactics, lack of facilities, crowded court dockets and the clogging of the judicial system with low priority arrests have all been linked to the high murder rate. Social factors, changes in the drug trade and loss of insulating factors as varied as housing, family support and neighborhoods need to be considered as well in terms of the high rate of violence in the city.

Public perceptions of why this increase in homicide occurred diverge. One school of thought explains the high murder rates in terms of the characteristics of the community including poverty, educational, parenting and social factors. Others interpret the breakdown in terms of gaps in criminal justice system capacity including the low rates of conviction, courtroom delays and ineffective policing tactics as the major factor to be considered in the New Orleans murder wave. Still others attribute the murder rate to the Katrina aftermath with criminal justice attrition, de-stabilization of drug groups and loss of community and family stability.

No matter why the risks of murder in the city have increased are the astronomic economic (capital costs, out-migration, tourism loss and the costs related to the deaths, imprisonment and maiming of number of people), social (fear, reservations about travel to New Orleans) and moral (human life) costs to a city in which the reality of murder has impeded if not stopped the attempts at rebuilding the city. Estimates of the direct cost to society of a murder at \$1,000,000.00 and the cost of a person crippled for life through gun-shots (\$2,000,000.00) (including jail, court, prison, loss of support, and social security calculated for both victim and perpetrator) yields a best guess of the direct cost for 161 murders and an equal number of life long injuries at close to ½ of 1 billion dollars-a cost the city cannot afford. Nor can it afford the tourism, human capital and investment losses to the city, almost impossible to calculate in terms of economic consequence.

What to Do?

The alternatives to control the murder epidemic in New Orleans have been broad including a Mayoral program, Federal Initiatives and specifically:

- National Guard presence-since June, 2006
- LA State Police support-ongoing
- Cooperation vows and definition of procedures between District Attorney and New Orleans Police-ongoing
- Partial Curfew-January, 2007
- Check Point Program-January, 2007

- Use of Orleans Parish Sheriff's Office Deputy to support NOPD patrol-January, 2007
- Increase of Federal Agents (FBI, DEA, ATF, etc.) and task forces-February, 2007-a promising development with results yet uncertain
- Movement of cases to Federal Jurisdiction, February, 2007 (gun and drug cases and a major intervention with strong conceptual promise to reduce homicide rates)

As of the date of this testimony sadly it might be observed that:

- 1). There has been no indication of the reversal of the lethal murder trends in the city;
- 2). Solutions have been spasmodically introduced and later abandoned; and
- 3). City wide leadership has been widely perceived as ineffective.

The depth of the city and its solutions requires a fundamental change in the criminal justice system, if the complexities of its murder risks are to be reduced. A comprehensive weaving of early intervention, law enforcement and correctional strategies is also essential in this effort.

VI. Witness's Recommendations

The following are this witness's major recommendations to the Counsel House Judiciary Subcommittee on Crime, Terrorism and Homeland Security based upon the analytic foundation and research presented above:

Recommendation One: Increase funding for a new program targeted at violent crime and murder in cities with high murder and violent crime indicators: There is a need to for special funding based on evidence based research to help State and Local law enforcement respond to national Murder and violent crime trends. Examples of areas to be considered include early intervention strategies targeted at individuals at the margins of violent crime activities, new policing styles and effective correctional triage and treatment approaches.

Table 6: Suggested Reducing Homicide in Urban Communities Policy Framework

Component	Objectives	Performance Measure
Early Intervention; programs that target the most at risk young people in terms of violent crime	Identify and divert from violent crime	Reduction in progression of highest risk individuals
	Use EVB research interventions to manage risk group	
Law Enforcement/DA: community policing, investigation and prosecution	Proactive community patrol	Increase community presence and effective response to violent crime incidents
	Target risk groups Investigate (and prosecute known offenses)	
Corrections: local, state both institutional and community corrections	Assure safe treatment of offenders	Increases in positive re-entry outcomes
	Re-educate and enhance employability of offenders	

Both in many large cities and New Orleans it is observed that violent crime rates began to ascend as Federal support for officers, technology and special programs declined after FY 2000. More than 2 billion dollars in Federal criminal justice support "evaporated" from the Federal Budget in subsequent years at the same time as risks related to violence increased. New ideas, funding and support may be essential to help State and local law enforcement in communities faced with ascending homicide and violent crime risks. Given the costs of violent crime in terms of direct (human life) and economic, out-migration and related costs, this funding should be presented in terms of an investment strategy with high accountability and research base. Funding is identify and implement evidence based prevention, policing and correctional strategies, programs and technologies which have been documented as effective in other cities with high homicide risks and support their use in high homicide risks cities.

Recommendation Two: Actively support integrated and collaborative planning, evidence based research and performance measures related to the management violent crime reduction efforts:

- 1) Integrated system approach to weave early intervention, policing and correctional components into a coordinated crime fighting effort
- 2) Basis in evidence based research including early intervention, policing and correctional efforts
- 3) Assess integrated efforts in terms of objective performance measures

The proposed approach by this witness should support cities with high murder and violent crime risks (perhaps the forty or more cities with homicide rates of 12 per 100,000 population):

- Support the development community level anti-violent crime enterprise plans involving different units of government which:
- Increase system capacity within law enforcement, district attorney, community corrections and court entities with the goal of increasing both general and specific deterrence to levels commensurate with the crime risk threat; and
- Create and implement evidence-based early intervention programs responsive to requirements of deterring highest risk groups from violent crime. These might include NPO, religious or local programs that seek to avert crimes through effective substance abuse, cognitive life skills, anger management, educational and vocational programs.

New ideas are essential to dealing with the complex violent crime and homicide trends faced by New Orleans and other communities, for example:

- Improved Educational and Vocational training;
- Innovative gang and drug risk reduction initiatives: BJA and PSN initiative models;
- New “early intervention” treatment models appropriate to the highest risk in terms of violent crime groups: new cognitive substance abuse, anger management, moral and ethical development, relapse prevention, cognitive life-skills models need to be explored and expanded if effective; and broader vocational, civics, drug prevention models for young people at the margins of the highest risk violent crime groups: this should include realistic work, value-based, substance abuse, parenting and educational acceleration programs with strong research support;
- Improved regional information sharing: technology, fusion strategies, specialized analytic training;
- Intelligence led policing strategies focused upon regional crime problems: multi-city linkages, analytic meetings, virtual sharing;
- New “real time” analytic violent crime technologies: NYC, Chicago, Tucson, San Diego, Boston have adopted new and effective technology models useful in the response to violent crime;
- New integrated sensor solutions: visual surveillance, gunshot and fear technologies are now under evaluation by NIJ and broadly adopted;
- Tests and (if justified) extensions of programs such as CEASEFIRE, which has shown promise in multi-site assessments;
- Strategic programs proven successful in the reduction of violent crime: pieces of COMPSTAT, Community Policing, PSN in need of assessment as to impact related to violent crime;
- Homicide investigation improvement and technologies: case management, regional networks, DNA integration, etc.;
- Introduce new correctional, triage, treatment, educational offerings and re-integration support;
- Improved community substance abuse, anger management, vocational and anger management support for offenders.
- Improved supervision in community following re-entry

In tentatively adopting these programs it is important that each program be justified through a regional violent crime reduction plan, be based upon best possible evidence based research, document progress through performance measures and be subject to rigorous analysis. While a city wide effort may work in the aggregate, it is important to understand the contribution of particular programs to reducing violent crime.

Recommendation Three: Support efforts to reduce violent crime with support for criminal justice improvement, restructuring and integration:

It is important to note that many of the cities with the highest violent crime and murder rates may require strengthening of capacity if their efforts to reduce violent crime are to be effective. Improvements in leadership and organizational effectiveness may be essential if reductions in violent crime are to occur. Also there is a need to integrate early intervention, policing and correctional components into a coherent, effective system. Technical Assistance monies through local or national university or other public entities should be made available to accomplish the following:

- 1) Assessment of criminal justice organizational capacity and capabilities;
- 2) Conduct a baseline organizational assessment including intelligence, investigative operational capacity;
- 3) Develop a strategic plan with milestones to control violent crime trends;
- 4) Develop an in-house performance measures center for monitoring, tracking and feedback on daily actions for alignment to the violent crime control strategic plan; and
- 5) Conduct organization "booster shots" to assess and align efforts related to the strategic plan.

Recommendation Four: Increase funding for criminal justice migratory violent crime patterns:

It is important to have Federal policies which consider violent crime risks as regional rather than local. The focus on migratory violent crime patterns from and back to New Orleans related to increases homicide rates in Jefferson Parish, Houston and other communities suggests the need for policies which consider displacement and the need

for regional information sharing. The migration of criminals from New Orleans to Texas and back suggests complex and interdependent migration which needs to be more completely understood. Tools such as N DEX, new intelligence policing approaches, Regional Fusion Centers, Integrated information sharing, Pegasus network linking different jurisdictions all suggest the importance of sharing information across different jurisdictions. Multi-jurisdictional task force equipped with new tools and mission could be valuable in this area. Research related to crime migration patterns and the drug trade needs to inform practices adopted by multi-jurisdictional task forces targeted with addressing migratory crime;

Recommendation Five: Increase funding to New Orleans to restore its criminal justice capacity, while insisting on the use of evidence-based remedies and strict performance measures.

The losses to New Orleans in terms of infrastructure have been enormous given the aftermath of Hurricane Katrina. Crime Lab resources, technology, facilities are absolutely essential if the city is to restore a reasonable level of safety to its citizens. To be optimally effective programs the effort in New Orleans should build upon local initiatives including those involving the US Attorney, FBI office and the Crime Summit in:

- 1) Build upon strong New Orleans idea base and public support;
- 2) Use models defined as evidence based in cities with sustained crime reductions;
- 3) Create a city wide comprehensive strategic plan similar in scope to the Pennington Plan successful in the 1990's;
- 4) Consider effort as a coherent system effort at change, not tied to particular agencies;
- 5) Integrate other neighboring Parishes into effort;
- 6) Development of evidence-based strategies and tactics, using models proposed by the New Orleans Crime Summit task forces;
- 7) Make public outcomes for all elements of system on a regular basis;
- 8) Monitor and improve efforts on quarterly basis;
- 9) Build and assess clearly defined performance metrics as well as fiscal controls; and
- 10) Murder reduction rate milestones and outcomes.

**Written Testimony Respectfully Submitted to the Subcommittee on
Crime, Terrorism, and Homeland Security of the Committee on the
Judiciary, U.S. House of Representatives**

Dated

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Mr. SCOTT. Thank you. Reverend Raphael, you mentioned witness testimony that's been mentioned by a number of people, that that is a problem. Can you say a word about what we ought to be doing in the City to make sure witnesses testify? If you don't have a witness, you don't have a case.

Reverend RAPHAEL. That's been a problem long before Katrina, and we've actually done some things going to—going to court with witnesses, just a group of men just walk in court and sit there with the witnesses. The problems usually referred to just as a response to fear of retaliation by the perpetrator or the accused. Well, that problem is greater than that. If a policy, a community policy, is that it's wrong to say something to the police, it's wrong to get involved, then that person not only has fear of the possibility of retaliation from the accused; but now he's ostracized from the community. He's looked down upon by—by his own community; and, so, you have that veil of silence. And we've been doing some things to try to elevate—again to perceive value of life, to let—that even if the cost is not life, it's right for me to step forward.

I hate to say it, but there's a strange phenomenon that if a White police officer is accused of shooting me, I would be able to find as many witnesses as I need, or somebody would be able to find them. But if the gentleman who lives in the next block from me takes my life, my life was nothing. And we have to find a way to change that perception in our community, that my life is of no value if it's taken by somebody else right there in that community.

And I think it's something that—that—that's why I believe that the Police Department, no matter what we do, no matter what we do in the courts, no matter what we do with the DA's office, if the community does not recognize and accept this responsibility, then every aspect falls apart, every aspect.

Mr. SCOTT. Mr. Forbes.

Mr. FORBES. Mr. Chairman.

And, Reverend Raphael, I'm going to come back to you. I want you to just think about—the question I'm going to ask you is: Are you currently a pastor in a church?

Reverend RAPHAEL. Yes, sir.

Mr. FORBES. The question I'm going to have for you is—I don't disagree with anything you said.

But how can we help you do what you do? Just think about that a minute. When I come back to you—

Judge Gray—thank you all for being here. But I want to ask you, Judge, a question. We have a lot of expertise, and I'm sure you have a lot of experience in a lot of areas other than just the judiciary. But today you're the only shot in the judiciary. You know, you're it for us. You're there. The question may be repeating what we've done, and not to repeat. I understand about prevention and those kinds of thing. But one of the questions that I'm grappling with, as I look to New Orleans, and I look at the fact that we have 7 percent—this is before Katrina. It's worse after Katrina by a little, but 7 percent of the people who are arrested for violent crimes and crimes ultimately are incarcerated. Twelve percent of the people who are arrested for murders are incarcerated for the murders. If we sent that to the bank, you know, that you do that, I know you wouldn't suggest that we release that other 7 percent or 12

percent, but where's the problem in that strength? Is Chief Riley arresting the wrong people? Are we letting people off that we shouldn't be letting off? Are we not prosecuting? I think everybody agrees that statistic is a bad statistic. You know, it is—it is an enormous failure. Where is the breakdown?

Judge GRAY. Well, I'm sorry, Congressman, I'm not sure that I can give you a definitive answer on where the breakdown is because I believe in each individual case one of those things that you mentioned that might be a problem would be the problem; i.e., on an individual case, it might be that the wrong person was arrested. It might be that, in the case where there was someone arrested, the evidence wasn't properly taken care of.

But I would back off and say, in this country, we have a system that's based on a person gets arrested; they are not guilty until they are tried by either a judge or a jury of their peers. And just because someone gets arrested does not mean they are guilty. That's not our country. That's not what we believe in. We believe in a person having a right to go to court after being charged, with a lawyer, and present their defense. Now, when they bring—present their case to the jury, if the jury decides that the prosecution didn't provide enough evidence, and they find that the person is not guilty, that is the way we say we want our system to work. Not guilty, they go home. If the prosecution evaluates what the police bring to them, and they decide there is not enough here to present this case, I believe that's what we call prosecutorial discretion; they have a right to do that.

Now, I believe that there are some issues based on the fact that, in my experience, the persons who are hired for work at the DA's office, many of them, at least in juvenile court for example, are the newest people in the office. They stay in juvenile court 6 months at the longest they would stay. And then they would go to adult court, and they would be responsible for trying those cases. I believe that the District Attorney's office, probably because of low pay, was not able to attract people with the kinds of skills that they needed in order to be able to put their cases together. That's what I think. That's part of the problem.

Mr. FORBES. And I don't think anybody disagrees that we want somebody innocent to be pled guilty. That's not my question. It's just—I think it's a very big concern we're arresting 93 percent of the wrong people, whatever is happening. I think it's a big problem we're arresting 88 percent of the wrong people for murders. So we have to, at some point, say, "We've got to do a better job of who we arrest." Or we have to say, "We've got to do a better job of prosecuting the people that we arrest." One of the two of those things aren't lining up.

Judge GRAY. But I actually think it's a combination of the two. I really think it is both. I think the system needs reinforcement at all those points: Police with the training and the tools that they use—people have already talked about that—so they can arrest the right people. And then, once that information is provided to the prosecutor's office, that office is staffed with people who have the skills and the ability to put those cases together and present them to the jurors and the judge. So, I think it is both. I think, quite

often, what we do in criminal justice is we look at one piece of the system and say, for example, we will get more police.

Mr. FORBES. Judge, can I ask you this? I'd love to hear it. I'm out of time. Could you give us that just in writing. And I know I'd love to hear your speech, but he's going to cut me off here. That's okay.

Judge GRAY. Okay.

Mr. FORBES. I want Reverend Raphael to try to help us with how we can help you because I know your church is doing a lot of good work? How do we help you instill that respect for life?

Reverend RAPHAEL. I know this is going to sound strange; but I don't think money is my big issue.

Mr. FORBES. I'm not asking you just money. What else?

Reverend RAPHAEL. Other than money, I don't know what you can do. [Laughter.]

But the bulk of all the resources, and what we have what's called "The Way Out Program." There's a segment, I have programs that are tutorial for kids and programs for young girls, programs for young boys. But when they leave that program, when they go home, they have to go back to that same neighborhood and find themselves heavily influenced by the heroes, or those who are feared, in that neighborhood.

If that segment of the community is not addressed, no matter how hard we work with these kids all day long, when they go back, they're going to either, desire to emulate that person or they're going to feel pressured to act like that person does, to feel comfortable in that community. If you act like it long enough, you're going to become it.

So, what we do is what I call compassionate confrontation: We actually go out to these areas and approach individuals who are out there selling—they're standing on the corner, they're carrying—and offer them a way out. Again, that could be dangerous, but we never had a problem with it, and the response is that you'll be surprised that many of those individuals are almost waiting for somebody to say something to them or come and get them, and we're right in the midst of them. When I leave here, I have to go out on the street and this is 30 days of happenings in about a 40-square-block area. There has not been an incident of violence since we started that particular spot a couple of weeks ago.

And if I could have people on staff, to be able to go to that individual who's on the street. If he lets me talk to him, and I offer him another alternative, I want to be able to bring him in, right from there, bring him in to an office, let somebody evaluate him: and ask what is the hang up? Is it education? Is it drug treatment? Is it job training? Or is it just that you need a job? Sometimes our biggest problem in our community is information. We have jobs available in New Orleans right now; but there's somebody standing on the corner in New Orleans right now who's convinced that there are no jobs.

Mr. FORBES. Right.

Reverend RAPHAEL. And, so, my biggest need would be to be able to staff, of course, obviously, we need recreation centers for the kids out there who are on the streets. I have a little piece of property. I put some sand in it, right by the church. We're going to make it

a peace area for seniors where they can go and sit. Well, we got kind of bogged down, and it's just sand. I watch the kids in the neighborhood there, and they're just building sandcastles. That's all they have, sand. So, we need those kind of facilities to be able to provide some kind of structured training.

Mr. FORBES. Well, that might not be anything we can help with; but thank you for what you are doing.

Reverend RAPHAEL. Thank you.

Mr. SCOTT. Gohmert.

Mr. GOHMERT. Thank you. I do appreciate all that you've done. There were some of the panelists we've had today, you can tell there's a bit of friction between some of them. And this, obviously, is a panel of people that really want to help and try to make a difference. And, Judge, I know it's difficult dealing with juveniles, you get the new fresh prosecutors. And the truth is, what they see is so heart-breaking, they don't want to stay there very long. So, my hats off to you for continuing in your diligence.

But, Reverend Raphael, you mentioned—I thought it was pretty profound—that this Hurricane Katrina exposed two things about America: Basically, in effect, what's good about America and also the problems. But I've got to tell you; in driving around East Texas, which is my district, we had tens of thousands of evacuees from New Orleans in my district. And sometimes, virtually almost 24 hours a day, I was going around helping, and there were times I just got choked up because I saw the churches where the children of all colors, all ages, were playing together. I saw civic centers where the community just poured out contributions, and it just choked me up that this is what's good with America.

I had people say, "If I had known that it was this easy to get a job in East Texas, I would have left New Orleans a long time ago." And it seemed to bring about this idea that there is a sense of hopelessness among those that may just want, well, there's just no use. I can't find a job. They don't have that tunnel vision. And I'm no psychiatrist, but that seems to be a problem of people who get depressed. I don't know if there's any consolation—when you talked about people feeling that they're not worth anything, apparently, the Congress appropriated over \$150,000 per person of the 450-or-so-thousand that were living in New Orleans. Where did all of that money go? I don't know. But as you know, a family of six, they were worth over a million bucks according to the Congress. And I don't know where that money has all gone because it sure doesn't appear to have gone to the individuals. I'm sure they would have taken 150 grand and walked on.

I'm an optimist by nature. I walked around along the River walk and the park that's been redone. I've walked several miles yesterday evening and last night after dark. There's been so much done. There's so much graciousness in this town. It has a personality all its own. It is such an asset. But there is a great need here, I think. I just can hear you say that since you are such a man of passion and compassion. To you, what is the way, the truth, and the light? What motivates you?

Reverend RAPHAEL. Well, I was brought up in a time when people sacrificed for other people. My father was the first Black police

officer in New Orleans. My grandfather was a pastor. And, if anything, they gave me the opportunity to serve.

Mr. GOHMERT. That's a tough combination to grow up under. [Laughter.]

Reverend RAPHAEL. And my mother died when I was—other people raised me. But your city drives me because, after all I stayed there during the storm. I had some people who didn't want to leave; so, I stayed at the church and let them stay there. I got about 70 people out after the storm. During the time between Lake Charles and Texas, going back and forth, I would hear the news reports in Houston and other areas about fights between children from New Orleans students and there.

And I just took it on myself to go to Houston. And I started going to every high school I could. I would just go and tell them I'm from New Orleans. I thought those children were abandoned, but they didn't hear it. We were traumatized as adults. I know they had to be.

Some of the principals let me come right in and talk. Others said, "Well, you have to go to the independent school district and talk to them." But I looked at the structures in the school. Some I drove up to. I thought they were closed because there was nobody outside, which you don't find that in New Orleans; nobody—and I go there and I see mega structures that looked like college campuses. And I'm standing out in the hallway, and I'm talking to a principal. I'm talking to the principal, and the bell rings. There's 3,500 students there, and I'm thinking, "Shouldn't we run for our lives?" But everything is so organized. I realized how far we were in our city and how unfair we were to our children to just settle for that, and not to push to take advantage of this opportunity, to push them to the best we can have, and not just a Band-Aid on the behavior.

Mr. GOHMERT. If I could just follow up with one thing, Mr. Chairman.

Dr. Scharf, you had mentioned it, and I guess all of you have, really, there needs to be a combination of things to address the problem, that you do have to communicate and improve capacity, as well as have the education and the opportunities there. But—and it does seem that there are numbers that support the fact, when more prisons are available—I know in Texas our crime rate through the '90's dropped when we had greater capacity. And one of the things Dr. Osofsky pointed to with the massive drug problem, it just sure seems, when we lock people up, we have got to do a better job of addressing the drug and alcohol addiction. Isn't that—

Mr. SCHARF. I totally concur. I think that rehabilitation comes first, it's the issue, I think the hardest thing to do—and Mr. Raphael is doing such a great job—at this is: How do you engage the highest risk individuals having the quality of engaging the highest-risk students, the highest-risk offenders and potential offenders. And how do you get that hands-on value-based program touching them? And that's where the not-for-profit, faith-based organizations, I think, have an enormous role. And an issue of witnessing, I think, is critical. I think the New Orleans policing entities are living down the ghost of Len Davis, a man who killed somebody 14

years ago, in a certain way, except there's really this trust issue, and how do you overcome those historical issues?

In terms of correctional rehabilitation—there is a reduction use of moral development in corrections. We need to look at the newest model, substance abuse, real active intervention, anger management, ethics development, the things that really can make a difference because, you know, with the sentencing laws that are in Texas, Louisiana, or any place else, if you re-incarcerate a person, I mean, it's a huge economic burden losing a special ed teacher for 20 years, you know? And I think that that is such an important area of innovation. I think if you look at models—we went to New York and I brought Harry Lee, the Sheriff of Jefferson Parish, and the Black Ministry to review the New York model. And it was really interesting—we went to New York and said, “What happened here?” And it was a Bratton miracle, or police miracle, or correctional miracle, and/or community miracle. The evidence is it's actually a correctional miracle. They developed a triage system, and they developed an approach where—anyone who's not imminently dangerous, they wanted them out in 45 days, with their family, earning a living, and so forth. And, so it's important that we have to look all through the different components of this network, including the kind of work that Mr. Raphael does. And really, to get solutions, one component won't do it.

Mr. GOHMERT. Thank you. And thank all of you. And by the way, Reverend, if I were a witness in a case and you came and sat with me, I'd feel safer. [Laughter.]

Reverend RAPHAEL. God bless you.

Mr. SCOTT. Thank you. I've got about four additional questions. Let me just ask one and see how we do.

Judge, you mentioned 98 percent of the people confined or in your court are African American?

Judge GRAY. I think I said arrested. But arrested, come to court, confined, placed on supervision; carries all the way through.

Mr. SCOTT. And JJDP that you mentioned—JDP Act, requires a study of disproportionate minority confinement.

Judge GRAY. Yes, sir. You're correct. And we haven't done very well on that in this State.

Mr. SCOTT. And have you done a study of it to ascertain—

Judge GRAY. Locally or statewide?

Mr. SCOTT. Either one.

Judge GRAY. We have not, to my knowledge, done either one. We are working on the juvenile court in New Orleans is working with Casey; and, as a matter of fact, as part of the Casey work, we have identified that as an issue that we really do need to work on. And I think, what happened, we were able to get some statistics about the number of children who were arrested or referred. We haven't been able to get the numbers on the White kids. And we've got—at the end of the last year, we got some numbers that really, really showed that, actually, White kids were being arrested, but they were not making it into the system. And, after seeing those numbers, people thought that we really need to do something, look at this issue more closely. And I believe that, as a part of our Casey work, we're going to be looking at the minority.

Mr. SCOTT. Disproportionate minority—

Judge GRAY [continuing]. Contact.

Mr. SCOTT [continuing]. Contact.

Judge GRAY. Thank you very much. Yes.

Mr. SCOTT. And do you have sufficient alternatives to incarceration?

Judge GRAY. Do we have sufficient alternatives? That would be a no. No, sir. That is, again, something that we are working on with Casey. We, just like everywhere else, if you had a bed, you filled it. And quite often we were filling our beds with children who really didn't need to be incarcerated, but we didn't have anything else. We didn't have substance abuse. We didn't have mental health treatment. And so what the judges have done after the storm is they really are going to do things differently. And part of what we're going to work with Casey is around developing—developing some of those alternatives; releasing kids on devices, evening reporting centers, those kinds of things so that we can have our children at home and not in the detention facility. And the article that I mentioned earlier from the Sunday paper does a good job of talking about that, and I actually have four copies here.

Mr. SCOTT. Thank you. The Mayor mentioned summer jobs is an important issue. Will summer jobs make a difference in juvenile crime?

Judge GRAY. I believe so. My grandmother always taught me that an idle mind is the devil's workshop. And I believe that, just like talking about making people feel valued, if one has a job to do for which they can get compensation, that makes a difference. And for our young people, they want to have—they want to have money. And if they don't figure out a way to get it legally, they figure out a way to get it illegally.

And that's what we want to turn around. So the opportunity to work, the opportunity to have a role in the economic development for our city, I think, is important for our young people.

Mr. SCOTT. Dr. Osofsky, there's psychological evidence to suggest that summer jobs are going to reduce crime?

Dr. OSOFSKY. Certainly—I would say that's correct, especially now that many of the schools in New Orleans do not have facilities that have summer programs. And, I think that's an important issue. There's another issue with the kids who have been—adolescents/children who've been placed. And coming back, some of them, not only have the wonderful experience we talked about, for example, in Eastern Texas; but they've been in multiple schools. There are some of them in no schools; some of them in trailer parks. They are behind even where they were. And with remediation programs, it's also important that they not feel further depreciated. But there is evidence that summer jobs or programs, to facilitate a touch of leadership, that are being taught, do have an impact.

Mr. SCOTT. Thank you. Questions?

Mr. FORBES. I just wanted to ask Professor Scharf. You mentioned in New York, an experience in New York, it wasn't necessarily a policing thing that took place. Let me just say I disagree with you on that because I've been there and I've seen it, as I know you've been there and seen it. But, if you take some of the biggest ministries in New York, Teen Challenge is the one I'm thinking about, they work.

Since I know you're familiar with this situation, been at this church, seen what they've done, reaching young people. They couldn't do that until they sent the police in from basically Time Square all the way down to Central Park. Got the prostitutes off the streets, the drug dealers off the streets. And now they're able to go out into the streets and get those teenagers and bring them. Same things. Not just with the ritzy area. Brooklyn Tabernacle Church, same thing. They have 3,000 people every Tuesday night come in there from all walks of life. Walk there. Before, they couldn't.

And so it takes that combination of things, that you were talking about. You've got to go in with a strong amount of force—and even if you walk. If you walk at midnight, you know, down the streets of New York and the police are there, but they're trained not to be intrusive. They're just there. But they do create that feeling of stability and safety that gives you a lot of other things. So it's the combination approach that I—

Mr. SCHARF. Absolutely. And I think the major proactive issue is one of the central leadership, and health, education. New York's miracle was one irony that people may not know. They went from 2274 homicides in 1991 to 539, and 28,000 jail cells to 13,000 jail cells. So, part of the miracle, including police participation a huge part, is that they reduced incarceration and murders, which is, you know, counter initiative, it's a counter to "accepted" fact, but a very effective strategy.

Mr. FORBES. Doctor, one of the things that we need to remember, as we heard here today, is you've got to stop this revolving door—

Mr. SCHARF. Absolutely.

Mr. FORBES [continuing]. That we're putting these criminals back out on the streets because you're never going to get those people to testify if they think that guy's going to be back out on the street tomorrow. And you're never going to give them hope that they can clean up the neighborhoods because they're going to be coming right back. They're doing it day after day.

Mr. SCOTT. Mr. Scharf, Professor, do you know whether or not the calculation of the fewer jail cells, the savings in the fewer jail cells, is more or less than the amount of money invested to produce that result?

Mr. SCHARF. Oh, my Lord. How we can afford prison. That strikes me as an easy calculation. I mean, Marty Horn, he shared his data with us. But to reduced costs if you took a \$30,000 number, it's an astronomic figure. They did it through triage, and they did it through treatment. They did it through planning. By the way the issue you asked before about over-representation of African American persons in the criminal justice system, Robert Crutchfield in Washington State has done the classic research, and they found that 45 percent of Washington State defendants were African American. And basically it's a 9 percent African-American population.

And they look at every factor, and that's a classic study, you know, probably the best research on that issue.

Mr. SCOTT. Let's get the—that data and the New York study because I suspect that they spent less than they say they did.

Dr. OSOFSKY. Oh, absolutely.

Mr. SCOTT. Mr. Gohmert, do you have anything?

Mr. GOHMERT. Mr. Chairman, you had indicated we include Bobby Jindal's statement. Heck, I told him he might as well run for governor again. A lot of people would vote against her in my district, you know, so. [Laughter.]

Maybe I just put you in the middle. But, anyway, thank you-all so much.

Mr. SCOTT. Thank you. And I want to thank you, Mr. Forbes. We thank our witnesses. If there's no objection, the hearing record will remain open for 1 week for submission of additional materials. And with, that the Subcommittee stands adjourned.

[Whereupon, the Subcommittee was adjourned.]

A P P E N D I X

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John Hagan and Ronit Dinovitzer

Collateral Consequences of Imprisonment for Children, Communities, and Prisoners

ABSTRACT

Analyses of the effects of America's experiment with vastly increased use of imprisonment as a penal sanction typically focus on crime reduction and public spending. Little attention has been paid to collateral effects. Imprisonment significantly reduces later employment rates and incomes of ex-prisoners. In many urban communities, large fractions of young men attain prison records and are thus made less able to contribute to their communities and families. Less is known about the effects of a parent's imprisonment on children's development, though mainstream theories provide grounds for predicting those effects are substantial and deleterious. Until research begins to shed light on these questions, penal policy will continue to be set in ignorance of important ramifications of alternate policy options.

We are at a crossing point in American crime and punishment: rates of imprisonment are increasing at the same time that rates of crime are decreasing. Some argue this is exactly as it should be, and that increased investment in prisons is being repaid in benefits of reduced crime. Yet if this is so, the benefits of imprisonment are less certain and slower in arriving than expected, and few may realize the full extent of the costs. This last possibility seems especially likely when we take into account collateral costs and consequences of imprisonment that may be especially consequential for children of imprisoned parents who are already at risk as a result of growing up and coming of age in disadvantaged communities.

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The collateral costs of imprisonment may be extensive. The most obvious concern is that the effects of imprisonment damage the human and social capital of those who are incarcerated, their families, and their communities, including the detrimental impact of imprisoning parents on their children. Less obvious concerns involve foregone opportunities to invest in schools and the selective direction of existing and new resources away from minority to majority group communities where prisons are being built and operated. More specifically, imprisonment may engender negative consequences for offenders whose employment prospects after release are diminished; for families who suffer losses both emotional and financial; for children who suffer emotional and behavioral problems due to the loss of a parent, financial strain, and possible displacement into the care of others; for communities whose stability is threatened due to the loss of working males; and for other social institutions that are affected by the budgetary constraints imposed by the increases in spending on incarceration.

This essay considers this collection of costs. It begins and ends with a consideration of the impact of the imprisonment of parents on children, noting that this may be the least understood and most consequential implication of the high reliance on incarceration in America. Because we are concerned that the impact on children is the most serious result of the growing reliance on imprisonment, we begin in Section I by first outlining theoretical perspectives that can inform our understanding of the effects of parental incarceration on children. In Section II, we briefly survey the extent of incarceration, the costs of corrections, and the implications of this spending for other sectors of the economy. In Section III, the consequences of incarceration in terms of human and social capital are considered and the implications for work and families, and the effects thus far observed in research on the children of incarcerated parents. A particular goal of the essay is to stimulate more systematic research on this last topic, and to this end the essay concludes in Section IV with specific proposals for how research on children of imprisoned parents can be carried out most effectively. This research is needed to assess more systematically the losses in human and social capital that the largest and most racially concentrated imprisonment in the history of this country is having on a future generation of children. Until this research is undertaken in a serious and systematic way, the potential impact of the incarceration of parents on children will remain an unrecognized and therefore neglected con-

sideration in the policy framework that surrounds the increased reliance on imprisonment in America.

I. Theoretical Background of Parenting and Prison Research

There obviously are cases involving the incarceration of negligent, violent, and abusive parents where the imprisonment of the parents benefits children by removing serious risks of current and future harm. But how often is this the case? How often and to what extent is parental imprisonment beneficial or detrimental to children? The imprisonment of parents may more often be a traumatic life event that initiates or intensifies rather than reduces the problems of the involved children. Thus even in problem-plagued families the incarceration of a parent may only add to the difficulties faced by children. Imprisonment of a parent can alter the prospects of the family in a number of significant ways that are anticipated in the literature on single parenthood (see McLanahan and Sandefur 1994), with the trauma of parental imprisonment having possible economic and socioemotional ramifications.

Removal of one parent from participation in a child's life can have severe implications for the child's social capital—the resources that can be drawn on to facilitate relationships and initiatives, “making possible the achievement of certain ends” (Coleman 1990, p. 302). Portes (1998, p. 6) defines social capital in terms of “the ability of actors to secure benefits by virtue of membership in social networks or other social structures.” The effects of diminished social capital can be observed in the loss of its functions. For example, the loss of social capital can be recognized in the ways in which disruptions in families are dysfunctional for children. Associated sociological and criminological theories point to three prominent ways in which the effects of parental imprisonment on the social capital of children might be understood. These involve the strains of economic deprivation, the loss of parental socialization through role modeling, support, and supervision, and the stigma and shame of societal labeling. For ease of reference, we call these the *strain*, *socialization*, and *stigmatization* perspectives.

As formulated, these perspectives all involve assumptions about the ways in which parental adversity can deplete the human and social capital resources of the family. However, we also consider below an alternative version of the strain perspective that adopts the assumption that

the imprisoned parent poses a drain or threat to the human and social capital of the family. And we also introduce a selection perspective that considers predisposing processes that may lead children to follow imprisoned parents into crime and result in other threats to their social well-being. As noted at the outset of this section and in the alternative version of the strain perspective outlined below, if these selection processes are sufficiently problematic, they might be mitigated by the removal of troublesome parents. However, we hypothesize that imprisonment more often intensifies the problems caused by a dysfunctional parent. Knowing if and when either of these possible outcomes is the case is obviously important for policy as well as for theoretical reasons, and can only be determined through the kinds of research reviewed and proposed in later sections of this essay.

A. The Strain Perspective

If a subsequently imprisoned parent previously contributes positively to the family, the imprisonment of that parent may result in economic deprivation and resulting strains that affect children. Positive contributions by a subsequently imprisoned parent may not always have involved the parents maintaining an intact household. Many nonresident parents, even many never-married and absent parents, maintain frequent contact with their children, and much of the variation in the nature of the parental contribution may have to do with the form and quality of family relationships rather than with the legal and residential nature of the relationship. The quantity and quality of these relationships need to be measured directly.

Direct effects of economic deprivation on children are emphasized in the classical opportunity and strain theories of crime and deviance (Merton 1938; Cloward and Ohlin 1960; Messner and Rosenfeld 1993). The effects of economic deprivation can be indirect as well as direct, involving not only the loss of income-related opportunities that the imprisoned parent may have provided, but also the input that parent may have made to family life more generally (McLanahan and Bumpass 1988).

In terms of human and social capital, remaining single parents simply may have less money and time to invest in their children (McLanahan and Sandefur 1994). In turn, older children may have to assume unexpected role responsibilities, for example, caring for younger children, and they may also be diverted from school and into early or unplanned labor force participation in order to reduce demands on or to

supplement household income. Alternatively, these youth may be pushed toward the underground economy and its criminal activities, or toward early marriage and parenthood as means of escaping the disrupted family of origin (Hagan and Wheaton 1993).

However, it must also be acknowledged that there is an alternative possible strain theory of the effects of parental imprisonment on children, and this theory makes opposite predictions from the perspective just noted. This version of strain theory begins from the awareness that imprisonment is sometimes a means by which families encourage the court to remove a parent who has “burned through” the supportive capacity of the family, often as a result of idleness or negligence, and sometimes through violence and abuse (see Simon 1993). Such a parent is a drain or threat rather than an asset to the family.

This second version of strain theory is quite different from the first in that imprisonment is seen as a potential source of relief from difficulties associated with the removed parent. This version of strain theory underlines the importance of knowing the prior relationship between an offender and his family that predates imprisonment. It is possible that both versions of strain theory operate, and that in the aggregate they cancel one another’s effects. However, we hypothesize that it is more likely imprisonment is harmful to children even in dysfunctional families, because imprisonment will more often compound than mitigate preexisting family problems. Furthermore, once the parent is removed from the household, the quality of the alternative care arrangements for the children may be inadequate, further compounding the trauma of separation. This possibility is developed further in the discussion of the socialization and stigmatization perspectives that follow.

B. The Socialization Perspective

Again assuming the imprisoned parent previously contributed positively to the life of the family, imprisonment can deprive the family of an important resource for the socialization of the child. Sociological and criminological theories commonly emphasize the importance of parental supervision, role models, and support in the childhood socialization process. This perspective is reflected most prominently in control theories of crime and deviance. The most prominent version of control theory maintains that even parents and siblings who are oriented to criminal activities can often steer younger family members in prosocial directions (Hirschi 1969). The most important contemporary application of control theory in the study of crime is the longitudinal

research of Sampson and Laub (1993), which emphasizes that the social control of children by parents is an important source of social capital that persists in its influence throughout the life course (also Hagan and Parker 1997).

The loss of a parent from the family can influence children in a variety of ways. The impact may involve not only the loss of the supervision, support, and role model of the absent parent, but also the increased salience of the remaining parent, for example, as a model of single parenthood, and through a strengthening of the role of peers (McLanahan and Bumpass 1988). Control and socialization theories tend to see children as situated in a struggle of allegiances between family and peers, with the absence of a parent shifting the balance of this struggle in favor of antisocial peers. That the parent is absent for crime-related reasons may reasonably intensify this concern although, as noted above, it remains an unresolved question how different kinds of criminal parents actually influence their children.

C. The Stigmatization Perspective

Criminologists have paid particular attention to the theoretical implications of imprisonment as a form of stigma that attaches to individuals and the groups to which they belong, in this case including most notably their families. The stigma of criminalization is another source of the depletion of the social capital of children (Hagan and Palloni 1990; Hagan 1991). Braithwaite (1989) draws an important distinction between the kind of stigma imposed by imprisonment and alternative processes of "reintegrative shaming." While the stigma of imprisonment is intended to result in exclusion from the social group, reintegrative shaming includes rituals of reacceptance and reabsorption that are designed to encourage resumption of life in the group. Well-functioning families are prominent sites of reintegrative shaming, but Braithwaite's point is that this kind of response to antisocial behaviors can be adopted in broader societal settings as well.

Historically, the development of probation and parole was intended to offer the prospect of reintegration to criminal offenders as alternatives to the stigma of imprisonment (Rothman 1980); but this use of probation and parole is less common today than it was in the past (Simon 1993). In the absence of efforts to encourage reacceptance and reabsorption, the stigma of imprisonment risks not only making parents into outlaws, but their children as well. The processes by which this may occur are only beginning to be understood.

Scheff and Retzinger (1991) suggest that the kind of stigmatization experience that Braithwaite associates with imprisonment can cause angry and defiant responses involving feelings of unacknowledged shame and rejection. These feelings and responses to stigmatization may affect not only the parents who are imprisoned, but also their children. Scheff writes of such experiences that “when there is a real and/or imagined rejection . . . the deference-emotion system may show a malign form, a chain reaction of shame and anger” (Scheff 1988, p. 397).

Scheff and Retzinger go on to note that schools, parents, employers, and fellow citizens increasingly recognize large numbers of highly “touchy,” angry young people ready to punish any available target in response to perceived insults of the past, which may include the stigmatization experienced as children of incarcerated parents (1991, p. 65). In developing a defiance theory of criminal sanctions, Sherman suggests that “a great deal of evidence suggests that the best name for this proud and angry emotion—and the retaliation it causes against vicarious victims—is defiance” (1993, p. 459).

The emotions that can surround a traumatic experience such as the imprisonment of a parent can be linked into sequential analyses of stressful life events and turning points and transitions in the life course (Hagan and McCarthy 1997*a*, 1997*b*). From this perspective, the imprisonment of a parent represents one kind of event that can combine with other adverse life experiences in influencing longer-term life outcomes. For example, Rutter discusses chains of adversity in the life cycle (see also Caspi and Elder 1988) and suggests that “the impact of some factor in childhood may lie less in the immediate behavioral change it brings about than in the fact that it sets in motion a chain reaction in which one ‘bad’ thing leads to another” (Rutter 1989, p. 27). Rutter further observes that “antisocial behavior . . . will influence later environments through the societal responses it induces—such as custodial or correctional actions that may serve both to ‘label’ and to strengthen antisocial peer group influences” (1989, p. 42).

Peggy Thoits similarly points to multiplicative processes that can compound additive effects of stressful life events. She observes that “a person who has experienced one event may react with even more distress to a second . . . ; to the person, life might seem to be spiraling out of control. This would produce [an] . . . interaction between event occurrences; two or more events would result in more distress than would be expected from the simple sum of their singular effects”

(Thoits 1983, p. 69). Thoits goes on to describe a vulnerability model in which early stressful events set the foundation for adverse reactions to subsequent events. In this model, “predispositions are remote, enduring physiological and psychological characteristics that . . . enhance . . . the impacts of current life experiences” (1983, p. 80). The stigma of having a parent incarcerated is a likely candidate for inclusion in such a vulnerability model.

D. The Selection Perspective

Finally, it is crucial that the above perspectives be assessed in relation to what we have called the selection perspective. This perspective assumes that imprisoned parents and their children are already different from parents and their children who are not imprisoned, prior to the imposition of a prison sentence. The likelihood that this is the case is reflected in the commission of and conviction for the crime that leads to incarceration.

Note that differences that predate parental incarceration may derive from a mixture of genetic and social factors that accumulate up to the point of parental imprisonment. These factors may include patterns of negligence, violence, and abuse noted in the alternative version of strain theory discussed above. It is crucial that these predetermining differences be taken into account in assessing effects of parental imprisonment. As noted at earlier points in our discussion, these predetermining differences may often interact with responses to them, such as imprisonment. It is fair to say that we know little about the additive or multiplicative ways in which parental imprisonment may be causally linked to changes in the well-being of children. We lack full answers even to the basic question whether in the aggregate the children of imprisoned parents are less well off than children of parents who do not experience imprisonment.

Assuming an absence of good answers, we should ask: Are the children of imprisoned children also less well off than children of parents who do not experience imprisonment and who have similar background characteristics, including prior family relationships, race, gender, income, and education? And if so, would children of imprisoned parents do better if their parents were given a noncustodial sentence? Finally, can we further specify kinds of children and circumstances that combine with imprisonment to produce the most and least harmful effects on children? In particular, it is likely important to know whether the consequences of incarcerating mothers and fathers differ, and

whether this varies according to the sole or combined role they play in supporting and caring for their children. These questions become progressively more challenging to answer, yet they are questions that judges regularly encounter in making sentencing decisions involving parents.

We have now introduced the major theoretical perspectives that can inform our thinking about the effects of imprisoning parents on children. These effects occur within the larger context of the extent to which imprisonment is used as a criminal sanction. Before further considering the effects of imprisonment it is important to establish just how extensive our reliance on incarceration has become in the United States, and how its effects may be felt outside as well as inside the family.

II. Calculating Costs and Consequences

From the outset we must acknowledge that it is a challenging task to establish exact trends in American imprisonment for use as a baseline in assessing the collateral consequences of incarceration. Most developed countries have more centralized systems of imprisonment than the United States. In the United States less serious and unconvicted offenders frequently are kept in local jails, making it difficult to be sure just how many Americans are incarcerated at any given time.

Despite this difficulty, the Bureau of Justice Statistics offers a regular report of the number of prisoners under the jurisdiction of federal or state correctional authorities. These data indicate that at year-end 1997, the U.S. incarceration rate was 645 persons in jail or prison per 100,000 residents (Bureau of Justice Statistics 1998*b*). Cross-national comparisons reveal that U.S. incarceration rates are far higher than those of other industrial democracies, whose rates are in the range of 55–130 per 100,000 of population (Mauer 1997). Moreover, the U.S. rate of incarceration has grown at a decade long rate of about 7 percent a year, more than doubling the 1985 figure of 744,208, so that in 1997 there were about 1.7 million Americans in jail and prison (Bureau of Justice Statistics 1997, 1998*b*). At this rate of growth, the American incarcerated population will easily exceed two million by the millennium.

Incarceration rates have not varied in clear or close connection to crime rates. Although the consensus of criminologists is that less serious crimes such as theft and burglary are difficult if not impossible to count accurately, there nonetheless is some evidence from the National Crime Victimization Survey that theft and burglary began to de-

crease in the late 1970s, about five years after imprisonment rates started their sharp ascent; police statistics indicate that property crimes actually increased during these years (Maguire and Pastore 1997; Rand, Lynch, and Cantor 1997). Meanwhile, the victim survey data indicate that more serious violent crimes, which presumably are more accurately reported, started to decline in the early 1980s, rose again after 1986, and did not start to clearly decline again until the early to middle 1990s, about twenty years after the spike upward in imprisonment; police data on violent victimization indicate a fairly similar pattern. Divergence between crime rates and incarceration rates is indicated by several studies based on official data and survey data (Bureau of Justice Statistics 1998*a*; see also Lynch and Sabol 1997).

It is estimated that the cost of corrections in the U.S. is now about \$32 billion a year (Maguire and Pastore 1997). So if there is a deterrent or incapacitative effect of incarceration in America, it is a product of a huge and long-term investment. The number of beds in state and federal penitentiaries increased 41 percent to 976,000 in the first half of this decade, while the number of correctional employees jumped 31 percent to 347,320 (Bureau of Justice Statistics 1997). This investment is so extensive that several large states now spend as much or more money to incarcerate young adults than to educate their college-age citizens (Ambrosio and Schiraldi 1997). From the 1980s through the late 1990s, corrections spending has grown at a faster rate than any other state spending category, with state corrections budgets almost tripling, increasing from \$7 billion in 1986 to more than \$20 billion in 1996 (Eckl 1998, p. 30; see also Eckl 1994).

This growth in spending on prisons is almost certainly related to a decline in growth of spending in other areas. California built about a prison a year, every year, for the past two decades, while in the same period it added only one new university (Ambrosio and Schiraldi 1997). The chancellor of the California State University System recently noted that his state is spending about \$6,000 a year per college student, compared to about \$34,000 a year per prison inmate (cited in Butterfield 1997). Similar trends are noted in other states, with the budget for Florida's department of corrections increasing \$450 million between 1992 and 1994, an increase greater than Florida's university system received in the ten previous years (Ambrosio and Schiraldi 1997). Overall, state corrections spending increased 1,200 percent between 1973 and 1993, while spending on higher education increased only 419 percent (Ambrosio and Schiraldi 1997).

These data confirm that we are spending escalating amounts of money to combat a crime problem that may finally be in decline, for reasons that may or may not include the increased use of imprisonment. Citizens in some states are showing signs of reluctance to pay the escalating costs of prisons, in ways that bear some resemblance to earlier rebellions against rising costs of education. A recent survey in California indicates that, by a margin of five to one, Californians would prefer to invest in prevention than in incarceration (California Center for Health Improvement 1997). National surveys indicate that only 31 percent of the public favor an increase in taxes to build more prisons, while the percentage of those who think that too much is being spent on crime control is slowly creeping up from around 4 percent in the 1980s to 7 percent in 1996 (Maguire and Pastore 1997; see also Ambrosio and Schiraldi 1997). This suggestion of a modest but rising disenchantment with imprisonment probably results from the fact that trade-offs between imprisonment and education are becoming too dramatic to ignore (Arum 1997). A nascent awareness of these trade-offs is the beginning of a realization of the high collateral costs of relying on imprisonment as a response to problems of crime.

The dilemma is that given fiscal constraints on governments, when we invest in prisons we often in effect make choices to disinvest in other social institutions as well as in the individuals who would otherwise receive assistance from them (Chambliss 1994; Hagan 1994). The collateral costs of this disinvestment are social as well as economic, and they especially involve the communities and children from which and whom inmates are taken.

III. Collateral Costs in Human and Social Capital

We have pointed to a glaring cost in human capital that can result from increased spending on prisons: the withdrawal of money from educational institutions charged with the responsibility for building human capital through the transmission of knowledge and skills to students. The related concept of social capital is useful in extending our understanding to less tangible and often less directly measurable collateral costs of imprisonment.

Social capital results from membership in social networks or other social structures (Portes 1998, p. 6). Imprisonment can swiftly and irreparably alter the social networks and structures to which inmates, and those to whom they are connected, belong. When incarceration is a rare or infrequent event within a social group, the change in social

networks caused by imprisonment may be mainly a problem for the individuals involved. However, when imprisonment becomes more common and widely expected in a social group, the changes in social networks and structures may often become damaging for the group more generally.

Moore (1991) illustrates the loss of social capital in communities by describing how Chicano gangs formed and reproduced in prison spill over in their effects on the street. This spillover occurs through communication back and forth between the prison and the street, and through the eventual return of imprisoned gang members to the community of origin. A result is that both while these gang members are in prison and when they return to the street, the community at large loses cohesion and capacity to be relied on in ways that characterized earlier periods. In this way and others, the social capital not only of individuals but also of entire communities is placed at risk (see Rose and Clear 1998). These radiating effects of the increased use of imprisonment have special significance for members of minority communities in America.

An important feature of the concept of social capital is its sensitivity to the differential access minority and nonminority youth have to opportunities as a result of social connections to other individuals through social structures, especially the family and work settings that form the framework of local communities (Loury 1977, 1992). Investments in prisons uniquely dissipate the limited social capital available to children who live in already disadvantaged communities, diverting and redirecting resources and opportunities away from these young people.

This regressive, redistributive process is observable at the macrolevel when comparisons are made between the communities from which prisoners typically come in America, and the locations of the new prison settings to which they go. Towns across America now compete as sites for new prison construction and the jobs they bring, much as towns for a longer period of time have vied with one another for automotive plants and other sources of new community investment (Nadel 1995). Prisons can bring a flow of new jobs to a community, and in this way increases in imprisonment are the resource base of a new growth industry in America (California Journal 1995; Lotke 1996; Swope 1998).

New structures of opportunity are built around the construction and operation of prisons, creating sources of economic and social capital in

the host community, as old and new social networks become ports of entry into the new economy of the prison. Of course, the inmates of American prisons are taken in great disproportion from disadvantaged minority communities. Currently about half the prison inmates in the United States are African American (Bureau of Justice Statistics 1998*b*); considering the impact of incarceration for these inmates' families is especially important (King 1993). On any given day, it is estimated that nearly one in every three African-American males between twenty and twenty-nine years of age is on probation or parole or in jail or prison—that is, under supervision of the criminal justice system (Mauer and Huling 1995; Tonry 1995, tables 1–3).

Simon (1993) notes that criminal justice supervision is the most frequent exposure to government institutions for many if not most adults in American ghettos, a circumstance that amounts to “governing through crime” (Simon 1997). A reflection of the resulting salience of penal sanctions for these ghetto communities is that children in them are more likely to know someone who has been involved in the criminal justice system than to know someone who is employed in a profession, such as law or medicine (Case and Katz 1991).

Furthermore, some have argued that there has been a diffusion of prison culture to the street which has important ramifications for adolescents. For example, the style of dress popularized in the “hip hop” culture of baggy jeans and denim work shirts is a derivation from prison dress. This dissemination process may involve an anticipatory socialization of adolescents through gangs in the community for the culture of prisons, as illustrated in Vigil's (1988) ethnography of Chicano gangs in Chicago. This “prisonization” (also Moore 1996) of street life has extended beyond physical presentation, in the form of dress and appearance, to attitudes and behaviors. As large numbers of inmates return to their communities, so too does the prison subculture, which, Moore (1996, p. 73) cautions, may be “intensely hostile to established authority.”

It is a cruel irony that when young minority males are taken from their communities and imprisoned, they become a novel resource in the investment/disinvestment equation that shifts resources from one location to another, disadvantaging the minority community to the relative advantage of another community, usually in a majority group setting (Clear 1996; Moore 1996). The potential input of new resources is well recognized in the communities that compete for new prisons (McDonald 1989, cited in Clear 1996). However, the social and eco-

conomic consequences of the outflow of resources is not nearly so well understood in relation to the family and work environments that in better circumstances would serve as structural cornerstones in the minority communities from which inmates are taken (see Rose and Clear 1998).

A. Work, Families, and Imprisonment

The effects of incarceration on the family and community are entangled with the issue of employment. Offenders work in both the legal and illegal sectors of the economy. Their incarceration impinges not only on their families' finances—their removal also results in the loss of a working male from that community and may produce a concomitant rise in community instability. The short- and long-term negative effects of imprisonment on future earnings and employment are outlined in this section, with an emphasis on the finding that exoffenders confront a long-term reduced prospect of stable employment and adequate earnings over their life course. The impact of unstable employment and low earnings on the families and children of offenders, as well as on their communities, must therefore be considered.

Social scientists are only beginning to investigate seriously the dynamics of work in disadvantaged communities. As they do so, they are finding that these communities are far more complicated than is commonly assumed. An important insight into the complexity of these work environments has involved the realization that individuals often work simultaneously in both criminal and more conventional forms of employment (Hagedorn 1994; Sanchez-Jankowski 1995; Hagan and McCarthy 1997*a*). More than half of state prison inmates are found to be employed at the time of their arrest (Bureau of Justice Statistics 1993). The reality, Fagan and Freeman (1999) observe, is that “many offenders drift back and forth over time between legal and illegal work.”

The overlapping nature of crime and work has important implications for our understanding of the collateral consequences of imprisonment for communities and families. These implications arise because offenders who are employed in more conventional work often contribute in positive ways to their communities and families. Added to this, it must be acknowledged that criminal activity also generates wealth, sometimes in the redistributive fashion of bringing income into a community from the outside, for example, through the cross-community drug trade.

Sullivan (1989) estimates that criminally active, working-age males

in a minority neighborhood he studied generated about \$12,000 of income in a given year. Sullivan emphasizes that this economic activity is a mixed benefit for disadvantaged communities, in that added unwanted behaviors may also be brought into the community; however, insofar as there is a net positive balance in the redistribution of resources, removal of these working age youth from the community is a collateral cost of imprisonment. Meanwhile, it is also important to keep in mind that most of those who are imprisoned will in any case ultimately return to the communities from which they come. For example, while possibly overstating the numbers, it is estimated that 80 percent of the inmates in one large New York City institution come from and return to just seven communities in New York City (Clines 1992). Meanwhile, between 1985 and 1992, 37 percent of all persons admitted into state prison in California were from Los Angeles County, which comprised only 12 percent of the state's total population; and the city of Baltimore contributed more than 50 percent of Maryland's prison admissions, but only 15 percent of the state's population (see also Lynch and Sabol 1997). Removing these individuals from their communities may typically be little more than a temporary measure.

It also bears emphasis that removing youth from their positions in the legal and illegal economy can have a negative kind of churning effect in working class labor markets, increasing community instability. This effect partly operates through a queuing process involving vacancy chains for demand-driven illegal work (Hagan 1993). For example, since the demand for drugs does not cease with the removal of a runner or even a dealer from the drug trade, when one criminal is removed from this economic chain, another new participant will usually take over the vacant role (Blumstein 1993).

The vacancy chain model may be a more common pattern in the drug economy than in sectors of the legal economy, where jobs are more likely to be left unfilled and where employers may simply conclude that it is impossible to find sufficiently durable employees to continue doing business. This is one part of a process that Wilson (1996) captures in the title of his book, *When Work Disappears*. Many minority ghettos in America have lost the workforce that is necessary to sustain viable labor market activity. Illegal work is often most of what remains, a situation Anderson (1990) illuminates in his description of the minority drug trade as the American ghetto's version of an employment agency.

The further impact of imprisonment on many minority youth and their families and communities becomes apparent in recent studies which consider the later life employment records of former prison inmates (Freeman 1992; Sampson and Laub 1993; Laub and Sampson 1995; Needels 1996). These studies make the point that imprisonment is a part of a process through which minority males in particular become embedded in social networks of crime that lead away from opportunities for legal work (Hagan 1993; Sampson and Laub 1993). At the same time that imprisonment weakens links into legal employment for these youth, the effect of the prison inmate culture is to strengthen their connection into gangs and the criminal underworld more generally (Hunt et al. 1993; Moore 1996).

The problem is that legal and illegal forms of work each create their own chainlike possibilities for further engagement and activity. Granovetter (1974) has made this point about legal jobs, noting that it is often the first job that establishes a mobility ladder within the same and adjoining occupational networks. The chances of moving onward and upward in a labor market increase as a function of learning and being exposed to the new opportunities that employment in a work sector brings. Unfortunately, this is no less true of illegal work than it is of legal employment, and as individuals become involved in one or the other kind of setting, it is opportunities within that sector that are enhanced (Hagan 1993; Hagan and McCarthy 1997*a*). Imprisonment can be a particularly consequential event in this kind of employment history. A number of studies now confirm that as time spent in prison increases, net of other background factors and involvements, the subsequent likelihood of disengagement from the legal economy increases. This is not surprising given that even those who do not have criminal records have difficulty finding employment. Hagan (1991), using data from a thirteen-year panel study, and Grogger (1995), analyzing arrest data from the California Justice Department's Adult Criminal Justice Statistical System and earnings records from the California Employment Development Department, have demonstrated that even being charged and arrested are detrimental in the near term for occupational outcomes and earnings.

Conviction and imprisonment have also been established to have a more permanent effect on legal earnings (Freeman 1992; Sampson and Laub 1993). For example, Freeman's (1992, p. 220) analysis of the Boston Youth Survey indicated that youths who were incarcerated had "exceptionally" low chances of employment; similarly, his analysis

(1992, p. 217) of the National Longitudinal Survey of Youth revealed that men who had been in jail or on probation experienced “massive long-term effects on employment.” Sampson and Laub (1993) found that unstable employment and higher likelihoods of welfare dependency characterized the lives of the delinquent boys in the Gluecks’s prospective sample of five hundred delinquents and five hundred non-delinquents. Moreover, juvenile incarceration was found to have an indirect effect on the incidence of future crime, because “incarceration appears to cut off opportunities and prospects for stable employment . . . [and] . . . job stability in turn has importance in explaining later crime” (Laub and Sampson 1995, p. 256). Other data indicate that while more than half of state prisoners are employed before going to jail, only about one-fifth of those on parole are employed following imprisonment (Irwin and Austin 1994). The long-term individual, family, and community repercussions of imprisonment for employability and earnings deserve further consideration.

We have now considered a range of research suggesting the kinds of effects imprisonment has on work, families, and communities in general, providing a background for our consideration, more specifically of the effects this imprisonment may have through parents on their children.

B. The Children of Imprisoned Parents

It should not come as a surprise that the presence of parents in U.S. prison populations is growing, although relatively little attention has been given to this. This change is a result of the increasing reliance on incarceration as a criminal sanction described earlier in this essay, for women as well as men. A survey by the Bureau of Justice Statistics (1993) reveals that about two-thirds of incarcerated women and more than one-half of incarcerated men are parents of children under eighteen years of age. Recent estimates show that more than 1.5 million children have a parent who is incarcerated in the United States (Bloom 1993; Johnston 1995*b*, p. 62), and many more children will have a parent incarcerated during a period of their lives. This grim reality should be a major policy concern because the imprisonment of parents, as noted in the theories reviewed at the outset of this essay, can severely diminish the economic and social capital on which families and communities depend to raise children successfully (see Sampson 1992; Hagan 1994). Studies of the families of incarcerated parents indicate that the family left behind usually suffers financial difficulties (Bloom and

Steinhart 1993). The financial difficulties and loss of a parent precipitate a range of emotional and psychological problems that affect these children, including educational failures, aggression, depression, and withdrawal (see generally, Johnston 1995*b*). Especially in disadvantaged minority communities, the children of this prison generation form a high-risk link to the future.

Although relatively little attention has been given to the consequences of criminal sanctioning for families and children, much research has focused on recidivism rates among those who have been incarcerated (see, e.g., Clear et al. 1988) and on issues of deterrence and incapacitation more generally (see, e.g., Blumstein, Cohen, and Nagin 1978). The results of this research do not seem especially encouraging, and experts remain uncertain about the relationship between punishment policy and crime rates (Reiss and Roth 1993; Tonry 1995; Lynch and Sabol 1997; Blumstein 1998; Bureau of Justice Statistics 1998*a*). A disturbing possibility raised by this literature is that offenders may defy as often as they defer to criminal sanctions (Sherman 1993).

The massive spending on penal sanctioning can be placed in a broader and more meaningful context if it is considered in terms of the indirect effects these sanctions have on the children of incarcerated parents. As Phillips and Bloom (1998, p. 539) note, "by getting tough on crime, the United States has also gotten tough on children." While we have acknowledged that it is undoubtedly the case that some unknown number of families benefits from the elimination of a dangerous or burdensome parent's incarceration, it may more often be the case that a father or mother's imprisonment can be the final, lethal blow to an already weakened family structure (Adalist-Estrin 1994; Women's Prison Association 1995).

The growth in the imprisonment of both men and women implies consequences for children who lose a parent to the criminal justice system.

1. *Incarcerated Fathers.* In 1991, it was estimated that male inmates were fathers of more than 770,00 children under age eighteen, and that about one-third of all incarcerated men with children had two or more children under age eighteen (Bureau of Justice Statistics 1993). The effects of imprisonment for men as economic actors was considered in some detail earlier, but their removal from social roles in their families and communities deserves further consideration. Many young males who are involved in crime bring legal as well as illegal income into the settings in which they live, and they may contribute in other ways to

these settings. For example, even when they are not resident in their children's homes, these fathers may often contribute not only income but also child care and social support to the resident parent (Bureau of Justice Statistics 1993; Hairston 1998).

Although the literature on nonresident fathers is not large, it is suggestive (Garfinkel, McLanahan, and Hanson 1998). The ethnographic work in this area indicates that nonresident minority fathers often make informal contributions to their children, for example, by buying toys and diapers or providing babysitting services, and in other ways demonstrating that paternity is significant to them, even when this role emphasizes emotional support and guidance more than economic responsibility (Furstenberg, Sherwood, and Sullivan 1992; Edin 1995).

Edin and Lein's (1997) intensive interviews with 379 low-income single mothers found that about one-third of the mothers on welfare and over 40 percent of the mothers who worked received cash support from a child's father. Furthermore, Decker and Van Winkle's (1996) ethnography of gang members found that all but one of the gang members who had children but did not live with them saw their children every day or nearly every day. Evidence of fathers' involvement with their children has also emerged from studies of incarcerated parents. A study of 188 fathers in a maximum-security prison in New York reported that over 74 percent of fathers lived with their child before they were incarcerated and 75 percent reported that they spent a lot of time with their children prior to their incarceration (Lanier 1993). Other studies suggest lower rates of residency with children prior to incarceration, in the area of 50 percent (Bureau of Justice Statistics 1993), but such studies often further indicate that these fathers contribute to the financial support of at least one of their children (Hairston 1995, 1998). Studies also suggest that incarcerated men with children usually wish to maintain their social status as fathers, indicating a desire to strengthen their parenting skills (Hairston 1989, 1998), expressing feelings of closeness with their children (Carlson and Cervera 1991), and expecting to live with their children after their release (Lanier 1991).

The imprisonment of a father who was residing with his family means that the family's status changes, at least temporarily, into a single parent family (Lowenstein 1986), and the impact on children of the loss of a father due to incarceration often mirrors the symptoms of children in single-parent families who have lost their fathers due to death or divorce (see, e.g., Moerk 1973; Lowenstein 1986). Often the

family faces a new array of issues, such as financial instability, and the emotional and psychological impacts on the children and spouse due to this separation (Schneller 1975; Ferraro et al. 1983; Lowenstein 1986; Fishman 1990). Interviews with the families of fifty-eight men incarcerated in a maximum security institution in Arizona revealed that 92 percent of the families experienced financial problems due to the father's absence (Ferraro et al. 1983); similarly, interviews with small samples of women in the United States and in the United Kingdom highlight the severe financial strain faced by these families (Fishman 1990; Davis 1992). Girshik (1996, p. 59) reports that "besides losing the economic contribution of her husband, a wife may lose her job due to the stigma of being married to a prisoner." Studies also suggest that once a spouse is imprisoned, couples are more likely to divorce, meaning that the temporary separation may become permanent (Hairston 1991a; Girshik 1996). The problems faced by the remaining family members often endure, becoming long term and chronic.

A question that this emerging literature on nonresident fathers clearly must address is whether these parents are a positive influence when they are involved in their children's families. Garfinkel, McLanahan, and Hanson (1998, p. 8) answer this question affirmatively: "With respect to the mental health and problem behavior of nonresident fathers, the ethnographies suggest that while many young fathers have trouble holding a job and may even spend time in jail, most have something to offer their children. The overwhelming impression of these young men conveyed by the literature is one of immaturity and irresponsibility rather than pathology or dangerousness. Indeed many of the fathers who are not paying child support are maintaining contact with their children and are still involved with the mothers, although often intermittently."

The possibility that even nonresident and criminally active fathers are nonetheless net contributors to family and community life therefore at least requires serious research attention.

2. *Incarcerated Mothers.* The incarceration of mothers is becoming an increasingly important issue as greater numbers of women are being imprisoned. This section charts trends in the growth of women's imprisonment, and then highlights some of the major issues resulting from their incarceration, including the custodial arrangements for the child when the mother is removed from the home, the difficulties faced by the substitute parents, and the potential parenting problems faced by women on their release from state custody.

Women represent a small part of the prison population, still less

than 10 percent, but this share is increasing as the relative growth of the female prison population is outpacing the proportionate growth of the male prison population (Bureau of Justice Statistics 1998*b*). A comparative sense of relative change in male and female imprisonment is reflected by the fact that between 1980 and 1993, the U.S. male prison population grew by about 200 percent, while the female prison population grew by more than 350 percent (Beck and Gilliard 1995). Incarceration more often is being used, for longer terms, and with declining prospects of parole, partly because federal sentencing guidelines in particular have reduced the discretion of judges to impose noncustodial sentences. These guidelines have especially increased the incarceration of women for economic offenses and drug crimes; between 1990 and 1996, the number of female inmates serving time for drug offenses grew by over 100 percent, compared to a 55 percent increase for men (Bureau of Justice Statistics 1998*b*). Sentencing guidelines leave judges reduced room for treating family responsibilities as a mitigating circumstance that encourages probation as an alternative to prison; although this affects fathers as well as mothers, it has resulted in bigger changes for mothers (Raeder 1995).

As a result, where women formerly were more likely to receive probation and short prison sentences than men, they are now more vulnerable to imprisonment (cf. Daly 1994). Chief Judge Julian Abele Cook, Jr., of the U.S. District Court in the eastern district of Michigan, illustrates this point by recounting his sentencing of a mother of two children who was pregnant with a third and sought lenient treatment based on her special circumstances (Cook 1995). This woman was minimally involved as a “coconspirator” in a drug sale. Judge Cook did not treat the parental responsibilities of the mother in the above case as extraordinary. He reasoned that “to grant (her) request would have the practical effect of establishing a precedent whereby the recent birth of a baby, coupled with the fear of being unable to identify an ‘adequate’ family member to care for the minor children, would form the basis for vacating a term of incarceration in favor of probation” (Cook 1995, p. 146). Since Judge Cook did not find these circumstances extraordinary, he concluded that he had to impose the prison sentence that the guidelines indicated. “I thought the guidelines gave me little, if any, choice,” writes Judge Cook, “other than to impose incarceration—a penalty that, in all probability, I would not have imposed in the absence of the compelling language in the statute” (1995, p. 146).

Yet, there is also a more general belief in the literature on sentenc-

ing that women receive lenient treatment relative to men, and that they in particular are less vulnerable to incarceration (see Nagel and Johnson 1994). Furthermore, there are also suggestions that prosecutors offer more beneficial plea agreements to women than to men (Coughenour 1995, p. 142). However, there is better reason to believe that women received lenient treatment in the preguidelines era than now. That is, while judges may once have been inclined to restrict the use of incarceration with both men and women who had family responsibilities (Daly 1987), sentencing reforms and guidelines have made this less likely (Daly 1994). In the more recent era, judges seem to be leaning toward imposing the same standards on men and women by disregarding the greater responsibilities of women for children in families (Daly 1995). The result is that the number of mothers of children who are being incarcerated is growing. Judges (e.g., Wald 1995) and researchers (Newton, Glazer, and Blackwell 1995) increasingly express concern about this.

A particular concern is that this trend of increasing imprisonment of parents is building without an empirical base of knowledge about its collateral consequences for children. That a large number of parents are being imprisoned (McGowan and Blumenthal 1978) implies that there is a neglected class of young people whose lives are disrupted and damaged by their separation from imprisoned mothers and fathers (Bloom 1993). Especially, but not exclusively, when a mother is incarcerated it is often uncertain who will care for her children (Johnston 1995*a*). Because there are fewer prisons for women, women are at increased risk of being incarcerated at a greater distance from their children than are men. Coughenour (1995, p. 143) reports that due to the scarcity of federal prisons for women, an average female inmate is more than 160 miles farther from her family than a male inmate. Studies indicate that at least half the children of imprisoned mothers have either not seen or not visited their mothers since incarceration (Zalba 1964; Hairston 1991*b*; Bloom and Steinhart 1993; Bureau of Justice Statistics 1994). This low rate of contact may have further negative consequences given that the maintenance of strong family relationships during incarceration may lower recidivism rates, and that "on the whole, prison inmates with family ties during imprisonment do better on release than those without them" (Hairston 1991*a*, p. 99; see also Hale 1988; Couturier 1995).

A number of other important factors differentiate the experiences of incarcerated mothers from those of incarcerated fathers. Imprisoned

mothers are more likely than imprisoned fathers to believe that their children are not happy (Koban 1983). Furthermore, since incarcerated mothers are more likely to be living with their children prior to their arrest than are incarcerated fathers, the incarceration of mothers puts their children at greater risk (Koban 1983). Single women are at increased risk of termination of their parental rights as a result of their incarceration (Smith and Elstein 1994, app. A; Genty 1995). Furthermore, the incarceration of a mother usually means that the child has to be removed from the home and placed with relatives or in foster care, with siblings sometimes being separated in order to accommodate the new arrangements (Stanton 1980; Koban 1983; Johnston 1995*a*). When children's mothers are incarcerated, their children are most likely to live with their grandparents and other relatives or friends rather than with their fathers (Raeder 1995, p. 159); a recent report indicates that half of the children of women inmates under the age of eighteen live with their grandparents (Bureau of Justice Statistics 1994), with a number of other studies corroborating this finding (Bau-nach 1985; LaPoint, Pickett, and Harris 1985; Hairston 1991*b*; Bloom and Steinhart 1993; Singer et al. 1995).

Yet, when fathers are incarcerated, their children usually remain living with their mothers, with less consequent disruption in the children's lives (Koban 1983; Hairston 1995). A recent survey indicates that while 90 percent of male inmates' children were living with the child's mother, only a quarter of the female inmates reported that the child lived with his or her father (Bureau of Justice Statistics 1993). Moreover, Koban's (1983, p. 178) research cautions that "women were disadvantaged by their dependency on an extended network of relatives, friends and social agencies for contact with their children while men could rely on the child's mother."

Meanwhile, substitute parents not only bear unexpected burdens, they also confront unique kinds of problems (see, e.g., Hungerford 1993; Barnhill 1996). In general, they are eligible for fewer benefits and receive less support than nonrelative caregivers (Phillips and Bloom 1998). One study reports that two-thirds of the caregivers to children of imprisoned mothers did not have the financial support needed to meet the necessary expenses of the child (Bloom and Steinhart 1993; see also Hungerford 1993). Furthermore, the quality of care received by the children while in caregivers' custody is unknown. While LaPoint, Pickett, and Harris (1985) report that 82 percent of the caregivers in their sample were rated as providing a high

quality of care, Hungerford found that “in most cases, the caretakers are poorly educated and do not exhibit prosocial parenting skills in watching the children” (1993, p. 130). These disparate findings suggest that further studies should be undertaken in order to assess the quality of care received by the children of incarcerated parents.

Despite the separation from their children, and the relocation of their children to other households, studies indicate that the majority of imprisoned mothers expect to resume their parenting role and reside with their children after their release—even though it is uncertain what percentage of women actually do so (Koban 1983; Baunach 1985; Hairston 1991*b*; Bloom and Steinhart 1993). Katz (1998, p. 502) points out that resuming the parenting role may be difficult for women who have been in jail, since they “frequently do not provide the drug treatment or parenting classes most women must complete before they can reunify their families. Further, upon release, women often have difficulty finding services such as housing, employment or child care that would allow them to care for their children” (see also Smith and Elstein 1994, pp. 272–80). The same holds true for women in prison. Based on a study of women in prisons, Baunach (1985) cautions that the loss of imprisoned mothers’ daily contact with their children and the subsequent loss of parental skills is coupled with feelings of inadequacy regarding their parental authority. This often makes the desire of these mothers for reunion with their children shortly after release an unrealistic goal. Finally, although many women’s families received state support prior to their incarceration, on their release they face even more serious financial difficulties in trying to support their families, with many unable to find employment (Stanton 1980). As Browne (1989, p. 219) concludes, incarcerated mothers “are a group at risk for future parental difficulties.”

The effects of imprisonment on children therefore may last far beyond their parents’ incarceration. This brings us, then, to the perhaps key research question to be asked: What is the impact of the imprisonment of parents on children?

C. Prior Studies of the Children of Imprisoned Parents

Despite the theories with which this essay began, relatively little is actually known about the causal role that the penal sanctioning of parents plays in children’s lives, alone or in combination with other experiences and events in the lives of these children (Gabel 1992). For example, little is known about how this causal influence may vary with

the prior and continuing relationship between the parents, the race and gender of the parents, the prior and continuing relationships of parents with their children, the gender or age of the children, and the class and community circumstances from which the imprisoned parents and children come. Nonetheless, there is speculation that the consequences of imprisoning parents can be substantial, especially when mothers are involved: "The children of women in prison have a greater tendency to exhibit many of the problems that generally accompany parental absence including: low self-esteem, impaired achievement motivation and poor peer relations. In addition, these children contend with feelings like anxiety, shame, sadness, grief, social isolation and guilt. The children will often withdraw and regress developmentally, exhibiting behaviors of younger children, like bedwetting. . . . As the children reach adolescence, they may begin to act out in anti-social ways. Searching for attention, pre-teens and teens are at high risk for delinquency, drug addiction and gang involvement" (Women's Prison Association 1995, p. 9).

However, there have been relatively few studies of prisoners' families, and very few studies that examine the children of prisoners specifically (but see, e.g., Hungerford 1993; Johnston 1995*b*), even though research in this area began early in this century. The first of these studies focused on the financial troubles and adjustments of these families, which were found to be severe (Bloodgood 1928; Sacks 1938; see also Morris 1965; Ferraro et al. 1983). Gabel (1992) identifies several other themes in the evolution of this research literature as it relates to children, including the deception and trauma surrounding the separation from the imprisoned parent, caretaking problems, stigma, and antisocial behavior (see also Bakker, Morris, and Janus 1978; Fritsch and Burkhead 1981; Swan 1981; Lowenstein 1986). Perhaps the best known of this work is done by Sack and colleagues, who studied clinical and nonclinical samples of the children of incarcerated parents (Sack, Seidler, and Thomas 1976; Sack 1977). Sack's (1977) clinical observations of six families in which the father was imprisoned revealed that the children were preoccupied with the loss of their fathers and had a pervading sense of sadness; many suffered from separation anxiety. Sack (1977) also noted that the change in family dynamics led in some cases to rebelliousness in the child, manifested by truancy and problems at school.

A more recent study by Kampfner compared children of incarcerated mothers to a control group of children from similar high-risk

backgrounds whose mothers were not in prison. Significant differences between the samples were found, with the children of imprisoned mothers reporting long-term recall of the trauma of separation from their mothers; these children were also more likely to report an absence of emotional support: "They could not identify people who might be sources of support, and they felt that they had no one with whom they could talk about their mothers" (1995, p. 94). Drawing on observations of fifty children who visited their mothers in prison, and interviews with a smaller subsample, Kampfner notes that a number of these children displayed several symptoms of posttraumatic stress disorder, namely: depression, feelings of anger and guilt, flashbacks about their mothers' crimes or arrests, and the experience of hearing their mothers' voices. Kampfner (1995, p. 97) concludes that "the traumas that these children experience due to an early separation from their primary caregiver and the difficult life that follows impact their mental health." A further study of incarcerated mothers by Hungerford (1993) found that the effects of parental incarceration on children varied by age and gender; it was especially the older children who suffered from fatalism and feelings of helplessness, and the male children were likely to mask their feelings of depression through aggression and violence.

A number of studies, based on indirect parental reports of their children's behavior and direct contact with children of incarcerated parents, also have documented adverse effects due to parental incarceration. These studies report negative outcomes, including a range of behavioral problems (Fritsch and Burkhead 1981; LaPoint, Pickett, and Harris 1985; Lowenstein 1986; Bloom and Steinhart 1993); school-related difficulties (Stanton 1980; Fishman 1990; Bloom and Steinhart 1993; Hungerford 1993; Kampfner 1995); depression (Shaw 1992; Hungerford 1993; Kampfner 1995); low self-esteem (Stanton 1980); aggressive behavior (Sack 1977; Baunach 1985); and general emotional dysfunction (Lowenstein 1986; Fishman 1990).

A further finding of special concern involves the intergenerational transmission of risks of imprisonment. Johnston (1995*b*, p. 84) reports that "parental crime, arrests, and incarceration interfere with the ability of children to successfully master developmental tasks and to overcome the effects of enduring trauma, parent-child separation, and an inadequate quality of care. The combination of these effects produces serious long-term outcomes, including intergenerational incarceration." One study suggests that children of incarcerated parents may be

six times more likely than their counterparts to become incarcerated (Barnhill and Dressel 1991, as cited in Moses 1995; see also Johnston 1995*b*, p. 67). In Hungerford's (1993) sample of children of incarcerated mothers, 40 percent of the boys aged twelve to seventeen were delinquent, while the rate of teenage pregnancy among female children was 60 percent. Finally, the Survey of Youth in Custody conducted by the Bureau of Justice Statistics (1988) found that more than half of all the juveniles and young adults studied reported a family member who had served time in jail or prison, with 25 percent reporting that their father had been incarcerated some time in the past.

The intergenerational relationship of parental incarceration and youth crime is explored in Hagan and Palloni's (1990) reanalysis of London panel data. Drawing on the stigmatization theory introduced early in this essay, Hagan and Palloni (1990, p. 292) report that "there is an intergenerational interaction effect of the labeling of parents and sons on subsequent delinquent and criminal behavior." The stigmatizing effects of parental incarceration need to be more fully explored (see also, Lowenstein 1986; Johnston 1995*b*, p. 83; Rowe and Farrington 1997).

The ways in which parental imprisonment can affect children are probably as varied as the range of parental influences on delinquency. The research literature identifies numerous family factors that affect juvenile delinquency. Thus Loeber and Stouthamer-Loeber's (1986) comprehensive meta-analysis of these factors indicates that lack of parental involvement with their children, lax parental supervision, parental rejection, unstable parental marital relationships, and parental criminality are consistent predictors of juvenile conduct problems and delinquency; weaker predictors include parental discipline style, parental health, and parental absence. Furthermore, as Larzelere and Patterson (1990) demonstrate, quality of parenting can mediate the effects of family socioeconomic status on adolescent delinquency, with poor parental monitoring and discipline style related to increased delinquency in thirteen-year-old boys. Even the simple presence or absence of parents may be related to rates of delinquency. Harper and McLanahan's (1998) longitudinal study of 6,300 males between the ages of fourteen and twenty-two found that the absence of fathers doubled the odds of a boy's future incarceration, net of parental education, family income, urban residence, race, and being born to a teen mother. In sum, these findings highlight the importance of parental involvement in children's lives and the negative consequences of poor parenting. The implication is that relations between imprisonment and these

aspects of parenting should be systematically considered in future research.

Finally, a few studies suggest that the adverse effects of parental incarceration on children may vary depending on whether it is the mother or father who is removed from the household (Koban 1983). When mothers are incarcerated, children often are relocated to another home, and in such instances the loss of a parent results in the loss of the child's primary parental figure. One study comparing the effects of the loss of a mother to the loss of a father found that while male and female prisoners reported the same number of problems per child, the type of problems differed (Fritsch and Burkhead 1981). Fathers reported discipline-related problems, such as drug and alcohol use and school truancy, while mothers noted that their children "withdrew" as a result of their incarceration, crying a lot, daydreaming, and suffering academically.

The effects of imprisonment on children can be especially apparent in the transition from adolescence to adulthood (see generally Thornberry 1997; Jessor 1998). Elijah Anderson (1990) emphasizes that the presence of "old heads" in the traditional black community has been integral to the successful transition to adulthood, for both boys and girls; yet, with the increase in community instability due to crime and unemployment, the positive influence of "old heads" has declined as both they and the adolescents have disengaged from mentoring relationships. Drawing from the more general literature on the transition from adolescence to adulthood, it would seem that variation in the well-being of the children of imprisoned parents may include not only involvement in delinquency and crime (Sampson and Laub 1997), but also educational failure, precocious sexuality, premature departures from home, early childbearing and marriage, and idleness linked to joblessness (Anderson 1990; Hagan and McCarthy 1997; Matsueda and Heimer 1997; Graber, Brooks-Gunn, and Galen 1998). In addition, the signs of such impending problems should be apparent earlier in life (Matsueda and Heimer 1997). The higher-risk prospects of the children of imprisoned parents are likely to be anticipated in earlier behaviors during childhood (see, e.g., Johnston 1995*b*). The following section outlines a research agenda that can address this range of possibilities and concerns.

IV. Requirements of a Meaningful Research Design

Granting the significance of the questions thus far raised with regard to the well-being of the children of imprisoned parents, and lacking

research to answer these questions more systematically, it may be useful to suggest some of the parameters of the further work that needs to be initiated. Ideally, in answering the questions set out above, one might imagine a research design in which parents were randomly assigned to prison and noncustodial sentences in a social experiment that allowed a clear indication of the causal effects of imprisonment on the children of the incarcerated parents. However, criminal statutes, sentencing guidelines, and ethical prohibitions make this kind of social experiment uncommon and unlikely. The moral and policy imperatives of the criminal justice system strongly discourage randomly sending some convicted offenders to prison, while others are selected randomly for more lenient noncustodial treatment. In place of a randomized experimental design, the research that can best inform us about the effects of parental imprisonment on children will need to address a number of concerns, some of which go beyond the common requirements associated with nonexperimental designs.

First, this research will want to address the impact of parental imprisonment on children of various ages, from childhood through adolescence. This is a challenging requirement, since children confront quite different problems at different ages and stages, and this makes it more difficult to design a common measurement strategy for the children of imprisoned parents included in the research.

Second, the research will need to include guardians and step-parents as well as resident and nonresident biological parents. Essentially, the problem is one of representing the full variety of imprisoned and unimprisoned parents who participate in children's lives. Over time and across families and communities, this variety is extensive.

Third, the research should include parents who receive noncustodial as well as prison sentences, so that it is possible to make comparisons of outcomes with parents who are as much as possible like imprisoned parents, except for the incarceration experience.

Fourth, the research will be more useful if it includes the possibility of panel measurement before and after the imprisonment of a parent, to allow the near-term assessment of effects of parental imprisonment, along with the added possibility of future tracing of the involved children to determine longer-term outcomes during their transitions to adulthood.

Fifth, the research needs to incorporate comprehensive and detailed measurement of background differences between imprisoned and unimprisoned families and their children, so that it is possible to perform an analysis that takes into account the ways in which these two groups

of families vary from one another prior to the imprisonment of a parent.

Most of the above requirements are connected to the need to control for prior background differences in family circumstances associated with the imprisonment of parents. Parents who are imprisoned probably are more likely previously to have left their families and to have difficulties with the remaining parent and children in these families, including problems of violence and conflict; these families may also be more likely to have added social and economic problems prior to imprisonment. Several features of an effective research design can address this issue.

First, we can make extensive use of statistical controls for differences prior to sentencing between children of parents sentenced to prison and to noncustodial sentences. This information can be obtained from unofficial surveys and official police and court sources. For example, presentence report interviews with parents who are both imprisoned and unimprisoned offer useful opportunities for cross-validation and multiple measurement of family background differences. Differences in the well-being of children of imprisoned parents that withstand these statistical controls for preexisting differences are more likely to be attributable to the effects of imprisonment.

Second, statistical models that combine information on the decision about which offenders are sent to prison, with outcome measures of the well-being of involved children, can establish further information on the boundaries of the possible added influence of unmeasured differences between the families of parents who do and do not experience imprisonment (Manski et al. 1992). These estimates can add confidence to our knowledge of the likely range of the impact of parental imprisonment on the well-being of involved children.

Third, measures of well-being gathered on the same children after sentencing of their parents to prison can be analyzed in relation to the same measures before sentencing to assess changes over time and in response to the sentence imposed. This analysis of change can take advantage of the fact that the same children of the same family backgrounds are involved, in effect using the subjects as their own controls for background differences, so that the analysis of within child variation is a control for these differences.

Fourth, information gathered over time in panel interviews with the unsentenced parents after sentencing can be used to explore the sources of change in family circumstances and childhood experiences

that might explain differences in outcomes that persist in the above models. For example, the economic strain perspective outlined above proposes that changes in the financial resources of families who have had a parent imprisoned will explain declines in the well-being of children. Such changes in financial resources can be measured over time in the panel interviews, and these measured changes can be introduced into the analyses to determine whether this variation accounts for differences in child well-being.

Fifth, it will be useful to include added data on pairs of siblings with the same parents in the research design. This can be done simply by asking interviewed parents to provide data on more than one of their children. Since siblings of the same parents can vary, for example, in gender and age, while sharing a common family history, differences in their well-being after sentencing can be attributed to causes other than pure family selection (see Hauser and Mossel 1985).

A. Measuring Gender Specific Antisocial Behavior of Children and Adolescents

One challenge in researching effects of parental imprisonment on children will involve implementing a unified measurement scheme for identifying problems that parental imprisonment may cause from childhood through adolescence. Over the longer term we expect that these problems may be especially apparent as youth make the transition to adulthood, as they fail and withdraw from school, abandon their families of origin, enter into early parenthood and marriage, and encounter problems of joblessness. However, the antecedents of these problematic outcomes should be apparent earlier in the life cycle, and research on the effects of parental imprisonment will be more compelling if we can identify the precursors of these later outcomes. Parents or parent substitutes living with these children are an important source of information about their early problems, especially as approaching difficulties are signaled in common problem behaviors. These problems may further vary by gender, and our measurement tools should therefore be broad enough to capture these differences.

One effective way to tap this information about the problems of children could build on the use of a child behavior checklist of the kind designed by Achenbach and Edelbrock (1979) for use with parents and teachers. Designs that include both parent and teacher measures will be more compelling in providing multiple sources of measurement.

Since many criminological researchers may be unfamiliar with the child behavior checklist, we provide a brief introduction here.

The checklist items refer to specific syndromes of problem behaviors. Lizotte et al. (1992) indicate that these reported behaviors load onto nine narrow-band behavior problem scales, which in turn are divided into three broad dimensions that are designated as externalizing scales—aggressive, delinquent, and hyperactive; internalizing scales—immature, obsessive-compulsive, schizoid, somatic complaints, and uncommunicative; and a mixed scale—hostile-withdrawal. The checklist is often used as a diagnostic tool to identify children who fall at the behavioral extremes on these scales and are of clinical concern, and the externalizing scales noted above have recently been demonstrated by Lizotte et al. (1992) to be highly predictive of involvement in delinquency, as indicated in widely used self-report scales of delinquency.

An attractive feature of the checklist's inclusion of externalizing and internalizing scales is the likelihood that this can capture variation not only across ages, but also in the possibly different responses of girls and boys to the imprisonment of a parent. There is a tendency in the kind of research we are proposing to concentrate on the effects of parental absence on boys. McLanahan and Sandefur note the tendency to adopt this view in research on the effects of single parenthood on children, but they also emphasize that the effects are often just as significant for girls, although manifested in different ways. They note that "boys tend to express their feelings by acting out, whereas girls tend to hide their feelings inside" (1994, p. 56). Use of behavioral measures like the Achenbach Checklist can provide a test of this possibility, thus broadening the opportunities to consider the specific consequences of mother and father absence due to imprisonment on sons and daughters.

B. Losing Generations

Although most Americans may have come to accept that high levels of imprisonment are an unchangeable cost of living in our society, they might be less inclined to do so if more was known about the collateral and unanticipated costs of imprisonment, especially for the children of incarcerated parents. The implication of not having better and more systematic research on the collateral effects of imprisonment is that we are making penal policy in a less than fully, indeed poorly, informed fashion. Neglecting to initiate and sustain systematic research on the effects of imprisoning parents on children is the metaphorical equivalent of making penal policy blindfolded. We have considered some of

the less direct but still highly consequential costs of imprisonment, including the diversion and direction of funds for prisons away from schools and from minority communities, the damaging effects of imprisonment on employment prospects, and the detrimental impact of imprisoning parents on their children. The latter impact on a new generation of children is perhaps the least understood consequence of imprisonment. We have spelled out the kind of research that is required to establish more fully the consequences for children of a growing concentration of high levels of imprisonment on young minority men and women who are parents.

The “children of the prison generation” are coming of age in communities that are increasingly recognized as high-risk settings. A National Research Council (1993) report, *Losing Generations*, stresses that “high-risk settings do not just happen: they are the result of policies and choices that cumulatively determine whether families will have adequate incomes, whether neighborhoods will be safe or dangerous, whether schools will be capable of teaching, whether health care will be available—in short, whether young people will be helped or hindered while growing up” (1993, pp. vii–viii). Said slightly differently, the degree of risk that these communities present to young people is greatly influenced by the choices we make to invest government resources in various ways.

The decision to so extensively invest in and rely on imprisonment as a solution to crime problems has unnoticed costs and consequences that we are only beginning to understand. A better understanding of these costs, especially as these costs are imposed on the children of incarcerated parents, requires a far more systematic research base than we have yet established. This research requires before and after measures of parent and child attitudes and behaviors in panel designs that, ideally, will also include data collection from teachers, and from the young people themselves, as they become old enough to self-report their own experiences and activities. This research will be expensive, if it is to effectively meet all of the needs outlined above, and this work may therefore require partnerships between government and foundation funding sources. Yet it also must be noted that this investment is actually very small relative to the current risks and costs of America’s reliance on imprisonment as the increasingly common sanction of choice.

It is not at all clear that this increased use of imprisonment has reduced levels of risk in endangered communities. Indeed, consideration of collateral consequences of imprisonment suggests that these risks

have increased. It is almost certainly the case that within the most endangered minority communities the perception of risk, especially for young people, has increased. There is great need for research that addresses these perceptions and the questions they raise.

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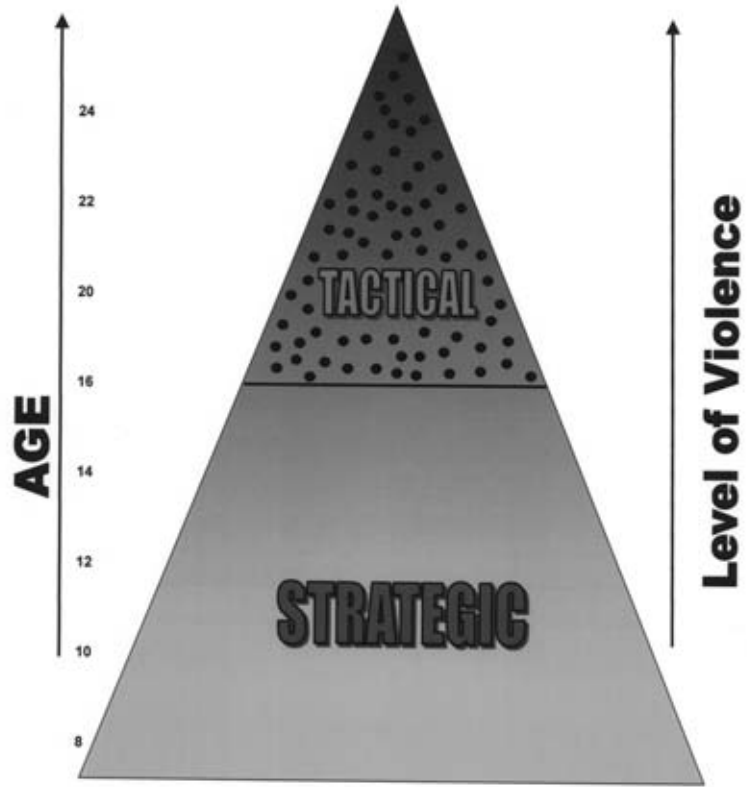
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Congressional Briefing Matrix: April 10, 2007 Field Hearing-NOLA			
Presenter	Focus	Need	Questions
Judge Grey	Youth are at risk of moving into a sub-culture of violence, drug-use and other crime. This was an issue prior to HK and is still an issue.	Focus on prevention and early intervention in several areas: Family Education Work skills Positive reduction of risk factors--- social interactions and increase of insulating variables	Which are the risk factors which are most important in terms of averting "downstream" violent crime? Which specific programs are the most likely to be effective given the targeting needs of NO youth? What are the expected outcomes for this effort? How would this be measured?
Sheriff Guzman	The infrastructure was badly damaged during HK and needs to be rebuilt. The number of arrests and activities of the Sheriff's office has not changed since before HK.	More facilities for housing inmates More staff More OPCSO infrastructure resources Staff training and development	Why does New Orleans need the jail capacity you describe? What research is your needs assessment based on? What will this investment have upon violent crime? What role does your office have upon the reduction of crime/recidivism?
Chief Riley	The officers available are doing good work. There are not enough officers to do	More officers More equipment More other law enforcement resources	What are the expected outcomes for this effort? How would this be measured? What is total cost of the policing resources investment you request?

	<p>the work available.</p> <p>Facility renewal communications, lab and other infrastructure resources</p>	<p>What other changes in NOPD do see as necessary other than increase in manpower?</p> <p>What is your specific plan for recruitment and retention other than raising salaries?</p> <p>What given this capacity, if funded what would you do to stem the present pattern of violent crime?</p> <p>Other than Post-Katrina related challenges, what specific strategic efforts are primary for the effectiveness of your organization?</p> <p>What are the expected outcomes for this effort?</p> <p>How would this be measured?</p> <p>.....</p> <p>What is role of faith based organizations in reversing violent crime trends in the city?</p> <p>How is this role different from NPO and NGO organizations?</p> <p>What are the expected outcomes of a major Faith Based investment?</p> <p>How would this investment be measured?</p> <p>.....</p> <p>If we cannot arrest our way out murder crime, why do we need more jail cells?</p> <p>What is role of City Council in controlling violent crime?</p>
<p>Rev. Raphael</p>	<p>Peace and harmony.</p> <p>Focus upon murder issue as moral/spiritual matter</p>	
<p>Oliver Thomas</p>	<p>Getting all players focused</p> <p>Re-affirms consortium. Does not believe that we can arrest our "way out of murder pattern." Positive about Crime Summit and synergy among groups. Focus upon</p>	

<p>non-policing/non arrest resources, needs defined in Crime Summit</p>	<p>non-policing/non arrest resources, needs defined in Crime Summit</p>	<p>What differences do you have with Mayor Nagin in terms of crime policy?</p>
<p>Rate the different (A-F) different components of the system-NOPD, NODA, Courts, etc.?</p>	<p>Rate the different (A-F) different components of the system-NOPD, NODA, Courts, etc.?</p>	<p>Rate the different (A-F) different components of the system-NOPD, NODA, Courts, etc.?</p>
<p>What is level of activity needed such as you describe to reverse violent crime trends?</p>	<p>Focus upon specific activities by USA and other Federal agencies including pro-active activities, cross training and improvements in process and procedure. Needs expressed for greater rate of social changes needed to control violent crime in city</p>	<p>What is level of activity needed such as you describe to reverse violent crime trends?</p>
<p>What are legal downsides (if any) to Federal role as it has emerged in the city?</p>	<p>Focus upon difficulties in supporting operations with existing resources and requests for additional attorney and screener staff positions.</p>	<p>What are legal downsides (if any) to Federal role as it has emerged in the city?</p>
<p>Is Federal role sustainable over time?</p>	<p>Review of fiscal shortages relative to pre-Katrina and needs of NODA office/</p>	<p>Is Federal role sustainable over time?</p>
<p>What are observable outcomes to Federal effort to date?</p>	<p>Review of fiscal shortages relative to pre-Katrina and needs of NODA office/</p>	<p>What are observable outcomes to Federal effort to date?</p>
<p>What has been result of under-funding of NODA office?</p>	<p>Review of fiscal shortages relative to pre-Katrina and needs of NODA office/</p>	<p>What has been result of under-funding of NODA office?</p>
<p>What would be outcomes of investment if funded? time? efficiency? outcomes?</p>	<p>Review of fiscal shortages relative to pre-Katrina and needs of NODA office/</p>	<p>What would be outcomes of investment if funded? time? efficiency? outcomes?</p>
<p>What is total cost of request?</p>	<p>Review of fiscal shortages relative to pre-Katrina and needs of NODA office/</p>	<p>What is total cost of request?</p>
<p>What other strategy changes other than increased resources would you suggest to increase conviction rates?</p>	<p>Review of fiscal shortages relative to pre-Katrina and needs of NODA office/</p>	<p>What other strategy changes other than increased resources would you suggest to increase conviction rates?</p>

Dr. Peter Scharf	New Orleans in context with national trends. Homicide in context with national trends.	Need for a more global response. Need to address violent crime and homicide as an urban system issue, funding to be tied to plan, regional focus for efforts-fund crime fighting systems, not agencies What is level of funding needed? How might plans be customized to city needs? How might regional issues be managed through programs? Balancing of policing/early intervention services
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