



**REMARKS OF ROBERT L. LISTENBEE  
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*REMARKS AS PREPARED FOR DELIVERY***

Good morning.

Thank you Jim for your kind words of introduction. On behalf of the Department of Justice and the Office of Juvenile Justice and Delinquency Prevention, it is my great honor and indeed a privilege to speak to you today.

As I attend meetings in Washington and travel across the country, I am frequently reminded that Pennsylvania has long played a special leadership role in America's juvenile justice system. During the last 2 months, I have had the distinct pleasure of providing opening remarks and keynote speeches for three organizations where I was introduced by Laurie Garduque, the Juvenile Justice Program Director for the MacArthur Foundation.

She frequently opens her remarks by referring to Pennsylvania's leadership role in juvenile justice, while explaining why she selected Pennsylvania as the core state for the Models for Change initiatives.

I have always taken great pride in telling audiences that I am a juvenile justice advocate and I hail from the great state of Pennsylvania. For the young people in the audience, it should be no surprise to hear that as I attend meetings all over Washington, I encounter Pennsylvania's juvenile justice practitioners in major roles.

When I went to the Supreme Court to meet with 50 young people from across the country who had written award-winning essays about preventing violence in their communities, I was greeted at the front door by the Honorable Paul Panepinto.

When I went to the White House for a special commemoration of Champions for Change in support of children of incarcerated parents, I was greeted by the Honorable Kim Berkley Clark from Pittsburgh. It's such a great pleasure to be back home among so many friends and colleagues.

This morning, I want to talk about “Claiming the Full Mantle of Leadership: Bringing Pennsylvania’s Juvenile Justice System to the National Forefront.”

Today, there is a wave of new thinking and activity going on among policymakers and practitioners across the country. Many in the field call this ferment a great, historical fourth wave of juvenile justice reform.

It is commonly understood that virtually all juvenile justice work in this country takes place at the state and local levels. State and local leadership is critical when it comes to designing and overseeing long-term juvenile justice reform.

Today, states and communities are re-examining their policies, practices, and procedures surrounding the detention and secure confinement of youth. Associate Attorney General Tony West calls the transformation we are witnessing “a cultural shift in how we think about juvenile justice.”

From where I sit, I believe we have many reasons to feel optimistic. Juvenile arrest rates are down. In 1996, there were 2.6 million juvenile arrests. By 2010, the latest year for which we have statistics, there were a little more than 1.6 million juvenile arrests. Between 1997 and 2010, the number of youth in confinement dropped 33 percent, from more than 116,000 to 79,000 youth.

Still, at the national level, people are clamoring for change. States like Connecticut, Ohio, Texas, Florida, and New York are enacting major reforms of their statewide juvenile justice systems. Regardless of whether they are red or blue, states are reconsidering their arrest policies and reducing their reliance on detention and confinement.

Here in Pennsylvania, you closed the Youth Development Center in New Castle and in the process saved \$10 million a year.

Whether it is through development of the state’s Juvenile Justice System Enhancement Strategy, your selection as the core state for Models for Change, or Philadelphia’s participation in the National Forum on Youth Violence Prevention, you have positioned Pennsylvania to be at the forefront of juvenile justice reform.

You have recognized the importance of science and research guiding your reform efforts.

Both the President and the Attorney General have stated publicly that, where possible, policy and program development should have a firm foundation in research-derived evidence.

Webster’s dictionary describes science as “the observation, identification, description, experimental investigation, and theoretical explanation of natural phenomena.” It has been said that if you believe in science, you have to be adventuresome to accept new findings and to keep on looking for new knowledge and understanding. It is important that we understand why young people act in ways that bring them into contact with law enforcement and then the court.

For this reason, at DOJ and OJJDP, we are following what the science tells us about adolescent development and the circumstances behind youthful offending. At OJJDP, several studies serve as touchstones in our development of policy, procedures, and programs.

### **Council of State Governments**

A couple years ago, the Council of State Governments released “Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students’ Success and Juvenile Justice Involvement.”

This report describes an evaluation of school discipline policies in Texas where the Council tracked nearly 1 million seventh graders for 6 years. Researchers found that students who were suspended or expelled for a discretionary violation—or violations that do not, by law, require suspension—were nearly three times as likely to be in contact with the juvenile justice system the following year.

The practice of relying on law enforcement and the courts to enforce school discipline has become so pervasive that it has come to be called the “school-to-prison” pipeline.

The study found that 97 percent of the students who were suspended or expelled were being punished for mainly nonviolent behaviors, including minor infractions like tardiness or dress code violations.

Researchers found that African American students were 31 percent more likely to be removed from the classroom for a discretionary violation, compared to their white and Hispanic counterparts.

In 2011, Attorney General Eric Holder and Education Secretary Arne Duncan created a partnership to launch the Supportive School Discipline Initiative, which is providing communities the information, resources, and support they need to reform harsh discipline practices.

Through research, training, and consensus building, the Departments are keeping kids in school and out of the justice system. Under this initiative:

- The Council of State Governments is preparing a consensus report on how schools can reduce exclusionary policies.
- The Civil Rights Divisions of both departments are developing guidance on how to protect students’ civil rights.
- The National Council on Juvenile and Family Court Judges is preparing a curriculum to train judges.
- We are developing a toolkit and other resources for schools to use as they address discipline issues.

- OJJDP is working with prosecutors to develop diversion programs and options to reduce the flow of students into the justice system.

Our goal is to maintain a positive learning environment and to protect the rights of students.

### **Adverse Childhood Experiences Study**

For nearly 20 years, the Centers for Disease Control and Prevention and Kaiser Permanente have conducted the Adverse Childhood Experiences Study.

The study is one of the largest investigations ever conducted to assess the associations between childhood maltreatment and traumatic experiences and behaviors that may cause disability, social problems, health-related behaviors, and death later in life.

The study findings suggest that certain experiences are major risk factors for the leading causes of illness and death and poor quality of life in the United States.

### **National Survey of Children's Exposure to Violence**

In 2009, OJJDP began releasing the findings of the first National Survey of Children's Exposure to Violence, or NatSCEV.

NatSCEV is a nationwide survey of how often children are exposed to violence and the types of violence that they are exposed to both as direct victims and as witnesses.

What we learned is shocking. We found that children's exposure to violence is unacceptably high. For example, 60 percent of kids in this country were exposed to violence, crime, or abuse in the year preceding the study.

Almost 40 percent of American children were direct victims of two or more violent acts in the past year, and 1 in 10 was a victim of violence 5 or more times. More than 25 percent had been exposed to family violence during their lifetime.

Research has shown that exposure to violence and abuse and the resulting trauma can derail normal brain and behavioral development in a young person.

### **Report of the Attorney General's National Task Force on Children Exposed to Violence**

In light of the NatSCEV findings, the Attorney General convened a task force in October 2011 to examine the ramifications of the findings and offer recommendations that would serve as the basis of policy development at the Department of Justice. Joe Torre, Major League Baseball's Vice President of Operations, and I served as co-chairs.

The task force was comprised of 13 prominent individuals, including public servants, physicians, researchers, law enforcement professionals, foundation directors, and military officers.

The task force held four public hearings and three listening sessions around the country, at which we heard personal testimony from 65 people from 27 states and the District of Columbia. These included survivors of violence, young people, social service providers, medical personnel, researchers, practitioners, advocates, tribal and local officials, private foundation representatives, and community residents.

In December, the task force delivered its final findings and recommendations for action to Congress and the Attorney General. The task force's report recommended identification, screening, assessment, treatment, and trauma-informed care for children who have been exposed to violence.

The report emphasizes the critical importance of finding care for kids who have experienced violence.

### **National Academy of Sciences**

Earlier this year, the National Research Council of the National Academy of Sciences released *Reforming Juvenile Justice: A Developmental Approach*.

This OJJDP-funded report examines what research is telling us about adolescent brain and behavioral development.

We at OJJDP believe that this report is the roadmap that provides a way forward for federal, state, and local juvenile justice policymakers, practitioners, and professionals.

It details how healthy emotional, psychological, social, and behavioral development can be easily derailed through violence and how trauma can stunt normal development and socialization in a growing child.

It offers recommendations that can transform how we can address the needs of children who are at risk for involvement, or who are involved in, the juvenile justice system.

The report emphasizes the need for a developmentally focused juvenile justice system that holds youth accountable for their offending behavior, prevents reoffending, and is fundamentally fair.

Adolescents differ from adults in three important ways:

- They have trouble regulating their feelings in emotionally charged situations.
- They have a heightened sensitivity to contextual influences in their environment, such as peer pressure.
- They are less able to understand the future implications and impact of their decisions and judgments.

To support positive development, adolescents need a strong, caring parent or parent figure; positive peers; and opportunities for positive decisionmaking and critical thinking.

Justice Potter Stewart once said: “Fairness is what justice really is.” The report emphasizes the need to create a juvenile justice system that treats all young people fairly.

Equally important, the system must function in a way that supports young people’s perception that the system will treat them fairly. Children will participate in their own rehabilitation if they believe that the system is fair. Positive perceptions of fairness, lack of bias, and honesty and forthrightness on the part of the justice system can promote pro-social behavior once an individual leaves the justice system. Negative perceptions on these issues can have the opposite effect.

The Supreme Court has found the evidence from neurological and behavioral research to be compelling when drafting recent landmark opinions.

In *Roper v. Simmons*, *Graham v. Florida*, and *Miller v. Alabama*, the Court found that the death penalty and life without parole are not appropriate when applied to adolescents because they have diminished culpability and greater prospects for rehabilitation.

In his opinion for the Court in *Graham v. Florida*, Justice Kennedy wrote that, “juveniles are more capable of change than adults, and their actions are less likely to be evidence of ‘irretrievable depraved character’ than are the actions of adults.”

You have much to be proud of in your efforts to improve the administration of justice for young people here in Pennsylvania.

If this state wants to don the mantle of national leadership, I encourage you to adopt the developmental, trauma-informed approach that I have outlined. Otherwise, your reform process is not complete.

On page 2 of the state’s System Enhancement Strategy, you talk about “continuous quality improvement.”

The science that supports our work is moving quickly.

At the national level, states are the laboratory for research, systems reform, and the development of pilot programs that can be replicated in other communities.

We need the assistance of states like Pennsylvania to conduct rigorous research to guide us at the national level to ensure that our policies are based on science and the best research available.

For instance, the science regarding juvenile sex offender treatment, rehabilitation, and registration is not very well developed. Many people believe we are on the wrong track.

I would like to recognize the important research of Nicole Pittman on the adverse effects of registering children as sex offenders. She recently received an award for her research in this area. It is the only research of its kind in this area.

Likewise, we have unfinished business regarding indigent defense. Today, there is a crisis in indigent defense in this country.

The Pennsylvania Commission on Crime and Delinquency has long provided funding and support for model juvenile units. What more can we do to ensure that every child who comes before the court has a voice in the process and decisions that will have a profound effect upon his or her life?

The Luzerne County scandal taught us all a great many lessons. How do we prevent such a tragedy from happening again?

Luzerne was a Pennsylvania tragedy, but it was also a U.S. tragedy. Upon reflection, Judge Cleland of the Interbranch Commission wrote 2 short articles that still resonate today. In those articles, he asked the question that all great social scientists ask after such a calamity: What can we do to keep it from happening again? And what is our diagnostic tool for determining whether we have succeeded in creating a system that won't damage a child through shackling and imprisoning them without just cause?

Our assumption of leadership won't be complete until we find an answer and share it with the nation. Science is telling us the direction we should be heading.

As the foreword to your state's strategic plan states so succinctly: "The world around us is rapidly changing. Knowledge is growing at an exponential rate. New processes leading to improved outcomes are routinely generated. These changes are affecting all aspects of our lives, including juvenile justice."

I urge you to continue to be bold and visionary. Dare to do everything possible to protect children. We now have a golden opportunity to improve children's lives and reduce the size of the system.

E.E. Cummings once said:

"We do not believe in ourselves until someone reveals that deep inside us something is valuable, worth listening to, worthy of our trust, sacred to our touch. Once we believe in ourselves, we can risk curiosity, wonder, spontaneous delight or any experience that reveals the human spirit."

Please believe and take that step to the next level of improvement.

Thank you.