REMARKS OF ROBERT L. LISTENBEE
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REMARKS AS PREPARED FOR DELIVERY

Good morning. I greatly appreciate the Commission inviting me to speak with you today about your work in Wisconsin. I am sorry that my schedule does not allow me to be with you in Madison, but, thanks to the wonders of conferencing technology, we are able to spend time together nevertheless.

Carmen [Santiago Roberts] has great things to say about everything you are doing there. Whether it is efforts to address DMC or to reduce youth involvement in the justice system, she has made it clear that Wisconsin has set a high standard for other states to follow.

We here at the Office of Juvenile Justice and Delinquency Prevention feel lucky to share Jim [Moesser] with you. As you all undoubtedly know, he chairs our Federal Advisory Committee on Juvenile Justice. Given what I have been told about the different activities you have going on in Wisconsin and the demands of leading the Advisory Committee, I am grateful for Jim's dedication to our nation's children.

Our Office relies on the advice and recommendations that the Advisory Committee provides our office, the President, and Congress as we wrestle with how to do the best by our children.

I know from personal experience the challenges you face. I served on Pennsylvania's SAG for more than a decade where I sat on the DMC subcommittee and the law enforcement committee. I saw first-hand the kids whose lives we affected through our work. That experience has informed me in my role as administrator here at the Office of Juvenile Justice and Delinquency Prevention.

Too often, states that have problems with their justice systems grab the headlines and the media coverage. The truth is, it is the states like Wisconsin where you have accomplished so much that are the real story about what is going on across this country.

We have a great deal to learn from Wisconsin. And make no mistake; the real work in juvenile justice is taking place in the states. The innovations are taking place in the states. Through research and assessment, we can learn which policies and practices deserve to be expanded across the country.

The states are making the real investment in juvenile justice. I have heard that federal funding provides about 8 cents of every dollar spent on juvenile justice in most states. In some states, that figure is as low as 2 cents out of every dollar that comes from OJJDP and other federal sources. So, in a very real sense, you own the juvenile justice system, its resources, and its future.

In the big picture, I see OJJDP's role as providing vision and leadership.
Most communities don't have the resources to identify best practices that will work for them. From our unique position, we can recommend solutions that will address local conditions.

We have a vision that guides our work:

> OJJDP envisions a nation where our children are healthy, educated, and free from violence. If they come into contact with the juvenile justice system, the contact should be rare, fair, and beneficial to them.

For us, this means:

- **Healthy:** Our systems, including the juvenile justice system, should support the healthy growth and development of children. This means that our work with children and youth needs to take into account the developmental process that is ongoing in adolescence and tailor our responses and services to meet those needs.

- **Educated:** We need to eliminate harsh, often punitive, discipline policies from our schools. Instead, our goal should be to increase access to education so that we build on our children's strengths, the strengths of their families, and the strengths of their communities.

  Zero tolerance policies, which are often discriminatory, remove children and youth from the classroom for minor nonviolent behavior and often push them into the juvenile justice system. This practice is so pervasive that it has a name: the "school-to-prison pipeline." As the Attorney General often says: "Schools should be a gateway to opportunity, not the justice system."

- **Free from violence:** Research tells us that our children endure levels of violence in their lives that we as adults, would find entirely unacceptable. Trauma is one of the lingering effects of violence. Trauma can derail healthy development in young people and lead them to develop aggressive and violent coping responses. Too often these symptoms are undiagnosed and untreated, and we all live with the consequences.

Arrest should be our last response to juvenile behavior. Every child should journey only as far into the system as it takes to get the treatment and services he or she needs.

For most kids, we need to develop alternatives that divert them away from detention and out-of-home placement. Status offenders and low-risk offenders do not need the expensive services of the juvenile justice system.

Science tells us that detention and incarceration have negative consequences on a young person's health and well-being and their chances of rehabilitation and desistance from crime. Our focus should be on the small proportion of youth who are a danger to public safety, to their families and communities, and themselves.

Research suggests that only a small fraction—8 percent by one study—go on to become violent, serious and chronic offenders. These kids should be the primary target of our scarce juvenile justice dollars and resources. In the process, this will reduce the number of kids entering the system and allow us to zero in on the kids who need to be removed from the community and need the most intensive services.

Community-based services are more effective at promoting positive outcomes for young people at a fraction of the cost of correctional institutions. States and communities are investing their fiscal resources in substance abuse treatment, mental health services, vocational training, and other effective forms of support within communities.

In support of our vision, our Office embraces three principals:

First: program development should be based upon what research tells us works, but equally important, what doesn't work. We should invest in only what research tells us works. We estimate that roughly 50 percent of our grantees use evidence-based practices.

Second: The Attorney General's National Task Force on Children Exposed to Violence, which I co-chaired, has some specific recommendations on how our nation should respond to childhood exposure to violence.

Every child should be assessed and screened for trauma upon entry into the system. Where trauma is indicated, that child should receive trauma-informed care. Many youth presently in our juvenile justice systems have experienced violence in their lives. Our handling of their cases should take into account this reality and they should receive the services they need to help them return to wellness.

Third: Based upon what research tells us, our Office is developing responses that more fully take into account adolescent development.

- In 2011, the Office of Juvenile Justice and Delinquency Prevention commissioned the National Academy of Sciences to study what's known about: youth development, the adolescent brain, current practices in juvenile justice, what works, what doesn't work, and how best to move our nation forward.

- This past June [2013], the National Research Council of the National Academies released its final report *Reforming Juvenile Justice: A Developmental Approach*. This report has become our road map for reforming juvenile justice, and I cannot recommend it highly enough.

> The basic finding of that report is that adolescence is a time of rapid physiological, psychological, emotional, and behavioral development in every young person. Science has identified a normal path of development that every person goes through during adolescence.
>
> Our response to juvenile offending must take into account the developmental process that is ongoing during adolescence. Adolescents do not think, feel, or act like adults. Yet, too often, we treat them as if they are adults when they offend.
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> Teenagers' brains work in fundamentally different ways. Teens have trouble regulating their feelings, have a heightened sensitivity to peer pressure, and don't fully understand the future implications of their decisions.
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> Teens aren't just subjectively different; they are objectively—that is, biologically—wired differently than adults. For this reason, our responses to adolescent offending must be different than our response to adult offending.

Given these circumstances, should we really be surprised when sending a kid to detention or out-of-home placement does not produce the desired results?

Research suggests that a young person's entry into the juvenile justice system substantially raises the likelihood by as much as 50 percent that he or she will someday return to the system. Also, detention and out-of-home placement can worsen pre-existing mental health and emotional problems in many young people.

Research has also shown that many young people in the system are themselves victims of violence, crime, and abuse, which often serves as a trigger for their own violence and offending.

The Supreme Court has given us guidance on how we should treat youth in the justice system. The Court has found the evidence from neurological and behavioral research to be compelling when drafting recent landmark opinions.

The Court has found that children are different than adults, they are less culpable and more able to change, and we need to acknowledge these circumstances even in the most serious cases.

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."

By telling us that we must take into account the developmental process even in the most serious cases, the Court has set us on the course to reform.

Taken in total, there are 56 different juvenile justice systems in this country. The responsibility in our Office is to support each state and territory to ensure that their justice systems take into account the developmental needs of youth, promote accountability, and reduce recidivism.

We do this through our grantmaking, research, and the training and technical assistance we provide. We also accomplish our mission through our partnerships with the states, other federal agencies, nonprofit organizations, and the philanthropic communities or foundations.

Usually when I speak, one of the items of most interest is our budget, and how our investments support our vision and priorities. The President's 2015 budget, which was just released, introduces two new initiatives:

- Juvenile Justice Realignment Incentive Grants ($10 million).
    - This program will couple Juvenile Accountability Block Grants with competitive incentive grants to states to deploy evidence-based programs using their formula grant funds.
    - This program will support states and communities to develop targeted research-based responses to juvenile offending that include risk assessments and comprehensive cost assessments.
- Improving Juvenile Indigent Defense Initiative ($5.4 million)
    - This program will support the establishment of model juvenile indigent defense offices. This will include the development of standards of practice for these offices. It will also include training for juvenile defenders.

The President's 2015 budget also requests funding increases for several existing programs that include:

- Juvenile Accountability Block Grants (+ $30 million)
- Children's Exposure to Violence (+ $15 million)
- Community-Based Violence Prevention Initiative (+$12.5 million)
- National Forum on Youth Violence Prevention (+$3 million)
- Title V (+$27 million). This includes $5 million for Juvenile Justice and Education Collaboration Assistance to keep students in school, engaged in learning, and out of the juvenile justice system.
- Girls in Juvenile Justice (+$1 million)

The question we have is: How do we incentivize reform at the state level? We need your help and insights.

Carmen has filled me on the work Lindsey Draper and Wisconsin are doing to address DMC. As your experience has undoubtedly showed you, system reform is not necessarily a linear process with clearly defined results.

Change can often come too slowly.

Our Office is considering how we can move the dial on DMC so that our planning and activities have more identifiable results and more direct impact.

Also, in this country, through our laws we develop hard and fast designations on when a youth should assume the responsibilities of adulthood.

Given what we know about adolescent development, is it time to reconsider reforms to both the juvenile justice and adult systems? These are conversations that we want to have with the states.

I believe you are on the right path in Wisconsin. You recognize where you can improve your responses and outcomes for young people.

Together, we are facing unprecedented challenges to how we keep our communities safe and how we promote a fair and just system. Like everyone else, our Office faces fiscal constraints that sometimes limit what we can do.

But this will not deter us. Reform is not about the dollars. It is about coming together, learning from those who have traveled further down this road, and planning a better future for our children.

I believe we are up to this challenge.

Thank you.