

1 Mr. Dunlap.

2 (Panel Sworn)

3 CHAIRMAN WALTON: Thank you. Now, Mr. Dunlap.

4 MR. DUNLAP: Thank you, Mr. Chairman.

5 First I would simply say that it's an ominous task
6 at best to follow Senator Kennedy. If I had any smarts
7 about me I probably would just say I conclude my remarks and
8 move on, but I've got responsibility, and hopefully I can
9 carry it out.

10 My name is Earl Dunlap, and, as the Chairman
11 indicated, I'm the Chief Executive Officer of the National
12 Partnership for Juvenile Services, but probably more
13 importantly, at least from my perspective, is that I've been
14 in juvenile justice now for almost 40 years. When I
15 graduated from high school and went to college, it was my
16 parents' hope that I would either be a doctor or a lawyer;
17 that didn't necessarily work out, and we all agreed that I
18 had enough experience as a teenager as a juvenile delinquent
19 that I probably would have a leg up in the juvenile justice
20 system by spending more time in it, and fortunately that's
21 worked out for me.

22 Over that 40-year period of time -- I started in
23 this business as a child care worker -- that was a term used
24 years and years ago -- at the exorbitant rate of \$2.10 an
25 hour and thought I'd died and gone to heaven. Since that

1 time I have moved through the system to probation officer,
2 director of a detention facility, director of an urban
3 juvenile justice system, director of the Missing and
4 Exploited Child Unit that became the framework for the
5 National Center for Missing and Exploited Children, as a
6 federal monitor, and while I continue in the role of the
7 partnership, I've managed to weave my way back to operating
8 a juvenile detention center again, a 50-bed facility in a
9 rural county in Henry County, Indiana, which Commissioner
10 Aiken is familiar with. And I also am involved in coaching
11 administrators in the District of Columbia, in a facility in
12 Michigan, and in all likelihood in the near future in
13 Indianapolis, given the situation that they find themselves
14 in.

15 First I want to thank and commend the Commission
16 for considering the issues of safety and well being of
17 children and youth in juvenile justice facilities, and
18 secondly I would applaud those who have and will testify
19 before you today. All of these individuals are highly
20 respected for their expertise, and many are directly
21 responsible for the improvements in the juvenile justice
22 detention and corrections profession, and I'm not sure based
23 on just the testimony today what I can add, but I will give
24 it my best shot.

25 I would offer the following for the Commission's

1 consideration. I'm not here to denigrate the juvenile
2 detention and correction system or many of my colleagues who
3 work tirelessly to make a difference. To the contrary, I'm
4 here to speak on behalf of many who are faced with the daily
5 challenges of operating a detention and corrections facility
6 and who may not be in a position, as many of them are not,
7 in a position to speak on their own behalf. It is my belief
8 that the Commission must have a clear understanding of who
9 the children and youth are that are being locked in
10 detention or corrections. Many of those that have and will
11 testify today will either reinforce or expand on these
12 thoughts.

13 Sadly, our nation's poor and minorities are, in
14 fact, the majority in juvenile detention and corrections.
15 This is a cause for great concern when self-reporting data
16 suggests that all youth commit crime at about the same rate.

17 Interestingly enough, a report in 2003 from the National
18 Center for Juvenile Justice, white children were found to be
19 in detention and corrections at a rate of 190 kids per
20 100,000, blacks were found at 502 per 100,000, which in and
21 of itself is a little disturbing. I would also offer the
22 example of Washington, D.C., arguably our nation's most
23 politically correct jurisdiction, whose detention and
24 corrections population is in excess of 95 percent minority.

25 There are many, many more that range from 60 to 70 percent.

1 While I do not wish to burden the Commission with
2 a lot of data, particularly after lunch, my experience as a
3 practitioner indicates that the majority of children and
4 youth who are locked up are those who have been poorly
5 served in the earlier years by the social services system,
6 have serious mental health disorders, or at a minimum,
7 mental health issues, come to detention as a status
8 offender, and there was some discussion this morning about
9 weeding out status offenders, kids that are charged or
10 brought before the court for offenses that if they were
11 adults would not be offenses. One of the interesting ways
12 the jurisdictions manage to weave around that process now
13 and get these kids into our detention environment is law
14 enforcement charge them with domestic violence, which is the
15 newest game in town to get kids into detention on minor
16 violations.

17 One of the things that we know is that less than
18 three in ten offenders enter a detention facility on a part
19 one crime offense, so, that would -- that simply converts to
20 better than 70 percent of the kids in our nation's juvenile
21 detention center really represent no public safety risk
22 whatsoever. In many cases, instances, the actual offense or
23 status charge is secondary to the factors I've briefly
24 mentioned. However, the simple fact of the matter is that
25 in so many jurisdictions the only temporary out-of-home

1 resource available is the juvenile detention setting.

2 To be more specific, one of the things that we do
3 know from the various studies that we've been involved in is
4 that between 45 and 60 percent of all kids who go into
5 juvenile detention are released in 96 hours or less. Now,
6 one of the things that Senator Kennedy said that was of
7 great concern is that these kids who have serious mental
8 health problems end up in detention, which is very true,
9 they go to detention because there simply is no other
10 resource available in the community that can handle these
11 kids at that point in time.

12 We also know that youth requiring long-term
13 commitment are sent to state youth correction facilities
14 because it is the cheapest option available to local
15 jurisdictions. In some states there is no cost to the local
16 jurisdiction whatsoever, and as a result, local communities
17 are allowed to abdicate their responsibility. In other
18 states they pay a small percentage of the corrections cost
19 but it's still cheaper than placing the kid in a private
20 facility that can provide more appropriate services.

21 It is also my belief that the following has in a
22 significant way contributed to the abuse in our juvenile
23 detention and correction system. Over the last two decades
24 the need for cheaper quick fixes, in many instances brought
25 on by isolated incidents, subsequent media sensationalism,

1 and the value of media sound bites have, in fact, promoted
2 programs such as "Scared Straight," boot camps, punk
3 prisons, and the need to reduce the age of the juvenile in
4 order to get them into an adult setting. In my opinion it
5 has, in fact, cast a shadow over the adult corrections
6 system as an environment that features overt punishment,
7 sexual exploitation and physical intimidation, something
8 that for the most part is not welcomed by my adult
9 counterparts, nor is it necessarily deserving. But we've
10 done a great job in the last ten to 15 years of hyping and
11 marketing cheap, quick-fix programs that allegedly scare
12 kids straight, and I would submit to this Commission that
13 there's nothing that we can do to scare these kids straight.
14 The majority of them come from dysfunctional families and
15 they're already scared, but not straight.

16 Throughout the decade of the '90s there was an
17 enormous push to build our way out of the perceived juvenile
18 crime problem; however, along the road, through additional
19 new and more state-of-the art construction, someone forgot
20 to advise decision-makers that construction of these
21 facilities only represents seven percent of the long-term
22 cost. Additionally, decision-makers were erroneously
23 advised that they would profit from building these beds.
24 Administrators in many of these facilities continue to wait
25 on adequate operational funds and these funds equate to

1 adequate staffing to reasonably assure safety.

2 In contrast, inadequate physical plants, some not
3 intended for what they are being used for, crowding,
4 inadequate housing such as dormitories, lack of adequate
5 information at the point of admissions, the ridiculous
6 resident-to-staff ratios, poor classification decisions, all
7 contribute to the problem of abuse in our facilities.

8 For me, the number one issue is this: our nation's
9 present laws and social policy affecting children and youth
10 have required or promoted that the juvenile courts and
11 detention and corrections as a natural extension operate in
12 isolation or under a shroud of secrecy. While well intended
13 in relationship to the confidentiality issue, I believe a
14 balance must be established as current practices do little
15 more than leave the fox to guard the hen house, and the
16 classic example of that, the prosecutor for Marion County
17 spoke to this morning in relationship to what happened in
18 Indianapolis.

19 In a sense, while my statement will have its
20 dissenters, many of our laws, policies and strategies
21 further fence in the children in youth and detention and
22 corrections. Each and every one of the children and youth
23 in these environments need unimpeded access to report their
24 grievances and violations. The dissenters will argue that
25 we have child protection laws; others will argue that we

1 have regulations and standards that must be complied with,
2 and we do. How is it, then, that we have a Justice
3 Department investigating a number of state and
4 jurisdictions; how is it that we have a number of
5 consultants, many of who are my colleagues here today being
6 called to states and jurisdictions to assess these problems?

7 Why is there now a Prison Rape Elimination Commission?

8 Lastly, let us be mindful of the undeniable
9 reluctance on the part of children and youth to tell their
10 story, particularly as a victim of physical and sexual
11 abuse. They enter our environments not trusting, they are
12 given reasons while in our environments not to trust, and
13 ultimately it begs the question, if they are to trust, who
14 is it that they do trust? As a practitioner I can tell you
15 that it's not what I know in the daily operation of my
16 facility that worries me but, rather, what it is I may not
17 know and may discover too late. We must be vigilant and we
18 must be proactive.

19 I'll close by simply offering a couple issues that
20 I picked up on this morning, particularly from some of the
21 Commission's questions.

22 One of the issues was sustainability. The issue
23 or sustainability of any system that's gone from bad to good
24 or less bad to more good is a \$64 million question, from my
25 perspective, of 40 years of experience. Frankly, I'm not

1 sure sustainability is achievable, largely because our
2 children are caught up in the political process. I mean,
3 that's the bottom line. And agendas change from county to
4 county and state to state, and when those agendas change,
5 everything changes with it. When there's a reform effort,
6 when there's dollars available, it doesn't take much to work
7 magic if you have common sense and you care.

8 Secondly, although I don't wish to point a finger
9 at anyone, my organization, for example, and juvenile
10 detention specifically, it took 20 years for juvenile
11 detention to even be recognized by the Department of Justice
12 once the Juvenile Justice and Delinquency Prevention Act was
13 passed in 1973. In 1992 we received a grant for a hundred
14 thousand dollars to do what's called a desktop guide to good
15 juvenile detention practice. For about ten years our
16 funding increased to the point where we were at about a
17 million dollars in 2001. That subsequently has eroded away
18 to about where it was at in 1991. Now, the issues that we
19 are all presented with are enormous and when the funding
20 starts to go in the other direction one has to question the
21 priorities that we've established for our children.

22 And one final thought, and I always raise this to
23 the staff that I work with on a daily basis: in many
24 respects what we're talking about here is common sense, and
25 one of the things I will suggest to my staff is that

1 they're, one, in this facility to work because they need a
2 pay check, or two, because they care about kids and they get
3 lucky and get paid for doing it. If they're here in our
4 facility for the second reason, they'll be around for a
5 long, long time. If they're here for the first reason,
6 they've got something up their sleeve and ultimately they
7 will be gone.

8 Thank you. I appreciate you all taking the time
9 to listen to me.

10 CHAIRMAN WALTON: Thank you very much.

11 Your Honor, thank you for your presence. I have
12 the utmost respect for the work that you do because my last
13 job before I went to the federal bench was heading our
14 Family Division which included the Juvenile Court in the
15 District of Columbia, so, I know the difference that judges
16 can make in the lives of children, so, we welcome your
17 presence.

18 JUDGE BLITZMAN: Thank you very much, Your Honor.

19 First of all I'd like to say that I'm very, very glad that
20 Mr. Dunlap got to follow Senator Kennedy, and did a great
21 job, I might add.

22 I was extremely excited, honored and flattered
23 when I received an e-mail from Mr. Thomas inviting me on
24 behalf of the Commission to appear to address these issues.

25 I've been asked to speak or address the issue of detention