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| 3 | TASK FORCE ON THE F | UTURE O | F PROBATION |
| 4 | PUBLIC HEARING | | |
| 5 | | | X |
| 6 | HELD AT : | | ga County Courthouse |
| 7 | | | mery Street, Room 400 se, New York 13202 |
| 8 | | | |
| 9 | DATE: | Octobe | r 16, 2007 |
| 10 | | | |
| 11 | | | |
| 12 | PANEL MEMBERS PRESE | NT: | JOHN DUNNE, Chairman KATHLEEN DeCATALDO |
| 13 | | | JACK CARTER LINDA VALENTI |
| 14 | | | ROCCO POZZI ROBERT BURNS |
| 15 | | | JAMIE GREENBERG JOSEPH RINALDI |
| 16 | | | NANCY GINSBURG |
| 17 | ALSO PRESENT: | | GRETCHEN WALSH, ESQ. |
| 18 | REPORTED BY: | | ADAM H. ALWEIS |
| 19 | KEI OKIED DI | | SENIOR COURT REPORTER |
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Adam H. Alweis - Senior Court Reporter

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| 1 | Public Hearing |
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| 2 | CHAIRMAN DUNNE: Just for the record, I want |
| 3 | to, first of all, thank Judge Tormey and also Mary for |
| 4 | the hospitality to be here. |
| 5 | This is the last of a series of public |
| 6 | hearings. The Task Force on the Future of Probation in |
| 7 | New York is holding hearings, and, particularly, on |
| 8 | probation's relationship to the Family Court. |
| 9 | Most appreciative for your cooperation and |
| 10 | those from the public that are here to help us, and I'd |
| 11 | ask that the members of the Task Force identify |
| 12 | themselves. |
| 13 | Kathleen? |
| 14 | MS. DeCATALDO: Kathleen DeCataldo, Executive |
| 15 | Director of the Permanent Judicial Commission for |
| 16 | Justice for Children. |
| 17 | MR. CARTER: Jack Carter, Director, Law |
| 18 | Guardian Program. |
| 19 | MR. POZZI: Rocco Pozzi, Probation, |
| 20 | Westchester. |
| 21 | MR. BURNS: Bob Burns, Administrator of |
| 22 | Monroe County, Office of Probation and Community |
| 23 | Direction. |
| 24 | MR. GREENBERG: Jamie Greenberg, Director of |
| 25 | Family Services, New York State Probation Service. |
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| 1 | Public Hearing |
|----|---|
| 2 | MR. RINALDI: Joseph Rinaldi, President, |
| 3 | Probation Officers Association. |
| 4 | MS. GINSBURG: Nancy Ginsburg, Legal Aid |
| 5 | Society of New York City. |
| 6 | CHAIRMAN DUNNE: Mary Winter, you are at the |
| 7 | top of everyone's list, and in terms of interested, |
| 8 | dedicated, experienced and committed, and particularly |
| 9 | grateful to you both, personally, because of the |
| 10 | guidance you've given to me, but also your open door to |
| 11 | assist us in our work, and I want to thank you for |
| 12 | coming and sharing your thoughts with us today. |
| 13 | I know that you had prepared testimony, but I |
| 14 | know that based upon what we've learned so far, we are |
| 15 | going to press some tough questions to you. |
| 16 | MS. WINTER: Thank you. I welcome them. |
| 17 | Glad to see all of you. Welcome to Syracuse. And I |
| 18 | think I've seen all of you before. |
| 19 | And ask me anything, and you can ask Jackie. |
| 20 | Ask any of these people from Broome County anything. |
| 21 | We are really interested in helping. |
| 22 | The Onondaga County Probation Department |
| 23 | seeks to increase public safety, reduce recidivism and |
| 24 | promote safe communities by helping persons in need of |
| 25 | supervision and juvenile delinquents change their |
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| 1 | Public Hearing |
|----|---|
| 2 | behavior from unacceptable to acceptable. |
| 3 | In the past, we've tried to do this by |
| 4 | working with kids alone. Now, we've learned that we |
| 5 | have to work with families and the ecological systems |
| 6 | that surround them. Probation's role has changed and |
| 7 | needs to be strengthened in some areas and expanded in |
| 8 | some areas and diminished in others. |
| 9 | Recently, we have completed the first of |
| 10 | three phases in the implementation of detention risk |
| 11 | assessment instrument. The assessment is completed |
| 12 | either in the Probation Department when we do in |
| 13 | violation of probation and/or in our secure detention |
| 14 | center, which is called, Hillbrook, for a reason we can |
| 15 | never figure out. |
| 16 | In an effort to increase transparency, we are |
| 17 | giving the entire, completed and scored instrument, not |
| 18 | just the recommendation to the Court. That's a change. |
| 19 | We were just going to give them a recommendation. And |
| 20 | why not do that? Let everybody, the law guardian, you |
| 21 | know, everybody gets to see it. |
| 22 | Our Family Court Judges have been great. |
| 23 | Well, the reception has been really good. They worked |
| 24 | with us. As you may know, we had technical assistance |
| 25 | from the Mear Institute of Justice in the detention |
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| 1 | Public Hearing |
|----|---|
| 2 | reform movement. That is how we started with the risk |
| 3 | assessment. And the last step that we have not |
| 4 | completed, we are finishing. It's taking much longer |
| 5 | than I ever thought it would, having the instruments |
| 6 | used, which the police actually come up to Hillbrook |
| 7 | with a kid |
| 8 | CHAIRMAN DUNNE: Mary, may I interrupt you? |
| 9 | MS. WINTER: Yes. |
| 10 | CHAIRMAN DUNNE: In this exchange of |
| 11 | information, which is a very positive move, have you |
| 12 | encountered any confidentiality issues or objections? |
| 13 | MS. WINTER: Not yet. Most of the |
| 14 | information and risk assessment is objective |
| 15 | information. We tried to keep it like that so our |
| 16 | instrument does not have things like mitigating factors |
| 17 | that would, might say something, like strong family |
| 18 | support. It's as unjudgmental as we can make it |
| 19 | because we have learned that one of the causes of the |
| 20 | minority confinement, if you put those issues, leaves a |
| 21 | bad neighborhood, whatever it is, so we try to have |
| 22 | objective factors only late together crime past |
| 23 | history, past failures to appear. Anything else you |
| 24 | can think of. So, that's about it. |
| 25 | So, the judges have been great, and I would |
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| 1 | Public Hearing |
|----|---|
| 2 | certainly encourage the Office of Court Administration |
| 3 | to promote the use of risk assessments in judicial |
| 4 | decision making about detention. |
| 5 | Unlike some other counties, our probation |
| 6 | Department is responsible for an actual placement of JD |
| 7 | and PINS. In the past 12 years, we have reduced the |
| 8 | out-of-home placement rate by 84 percent. It's 94 |
| 9 | percent for PINS and 78 percent for JDs. |
| 10 | I'm really continually surprised that many |
| 11 | people do not believe that keeping these kids in our |
| 12 | community is the right thing to do. The research area |
| 13 | is definitive that out of home placement does not help |
| 14 | and often hurts kids. |
| 15 | I think OCA can get more of that message out |
| 16 | to their employees and to the judges. That would help. |
| 17 | It is really a tough battle for us. We |
| 18 | should be partners. OCA should be partners with |
| 19 | probation and promotion of evidenced based practice and |
| 20 | programs as an alternative to out-of-home placement and |
| 21 | detention. |
| 22 | And we'll be good partners if OCA takes over |
| 23 | the Probation Department. So, that would be good. |
| 24 | Evidence-based practices are effective and |
| 25 | expensive, not nearly as much as placement or |
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| 1 | Public Hearing |
|----|---|
| 2 | detention. Probation departments in New York State |
| 3 | need funding to purchase the programs and to contract |
| 4 | with private agencies to implement them. |
| 5 | I am really privileged that we have a lot of |
| 6 | these programs now, but a lot of counties don't, |
| 7 | particularly the smaller counties; that while a |
| 8 | struggle, and they really need these programs, they are |
| 9 | not going to be able to reduce their placement rates |
| 10 | with all of them. So, the savings from the placement |
| 11 | reduction should be allocated to these programs. |
| 12 | That's tough. The counties want to gobble up |
| 13 | the money and spend it on something else, but they |
| 14 | really need to get, and it doesn't have to be all money |
| 15 | because there is such an enormous savings. |
| 16 | Some thoughts on PINS. I think we are doing, |
| 17 | ideally, a really good job with PINS cases. We are |
| 18 | only sending we are sending only a few cases to |
| 19 | court and we are handling most of the cases with either |
| 20 | diversion or pre-diversion services. We are working |
| 21 | with families and trying to make our range of services |
| 22 | family focused. We reallocated some of our programs |
| 23 | that we have used for alternative to placement programs |
| 24 | and we've switched some of them around to the front |
| 25 | end, so they are now available at the diversion stage |
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| 1 | Public Hearing |
|----|---|
| 2 | because we know the sooner we can get to the families, |
| 3 | the better it is, particularly as they progress in the |
| 4 | system to get more beaten down. So, we are really |
| 5 | trying to do that. |
| 6 | CHAIRMAN DUNNE: Mary, where is that decision |
| 7 | to defer made? Who has the authority, as a practical |
| 8 | matter? Who engages the decisions? |
| 9 | MS. WINTER: In PINS cases? |
| 10 | CHAIRMAN DUNNE: PINS. |
| 11 | MS. WINTER: The family would usually call |
| 12 | into our office and we have someone who is a screen on |
| 13 | the spot who tries to, right on the phone, figure out |
| 14 | what would help the family, and trying to engage them. |
| 15 | If we can then refer them right there and they are |
| 16 | willing to do that, we do. And it is sort of a |
| 17 | lightweight problem. We might refer them for |
| 18 | mediation, for example. It is a heavier-weight problem |
| 19 | and they need might need to come in and talk with |
| 20 | us. We refer back. We check back with them in a |
| 21 | couple of weeks to see if they have followed through on |
| 22 | the referral. People that come into our office, we |
| 23 | still talk with them or try and not actually open a |
| 24 | diversion case like having their names and official. |
| 25 | You have a case name who is an official probation |
| | |

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| 1 | Public Hearing |
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| 2 | client. But, you know, people want people come in |
| 3 | here and want to get their kids. That's not thought a |
| 4 | way for us, and that is difficult. |
| 5 | So, if we can, we try to do it as early as |
| 6 | possible and we make that decision. Sometimes, we end |
| 7 | up opening an official intake diversion case, and |
| 8 | rarely we send them to court. We send cases to court, |
| 9 | kids were on the run, we don't really know where they |
| 10 | are, and we do have kids that take off. But, that is |
| 11 | how it is perceived. |
| 12 | CHAIRMAN DUNNE: A parent has filed a |
| 13 | complaint of we try to talk to them into diversion, |
| 14 | and the response is, that little monster, I want him |
| 15 | out of my house. I want you to file a petition. |
| 16 | Do you have any authority to look over that? |
| 17 | MS. WINTER: Absolutely. They have to |
| 18 | participate in services. If they can't go to court, |
| 19 | that is what the law says, they have to participate in |
| 20 | services or they can't go to court. It is all about |
| 21 | engagement. That's what it is about, and it is, you |
| 22 | know certainly, some of the programs we use are |
| 23 | really good with engagement, and it is a skill we try |
| 24 | and continually teach the probation officers. |
| 25 | So, saying all of that, I think we should |
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| 1 | Public Hearing |
|----|---|
| 2 | take PINS out of the Family Court System. In probation |
| 3 | and the criminal justice system, we continue to label |
| 4 | kids and families which discourages them from solving |
| 5 | their own problems and have them viewed negatively in |
| 6 | the future. We've been doing this alternative work now |
| 7 | for 12 years. |
| 8 | Hi, Linda. |
| 9 | MS. VALENTI: Hi there. Sorry. |
| 10 | MS. WINTER: There is still, and I mentioned |
| 11 | this before, too many parents, counselor, school |
| 12 | personnel, particularly, judges. Unfortunately, the |
| 13 | law guardians, which is always amazing to me, I've |
| 14 | talked to Jack about this, who think placement is good |
| 15 | and kids should be placed. I don't know how we'll ever |
| 16 | get rid of that. |
| 17 | Taking PINS out of Family Court and putting |
| 18 | them in the hands of community based organizations will |
| 19 | promote that PINS programs are about services for kids |
| 20 | and empowering families and not about separating kids |
| 21 | from their families. PINS work is all about |
| 22 | engagement, engaging parents and working on their |
| 23 | family problems and taking control of their families |
| 24 | rather than handing them off to outriggers. Community |
| 25 | agencies are best able to provide the needed services, |
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| 1 | Public Hearing |
|----|---|
| 2 | drugs and alcohol services, pro-social skills as well |
| 3 | as the real high end services like Functional Family |
| 4 | Therapies, psychiatric services and multi-systemic |
| 5 | Therapy. |
| 6 | Now, there would be some concern about what |
| 7 | if a kid has to be placed, if there was no way, you |
| 8 | know, if there was no PINS in the Family Court System. |
| 9 | These are the ones we've seen, and last year, we placed |
| 10 | four PINS' cases, I think, four. And, you know, they |
| 11 | all turn out to be kids that are homeless or have some |
| 12 | other awful problem that could be handled by DSS. But, |
| 13 | I don't even think DSS should handle these cases. This |
| 14 | should just be pass-through money. It could pass |
| 15 | through me. That wouldn't bother me if that was it. |
| 16 | It should go to the community agencies that can really |
| 17 | do the work well and skip sending these PINS cases to |
| 18 | court. |
| 19 | Lastly, I want to talk about the age |
| 20 | jurisdiction issue which is evolving into the "raise |
| 21 | the age" movement. It's a new name. Currently, our |
| 22 | sixteen and seventeen year-olds are offered probation |
| 23 | services in large criminal court case loads of 80 to |
| 24 | 100. |
| 25 | Now, if you're a juvenile justice if you |
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| 1 | Public Hearing |
|----|---|
| 2 | have a juvenile justice case, we have a Juvenile |
| 3 | Justice Unit, you're going to end up with 30 cases that |
| 4 | need supervision and fund cases are only able to do |
| 5 | that, the largest and deep pockets, children family |
| 6 | services. All of our Criminal Justice Unit is funded |
| 7 | from them and we get a 65 percent reimbursement rate. |
| 8 | Now, in a real world, even though I love |
| 9 | OCA Jamie notes that it comes with some strings |
| 10 | that make it difficult. We have to do some |
| 11 | computerized paperwork that is really difficult and |
| 12 | conflicts with some other probation paperwork that we |
| 13 | also need to do, and it is way too much work and it is |
| 14 | something we are trying to the State Director of |
| 15 | Probation and the State Director of OCF are trying to |
| 16 | work out, but it works for us. Because we need the |
| 17 | money, because probation is so badly funded, we would |
| 18 | just as soon not do it like that if we don't have to. |
| 19 | These 18, 16, 17 year olds, these kids don't |
| 20 | act or look any different than our 15 year olds. They |
| 21 | are difficult to handle. They get lost in the Criminal |
| 22 | Justice System and in our probation system and they |
| 23 | often fail. But, the real question is, do we fail |
| 24 | them? Research has indicated, you probably all heard |
| 25 | about this, an adolescent's brain is not fully |
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| 1 | Public Hearing |
|----|--|
| 2 | developed until the age of 24. These kids are |
| 3 | impulsive, violent, out of control to families. We are |
| 4 | so fortunate to have evidence based programs, |
| 5 | multi-systemic issues worldwide to reduce recidivism, |
| 6 | violent prone behavior with 16 and 17 year-olds by as |
| 7 | much as 70 percent. You reduce it by as much as 70 |
| 8 | percent. That data is just unbelievable on that. |
| 9 | New York State, we do not use these programs |
| 10 | for this age group. Programs are used in the Juvenile |
| 11 | Justice System where the goal for kids is treatment, |
| 12 | not punishment. Additionally, research tells us that |
| 13 | 16 and 17 year olds entering the Criminal Justice |
| 14 | System are more likely to move more deeply into the |
| 15 | system than if they had the protection and services of |
| 16 | the Juvenile Justice System. |
| 17 | Federal Courts System as well as 48 states do |
| 18 | not treat 16 year olds as adults. They are still kids |
| 19 | and should be treated as such. In the long run, |
| 20 | research indicates that there will be big, long term |
| 21 | savings in dollars and lives if we treat these kids |
| 22 | early in the Juvenile Justice System. Shame on us if |
| 23 | we do not raise the age. |
| 24 | Thank you. |
| 25 | CHAIRMAN DUNNE: Thank you, Mary. I'll tell |
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| 1 | Public Hearing |
|----|---|
| 2 | you one thing I'm particularly interested in is the |
| 3 | whole area of early intervention. I know Jackie had |
| 4 | mentioned something about work. But, could you |
| 5 | describe what you do in some detail? |
| 6 | MS. WINTER: You mean, early intervention? |
| 7 | CHAIRMAN DUNNE: With a family. |
| 8 | MS. WINTER: With PINS, it can be either. We |
| 9 | do early intervention with PINS and we do early |
| 10 | intervention with JD. So, Jackie, speak up on this if |
| 11 | you have anything. |
| 12 | It is sort of what I call a low level, not |
| 13 | hugely problematic situation; you know. We would refer |
| 14 | people off sometimes to preventative services because, |
| 15 | through social services, for mediation services, to |
| 16 | some drug and alcohol services. Although, frankly, |
| 17 | drug and alcohol services, adolescents are terrible and |
| 18 | look like many adult services. So, you know, they |
| 19 | don't work very well. |
| 20 | MS. DeCATALDO: RESPID? |
| 21 | MS. WINTER: RESPID. We use RESPID. The |
| 22 | complaint with mediation, our homeless, and who has our |
| 23 | RESPIDs, they are just experts that work with parents |
| 24 | on reunification. Someone who comes in with a, |
| 25 | particularly, like a tough JD case is going, we are |
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| 1 | Public Hearing |
|----|---|
| 2 | going to try and get multi-systemic, they are put right |
| 3 | away. If it is a really bad case with JD, we send them |
| 4 | to court. Sex offender cases or other cases that are |
| 5 | violent, we'll send them to court. We are still |
| 6 | sending cases to court. |
| 7 | MS. DeNERO: That also doesn't mean that they |
| 8 | wouldn't get multi-systemic therapy. It is not only |
| 9 | available at intake, it is available at detention, any |
| 10 | point in the system. |
| 11 | MS. WINTER: Right. |
| 12 | MS. DeNERO: If we have an opening and can |
| 13 | engage the family, they can begin multi-systemic |
| 14 | therapy while the case is still being processed in |
| 15 | court. |
| 16 | MS. WINTER: We also have functional family |
| 17 | therapy. The way I think of it this, the two |
| 18 | interventions, those are our heaviest interventions. |
| 19 | If it is a family problem, not that they are all |
| 20 | somewhat, name problems, it is really a family oriented |
| 21 | problem and a little bit more familiar PINS therapy. |
| 22 | We would send them to family therapy. That model |
| 23 | requires that everybody get together in the household |
| 24 | for each session. They are both community based. It |
| 25 | is done. We usually do it in somebody's home and |
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| 1 | Public Hearing |
|----|---|
| 2 | everybody has to be there. So, if there is a problem |
| 3 | like somebody wouldn't come, that that mom/dad, does |
| 4 | not work out. If you've got a violence problem, gangs, |
| 5 | any of that kind of behavior that we have lots of here, |
| 6 | you are going to get multi-systemic therapy. |
| 7 | And as I recall, as we can possibly put it |
| 8 | in, but Jackie says it is available at all points. It |
| 9 | is all points in the system, and we've been we |
| 10 | started when we just in our detention center, we had |
| 11 | to go down to half of the number of beds to 16 beds for |
| 12 | a while. We started doing it right out of detention as |
| 13 | an alternative to security detention and our detention |
| 14 | center. Well, at one point was just overflowing with |
| 15 | 32 beds. Sometimes, we had 50. Okay OCF would come in |
| 16 | and yell at us. Now, we have |
| 17 | MS. DeNERO: 18 and 16. Six of those are |
| 18 | from other counties. |
| 19 | MS. WINTER: So, we are hoping we'll have |
| 20 | more than 27, but trying to intervene. Even, Senator, |
| 21 | by the time families get in to us, they are already |
| 22 | beaten down. They have tried. Most of them have tried |
| 23 | to get help for their kids. The kids aren't in school. |
| 24 | Our kids do not go to school. It is a huge problem. |
| 25 | There isn't probably one kid we had business with that |
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| 1 | Public Hearing |
|----|--|
| 2 | goes to school every day. You know, this is going to |
| 3 | be published, you know. We are a big outfit and they |
| 4 | have huge problems, you know, but the schools are not |
| 5 | successful even in engaging their kids and they get |
| 6 | lost early. So, by the time we get kids who are in, |
| 7 | you know, eighth and ninth grade, they are in eighth |
| 8 | grade, they are 16, and they have these skills. You |
| 9 | know the whole story. |
| 10 | CHAIRMAN DUNNE: Kathleen is very deeply |
| 11 | engaged in this area. Would you like to engage |
| 12 | MS. WINTER: Would you fix that problem? |
| 13 | MS. DeCATALDO: I wish I could, Mary. I am |
| 14 | interested, though. How much are you seeing of their |
| 15 | referrals from the schools on the truancy? Has the |
| 16 | change in the law tightened it up at all? Yes? |
| 17 | MS. WINTER: Yeah. |
| 18 | MS. DeNERO: It has. Since they are |
| 19 | compelled to really let us really know to let us |
| 20 | need what efforts they have made with the family, it |
| 21 | has definitely lessened. Whether they are solving the |
| 22 | problems or they have put less emphasis in bringing it |
| 23 | to us, we don't know. |
| 24 | MS. DeCATALDO: How are you dealing, when you |
| 25 | have these young people who are failing so failing |
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| 1 | Public Hearing |
|----|---|
| 2 | so abysmally, what do you do on education? |
| 3 | MS. WINTER: We have a probation assigned to |
| 4 | every middle and high school. They try they even |
| 5 | try to do a principal's work in the school if the |
| 6 | schools want us to. You know, we might have you talk |
| 7 | to a kid in family trying to do that, trying to do |
| 8 | everything we can to get the kids to go to school. You |
| 9 | know, they are in one door and out the other. |
| 10 | Recently we just had this conversation |
| 11 | yesterday. The schools, I will note, are looking into |
| 12 | a new project to work with Lemoyne College, one of our |
| 13 | local colleges, to perhaps run the school. We just |
| 14 | heard about that yesterday. You know, we end up |
| 15 | talking to alternative education people all of the |
| 16 | time. They sort of whine along with us. But, a lot of |
| 17 | our kids are at home. They get two hours a day in |
| 18 | school. |
| 19 | So, these smart kids that go to city public |
| 20 | schools, you know, they can be fine at two hours a day. |
| 21 | Our kids need 12 hours a day, not two hours a day, |
| 22 | where they are out running around doing all of the |
| 23 | things they are not supposed to be doing the rest of |
| 24 | the day. |
| 25 | MS. DeCATALDO: I actually had another |
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| 1 | Public Hearing |
|----|---|
| 2 | question I wanted to ask. |
| 3 | On the assessment detention, I'm still a |
| 4 | little bit confused because I know you're a YASI |
| 5 | county. Coming here five or six years ago on a |
| 6 | presentation on the YASI there, you were trying to |
| 7 | implement detention assessment. How do those two go |
| 8 | together in the YASI? |
| 9 | MS. DeNERO: Not very well. |
| 10 | MS. WINTER: Not well. |
| 11 | MS. DeNERO: Not very well. The risk |
| 12 | assessment we developed based on many national models, |
| 13 | you know, that have been in practice for ten years. |
| 14 | So, we had the benefit of learning from their revisions |
| 15 | and, you know, the objectivity that they brought to it, |
| 16 | and I think it is more comprehensive about the |
| 17 | immediacy of this issue. Should this child be detained |
| 18 | or not? It gets to that point. Whereas YASI attempts |
| 19 | to look at other issues, strengths or needs. Needs are |
| 20 | contained in the YASI, which is a good thing, but it |
| 21 | doesn't inform necessarily that detention decision. It |
| 22 | is not as efficient in informing the detentions |
| 23 | decision right now, and in its current form. |
| 24 | MS. DeCATALDO: Are you still using both? |
| 25 | Are you using the YASI more when you have to do a |
| | Adam H. Alweis - Senior Court Reporter |

| 1 | Public Hearing |
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| 2 | predispositional investigation? |
| 3 | MS. WINTER: At this point, we are using YASI |
| 4 | prescreens all day, and we are about to start using |
| 5 | YASI full screens again. |
| 6 | MS. DeNERO: After disposition. |
| 7 | MS. WINTER: Right, after disposition. |
| 8 | MS. DeNERO: After disposition, we've |
| 9 | complicated it even more by finding a better assessment |
| 10 | that child and adolescent needs surveillance. Our |
| 11 | county has chosen to do a comprehensive effort, mental |
| 12 | health services, social services, probation services |
| 13 | are all committed to beginning to learn how to use and |
| 14 | speak a universal language with our families. More |
| 15 | binding strength and needs, that really doesn't have to |
| 16 | do with the risk piece. |
| 17 | MR. BURNS: Mary, just a question on police |
| 18 | use of detention and police attitudes towards |
| 19 | detention. I just attended a senate hearing where the |
| 20 | New York State President of Fighting Crime, |
| 21 | Investigating Cases, talking about the familiar that |
| 22 | police chiefs and police officials around the state are |
| 23 | getting as far as placement and detention not being |
| 24 | effective and it is time to invest in different kinds |
| 25 | of modalities. And you need in Monroe County, we |
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| 1 | Public Hearing |
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| 2 | have significant detention problems, and I note you |
| 3 | come down to help us, we look forward to that. But, I |
| 4 | don't get the sense that police officers, those coming |
| 5 | out of the academy, those answering the calls for |
| 6 | services feel the same way. And I'm wondering how much |
| 7 | you got around, just the rank and file police officers, |
| 8 | truly believe that getting that kid off the street and |
| 9 | bringing him right to Hillbrook is the answer or |
| 10 | placement is the answer, and I know the risk assessment |
| 11 | was probably an effective tool and maybe you just said |
| 12 | no to those officers, but how did you work through the |
| 13 | line police officers' desire to use detention? |
| 14 | MS. DeNERO: Our police chief appointed |
| 15 | several of their middle managers to our steering |
| 16 | committee. |
| 17 | MS. WINTER: That helped. |
| 18 | MS. DeNERO: They were a part of the risk |
| 19 | assessment development. So, you know, true belief |
| 20 | versus following the protocols set by their department |
| 21 | heads, I'm not sure, but I think that really helped to |
| 22 | have them involved in it. We had really lively |
| 23 | discussions. We had the risk assessment development. |
| 24 | We had judges. We had our county attorneys and the |
| 25 | police. So, skioring out, you know, of your offense |
| | Adam H. Alweis - Senior Court Reporter |

| 1 | Public Hearing |
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| 2 | was the most challenging piece to find some uniformed |
| 3 | agreement on most, those three groups participating |
| 4 | certainly has helped. |
| 5 | MS. WINTER: I'll just work on trying to get |
| 6 | the belief system changed. It is difficult. The chief |
| 7 | of police really sees the risk assessment as the |
| 8 | benefit because, really, somewhat, he thinks of the |
| 9 | community, it is going to be good for him that when |
| 10 | someones calls and said you're arresting too many X, Y, |
| 11 | Z cases, it will certainly be better. They see the |
| 12 | disproportion at confinement issue as important. |
| 13 | So, at the top, we didn't have any trouble at |
| 14 | all, which was really surprising, and I think that |
| 15 | also, that over the years, police officers have, you |
| 16 | know, the city police, particularly, they have had a |
| 17 | protocol where they have called us up sometimes, and |
| 18 | they know they know that we have an overcrowding |
| 19 | problem. They know there is a space issue, too. |
| 20 | MR. CARTER: Senator. You mentioned two |
| 21 | examples of very interesting collaborations, and I'm |
| 22 | curious how that takes place. Is there some underlying |
| 23 | structure that supports that? Is it just something |
| 24 | that you've done around various issues like the risk |
| 25 | assessment instrument and discussion? |
| | |

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| Т | Public Hearing |
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| 2 | MS. WINTER: We had the Institute of Justice |
| 3 | come in, and with two years of detention reform. So, |
| 4 | that started and we had a large steering committee of |
| 5 | different community leaders and command in the police |
| 6 | were certainly a big player and all of the players in |
| 7 | the general justice system, actual community folk type |
| 8 | people than I would like, but that is difficult to get |
| 9 | that going. And we continue continue we are done |
| 10 | with our formal assistance from Vera now, but we |
| 11 | continue to meet. They were on all our subcommittees, |
| 12 | and, you know, a risk assessment subcommittee and |
| 13 | alternatives to detention subcommittee and core |
| 14 | processing and PINS. |
| 15 | MR. CARTER: Is that the same process that is |
| 16 | going on with the home health folks and |
| 17 | MS. DeNERO: It is different. |
| 18 | MS. WINTER: It is different. |
| 19 | MS. DeNERO: We have a monthly continuing of |
| 20 | low care that brings together our city school |
| 21 | districts, BOCES services, Mental Health, Probation, |
| 22 | Office of Mental Retardation and Developmental |
| 23 | Disabilities also. |
| 24 | MR. CARTER: You're talking on an ongoing |
| 25 | basis about these sort of issues? |
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| 1 | Public Hearing |
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| 2 | MS. DeNERO: Yes. It came on with common |
| 3 | cases and kids that fell through the cracks and |
| 4 | cases it has developed into really policy and |
| 5 | planning. |
| 6 | MR. CARTER: Okay. Thank you. |
| 7 | MR. POZZI: Couple of questions, Mary. When |
| 8 | you developed the risk assessment instrument, was there |
| 9 | any resistance by the judges to utilize the tool |
| 10 | initially? Was it kind of box them in, that taking |
| 11 | some of the discretion away? |
| 12 | MS. WINTER: I think they were concerned |
| 13 | about it initially, but we had a couple of judges that |
| 14 | were, really, that came to every single meeting, every |
| 15 | one of our meetings, and that really helped, you know, |
| 16 | in the part. I believe they were officially allowed |
| 17 | to. They kept saying they couldn't officially allow to |
| 18 | participate, but they would come to the meetings and |
| 19 | I just lost my train of thought here. |
| 20 | So, and they know that when we make a |
| 21 | recommendation, it is just that. It is a |
| 22 | recommendation. They can do what they want. And, |
| 23 | initially, I said before, we started just giving them |
| 24 | the recommendation and talking to a couple judges. We |
| 25 | are just going to give you everything. The Law |
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| 1 | Public Hearing |
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| 2 | Department was nervous about that. |
| 3 | MR. POZZI: They get paid to be nervous. |
| 4 | MS. WINTER: They sort of think like they are |
| 5 | more like the District Attorneys Office oh, don't |
| 6 | put that in there so, that piece has been used to be |
| 7 | a struggle for us. |
| 8 | MR. POZZI: And the other I wanted to make |
| 9 | the point and question I agree with you on the |
| 10 | raising the age to 18, and one of the interesting |
| 11 | conversations that we've had, because in Westchester, |
| 12 | what I decided to do at the beginning of this year was |
| 13 | to create an adolescence unit. We talked about it. |
| 14 | Just by putting these kids together and trying to use a |
| 15 | lot of cognitive restructuring for these kids, but the |
| 16 | interesting thing was, the conversation that Bob Chase, |
| 17 | who is a member of this task force, had with the Comass |
| 18 | (phonetic) people and YASI people. We were using a |
| 19 | Comass (phonetic) instrument. They were in adult |
| 20 | court. That's what we were using, basically, to do the |
| 21 | needs and risk assessment for these kids. We found out |
| 22 | that the YASI is a much better tool to use with the 16 |
| 23 | and 17 year old. It is much more predictive, much more |
| 24 | informative, and it really hits the point and kind of |
| 25 | identifies these kids and hits us right in the face |
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| Т | Public Hearing |
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| 2 | that these are really juveniles, and this is how they |
| 3 | should be treated rather than trying to put them, you |
| 4 | know, into the adult bag of the tricks that we have |
| 5 | that we know didn't work very well with this young |
| 6 | population. So, I agree with you that we need really |
| 7 | to look at these kids as kids. Not an easy thing to |
| 8 | do, but it is something we really need to be looking |
| 9 | at. |
| 10 | MR. GREENBERG: So, it sounds like you, |
| 11 | Jackie, were nostalgic for us yelling at you. Would |
| 12 | you this may be an odd question. Chairman Dunne was |
| 13 | asking about PINS diversion and how it actually works, |
| 14 | what parts of that law, that structure might possibly, |
| 15 | if any, would work for juvenile delinquents. |
| 16 | MS. WINTER: I'd have to think about that one |
| 17 | long and hard. |
| 18 | MS. DeNERO: Diversion, you're saying? |
| 19 | MR. GREENBERG: And this really, I don't know |
| 20 | it well enough, but in terms of the requirement that |
| 21 | there be some kind of mandated diversion, et cetera, is |
| 22 | there some element of that that works with some slice |
| 23 | of the juvenile population? |
| 24 | MS. WINTER: I would think so. I would think |
| 25 | so, particularly the part with parents' need to |
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| 1 | Public Hearing |
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| 2 | cooperate because it is a harder sell with a delinquent |
| 3 | because it certainly looks like this is the kid's |
| 4 | problem as opposed to the PINS, but if you had that |
| 5 | available for, you know, some of the JD cases, then |
| 6 | that violent JD cases, I would think that would help. |
| 7 | MS. DeNERO: I think the judges, also, would |
| 8 | also concur. They tell us the most difficult thing to |
| 9 | have a parent in front of them saying, I am not going |
| 10 | to take this child home. It may not be an offense that |
| 11 | rises to that level at all. If there is a way to refer |
| 12 | them back to the Probation Department, return for |
| 13 | service and compel their participation like the PINS |
| 14 | law did, sure. |
| 15 | CHAIRMAN DUNNE: Nancy? |
| 16 | MS. GINSBURG: I'm here interested on how you |
| 17 | handle an adjustment for the delinquents. What's your |
| 18 | adjustment rate there? Are there services that you |
| 19 | give to the kids that are adjusted? |
| 20 | MS. WINTER: We have all services that we |
| 21 | talked about for the services adjustment rate. I don't |
| 22 | have that number and I'm guessing it is 60 percent, but |
| 23 | that is a real guess. |
| 24 | I can send it to you. I should probably know |
| 25 | that, but I don't. |

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| 1 | Public Hearing |
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| 2 | MS. GINSBURG: How do you handle assessment |
| 3 | adjustment when the police department is the |
| 4 | complainant? |
| 5 | MS. WINTER: That's all we get is the police |
| 6 | department. And once they send over paperwork, that is |
| 7 | pretty much it. |
| 8 | MS. GINSBURG: It is your discretion? |
| 9 | MS. WINTER: Absolutely. Absolutely. |
| 10 | MS. GINSBURG: I just might |
| 11 | MS. WINTER: They might make him note, they |
| 12 | want something. |
| 13 | CHAIRMAN DUNNE: Is that a formal policy that |
| 14 | the police department has adopted? I ask that, Mary, |
| 15 | because we are trying to figure out what it is in New |
| 16 | York City, police department, law enforcement |
| 17 | officials. |
| 18 | MS. WINTER: In my experience, I've never had |
| 19 | anything where the police would send it over, expect |
| 20 | they had sent it to probation that's what they do |
| 21 | and drop off the paperwork and 99.9 percent of the |
| 22 | time, we never hear from them again. |
| 23 | MS. GINSBURG: I just have a question on the |
| 24 | other end, on the violation end. What do you see as |
| 25 | the biggest reasons for violation of the probation and |
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| Τ | Public Hearing |
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| 2 | what are the common outcomes? |
| 3 | MS. WINTER: We really have tried to really |
| 4 | lower our numbers of violations. Most of the time, you |
| 5 | know, we might send notices to court, but unless and |
| 6 | this would be with JD and this is pretty much the |
| 7 | judges. Some of the judges have told us, unless you |
| 8 | want somebody placed, take care of this problem |
| 9 | yourself, you know, there is no problem in sending them |
| 10 | over here. |
| 11 | So violations would be, "The kid's gone," |
| 12 | that would be a big one, and we would always send |
| 13 | something over, "We can't find the kid." The parent |
| 14 | will file a missing person's report. Terrible drug |
| 15 | use, rearrested, that's it. That's it. |
| 16 | MS. DeNERO: That's it. With the Veer |
| 17 | assistance, we developed a misconduct grid. File a |
| 18 | misconduct response, and probation officers share a |
| 19 | list of possible responses for a parent to enact. If a |
| 20 | child, you know, does X, then we expect him to do Y, |
| 21 | and, you know, further on down the list. |
| 22 | It is the probation officer being involved |
| 23 | with the parent and enforcing what the response is, but |
| 24 | that's where we do start violation of probation. It is |
| 25 | new. It's only been a few months. |

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| 1 | Public Hearing |
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| 2 | MS. GINSBURG: When you're getting an order |
| 3 | from the Court, is school attendance part of the order, |
| 4 | and you're just dealing with that internally? |
| 5 | MS. WINTER: Correct. |
| 6 | MS. GINSBURG: If a person says, "I'm 16 and |
| 7 | I'm just not going to school," what is the department's |
| 8 | response to that? |
| 9 | MS. WINTER: Well, you have to stay until |
| 10 | your 17, your birthday. |
| 11 | MS. GINSBURG: Technically. |
| 12 | MS. WINTER: Technically, if we had violated |
| 13 | kids not going to school, we would violate everybody, |
| 14 | every kid. They would all be gone. |
| 15 | MS. GINSBURG: What is the how do you |
| 16 | respond? |
| 17 | MS. DeNERO: We just keep working on it, |
| 18 | working cases. |
| 19 | MS. WINTER: Working the case. That's what |
| 20 | Jackie says. We just keep working, trying get the |
| 21 | school together, a program would go, trying and sending |
| 22 | the kid to one or more intensive programs called Prism. |
| 23 | About 56 kids in it. There is it is a collaboration |
| 24 | with the Salvation Army and the Department of Social |
| 25 | Services, and, you know, they only have five cases |
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| 1 | Public Hearing |
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| 2 | each. It is intensive case management on a family |
| 3 | functional therapy. Also, they get up in the morning |
| 4 | and stick the kid in the car, I believe, sit them in |
| 5 | the seat, take their hat off, trying to get them to go |
| 6 | but, you know, it is a two-way street. Kathleen is |
| 7 | going to fix the school problem for us, so it is |
| 8 | getting those programs and getting those kids engaged |
| 9 | early. |
| 10 | MS. DeCATALDO: Senator, I have a question. |
| 11 | CHAIRMAN DUNNE: Please. |
| 12 | MS. DeCATALDO: You talked about PINS and |
| 13 | taking them out of Family Court. If we take them out |
| 14 | of Family Court, how are you going to compel those |
| 15 | parents? |
| 16 | MS. WINTER: I am leaving that answer to you |
| 17 | lawyers. I don't know how we'd set it up, but, you |
| 18 | know, they set it up in Illinois, you know, and we've |
| 19 | heard a lot from Cook County from the Director of the |
| 20 | Juvenile Probation there, you know, about that, though |
| 21 | send like seven PINS cases to Court last year. |
| 22 | MS. DeCATALDO: They still have that very |
| 23 | small opening to the court door? |
| 24 | MS. WINTER: There probably have to be some |
| 25 | tiny opening, probably have to be something we'd have |
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| 1 | Public Hearing |
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| 2 | to figure out. |
| 3 | MS. DeCATALDO: Taking it completely out and |
| 4 | putting it into the community based services, you're |
| 5 | going to have a parent that goes and calls the teenage |
| 6 | misbehavior hold line, go to the community based |
| 7 | service and dump the kid off, is my fear, without |
| 8 | any that is, what the change in the law was trying |
| 9 | to do was to try and compel the parent to participate |
| 10 | in any way we could. It sounds like it is a little bit |
| 11 | successful because you're suggesting that that would be |
| 12 | helpful for the JD cases. I'm kind of I'm lost as |
| 13 | to what the next step is. |
| 14 | MS. WINTER: I think labeling the kid as a |
| 15 | PINS potential of Court, all of that, you know, in |
| 16 | getting through that piece that we are, there is a |
| 17 | possibility we are going to place your kid, you know, |
| 18 | 12 years down the line, people still want that. |
| 19 | Do you find that people still want it? Yes. |
| 20 | It is a huge problem. Jane said, from Cortland County, |
| 21 | it is huge problem. So, taking that's not going to |
| 22 | happen. You're going to have to work harder in this. |
| 23 | We are real sorry we didn't help you earlier. All of |
| 24 | the systems failed you, but we are going to try to help |
| 25 | you now. |

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| 1 | Public Hearing |
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| 2 | MR. POZZI: Mary, have you had a difficult |
| 3 | time finding effective programs for your more for |
| 4 | your highest risk type of kids and your fire setters, |
| 5 | your juvenile sex offenders, those type of folks, have |
| 6 | you found the need, because it may not be problem, but |
| 7 | there is a high placement rate for these kids. |
| 8 | MS. WINTER: We do have program for sex |
| 9 | offenders, so that is a good thing. Fire setters, |
| 10 | thank god, we don't have any of those. We would |
| 11 | probably send those to MSD, drug and alcohol. That is |
| 12 | probably the biggest problem we have. |
| 13 | We've recently have been talking about where |
| 14 | we say we don't believe in placement. We are sending |
| 15 | kids to thirty day drug and alcohol treatment programs |
| 16 | that they get thrown out of that don't if they start |
| 17 | using right away, again, we need better drug and |
| 18 | alcohol programs, particularly community based |
| 19 | programs. Your Veer Institute has adolescent portable |
| 20 | therapy that seems to be work, and, recently, we've |
| 21 | started doing a little drug and alcohol treatment in a |
| 22 | part of the systemic therapy that is called Contingency |
| 23 | Management. They do that in the drug courts, juvenile |
| 24 | drug courts in South Carolina. We are going to see how |
| 25 | that works, but sending kids to necessary treatment, go |
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| 1 | Public Hearing |
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| 2 | to it once in a while, we are starting like a little |
| 3 | heroin problem here, so we are getting 15 year olds who |
| 4 | is doing a lot of heroin and a lot of coke, they are |
| 5 | going, probably going to die, we send them off. It |
| 6 | doesn't work. We try to get them contained for a short |
| 7 | period of time, but community based programs, is that, |
| 8 | probably, our biggest need, not sex offender programs? |
| 9 | I'm not sure that these people are, that are here from |
| 10 | smaller counties, they may well have a greater need |
| 11 | than we do. |
| 12 | CHAIRMAN DUNNE: Joe? |
| 13 | MR. RINALDI: First, curious, you had |
| 14 | difficulty with your school. Tell us how you do as far |
| 15 | as add vocational or in the schools, because the |
| 16 | schools are generally more, have you had that same |
| 17 | experience and/or better information from your schools |
| 18 | MS. WINTER: Absolutely. We have the same |
| 19 | experience. We have the same experience for our, you |
| 20 | know, our kids that get moved to alternative schools |
| 21 | and then they are really supposed to go back to the |
| 22 | home schools. Home schools don't want them. We have |
| 23 | the same experience with our kids because we still |
| 24 | place these kids. Our placed kids, you know, we get |
| 25 | the kid, you bring it back to school, and what are you |
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| 1 | Public Hearing |
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| 2 | doing? Very, very difficult. |
| 3 | CHAIRMAN DUNNE: Since we began, we've been |
| 4 | joined by Linda Valenti, counsel to the State Division |
| 5 | of Probation and Correctional Alternative. |
| 6 | Linda? |
| 7 | MS. VALENTI: I have a question. We talked |
| 8 | about a little about it, the symposium. But, what |
| 9 | issues have your probation department had with respect |
| 10 | to gaining access to records which you feel are |
| 11 | necessary to perform your job? |
| 12 | MS. WINTER: Well, you know, the probation |
| 13 | staff are continually asking me about the sealed JD |
| 14 | cases. We cannot, as you well know, use them for |
| 15 | anything and there is information in them. There is |
| 16 | information other than legal information in them that |
| 17 | probation officers are particularly interested in, you |
| 18 | know, is there old drug and alcohol information, family |
| 19 | history information, they maybe the kid has moved |
| 20 | and lived somewhere else, and there is other |
| 21 | information in the case that we need. |
| 22 | Now, they are certainly concerned. |
| 23 | Particularly, we get like sex offenders, like there is |
| 24 | an old sealed case and we know we have them, you know, |
| 25 | you know. There is a sealed case that is a sex offense |
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| 2 | and we can't use that at all. You know, that feels |
| 3 | like a public safety issue to us, not being able to use |
| 4 | that information. |
| 5 | So, I think someone needs to look at that, at |
| 6 | that whole issue, and, so, see what really should be |
| 7 | sealed and what perhaps should not be. |
| 8 | MS. VALENTI: Our agency now has proposed |
| 9 | that ever since the decision came down in the '80's, |
| 10 | because you have such limited ability to access to |
| 11 | those sealed records for a very narrow purpose of |
| 12 | certain types of offender, for intake purposes. So, |
| 13 | you find it would be helpful in intake investigations? |
| 14 | MS. WINTER: Absolutely. |
| 15 | THE COURT: Any other questions? |
| 16 | CHAIRMAN DUNNE: Ms. DeNero, thank you so |
| 17 | much. |
| 18 | Our next witness is Leslie Barnes, Assistant |
| 19 | Administrator, Family Services, Monroe County Office of |
| 20 | Probation, Corrections. |
| 21 | MS. BARNES: Good morning. |
| 22 | CHAIRMAN DUNNE: Thank you for being with us. |
| 23 | MS. BARNES: We just did my whole paragraph. |
| 24 | I'm happy to be here. My name is Leslie Barnes, and I |
| 25 | am the Assistant Probation Administrator Family |
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| Т | Public Hearing |
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| 2 | Services Division in Monroe County Probation. |
| 3 | I've been at Probation since 1985. I'm a |
| 4 | Career County employee, came in 1985 and been there |
| 5 | ever since. I have had numerous experiences in the |
| 6 | probation department. I've had the opportunity to work |
| 7 | both in the adult and the juvenile division, but the |
| 8 | great majority of my experience has been in the |
| 9 | juvenile justice system with the Family Court. I've |
| 10 | been the administrator for the Division of Family |
| 11 | Services Division for the past couple of years now, and |
| 12 | one of the first decisions that are made, the full |
| 13 | support of my boss, Bob Burns, was to change the name |
| 14 | of our division from the Juvenile Services Division to |
| 15 | the Family Services Division. |
| 16 | Yes, it is a change in semantics, but it |
| 17 | really was much more powerful and meaningful for me and |
| 18 | it really was given the message to our staff and the |
| 19 | entire community that we acknowledge that we cannot |
| 20 | work with youth that come into the Juvenile Justice |
| 21 | System without working with their own family, whole |
| 22 | family. These youth don't work, living in vacuums. We |
| 23 | need to be working with both of them, their entire |
| 24 | family and community. |
| 25 | I had held a division meeting this past |
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| 2 | Friday with my entire staff, and I looked out into the |
| 3 | room filled with about 80 people, and I was just |
| 4 | totally overwhelmed with as much dedication, commitment |
| 5 | and passion that was present in the room. Most of my |
| 6 | staff are probation officers, but not all. |
| 7 | I do have DHS Case Workers and Office Of |
| 8 | Mental Health workers on our staff due to the numerous |
| 9 | collaboration that we have going on in Monroe County |
| 10 | looking out into this group. It was really easy to see |
| 11 | where probation, the work in the Juvenile Justice |
| 12 | System comes from. |
| 13 | I'm telling you, we have a lot of stuff going |
| 14 | on in Monroe County. Looking out there and seeing all |
| 15 | of those folks, you can really see where that came |
| 16 | from. Probation officers are not born. They have |
| 17 | developed. Staff comes to us with diverse backgrounds |
| 18 | and experience and it never ceases to amaze me how |
| 19 | quick our staff become probation officers and the |
| 20 | amount of pride that there is in that title. Maybe it |
| 21 | is because of the reputation that we have in our |
| 22 | community as being the go to agency. If the community |
| 23 | needs something done, they call probation. We make it |
| 24 | happen. Whether it is partnering with our local police |
| 25 | agencies to go out to one of our local arenas and |
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| 2 | monitoring the basketball playoffs, whether it is |
| 3 | working with police to potential volatile after school |
| 4 | let out times when we know something is brewing, |
| 5 | support in different community events that go on or in |
| 6 | individual response to a kid who has maybe fallen |
| 7 | through the cracks of other systems, a call to |
| 8 | probation always results in action. |
| 9 | Maybe it is because of our unique role and |
| 10 | variety of training experience we have provided once we |
| 11 | joined the probation family. The true blending of the |
| 12 | law enforcement and social work on our probation |
| 13 | department role makes ours unique and affords officers |
| 14 | that have thoughts or things do not our police |
| 15 | officers training, shared training, law enforcement |
| 16 | kept with our ability to relate to youth and families |
| 17 | is, indeed, a unique skill. No matter what stage of |
| 18 | the system youth is involved in, an officer's role is |
| 19 | not just to catch you doing something wrong, which we |
| 20 | will because we certainly have the lot of enforcement |
| 21 | tools, we do the checks, drug screenings, searches, you |
| 22 | know, a variety of different enforcement. So, we'll |
| 23 | catch them doing something wrong if we are thinking of |
| 24 | doing that. |
| 25 | CHAIRMAN DUNNE: Do you make house calls? |
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| 2 | MS. WINTER: Yet, we do. |
| 3 | CHAIRMAN DUNNE: At night? |
| 4 | MS. BARNES: Yes, we do, often. Our |
| 5 | officers, we have a big push to get all of our officers |
| 6 | out into the field in the evening, and we do curfew |
| 7 | checks with the police. We have Operation Night Watch. |
| 8 | We have an impact. We have saturation details, but we |
| 9 | also have officers that can go out 24 hours a day. |
| 10 | Matter of fact, this past Sunday, we had an |
| 11 | electronic monitoring situation where one of the |
| 12 | officers went out and one of our other officers was out |
| 13 | on Sunday morning doing home visits order, early Sunday |
| 14 | morning, but evening work all of the time for sure. |
| 15 | But, again, you know, all of our enforcement |
| 16 | tools, we are good at those roles, but it is also |
| 17 | important we are trying to catch someone doing |
| 18 | something right by being a positive role model and |
| 19 | helping to connect our youth and families to the |
| 20 | communities. Our officers work with youth and families |
| 21 | through the entire spectrum of this system. We have |
| 22 | our family access and connection team, which is Monroe |
| 23 | County's response to the new PINS legislation. Our |
| 24 | pre-PINS department, twelve officers assigned to that |
| 25 | team who work specifically trying to locate youth who |
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have run away and bring them in, and, you know, hooking
them up with diversion services, RESPID, as an attempt
to keep those cases out of the Family Court, and that
was a fast track in the Family Court was that PINS
warrant, and a lot of families knew if they called and
said the child was missing, they would be able to file
a PINS petition, request a warrant, get the case ready,
into Family Court.

The reality is, a lot of those kids weren't even being looked for and would linger for months and months and months. We will file a warrant if the child is truly missing. We are not going to let that go for too long. Twelve officers who are assigned to immediately begin to work with the families to try and find the kids. Cellphone, school checks, neighborhood checks, we have two officers that have gone on -- this has turned into almost their full-time jobs. We have seen an incredible success. We have not filed in three months one request for a petition immediately requesting a warrant during this process. On the other end of the stream, we have our officer who works much after care. Call them our after care officers. He works with kids that are coming out of OCF placement in an attempt to reintegrate him into the community. All

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| 2 | of the officers, in between, were intake investigation |
| 3 | supervision and our special projects |
| 4 | CHAIRMAN DUNNE: Are you likely to assign the |
| 5 | same probation officer to a young person that has been |
| 6 | released from placement as might have been involved |
| 7 | beforehand? |
| 8 | MS. BARNES: Actually, we have one officer |
| 9 | right now. We used to have three. We have one officer |
| 10 | who does the after care projects, so he would not be |
| 11 | the same officer who had the kid if he was on the |
| 12 | probation supervision prior to going into placement. |
| 13 | So, you know, if the kid is coming back out of |
| 14 | placement and it was not being assigned to his officer |
| 15 | because we do have a lot of kids that come out of DHS |
| 16 | placement that have been placed as PINS or kids that |
| 17 | have been in OCF placement and get rearrested and end |
| 18 | up back on the probation. Those juveniles generally |
| 19 | are assigned to the same probation officer who had |
| 20 | them, but in the specific project as the OCFS after |
| 21 | care project, I don't even know if it is sorry, |
| 22 | Bob if you can help me, if it is even funded. |
| 23 | MR. BURNS: It is just local dollars. |
| 24 | MS. BARNES: These are kids that go into our |
| 25 | OCN placement like St. Joseph Village or Hillside |
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| 2 | there. They are coming out of placement. They are |
| 3 | assigned to this officer. So, we have a lot of |
| 4 | officers, 55 officers to doing just juvenile work. I |
| 5 | might be a little off. |
| 6 | MR. POZZI: What is the case load size? |
| 7 | MS. BARNES: For general supervision, the |
| 8 | caseload is about 40. Of the highest is about 55. |
| 9 | Generally, it is about 40, 45. We have numerous |
| 10 | intensive supervision programs, and Mary had talked |
| 11 | about the prison program. Our youth and family |
| 12 | partnership is a program we modeled after prison. |
| 13 | Those officers have eight cases or juvenile intensive |
| 14 | officers have 10 to 12 cases. We also have an ESP case |
| 15 | load which is enhanced supervision probation. Those |
| 16 | officers have about 20. Those cases used to be |
| 17 | strictly mental health related cases, but now we've |
| 18 | kind of opened it up. Most of them do have mental |
| 19 | health issues or concerns, but it is not a mandatory |
| 20 | requirement. |
| 21 | We have a substance abuse intervention |
| 22 | specialization caseload that deals with just with |
| 23 | case kids with substance abuse issues. He works with |
| 24 | our Drug Court, and kids that are involved with them |
| 25 | have substance abuse issues, and his caseload is about |
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| 2 | 15. |
| 3 | MR. POZZI: I hate to put you on the spot. |
| 4 | MS. BARNES: Go ahead. |
| 5 | MR. POZZI: General caseloads where you're |
| 6 | running 40 to 45 to 50, what would be the deal you'd |
| 7 | like to see in that? |
| 8 | MS. BARNES: 25. |
| 9 | MR. POZZI: I know. 40 was |
| 10 | MS. BARNES: Yeah, yeah, I think, 25, like we |
| 11 | could probably do with a general supervision caseload. |
| 12 | We could probably be really, really effective, not that |
| 13 | we are not effective at 45 or 50, but we could even be |
| 14 | in your face kind of P.O. that we know works. |
| 15 | I'm getting a little ahead of myself in my |
| 16 | speech. Our mission anyway, to know material, what our |
| 17 | assignment, we all have a shared mission and our |
| 18 | mission, our fundamental mission is to work with |
| 19 | families and to become law abiding, productive members |
| 20 | of society, working with youth in the least restrictive |
| 21 | environment necessary to ensure their safety and the |
| 22 | safety of the community. |
| 23 | I believe that in order to strengthen |
| 24 | probation, we need to continue the efforts that we have |
| 25 | begin to empower our officers to challenge some |
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| 2 | traditional beliefs, to build on best practice, being |
| 3 | community, school based, and to look to out of home |
| 4 | placement as only as the last resort, and if there are |
| 5 | only community and/or personal safety concerns. |
| 6 | Monroe County is in our second year of |
| 7 | funding for SAMHSA funding for implementation of the |
| 8 | funding and care. This is a huge grant the Office of |
| 9 | Mental Health got from the feds, five year grant, and |
| 10 | we are in the second year of the implementation. |
| 11 | One of the major goals of the System and Care |
| 12 | is to solidify values and the way services are provided |
| 13 | to youth and services, families as partners. We said |
| 14 | that. I mean, that goes without saying. We can't do |
| 15 | the work without the families, as that challenge |
| 16 | sometimes can be. Inter-agency collaboration, we know |
| 17 | we need to share resources. Individualized care, we |
| 18 | look at every case as a case, as an individual case, |
| 19 | not a cookie cutter approach to the work that we do. |
| 20 | Cultural competence, recognizing each family is unique, |
| 21 | providing community based care, accountability, the |
| 22 | belief that families can identify their own strengths |
| 23 | and needs, the belief that families are responsible for |
| 24 | their children, the belief that children and families |
| 25 | are more successful achieving independence in their own |
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| 2 | homes and communities, those are the System and Care |
| 3 | values, but they sure sound an unlawful like the values |
| 4 | of probation and the role of a probation officer to me. |
| 5 | So, the integration of System and Care values |
| 6 | into juvenile justice system should be a natural fit, |
| 7 | but it can pose conflict, systematic conflict and |
| 8 | challenge. Although I believe most of us would agree |
| 9 | with the words, the application and juvenile justice |
| 10 | can be a bit difficult. Don't we believe that youth |
| 11 | are best in their homes and communities? Don't we |
| 12 | believe that families are responsible for their |
| 13 | children? Yeah, but what happens when we struggle to |
| 14 | engage with parents? What happens when it is |
| 15 | difficult? What about the orders and conditions of |
| 16 | probation and when the Judge says they need to go to |
| 17 | school every day? We are really thrilled when a kid is |
| 18 | going two days out of a week when he hasn't been going |
| 19 | to school for two years. What about when traditional |
| 20 | probation responses are exhausted? Even more |
| 21 | importantly, what happens when parents are scared when |
| 22 | the violence in the community is really high and when |
| 23 | we are scared? |
| 24 | And what happens? This past weekend, we had |
| 25 | one of our kids, that was on our YFP PINS supervision |
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| 2 | program, shot. He is in the hospital right now in |
| 3 | intensive care. Shot four times, once in the shoulder, |
| 4 | twice in the legs, once in the shoulder; went out of |
| 5 | the house at 8:30. By 9:10, his mother got a phone |
| 6 | call from the police that he was in the hospital. It |
| 7 | is a PINS case, no gang affiliation. He was wearing |
| 8 | the wrong coat, wrong time. He was I believe it was |
| 9 | a case of the mistaken identity. |
| 10 | Yesterday, in the City of Rochester, four |
| 11 | o'clock in the afternoon, two seventeen year old kids |
| 12 | in Downtown Rochester, not in the hood, five minutes |
| 13 | away from my office, two seventeen year old kids |
| 14 | finding one of them pulls a gun, shoots the other one. |
| 15 | He's in the hospital. We live in a violent society. |
| 16 | There is a lot. There is a lot for people, for |
| 17 | families to be scared of, and when they are scared, |
| 18 | they often want to see that their kids can be |
| 19 | controlled and they think that placement is the way to |
| 20 | do that. We know that it may control them for a short |
| 21 | period of time. They are coming back. They are coming |
| 22 | home. They will be back in the community. And given |
| 23 | the presentation on some of the various initiatives |
| 24 | that we have in Monroe County, I've often said, the way |
| 25 | to deal with this, it is not rocket science. We know |
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| 2 | what works. We know that immediate intervention, |
| 3 | consistent response, presence, holding the youth |
| 4 | accountable, holding ourselves accountable, |
| 5 | collaborating with parents and other stakeholders in |
| 6 | the youths' lives, providing positive alternative to |
| 7 | delinquent activity, these are helping to see their |
| 8 | strengths, encouraging the positive efforts that youth |
| 9 | make, helping them build their self-esteem, this is the |
| 10 | solid foundation of probation work. |
| 11 | In order to help youth sustain law abiding |
| 12 | behavior, we need to work with youth and families in |
| 13 | their communities. We need to be known and visible in |
| 14 | schools, neighborhoods centers and collaborating with |
| 15 | local law enforcement agencies. We do have this by |
| 16 | having reasonable caseloads. We need to help families |
| 17 | develop and sustain natural and community based |
| 18 | resources. |
| 19 | Okay. In order to encourage these values, we |
| 20 | need to provide officers with good assessment tools, |
| 21 | like the YASI, and we need to use them. We need good |
| 22 | resources, evidence based practices like MST and FFT |
| 23 | and ART, that Mary mentioned. We use them all. We use |
| 24 | them, the full array system, and we are very happy to |
| 25 | be awarded the State Risk Projects, and we'll be |
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| 2 | expanding our MST and AFT in this project, and we need |
| 3 | to continually monitor outcomes of our interventions |
| 4 | and the interventions of the contract method. We need |
| 5 | to partner with the community stakeholders and advocate |
| 6 | for our youth and families. We need to provide, to be |
| 7 | the educational advocate. If we don't have contract, |
| 8 | if we don't have a contract for educational advocate, |
| 9 | we as probation officers need to be advocating for |
| 10 | youth and families. We need to provide officers with |
| 11 | continued graduating sanctions especially for technical |
| 12 | violation. And we need a judiciary who also believed |
| 13 | that youth are best served in the community. Officers |
| 14 | need reasonable caseloads and we need consistent |
| 15 | supervision. We need leaders who believed in youth and |
| 16 | families, leaders who are willing to take risks and |
| 17 | leaders who are willing to advocate for change. |
| 18 | So, in conclusion, I believe this is a very |
| 19 | exciting time for probation. Many youth who present at |
| 20 | the Juvenile Justice System are high risk and high |
| 21 | need. It is incumbent on probation professionals to |
| 22 | help families build on and develop their protective |
| 23 | factors. With our training and experience, we are in a |
| 24 | unique position to do this. By collaborating with and |
| 25 | strengthening our relationships with schools, by |
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| 2 | improving our probation-mental health evaluation, |
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| 3 | embracing care systems and philosophies, by expanding |
| 4 | our role in detention decisions, and we've been chosen |
| 5 | by the Vera Institute to be in their next round of |
| 6 | counties that they would work with. |
| 7 | So, we are actually beginning in two weeks to |
| 8 | do our two year project with Vera to help us look at |
| 9 | our use of detention and develop an array of |
| 10 | alternatives. We have what it takes to be really able |
| 11 | to put the bits of the puzzles together. There is a |
| 12 | lot for probation to do if we are given the time and |
| 13 | authority to be creative. Let's invest in probation |
| 14 | officers who in the words of one man who is on |
| 15 | probation, and, sorry, P.O. seen at a basketball game, |
| 16 | "Man, you're everywhere." Thank you. |
| 17 | MR. RINALDI: I have a question. Speaking |
| 18 | to you work nights, how do you accomplish flexible |
| 19 | schedules? |
| 20 | MS. BARNES: We encourage use of flex time. |
| 21 | We do. We do. Some have some overtime available. We |
| 22 | do have an overtime budget and we also have been able |
| 23 | to use the impact dollars and budgets for some of our |
| 24 | gang related activities. |
| 25 | Most of our officers like the ability to work |
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| 2 | the flex time, and in the evenings, take a morning off |
| 3 | to be with their families, work out of the gym, |
| 4 | whatever. We really have not found that to be a huge |
| 5 | problem, getting officers to go out in the evening. We |
| 6 | are fortunate that we have a relationship with our 911 |
| 7 | dispatch center, so our officers use our police radio |
| 8 | 24 hours a day. |
| 9 | So, they are able to be in constant |
| 10 | communication with the dispatcher versus 24/7. We do |
| 11 | ask supervisors to be notified. We have on call |
| 12 | probation officers, on call supervisors 24 hours a day. |
| 13 | CHAIRMAN DUNNE: Nancy? |
| 14 | MS. GINSBURG: My usual series of questions, |
| 15 | how does your County handle adjustment? What is your |
| 16 | adjustment rate? What services are available to the |
| 17 | kids? What services would you like to be available? |
| 18 | MS. BARNES: For PINS, JD? |
| 19 | MS. GINSBURG: JD. |
| 20 | MS. BARNES: JD, we have a JD. We have a |
| 21 | variety of adjustment services available. We have, you |
| 22 | know, anything from mediation to counseling. We have |
| 23 | both the FFT, MST, the ART program. We have a mental |
| 24 | health juvenile justice program on site. We've been |
| 25 | fortunate that we've had this project for ten years and |
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| 2 | we have staffed from unity mental health rights at our |
| 3 | office. We have we are able to provide mental |
| 4 | health. We have a parent liaison and we do run groups |
| 5 | of target groups, which is formula why kids are |
| 6 | waiting. Before they can get into community, not |
| 7 | inpatient, I mean, they could use it for inpatient, but |
| 8 | just for community based, substance abuse treatment. |
| 9 | We have a target group that we hold right at our |
| 10 | office. |
| 11 | MS. GINSBURG: How do you pay for those |
| 12 | services? |
| 13 | MS. BARNES: Grant, grant, OCFS grant. |
| 14 | MS. GINSBURG: All of it is through an OCFS |
| 15 | grant? |
| 16 | MS. BARNES: All of those services I |
| 17 | mentioned, target group, educational advocate, parent |
| 18 | advocate, it is all OCFS. |
| 19 | MS. GINSBURG: Do you know what your |
| 20 | adjustment rate |
| 21 | MS. BARNES: Yeah. Our adjustment rate is |
| 22 | about 65 percent for JD. |
| 23 | MS. GINSBURG: Can you talk a little bit |
| 24 | about your relationship with the school system and how |
| 25 | resistant or nonresistant |

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| 2 | MS. BARNES: We have a huge school system. |
| 3 | We have 19, is that right, 19 districts in the county |
| 4 | and the Rochester City School District probably has 19 |
| 5 | schools in its district. We do have we work very |
| 6 | closely and very collaboratively with the Rochester |
| 7 | School District. It is probably our closest |
| 8 | relationship and probably our biggest challenge as |
| 9 | well. Because in the 16 schools that the Rochester |
| 10 | City School District has, you know, they are like 16 |
| 11 | different kingdoms. We are hoping for the changes |
| 12 | because we have an interim superintendent and we are |
| 13 | looking for a new leadership in the school district. |
| 14 | We have somebody from the City School District that |
| 15 | sits on our Juvenile Justice Council, somebody from the |
| 16 | City School District that meets regularly with us in |
| 17 | our County Leadership Team, and we have developed an |
| 18 | individual relationship with, you know, with each |
| 19 | school with each school. We also have probation |
| 20 | officers assigned, taking reports at the schools and |
| 21 | you know, some of those situations work real well and |
| 22 | some of them are a little bit more of a challenge. |
| 23 | We have school resource officers in the City |
| 24 | School Districts that work with our probation officers |
| 25 | ac well |

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| 2 | MS. GINSBURG: If you could infiltrate the |
| 3 | kingdom, what changes would be put in place? When you |
| 4 | say there are challenges, we are aware there are |
| 5 | challenges. We want to know specifically what those |
| 6 | challenges are and what would help you in providing |
| 7 | services to the kids, what changes in schools? |
| 8 | MS. BARNES: Well, I think that probably |
| 9 | what would be the biggest help? We had a clear line of |
| 10 | communication and a clear line of schools we have |
| 11 | two officers that are school change initiatives to |
| 12 | those officers, get all of the kids from the school, |
| 13 | whether they are intake, investigation, supervision and |
| 14 | work right with the schools. |
| 15 | We have some schools that have student |
| 16 | support centers in the schools and the probation role |
| 17 | and the probation presence is embraced. There are |
| 18 | other schools that would like probation to be the |
| 19 | school resource officers and would like us to be the |
| 20 | ones going out, you know, in the morning and gathering |
| 21 | up and saying, get to school, you know, really just |
| 22 | being the full heavy hand, so |
| 23 | MS. GINSBURG: The school accepting the kids |
| 24 | back after they are arrested and detained? |
| 25 | MS. BARNES: Yeah. The schools will take the |
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| 2 | kids back. Then they will suspend them. We have a |
| 3 | huge challenge with suspensions. We have a huge |
| 4 | challenge with a lot of kids in seventh and eighth |
| 5 | grade for the third time, kids that really just, you |
| 6 | know, even if we can get them to show up to school, you |
| 7 | know, they are even saying where are we going? What |
| 8 | are we doing from here? You know, not enough |
| 9 | alternatives for kids that are so, so far behind. |
| 10 | That, you know, it is just really almost impossible for |
| 11 | them to catch up. |
| 12 | CHAIRMAN DUNNE: Jack? |
| 13 | MR. CARTER: Your office, obviously, does |
| 14 | more than the word, "probation," and that term applies |
| 15 | that whole spectrum of juvenile services from the |
| 16 | beginning to even after the care. Are there pieces |
| 17 | from that continuum, from the first entry into the |
| 18 | system until the child is no longer in the system that |
| 19 | probation is not involved that you would like it to be |
| 20 | involved with? |
| 21 | Are there ever any gaps you've identified in |
| 22 | that continuum of intervention that you thought |
| 23 | probation could fill? I mean, just as an example, one |
| 24 | of the judges that I spoke with I'm not sure it is |
| 25 | directly relevant mentioned the fact she had |
| | |

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| 2 | developed a staffing position in her court of case |
| 3 | manager, actually working with the brokering service |
| 4 | for the kids who were not on probation yet, but perhaps |
| 5 | had not actually been adjudicated. |
| 6 | MS. BARNES: Right. |
| 7 | MR. CARTER: But were in need of services. |
| 8 | That was a need she saw as being possible. |
| 9 | MS. BARNES: I was going to say, that period |
| 10 | of time where it's changed a little bit with the PINS |
| 11 | because the law actually gives us up a bit to continue |
| 12 | to work with those kids. We feel it is necessary, but |
| 13 | with the JD case, if we see a JD case at intake and |
| 14 | refer the case to petition, there is nobody involved |
| 15 | with that case from the time the case gets referred to |
| 16 | the presentment agency and until there is actually an |
| 17 | adjudication and an investigation is ordered. So, I |
| 18 | mean, and that sometimes, you had no it can be |
| 19 | months depending on what the situation is. |
| 20 | I mean, in our county, you know, our |
| 21 | presentment agency would get these cases and it |
| 22 | determines whether or not they are legally sufficient |
| 23 | and that draws the petition that sends out the notices. |
| 24 | That can be a really long period of time. That could |
| 25 | really be a period of time that could be, you know, |
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| 2 | high risk for that youth. I mean, they know they have |
| 3 | a case pending in court. They don't know what's going |
| 4 | to happen and they really don't have anyone to be |
| 5 | steering them during that, what could be a really |
| 6 | critical period of time. |
| 7 | MR. CARTER: Thank you. |
| 8 | CHAIRMAN DUNNE: Thank you very much. Pardon |
| 9 | me. |
| 10 | Linda? |
| 11 | MS. VALENTI: Do you feel you need additional |
| 12 | time in order to adjust a case for an urgent JD? |
| 13 | MS. BARNES: I would like to have more |
| 14 | additional time. |
| 15 | MS. VALENTI: What would you recommend? |
| 16 | MS. BARNES: Six months, at a minimum. Six |
| 17 | months would be a so, four months is really a short |
| 18 | period of time. That's why we got rid of six months |
| 19 | for PINS. |
| 20 | MS. VALENTI: You have to go back to court to |
| 21 | do that extra time? |
| 22 | MS. BARNES: We do that on almost every |
| 23 | cases. |
| 24 | MR. POZZI: Leslie, it sounds like you work |
| 25 | for a wonderful agency. |
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| 2 | MS. BARNES: I do. |
| 3 | CHAIRMAN DUNNE: Strike that from the record. |
| 4 | Thank you for what you do. |
| 5 | Mark Waldauer, member of the bar, describes |
| 6 | himself as a private practitioner representing adults |
| 7 | and children with mental health needs. |
| 8 | Mr. Waldauer? |
| 9 | MR. WALDAUER: Mark Waldauer. I actually |
| 10 | served today, last couple of speakers, and what I |
| 11 | wanted to talk about is really a different subject that |
| 12 | is on your list, and that is, for lack of a better |
| 13 | term, FINS versus PINS. |
| 14 | CHAIRMAN DUNNE: That is in our notice, |
| 15 | that's fine. |
| 16 | MR. WALDAUER: The reason I want to, because |
| 17 | that could be a tremendous tool for Family Court, if it |
| 18 | does more than just cost medically, change persons in |
| 19 | need of supervision and families in need of |
| 20 | supervision. |
| 21 | Right now, what we have in many cases, and in |
| 22 | most time consuming ones that I've seen is whether to |
| 23 | adjudicate a youth at PINS or convert it to a neglect |
| 24 | abuse case or what we do about a neglect and abuse case |
| 25 | that we really think may be a PINS case. |

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| 2 | The rules are critical. If it is a PINS |
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| 3 | adjudication, the child thinks he's at fault. I'll use |
| 4 | "he" as a gender neutral, but the ramifications to him |
| 5 | are not that drastic. |
| 6 | You know, grow old, he will not have a |
| 7 | criminal record, he will not be losing employment |
| 8 | because of the adjudication. On the other hand, and |
| 9 | like the abuse adjudication, carries with it numerous |
| 10 | penalties from being school bus divers to being home |
| 11 | health aids to being hospital assistants, and it stays |
| 12 | with you forever and ever and ever. And the cusp of |
| 13 | cases, the ones that are close between those resulting |
| 14 | in long and lengthy trials in court because the stakes |
| 15 | are so high. |
| 16 | I do a lot of law guardian work and my focus |
| 17 | in those kind of cases is to get more services to the |
| 18 | children than it is the label, but I've also |
| 19 | represented parents that are about to be labeled. When |
| 20 | I'm representing someone in that situation, I'm taking |
| 21 | it as far as I can, as hard as can I because I know the |
| 22 | ramification. Nevertheless, the child in those cases |
| 23 | is looking for the same service. If a child has mental |
| 24 | health issues or other psychological issues, |
| 25 | depression, whatever it is, that's where you want to |
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| 2 | focus the services, and the child, it doesn't matter |
| 3 | whether it is PINS or a neglect. You're looking for |
| 4 | the same therapist to do the same work for the same |
| 5 | child. |
| 6 | Labeling a FINS could take care of that. In |
| 7 | many very interesting ways, it wouldn't likely |
| 8 | eliminate abuse and neglect. What it would do, given |
| 9 | those cases where it is a close call, it takes away |
| 10 | from being all or nothing. It takes it away from, we |
| 11 | have to find adjudication of neglect in order to |
| 12 | provide the services that this family needs. |
| 13 | Our county, most counties, and this, I don't |
| 14 | have any statistics to back it up, almost anything that |
| 15 | I'm saying, but, the use of the adjournment in |
| 16 | contemplation of dismissal is very low in this county. |
| 17 | They don't like to use those for providing service. |
| 18 | Whatever the reasons are, it doesn't get utilized. |
| 19 | We now have Treatment Court in Onondaga |
| 20 | County where it requires an adjudication of neglect |
| 21 | before you can enter the program, and there is no |
| 22 | remedial effect, if successful, graduation in the |
| 23 | program. Wouldn't it be better to have the FINS |
| 24 | adjudication, which is not going to cost the family |
| 25 | employment, licenses, and at the same time, provide the |
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| 2 | services this family needs? |
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| 3 | Obviously, the situations where the FINS |
| 4 | adjudication doesn't work or the problems are still |
| 5 | present, you can always file another petition for |
| 6 | neglect or abuse, but it avoids the time delays in |
| 7 | court. It gets the services to the family better and |
| 8 | when you can tell a family, look, you all need help, we |
| 9 | are not going to point the finger at anybody, you all |
| 10 | need that kind of help, how much better is it to get |
| 11 | receptive people to actually try and cooperate with |
| 12 | each other, parent isn't pointing a finger at the child |
| 13 | and vice versa. |
| 14 | So, just changing the wording from PINS to |
| 15 | FINS doesn't do anything for me because you can look in |
| 16 | the statutes and you can see, some of the states use |
| 17 | FINS, some of the states use PINS. But, if it becomes |
| 18 | a change in the law regarding the filing of a petition, |
| 19 | if it becomes a staple, Family Court and those cusp |
| 20 | cases that are between a PINS and a neglect, you are |
| 21 | saving incredible amounts of time. You're saving a lot |
| 22 | of the court money. I know they don't translate. You |
| 23 | can't say, well, save money in Family Court, going to |
| 24 | put more money into services, obviously, everybody is |
| 25 | preaching to the choir, we need more money to provide |
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| 2 | all of these services that such a change would do. It |
| 3 | has to be more than cosmetic, but with that change, I |
| 4 | think we would I think we can help families a lot |
| 5 | more than we already are. That is my spiel. |
| 6 | CHAIRMAN DUNNE: Jack Carter, do you have any |
| 7 | questions? |
| 8 | MR. CARTER: I was wondering, when you are |
| 9 | representing a client in a delinquency case, do you |
| 10 | ever experience a situation where you feel that the |
| 11 | Judge may have placed a child on probation not so much |
| 12 | because the supervision was required specifically, but |
| 13 | because some sort of a response was required that a |
| 14 | conditional discharge wouldn't be adequate to achieve? |
| 15 | MR. WALDAUER: I don't see too many |
| 16 | conditional discharges because if the child is not in |
| 17 | need of probation, there is no particular reason not to |
| 18 | send it back to a judge at some point in the case and |
| 19 | get the service there that you need to intervene that |
| 20 | |
| 21 | MR. CARTER: Okay. |
| 22 | MR. WALDAUER: Probation is generally, and I |
| 23 | hate to say it, but a major factor and it is the fact |
| 24 | there is a lack of facilities. There is a lack of a |
| 25 | place that this child should probably go. You know, in |
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| 2 | your heart, probation, even special supervision, even |
| 3 | intensive probation, you know this child needs more |
| 4 | than that and you know the community doesn't have |
| 5 | something to offer and know it is basically conjoined |
| 6 | family counseling. And placing someone on probation is |
| 7 | just a first step in the process. You almost have to |
| 8 | prove to the system at large, why don't well, we |
| 9 | don't try probation, it didn't work, we have to do |
| 10 | something else. You almost can't do it is the |
| 11 | situation I find when I'm representing adults who have |
| 12 | serious drug and alcohol problems. Their insurance |
| 13 | companies won't let you go directly into a patient |
| 14 | program. You have to first exhaust intensive therapy. |
| 15 | You know an expert knows intensive therapy isn't going |
| 16 | to work. The person needs inpatient. It is sort of |
| 17 | like the same thing with the system. You almost have |
| 18 | to know how to play the system. |
| 19 | There is a lot of individuals, the children |
| 20 | are getting placed on probation where I get a sense it |
| 21 | isn't going to work. |
| 22 | MR. CARTER: Thank you. |
| 23 | MR. GREENBERG: I'm not sure it is germane |
| 24 | directly to the work in the task force, you did pique |
| 25 | my interest in this FINS versus a neglect petition, |
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| 2 | kind of thing. |
| 3 | I'm trying to figure out how it would |
| 4 | actually work, given if it gets into the child |
| 5 | protective service door, that's the way, then it really |
| 6 | doesn't even matter if it gets to Family Court. If the |
| 7 | record is indicated, that that record will stand and |
| 8 | the things that you're concerned about wouldn't exist, |
| 9 | so, you're suggesting that, perhaps, it wouldn't get in |
| 10 | the child protective door if this other alternative to |
| 11 | FINS was available to the community. |
| 12 | MR. WALDAUER: Not exactly, because I |
| 13 | suggested comprehensive change, not only cosmetic |
| 14 | change. Part of that has to be, as I indicated and |
| 15 | referred to services and how that system works, and why |
| 16 | I think you would want to do is, in situations that |
| 17 | were coming to a court as a FINS, is put some kind of |
| 18 | sunshine, whatever the phrase is, where two, three |
| 19 | years down the road when the case gets expunged, right |
| 20 | now, it is ten or twenty years or life, just give a |
| 21 | certain period of time that if it's gone into Family |
| 22 | Court, come out at as a FINS and been successfully |
| 23 | concluded, I wouldn't say, expunge the record, I would |
| 24 | say, let it die a death after two, three years on the |
| 25 | record, so that people can get on with their lives. I |
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| 2 | think that would be more practical. |
| 3 | CHAIRMAN DUNNE: Thank you, Mr. Waldauer. |
| 4 | On October 16th, you sent a letter to our |
| 5 | counsel, Ms. Walsh, setting forth your responses to |
| 6 | some of the questions. I'd like to make that as a part |
| 7 | of the permanent record. |
| 8 | MR. WALDAUER: Thank you very much. Thank |
| 9 | you for this opportunity. |
| 10 | MS. GINSBURG: Can I ask one question? |
| 11 | CHAIRMAN DUNNE: I'm sorry. |
| 12 | MR. WALDAUER: But, that last time, didn't |
| 13 | you |
| 14 | MS. GINSBURG: I'm not sure I am |
| 15 | understanding what you said earlier about kids getting |
| 16 | probation and you know it is not going to work. |
| 17 | Are those kids coming back on violations and |
| 18 | then being placed or what's happening in those |
| 19 | situations? |
| 20 | MR. WALDAUER: They are certainly, they |
| 21 | are coming back on violations and then you've sort of |
| 22 | passed the test of trying probation, and now, you can |
| 23 | go back to service providers and maybe get mental |
| 24 | health intervention or drug, alcohol intervention. You |
| 25 | need or may be trying to do a better job of locating a |
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| 2 | relative that the child can be with or a similar, |
| 3 | suitable adult or even a step-up to a group home |
| 4 | setting. |
| 5 | You almost have to have supplemented |
| 6 | resources. There is never a bed available, when they |
| 7 | have a bed. There is always a waiting list. There is |
| 8 | never a therapist available to jump in. You always |
| 9 | have to get a priority all too often. |
| 10 | I'm not saying that is a crime. I'm not |
| 11 | saying it is endemic of the whole system, but that has |
| 12 | been my experience and there are some cases where you |
| 13 | know this child is not going to follow the rules of |
| 14 | probation. Whatever the reasons are is probably a |
| 15 | pretty good risk recidivism and you wish, I think, |
| 16 | would just have more beds available to take this child |
| 17 | out of the system for his protection and for everybody |
| 18 | else's protection. |
| 19 | CHAIRMAN DUNNE: Thank you very much. |
| 20 | MR. WALDAUER: Got another person? |
| 21 | MS. VALENTI: I was just looking at your |
| 22 | response to interim probation. Would you rather have, |
| 23 | instead of an age JD being increased, having your |
| 24 | expanded intensive intervention? |
| 25 | MR. WALDAUER: The reason is, there are |
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| 2 | methods in the Juvenile Justice System, as an adult, |
| 3 | that the case either gets remanded or moved back to |
| 4 | Family Court. I would rather see somebody sixteen and |
| 5 | a half, who is arrested for something, treated as an |
| 6 | adult, as a juvenile and have gotten well. If you |
| 7 | change the law if it's fifteen and a half, let's |
| 8 | say, for now, for argument's sake, and child commits ar |
| 9 | armed robbery, he can be prosecuted, a juvenile |
| 10 | offender, as an adult. That child, I would like to see |
| 11 | receive interim. If the child is not going to have a |
| 12 | case removed to Family Court immediately, but have the |
| 13 | child now receive the interim probation sentence, |
| 14 | successfully completed, then have the cases removed |
| 15 | from Adult Court to Family Court. |
| 16 | If the law is going to change from sixteen to |
| 17 | seventeen, are you still going to have the juvenile |
| 18 | so you're still going to have the same process, all |
| 19 | you've done is upped the age limit. |
| 20 | When I started, it was sixteen that was a |
| 21 | cutoff. You committed a crime over the age of sixteen |
| 22 | Adult Court. Under the age of sixteen, Family Court, |
| 23 | and you had youthful offender treatment for anyone |
| 24 | involved over 16 and 19. Once they started to provide |
| 25 | for juvenile offenders, what I have found is that those |
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| 2 | children accused of those serious crimes, more and more |
| 3 | receive prosecuted as adults in the adult system at |
| 4 | thirteen and a half, fourteen and a half. |
| 5 | As a defense attorney, I do a lot of criminal |
| 6 | work as well. First motion, Judge, please remove it to |
| 7 | Family Court. And I don't think we are using interim |
| 8 | probation enough as a possible way of doing that. |
| 9 | Whereby, a child would plead guilty to a criminal act, |
| 10 | be placed on the interim probation, successfully |
| 11 | completed the interim probation and have his case |
| 12 | removed to Family Court. And I think that is more |
| 13 | efficient than just saying, juvenile offenders are now |
| 14 | going to be from age thirteen to seventeen instead of |
| 15 | thirteen to sixteen. I think it is extensive and it |
| 16 | won't accomplish anything. |
| 17 | MS. DeCATALDO: I think Judge Coreiro isn't |
| 18 | here, but odd they are thinking that. |
| 19 | Is it possible for this change, the juvenile |
| 20 | offender law, from a decision by the District Attorney |
| 21 | as to when the child is prosecuted as an adult all the |
| 22 | way up to a full neglect hearing in Family Court that |
| 23 | takes into consideration all of the strengths of that |
| 24 | child, the issues surrounding the crime and a decision |
| 25 | is made whether to stay in Family Court as of the |
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| 2 | hearing as opposed to a decision by the District |
| 3 | Attorney, and he's not here today. So, I wanted to say |
| 4 | that. |
| 5 | But, the raise of the age of juvenile |
| 6 | delinquency in Family Court jurisdiction is to treat |
| 7 | sixteen and seventeen year olds, all of those kids who |
| 8 | commit crimes regardless of the crime would come to |
| 9 | Family Court. So, there is two pieces to that. So, it |
| 10 | wouldn't be extending juvenile offender. It would |
| 11 | actually be bringing those kids back into the Family |
| 12 | Court process and treating them as the young children, |
| 13 | not young children, the young adolescents. |
| 14 | MR. WALDAUER: You'd be talking about less |
| 15 | serious crimes, in effect. |
| 16 | MS. DeCATALDO: No. We are talking about |
| 17 | all all jurisdictions, yes? |
| 18 | MR. WALDAUER: Even if the child is charged |
| 19 | as a juvenile offender? |
| 20 | MS. DeCATALDO: Juvenile offender, then a |
| 21 | waive up to prosecution as an adult with a hearing in |
| 22 | Family Court. |
| 23 | MR. WALDAUER: Family Court would be the |
| 24 | ones, not the Adult Court shift. You'd be asking a |
| 25 | Family Court to do this instead of a County Court |
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| 2 | Judge? |
| 3 | MS. DeCATALDO: Exactly. |
| 4 | MR. WALDAUER: Lots of luck. |
| 5 | MS. DeCATALDO: Just so you know, there is |
| 6 | only there are only two states that prosecute |
| 7 | sixteen and seventeen year old cases. New York is one. |
| 8 | North Carolina is the other. Carolina Connecticut |
| 9 | just changed their law. |
| 10 | MR. WALDAUER: They will need more Family |
| 11 | Court judges. |
| 12 | MS. DeCATALDO: It will take a lot of work, |
| 13 | absolutely. |
| 14 | MR. WALDAUER: I understand the concept. |
| 15 | Thank you. Thank you very much. |
| 16 | CHAIRMAN DUNNE: Thank you, sir. |
| 17 | Ms. Jane Goldner is here. Ms. Goldner is the |
| 18 | Probation Director for Cortland County Probation |
| 19 | Department. |
| 20 | Good morning. |
| 21 | MS. GOLDNER: Good morning. Thank you for |
| 22 | allowing me to speak this morning. |
| 23 | As Mr. Dunne said, I'm Jane Goldner and I'm |
| 24 | from Cortland County, which is just south here of |
| 25 | Onondaga County. |
| | |

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| 1 | Public Hearing |
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| 2 | I started working in the probation profession |
| 3 | in November, 1981. For seven years, I was a probation |
| 4 | officer, the next fourteen as a supervisor, and for the |
| 5 | past almost five years, as the probation director. |
| 6 | For all of these twenty-six years, I have |
| 7 | always been involved in both Family Court and Criminal |
| 8 | Court. By nature, court cases are adversarial |
| 9 | encounters. |
| 10 | While this setup, I believe, is appropriate |
| 11 | for the most part in Criminal Court, I believe it is a |
| 12 | poor place to resolve family matters. Person in need |
| 13 | of supervision cases specifically are ill-served by |
| 14 | putting parent versus child or school versus child. |
| 15 | PINS cases typically involve issues such as child |
| 16 | development, mental health, special ed. cases, |
| 17 | substance abuse, family dynamics and communication and |
| 18 | parenting skills. The assistance and services that the |
| 19 | children and family need are or should be available in |
| 20 | the community. Nothing magical happens in the Family |
| 21 | Court to resolve these matters. Adding this legal |
| 22 | layer to the problems, I believe, makes the |
| 23 | difficulties more complicated rather than promoting a |
| 24 | solution. |
| 25 | One of the first FINS cases I worked with |
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| 1 | Public Hearing |
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| 2 | many years ago involved a teenager referred by her |
| 3 | mother. As the case went through the Court process, |
| 4 | the emotion and drama increased and the child being |
| 5 | placed, resulting in the child being placed in foster |
| 6 | care. |
| 7 | The end of the court hearing, both the |
| 8 | daughter and mother were in tears with the mother |
| 9 | sobbing, "This is not what I wanted when I asked for |
| 10 | help." I believe when the Family Court gets involved, |
| 11 | in a way, it is a gamble. Whenever you're asking |
| 12 | another party to make decisions for your child and your |
| 13 | family, you're definitely losing a great deal of |
| 14 | control. |
| 15 | The recent changes in the Family Court Act |
| 16 | requiring substantial efforts to address PINS matters |
| 17 | before a petition can be filed, have made some strides |
| 18 | to reduce the number of PINS cases in Family Court. I |
| 19 | believe that taking the PINS statute out of the Family |
| 20 | Court Act is the next logical step to have PINS type |
| 21 | behaviors totally addressed by the family and community |
| 22 | agencies without the legal layer. |
| 23 | The important requirement with this action is |
| 24 | having the needed services available in a timely |
| 25 | manner. |

| 1 | Public Hearing |
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| 2 | One of the main needs one of the main |
| 3 | needs is mental health services in Cortland County. As |
| 4 | I believe in many, many counties, the waiting list for |
| 5 | mental health services, is lengthy and |
| 6 | counter-productive to assisting persons to get the help |
| 7 | they need. For a person who is in crisis and finally |
| 8 | makes a decision to seek help, to then be told that |
| 9 | waiting list is two months or even up to six months is |
| 10 | a terrible response from the community. For children |
| 11 | in counseling services, but needing more than available |
| 12 | in the community, the counseling agencies at times have |
| 13 | encouraged persons that referred a child as a PINS in |
| 14 | order to have the Court hopefully place the child with |
| 15 | the Department of Social Services and in a residential |
| 16 | treatment program. |
| 17 | It is certainly a disservice to the child and |
| 18 | family to require entering the legal system to get the |
| 19 | mental health services the child needs. |
| 20 | I believe that juvenile delinquent matters |
| 21 | are appropriate to remain in the Family Court Act due |
| 22 | to the importance of determining the child's |
| 23 | involvement and the alleged behavior and to address |
| 24 | victims' requests. Probation is well-suited to this |
| 25 | role due to some of the similarities of probation |
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| 2 | responsibilities in the Criminal Court System. Only |
| 3 | recently have I become aware of the proposal to raise |
| 4 | the JD age in New York State to 18. I certainly |
| 5 | believe this has some merit. It will get us in line |
| 6 | with the rest of the United States and it will match |
| 7 | the PINS age if, in fact, PINS remains in the Family |
| 8 | Court Act. If the Appellate JD 18, since we called it |
| 9 | PINS 18, if JD 18 comes to fruition, it will be |
| 10 | impaired amendment, resources are available to the |
| 11 | community and probation to provide for this increase in |
| 12 | JD cases. |
| 13 | In Cortland County, we are certainly much |
| 14 | smaller than Onondaga and Monroe that you've already |
| 15 | heard from. We currently have about thirty JDs on |
| 16 | court ordered probation supervision. We have |
| 17 | approximately one hundred youthful offenders on |
| 18 | probation through the Criminal Court. I believe with a |
| 19 | JD 18 enactment, approximately 65 of those youthful |
| 20 | offenders cases would then come under the Family Court |
| 21 | Act rather than Criminal Court. Of course, these JD |
| 22 | cases would be eligible for probation adjustment |
| 23 | services and have the opportunity to be diverted from |
| 24 | the court process. |
| 25 | The numbers of probation intake cases would |
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| 2 | increase and supervision cases should decrease. |
| 3 | However, the JD cases will require more time and |
| 4 | services due to Family Court cases focusing on the |
| 5 | family as well as the child. |
| 6 | Probation has always had an active and |
| 7 | important role in Family Court, and I believe this |
| 8 | should continue regarding JD cases. As outlined |
| 9 | previously, I recommend that PINS matters be removed |
| 10 | from the Family Court Act. Our community must provide |
| 11 | the service that is needed, especially mental health |
| 12 | focusing on the needs of the child and family and not |
| 13 | on the legal process. It would improve the chance for |
| 14 | better and longer lasting solutions for all. |
| 15 | Thank you for your time and attention. |
| 16 | CHAIRMAN DUNNE: Thank you, Ms. Goldner. |
| 17 | Tell me, what are the impediments to a more |
| 18 | prompt access to mental health services? |
| 19 | MS. GOLDNER: In our county? |
| 20 | CHAIRMAN DUNNE: In your county. |
| 21 | MS. GOLDNER: It basically is the lack of |
| 22 | counselors and lack of services available. We do have |
| 23 | again, being small, we only have two mental health |
| 24 | agencies, and both of them have, quite extensively, |
| 25 | waiting lists. |

| 1 | Public Hearing |
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| 2 | CHAIRMAN DUNNE: Have you ever tried access |
| 3 | to mental health services outside the county or doesn't |
| 4 | the law provide for that? |
| 5 | MS. GOLDNER: Yes, we have, but it is very |
| 6 | difficult for many of the clients that we serve. For |
| 7 | example, when Mary Winters was here speaking about the |
| 8 | sex offenders sex offender programs for juveniles, |
| 9 | we do not have any program like in Cortland. So, we |
| 10 | have had family who have come to Onondaga County to |
| 11 | avail that. But, our clientele, not all, but I'd say |
| 12 | the majority are lower income people and the |
| 13 | transportation and the costs and the time to access |
| 14 | services, because, typically, Mental Health Services |
| 15 | is, you know, weekly appointments, maybe every other |
| 16 | week, and for a family who has limited income and maybe |
| 17 | several children, but they also need to be able to |
| 18 | come, whether this is Syracuse or Binghamton or Ithaca, |
| 19 | which is also nearby, Cortland, it becomes very |
| 20 | difficult. |
| 21 | So, it doesn't happen very often. |
| 22 | MR. POZZI: Jane, if the agencies that are |
| 23 | providing services for you right now, I guess it is M&A |
| 24 | revenues, they had additional revenues, they would be |
| 25 | able to expand their programs and allow for the |
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| 2 | additional treatment slots that you would need to have, |
| 3 | you know, to reduce that waiting list down? |
| 4 | MS. GOLDNER: Yes. |
| 5 | CHAIRMAN DUNNE: Any other questions? |
| 6 | MS. GINSBURG: Are there kids in your county |
| 7 | that get placed with CFS because there are no |
| 8 | developmental health services? |
| 9 | MS. GOLDNER: We have very few that are |
| 10 | placed with OCFS. If children are placed, which I |
| 11 | think the county has too many that are placed, |
| 12 | typically, is with our local Department of Social |
| 13 | Services, and that, either, they stay in foster home in |
| 14 | the county or if they are placed in residential |
| 15 | programs, which would be outside the program. |
| 16 | MS. GINSBURG: Do you know what your |
| 17 | placement rate is? |
| 18 | MS. GOLDNER: I couldn't tell you off the top |
| 19 | of my head. I know when I look at numbers from other |
| 20 | counties, again, with us being a small county, it |
| 21 | definitely is higher than it should be, and our |
| 22 | detention youth is still very high. We have two Family |
| 23 | Court Judges in our county, both well-respected, and |
| 24 | they respect our agency highly. I think that they tend |
| 25 | to like to be action oriented. So, when they do have a |
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| 2 | case come in front of them, they do tend to be |
| 3 | detention a little too often, in my opinion, because a |
| 4 | need to do something especially as someone else |
| 5 | mentioned, you have a parent there that is saying they |
| 6 | have they are struggling having the child home and |
| 7 | making the school representative that is there saying |
| 8 | how disruptive the child is in school. And, so, the |
| 9 | Court will take the decision to do a placement to show |
| 10 | the child who is in charge, so to speak, and |
| 11 | unfortunately, though, that ends up sometimes being not |
| 12 | just a few days, but weeks and weeks and maybe even |
| 13 | months sometimes, which I believe is too lengthy and |
| 14 | not appropriate use of detention. |
| 15 | MR. POZZI: Jane, so, if I understand you |
| 16 | correctly, you're grieving that the sixteen and |
| 17 | seventeen year-olds that you're now seeing, YO |
| 18 | offenders would be much better served if they were |
| 19 | processed through the Family Court, correct? |
| 20 | MS. GOLDNER: Yes. |
| 21 | MR. POZZI: Just give me just an average |
| 22 | profile that you're seeing for these YO offenders, |
| 23 | obviously, drug offenses, what's the typical profile? |
| 24 | MS. GOLDNER: A lot of them, they are |
| 25 | still they are euphemistic. They might be |
| | Adam H. Alweis - Senior Court Reporter |

| 1 | Public Hearing |
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| 2 | misdemeanors. They might be petty larceny. But, the |
| 3 | underlying issue would be substance issue still in our |
| 4 | county. Drinking and marijuana are more common, but |
| 5 | some cocaine use, assaults, some burglaries, that type |
| 6 | of thing. |
| 7 | MR. BURNS: Jane, you might want to turn |
| 8 | around and make sure the Cortland County Family Court |
| 9 | Judge didn't walk in. |
| 10 | But, I don't know, the comment you made about |
| 11 | use of the detention, we struggle with this in Monroe |
| 12 | as well. Mary mentioned that OCA needs to do a better |
| 13 | job educating judges on the failure rates of detention |
| 14 | and failure rates and the trajectory you place in a |
| 15 | child once you make that detention decision. |
| 16 | Do you think more training from OCA would be |
| 17 | effective or do you think judges with mom standing |
| 18 | there pleading with the Judge to detain the child, that |
| 19 | the training wouldn't be effective and the judges will |
| 20 | make their personal decisions? |
| 21 | MS. GOLDNER: I think more training could be |
| 22 | helpful, and I think maybe, on our local end, we need |
| 23 | to talk more, too. I talk to our judges about issue at |
| 24 | times, and I think they listen, but I still think once |
| 25 | they are in the courtroom and they are seeing that |
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| 1 | Public Hearing |
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| 2 | situation, that immediate situation, they tend to want |
| 3 | to be more, like I said, action oriented than just say, |
| 4 | well, we are going to adjourn this again. |
| 5 | One of our judges was previously a county |
| 6 | attorney who was the presentment agency in Family |
| 7 | Court. So, I know he often goes back to his |
| 8 | frustration during those years, and when seeing some |
| 9 | inaction by the Court, so I think he sees now as well |
| 10 | as a Family Court Judge to be more active in that area. |
| 11 | MR. BURNS: Thank you. |
| 12 | MR. RINALDI: What's your caseload size, |
| 13 | supervision, in Family Court? |
| 14 | MS. GOLDNER: The one thing in our county, we |
| 15 | have many caseloads, so I can, just real quick I |
| 16 | have thirteen probation officers, and twelve of them |
| 17 | also carry regular supervision cases and they all do |
| 18 | investigations, too. I have a hard time when people |
| 19 | ask our caseload size. They do a mix. Then I do have |
| 20 | one officer who is specifically assigned to PINS cases. |
| 21 | We have our program is working with a DSS |
| 22 | caseworker, is assigned to our office, and works with |
| 23 | the probation officer. So, anyway, those twelve |
| 24 | officers, had five them, have a mix load of Family |
| 25 | Court and Criminal Court. They tend to have about |
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| 1 | Public Hearing |
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| 2 | forty-five cases. Plus, they also conduct maybe five |
| 3 | presentence or predispositional investigations a month. |
| 4 | So |
| 5 | MR. RINALDI: What do you think would be an |
| 6 | ultimate number? |
| 7 | MS. GOLDNER: I think they if they were |
| 8 | still going to do their investigation work, I think |
| 9 | about 30 would be that would be their mixed caseload |
| 10 | of Criminal Court and Family Court probationers. I |
| 11 | think they could manage pretty well. |
| 12 | MR. GREENBERG: Just a follow-up question. |
| 13 | If the services, specifically mental health services or |
| 14 | any other services were available in a more timely |
| 15 | manner, you said you don't think placement with OCFS, |
| 16 | you have foster placement in the local, would there be |
| 17 | some measurable percentage of those that are not in |
| 18 | need of foster care placement, mental health services |
| 19 | or other services available, and would the same |
| 20 | might the same apply to detention supervision also? |
| 21 | MS. GOLDNER: Yes. I believe that in those |
| 22 | other the supervisions would be available. I |
| 23 | believe you'd see less petitions being filed, and just |
| 24 | that, alone, obviously then the resulting detention use |
| 25 | or later placement is reduced. |

| Ţ | Public Hearing |
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| 2 | For example, right now, in Cortland County, |
| 3 | we do not have a psychiatrist, and it has really become |
| 4 | difficult. The person who had been there resigned and |
| 5 | they just haven't been able to get anyone. So, we are |
| 6 | definitely seeing juveniles. Medication management has |
| 7 | become very difficult. The pediatrician and general |
| 8 | doctors do not feel competent to do that, which I give |
| 9 | them credit for not just winging it, we'll try this or |
| 10 | that, but they don't have that expertise. |
| 11 | We were also starting to see also, with the |
| 12 | adults, too, the medication issue. So, the |
| 13 | psychiatrist, but as well as general counselors, too, |
| 14 | are definitely in short supply. I do believe if we had |
| 15 | those services, and our rescue workers do have some |
| 16 | RESPID services, but I think we need to expand those, |
| 17 | too, and because we have talked to the courts, again, |
| 18 | back to the detention issue about use of leading the |
| 19 | RESPID services rather than a detention. So, that's |
| 20 | appropriate that we need to, maybe, a little bit |
| 21 | harder. |
| 22 | CHAIRMAN DUNNE: Nancy? |
| 23 | MS. GINSBURG: What is your Probation |
| 24 | Department's relationship with the schools in the |
| 25 | county? |

| 1 | Public Hearing |
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| 2 | MS. GOLDNER: We have five school districts |
| 3 | in Cortland County. We do not have officers placed in |
| 4 | each one. However, over the years, I think we have a |
| 5 | very good relationship with the schools. As they, at |
| 6 | times change, people in key positions, we have to get |
| 7 | reacquainted. I think, at times, they are unrealistic |
| 8 | as to what probation can do still at times, get that |
| 9 | frantic phone call that a kid on probation is |
| 10 | misbehaving and he should come and get them. We |
| 11 | wouldn't come and get them, but just to take them home |
| 12 | and not have the parent know where the child is, those |
| 13 | kind of things, and still, at times, I think a little |
| 14 | unrealistic of wanting matters to go right to court in |
| 15 | order to get a possible placement and maybe not utilize |
| 16 | their special ed. cases committee as much, but those |
| 17 | are case by case. We try to educating and work on |
| 18 | those, so I think it is better than the case, but it |
| 19 | still can be improved. |
| 20 | MS. GINSBURG: Thanks. |
| 21 | MR. CARTER: Just to follow up on that |
| 22 | question, are there any ongoing discussions between |
| 23 | your office and folks who provide mental health |
| 24 | services and the education folks? |
| 25 | MS. GOLDNER: Yesterday. |

| 1 | Public Hearing |
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| 2 | MR. CARTER: Do you have a lunch every month, |
| 3 | could you tell us? |
| 4 | MS. GOLDNER: No. We don't have lunch. That |
| 5 | is a good idea, though. Well, one, we have our County |
| 6 | Mental Health Agency and we have a not-for-profit |
| 7 | called Family Counseling Services, and historically, |
| 8 | the probation director has always been on the board of |
| 9 | family counseling. So, when I became director, I was |
| 10 | asked to be on the board. So, I am quite knowledgeable |
| 11 | about that agency and of the County Mental Health. |
| 12 | They have a new, not director, but, one of their |
| 13 | administrators there, who's gotten very involved in |
| 14 | improving services, and, you know, I've met with him |
| 15 | several times. Actually, the County Administrator, DSS |
| 16 | Commissioner and myself have met to discuss, and, so, |
| 17 | yes, everyone is on the same page that things need to |
| 18 | be improved. I won't say it is fine the way it is. |
| 19 | MR. CARTER: So, the resource issues? |
| 20 | MS. GOLDNER: The resource, right. |
| 21 | CHAIRMAN DUNNE: Previous witness, |
| 22 | Ms. Barnes, said that probation officers are not born. |
| 23 | They are developed. I frequently heard concern that a |
| 24 | probation officer assigned to Family Court matters |
| 25 | achieves a certain level of excellence, has an interest |

| 1 | Public Hearing |
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| 2 | in being slotted over to the Criminal Court work now or |
| 3 | other there is an illusion it is more important. |
| 4 | With the size of staff that you have, do you |
| 5 | find there is that same feeling, and, if so, what do |
| 6 | you do to keep the good guys in the Family Court? |
| 7 | MS. GOLDNER: Right. Actually, I think |
| 8 | because we are small and the officers have a mixed |
| 9 | caseload, I, personally, I always have a mixed caseload |
| 10 | when I was an officer. Then supervising and/or |
| 11 | supervising officers, I think, it is a great thing to |
| 12 | have a mixed education load. I think it gives you a |
| 13 | big picture of the whole system, and even with your |
| 14 | Criminal Court probationers, if they start having |
| 15 | issues say with their own children, I think you have, |
| 16 | you know, a wealth of expertise and knowledgeable to |
| 17 | provide now in order to prevent them having to maybe go |
| 18 | to Family Court with issues. |
| 19 | So, we really haven't had that where someone |
| 20 | has said, I didn't, I am just tired of Family Court, |
| 21 | get me out of here because it isn't a hundred percent |
| 22 | of what they do, take it back, I do have one who gives |
| 23 | a hundred percent of what she does, but, she's loving |
| 24 | it. So, I don't know if she burns out or how that will |
| 25 | be, but I really haven't experienced that. |
| | |

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| 2 | But, I do agree that some definitely have to |
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| 3 | develop a probation officer. There is just so much |
| 4 | to so much to learn from all of the rules and |
| 5 | regulations of probation. Just the laws, I think most |
| 6 | people come into this without that background. |
| 7 | So, learning that court procedures and how to |
| 8 | write reports, good communication, both verbally and |
| 9 | written is so important that I think it takes several |
| 10 | years for an officer to really have a good grasp of |
| 11 | their role. |
| 12 | So, with a good probation supervisor and an |
| 13 | officer who is really willing to learn, that is a great |
| 14 | combination, and so far, I have a very good staff in |
| 15 | Cortland, and, so, I haven't had anyone. I've only had |
| 16 | people to abandon the ship for more money. So, if you |
| 17 | talk to Tompkins County about not paying as much, that |
| 18 | would help. |
| 19 | CHAIRMAN DUNNE: Let me get to that not |
| 20 | insignificant factor. As we've traveled around the |
| 21 | state listening to the work of various departments, |
| 22 | often times, we'll find that the department, which are |
| 23 | a model and have been successful, are partially |
| 24 | successful due to the support of the County Executive |
| 25 | or the County Board, Supervisor's support, both |
| | Adam H. Alweis - Senior Court Reporter |

| 1 | Public Hearing |
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| 2 | effectively and financially. Can you describe your |
| 3 | relationship with the county government and the |
| 4 | officials? Are they encouraged? Have you had to |
| 5 | struggle for every penny? |
| 6 | MS. GOLDNER: Like I said, I'm just finishing |
| 7 | my fifth year as director, and I came into the role |
| 8 | with really not a lot of administrative background as |
| 9 | far as budgets. I mean, that was all new to me. I |
| 10 | have to say, I feel like I've done pretty well in my |
| 11 | relationship with the county government, is good. Six |
| 12 | months after I became director, the county hired their |
| 13 | very first county administrator. So, he made quite a |
| 14 | few changes in state budget process, whatsoever. Since |
| 15 | it was my first time going through it, I just followed |
| 16 | whatever he wanted. The longer term department heads |
| 17 | were having a real hard time. That wasn't the way they |
| 18 | had always done it. For me, it worked. I just |
| 19 | followed what the directions. I guess, that is my |
| 20 | catholic school background, too, follow the directions. |
| 21 | Our county administrator, I would say, is a |
| 22 | very good person that looks at the bigger picture and |
| 23 | sees, if you strengthen probation, it can have a real |
| 24 | good effect on maybe having less people in the county |
| 25 | jail, which is a very expensive aspect for a county. |
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| 1 | Public Hearing |
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| 2 | And if you strengthen probation, maybe your placements |
| 3 | go down, and that certainly helps in the DSS budget. |
| 4 | So, I mean, he's wanted us to do electronic |
| 5 | monitoring. We've instituted several programs that we |
| 6 | have had before. Even drug testing, in the past, the |
| 7 | county legislator wasn't too keen on that. But, I |
| 8 | asked for it and the county administrator told me, he |
| 9 | agreed, he was surprised we hadn't been doing it. So, |
| 10 | actually, I would say it's gone quite well. I don't |
| 11 | know if I'm still on a honeymoon. We don't usually |
| 12 | have a five year honeymoon, but, so far, they have been |
| 13 | supportive. |
| 14 | CHAIRMAN DUNNE: You mentioned the county |
| 15 | jail. Have you ever been consulted or have you shown a |
| 16 | concern about the conditions and whatever facility the |
| 17 | county maintains for detaining youngsters? You have a |
| 18 | separate facility? |
| 19 | MS. GOLDNER: When you say, youngsters, are |
| 20 | you talking sixteen to seventeen year-olds? |
| 21 | CHAIRMAN DUNNE: Yes. |
| 22 | MS. GOLDNER: I haven't really been concerned |
| 23 | about it except that our county jail, it isn't all that |
| 24 | old. However, very shortly after it was built, it was |
| 25 | realized the amount of personnel to oversee the jail |
| | Adam H. Alweis - Senior Court Reporter |

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| 2 | was extremely high and the design of the jail was very |
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| 3 | poor. |
| 4 | So, actually, they are already looking at |
| 5 | building a new one. And, so, that is an issue that is |
| 6 | discussed about; the jail administrator would really |
| 7 | like to have a design that he could separate some of |
| 8 | the younger people from the older people, and they do |
| 9 | in some ways now, but there is still interaction, and |
| 10 | they also, when it is overcrowded, they have to ward |
| 11 | people out in neighboring jails. That is very |
| 12 | expensive. |
| 13 | Beside the expense, the concern is, the |
| 14 | person doesn't have their availability to counsel and |
| 15 | to other programs that are available in the Cortland |
| 16 | Jail. So, I mean, I think our jail is administered |
| 17 | pretty well. I think, I guess, the conditions today, |
| 18 | I'm not that concerned with. I would definitely like |
| 19 | to see more programs in the jail. They just don't have |
| 20 | the space right now to have different educational |
| 21 | programs and mental health programs that they would |
| 22 | like to. |
| 23 | CHAIRMAN DUNNE: Anyone else? Thank you very |
| 24 | much. Appreciate your being here. |
| 25 | Adam has suggested that we are going to take |
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| 1 | Public Hearing |
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| 2 | a break. We are five minutes ahead of ourselves. |
| 3 | However, may I just, our afternoon witnesses are Joanne |
| 4 | Davis and Elizabeth Brady. |
| 5 | Are they here? Good. Thank you. |
| 6 | Peter Polikarpenko, Syracuse School District. |
| 7 | Anybody from the school district? |
| 8 | All right. |
| 9 | (Luncheon recess.) |
| 10 | AFTERNOON SESSION |
| 11 | CHAIRMAN DUNNE: We shall reconvene and we |
| 12 | have visitors from Niagara County. We have Joanne |
| 13 | Davis, who is the DSS Supervisor in Niagara County and |
| 14 | Elizabeth Brady. |
| 15 | If you'd care to sit, stand |
| 16 | MS. BRADY: I prefer to sit, if that would be |
| 17 | okay, front and center. |
| 18 | CHAIRMAN DUNNE: Thank you for making the |
| 19 | effort to be here. My only regret is, our dear friend |
| 20 | and member, Judge Richard Clock (phonetic) who is |
| 21 | scheduled to be here, something came up and prevented |
| 22 | his participating. |
| 23 | MS. BRADY: I know Judge Clock. |
| 24 | CHAIRMAN DUNNE: Good man. |
| 25 | MS. BRADY: My name is Elizabeth Brady. I'm |
| | Adam H. Alweis - Senior Court Reporter |

| 1 | Public Hearing |
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| 2 | the supervisor from Niagara County Department of Social |
| 3 | Services. I'm Undercare Supervisor in Children's |
| 4 | Services and I also supervise our Intake Department, |
| 5 | which includes probation referrals. I have also worked |
| 6 | with probation on PINS diversions, memorandum of |
| 7 | understanding submitted to the state, and in the past |
| 8 | number of couple of years, basically, discussing |
| 9 | service providers and who would be the primary agency |
| 10 | on PINS diversion, which in our county, is Niagara |
| 11 | County Probation. |
| 12 | If possible, my director has asked me if I |
| 13 | read a statement that he prepared. So, I would like to |
| 14 | do that, and we can discuss any questions or concerns |
| 15 | that you may have. |
| 16 | CHAIRMAN DUNNE: Is that Mr. Burt J. |
| 17 | Marshall? |
| 18 | MS. BRADY: Yes. |
| 19 | CHAIRMAN DUNNE: Mr. Marshall was kind enough |
| 20 | to write on October 16th. |
| 21 | MS. BRADY: Okay. He would like, basically, |
| 22 | to say that, I would like to thank you for the |
| 23 | opportunity to give input as to the future of |
| 24 | Probation. |
| 25 | First, as it pertains to age of juvenile |
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| 1 | Public Hearing |
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| 2 | delinquency being increased to include sixteen and |
| 3 | seventeen year-olds, I would be in support of this. |
| 4 | These youth often are not able to make a |
| 5 | connection between their behavior and its consequences |
| 6 | before or during a particular incident. I believe that |
| 7 | there should be some consideration of moving PINS from |
| 8 | Probation to local Department of Social Services. |
| 9 | First, Social Services are responsible for the |
| 10 | placement of youth in DSS facilities and for payment of |
| 11 | the bills. Therefore, local DSS should have more input |
| 12 | into the disposition of these cases. There should be |
| 13 | better opportunities for linkage to preventative |
| 14 | services. The probation may be better suited for JD |
| 15 | while DSS may be better suited for PINS. |
| 16 | Also, there is a strictly financial |
| 17 | viewpoint. Probation has a low state reimbursement in |
| 18 | comparison to local DSS. I believe the concept of |
| 19 | families in need of supervision is a valuable concept |
| 20 | and also would fit better at Social Services. Often, |
| 21 | it is a fine line between neglect and PINS, and in |
| 22 | reality, a combination of the two. |
| 23 | Probation does not make immediate contact |
| 24 | with families when they get a referral, as CPS is |
| 25 | required to do when a report is made to the central |
| | Adam H. Alweis - Senior Court Reporter |

| 1 | Public Hearing |
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| 2 | registry. Youth and families would be better served if |
| 3 | PINS were either handled by DSS staff or if Probation |
| 4 | Children staff were relocated under the auspices of |
| 5 | local DSS. Probation would still handle JDs, but PINS |
| 6 | should be handled by local DSS and Family Court. |
| 7 | Often now, we have DSS case workers and DSS |
| 8 | attorneys in Family Court with county attorneys and |
| 9 | probation officers. This is a precious waste of |
| 10 | manpower that no county can afford. |
| 11 | CHAIRMAN DUNNE: Would you run through that |
| 12 | one again, please? |
| 13 | MS. BRADY: Probation can still handle JDs, |
| 14 | but PINS should be handled by local DSS and Family |
| 15 | Court. Often, we have DSS case workers and DSS |
| 16 | attorneys in Family Court with county attorneys and |
| 17 | probation officers. This is a precious waste of |
| 18 | manpower that no county can afford. |
| 19 | If you have any further need for a |
| 20 | clarification, I would be happy to discuss your |
| 21 | concerns. Thank you for the opportunity to comment on |
| 22 | this important issue. Sincerely, Burt J. Marshall, |
| 23 | Director of Social Services. |
| 24 | CHAIRMAN DUNNE: I'm sorry. I was a little |
| 25 | slow on the intake. |

| 1 | Public Hearing |
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| 2 | MS. BRADY: Yeah. |
| 3 | CHAIRMAN DUNNE: Give me, if you would, the |
| 4 | rationale for why these various people are in the same |
| 5 | courtroom at the same time? |
| 6 | MS. BRADY: In our county, what happens is, |
| 7 | when a PINS case is brought to Family Court and a |
| 8 | possibility of placement is necessary or additional |
| 9 | services through the Department of Social Services, a |
| 10 | case worker would be the intake case worker would |
| 11 | get the referral from probation. Then they would |
| 12 | assign it to an undercare case worker. They and the |
| 13 | County Attorney, to represent them, would attend the |
| 14 | same further proceedings or dispositional hearing as |
| 15 | Probation Officer and the County Attorney assigned to |
| 16 | them. So, there is a duplication of both, both |
| 17 | agencies being represented by separate attorneys in |
| 18 | court at the same time. These proceedings may be, you |
| 19 | know, one proceeding, two proceedings, you know, |
| 20 | sometimes they may be a continuation depending on the, |
| 21 | you know, families not attending or court congestion, |
| 22 | whatever. So, it is not a quick in and out proceeding. |
| 23 | So, the manpower and hours for the manpower is what his |
| 24 | concern is. |
| 25 | CHAIRMAN DUNNE: And if we were to suggest |
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| 1 | Public Hearing |
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| 2 | your thought of removing PINS from the Family Court and |
| 3 | place it within DSS, would that require more personnel |
| 4 | from DSS? |
| 5 | MS. BRADY: Currently, we have our PINS cases |
| 6 | dispersed amongst four, four units. At the beginning, |
| 7 | maybe not. We are doing quite a bit of preventative |
| 8 | services or what our CPS supervisors are concerned |
| 9 | about is, since PINS diversion began, they have been |
| 10 | seeing a rise in CPS reports being made by the school |
| 11 | or individuals associated outside the family with |
| 12 | concerns they need immediate access to services or |
| 13 | immediate assistance with the youth. So, the Undercare |
| 14 | Unit are getting a combination of cases from Probation |
| 15 | and from CPS, all school and frequently youth related |
| 16 | need for a youth related services, middle school and |
| 17 | higher that were already putting in preventative |
| 18 | services. |
| 19 | So, we are having a duplication of services, |
| 20 | sometimes kind of a finger pointing of agency who |
| 21 | should be responsible for this family, probation, |
| 22 | because it is a youth problem or CPS, because they had |
| 23 | a mandated report made to the central registry and is |
| 24 | required by state to make contracts with the family and |
| 25 | attempt to work with that family. |

| 1 | Public Hearing |
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| 2 | So, at this stage, we are showing a lot of |
| 3 | confusion on who should be responsible and more |
| 4 | duplication of services, itself. |
| 5 | CHAIRMAN DUNNE: Thank you. Does your |
| 6 | colleague want to |
| 7 | MS. DAVIS: No. |
| 8 | MS. BRADY: The only thing we were talking, |
| 9 | on the way, the requirements now for CPS, when a |
| 10 | removal is made, is to contact a relative or a family |
| 11 | friend, a caregiver to provide for the child prior to |
| 12 | placing a child in foster care. We are seeing more and |
| 13 | more cases where we are working with care givers who |
| 14 | have custody of these older youth due to the parents |
| 15 | neglect. So, a relative may have custody under a |
| 16 | neglect order with services by the Department of Social |
| 17 | Services, and in an attempt to work on services for the |
| 18 | parent who is neglectful to the child. |
| 19 | When we are working with the caregiver, we |
| 20 | are seeing more and more youth problems, you know, and |
| 21 | we are attempting to work to resolve the behavior |
| 22 | problems with the caregiver and the youth, and when |
| 23 | that fails, we have attempted to contact probation |
| 24 | because of the need to make the child's accountable for |
| 25 | some of his actions. These are kids with, maybe, some |
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| 1 | Public Hearing |
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| 2 | drug use, gang use, a wauling behavior, school |
| 3 | problems. After the department can't, you know, can't |
| 4 | change the behaviors and the relatives are becoming so |
| 5 | frustrated, we have attempted to engage probation to |
| 6 | work with the youth and the family and they are seeing |
| 7 | that as a duplication of services and are either |
| 8 | delaying providing services to that family or stating |
| 9 | the Department of Social Services already engaged with |
| 10 | this family. They are not going to open a case. This |
| 11 | is causing many of these caregivers to become so |
| 12 | frustrated that they want the child removed from their |
| 13 | home. |
| 14 | We then have to access courts to get custody |
| 15 | of that youth to place them in a therapeutic home or a |
| 16 | foster home. |
| 17 | CHAIRMAN DUNNE: Who falls within the |
| 18 | category of caregivers? |
| 19 | MS. BRADY: Caregiver, it would be anyone. |
| 20 | If a child was in need of removal from the parents home |
| 21 | because of abuse or neglect, safety issues, we, by law, |
| 22 | are required to ask if there is any relatives or |
| 23 | family, even family friends or someone who would be |
| 24 | willing to provide for this child pending our work with |
| 25 | the family to make it a safe situation. Those |
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| 2 | caregivers would get custody, temporary custody on the |
| 3 | parents' neglect order with supervision by the |
| 4 | Department of Social Services and services provided by |
| 5 | the Department of Social Services. |
| 6 | MR. POZZI: I just had the opportunity to |
| 7 | spend a couple of days with the Director of Probation |
| 8 | from Niagara and did a presentation, and during the |
| 9 | presentation, one of the things he said was, caseloads, |
| 10 | you know, in Niagara County were strictly high for |
| 11 | probation. Apparently, they have been cut in officers. |
| 12 | He was expecting a continuation of those cuts even |
| 13 | through this year, and I would think that, you know, |
| 14 | probation's ability then to respond to immediately to a |
| 15 | lot of these cases is really because of the caseload |
| 16 | and workload size of the probation officers. Because |
| 17 | he was talking about cases well over 150, 160. |
| 18 | MR. BURNS: His specialized workload was 140. |
| 19 | MR. POZZI: It is just impossible for them. |
| 20 | He had his officers were in no position to be able |
| 21 | to really respond immediately to almost any type of |
| 22 | any type of case. |
| 23 | MS. BRADY: Right. |
| 24 | MR. POZZI: That's what made me |
| 25 | MS. BRADY: They also have a lack of services |
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| 2 | that they have access to. The Department of Social |
| 3 | Services does have contact with parenting and mental |
| 4 | health probation, maybe, in my opinion, sometimes sees |
| 5 | themselves as peace officers, law enforcement. They |
| 6 | make recommendations. They monitor. They don't have |
| 7 | that supportive ability, or maybe it is a time |
| 8 | restraint that case workers do. |
| 9 | Going into the home, almost, you know, |
| 10 | picking up the family and getting them to the |
| 11 | appropriate services that are in the community. |
| 12 | MR. POZZI: What is your reimbursement rate |
| 13 | for preventative services? What do you get? |
| 14 | MS. BRADY: I don't know that. |
| 15 | MS. DeCATALDO: 65/35. |
| 16 | MR. POZZI: As compared to 18 percent for |
| 17 | probation? |
| 18 | MS. BRADY: Right, which is what |
| 19 | Mr. Marshall's concern is. We get a higher |
| 20 | reimbursement. We have more case workers than Niagara |
| 21 | County. |
| 22 | MS. DeCATALDO: I had one question. I was |
| 23 | confused though why you wanted probation to intervene |
| 24 | when you're already working with the family. What did |
| 25 | you see that they were going to bring to the table to |
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| 2 | work with the caregivers were in the Article 10 |
| 3 | situations? |
| 4 | MS. BRADY: In the situations where we are |
| 5 | working with the families, and it is a youth issue, we |
| 6 | are attempting to involve those. We are doing a PINS |
| 7 | diversion. We see ourselves as doing a PINS diversion. |
| 8 | The school sees us as doing a PINS diversion, but when |
| 9 | it fails and youth may need placement for safety |
| 10 | reasons, we would require him to be under a PINS order |
| 11 | of, first, versus a neglect order. |
| 12 | MS. DeCATALDO: Why? |
| 13 | MS. BRADY: The problem is, if the child is |
| 14 | in placement or the youth is in placement, still |
| 15 | experiencing the same behaviors, the parent that we |
| 16 | have the neglect order on, completes the stipulations |
| 17 | of Family Court, the Court has no no ability to keep |
| 18 | that child in placement. The child has to return home. |
| 19 | If the child is still, you know, experiencing, using |
| 20 | drugs, running the streets, then we are going to have a |
| 21 | child back into a home that just recently stabilized |
| 22 | with concerns that, one, the youth is going to continue |
| 23 | to the same behaviors, or, two, that that family will |
| 24 | have, you know, will backtrack to the old behaviors. |
| 25 | The stress will create more problems and another CPS |
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| 2 | report. |
| 3 | CHAIRMAN DUNNE: Ms. Davis, you used the term |
| 4 | a couple times, making the youngsters accountable for |
| 5 | their activity. And |
| 6 | MS. BRADY: I'm Brady. That's Davis. |
| 7 | CHAIRMAN DUNNE: One of the experts we spoke |
| 8 | about, with the subject of intensive supervision as |
| 9 | opposed to placement, said that a key to the program |
| 10 | would be accountability by the youngster. It really |
| 11 | gave him the feeling that they are not just being |
| 12 | supervised, but they are being part of the whole |
| 13 | program and they have to account for what they have |
| 14 | done. First, do you have programs of intensive |
| 15 | supervision, and, second, would accountability in your |
| 16 | judgment be an essential element of that? |
| 17 | MS. BRADY: We don't have an intensive |
| 18 | supervision program. We have, I think, currently, |
| 19 | Niagara County probation is working with Community of |
| 20 | Missions. As a prompt payment is coming through the |
| 21 | Department of Social Services for intensive |
| 22 | supervision, the programs we had a data reporting |
| 23 | program that probation was making reference as to the |
| 24 | department. The department was paying the bills and |
| 25 | monitoring, you know, attendance or payments. But, |
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| 2 | what we are having the case workers, maybe, because |
| 3 | they have a shorter caseload, are able to go into the |
| 4 | home more to follow up on the school attendance |
| 5 | counseling problems. When a child doesn't, the youth |
| 6 | doesn't attend his counseling programs, doesn't attend |
| 7 | court, we seem to be able to go more into the homes |
| 8 | than our Probation Department has been able to. |
| 9 | I know I think Niagara County Probation |
| 10 | has just recently received grant money for the |
| 11 | Intensive Case, Case Probation Officer, and in that |
| 12 | program is either just started or starting in January. |
| 13 | I'm not quite sure. |
| 14 | MS. VALENTI: It is starting in January. |
| 15 | MS. BRADY: Starting in January. Currently, |
| 16 | up until now, there was no Intensive Case Manager. The |
| 17 | problems we are seeing is, when CPS receives a report |
| 18 | or the school is calling us frequently, we are finding |
| 19 | that the families are working with the schools, working |
| 20 | with counselors, but they can't get the youth to the |
| 21 | programs. They can't get the youth to even report to |
| 22 | probation. Those are the cases that we are saying |
| 23 | that it is Child A, a youth problem, the child is |
| 24 | avoiding. Many of our youth, you know, they run from |
| 25 | their problems. So, those are the ones we feel that |
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| 2 | the child has to be held accountable. His actions, |
| 3 | when the families and now the service providers are |
| 4 | doing their job and the youth is refusing to cooperate |
| 5 | or not willing to even participate, that's the concern |
| 6 | that we have. Those are the cases that would need an |
| 7 | intensive, either probation officer, case worker or |
| 8 | service provider. It is the frustration that the |
| 9 | schools are seeing, the families are seeing, the |
| 10 | counselors are seeing. Everybody is already up and |
| 11 | running, but we can't how do we engage that youth. |
| 12 | MS. VALENTI: So, Niagara County Probation is |
| 13 | a designated agency? |
| 14 | MS. BRADY: Yes. |
| 15 | MS. VALENTI: And they are not allowing those |
| 16 | cases to go to petition? Are they telling you to go |
| 17 | back and conduct more services? |
| 18 | MS. BRADY: Well, I don't know. We are |
| 19 | hearing from the families that are contacting us |
| 20 | directly that, at times, probation is suggesting that |
| 21 | they call DSS directly or the referring or suggesting |
| 22 | to the schools that they make CPS reports for immediate |
| 23 | access. Our intake from January to August, I believe, |
| 24 | we had one PINS referral and three JD referrals and |
| 25 | those JDs were just over the summer. We've had |
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| 2 | meetings over the summer to see what the problems were, |
| 3 | and I think, you know, we are having more cases are |
| 4 | being brought before the Court. But, it just might be |
| 5 | recently. I don't have those statistics. But, there |
| 6 | was a definite concern by the school, by the community. |
| 7 | CHAIRMAN DUNNE: Any other questions? |
| 8 | Thank you. And would you convey our thanks |
| 9 | to the director for not only his communication, but |
| 10 | also having you come. |
| 11 | MS. BRADY: Thank you. |
| 12 | CHAIRMAN DUNNE: Thank you very much. |
| 13 | Peter Polikarpenko is the head of the |
| 14 | Syracuse School District Truancy and Attendance |
| 15 | Programs. |
| 16 | Is Peter here? We are a little ahead of |
| 17 | schedule. |
| 18 | I am informed that we have two gentlemen here |
| 19 | from Erie County Department of Probation who came as |
| 20 | observers, but I wonder if they would be willing to |
| 21 | come. |
| 22 | Mr. Sacubulski and Mr. Feliz, would you care |
| 23 | to engage in a bit of a dialogue with us? |
| 24 | Both of these gentlemen, John Sacubulski, |
| 25 | S-a-c-u-b-u-l-s-k-y? |
| | |

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| 2 | MR. SACUBULSKI: S-k-i. |
| 3 | CHAIRMAN DUNNE: And Mr. Yasaff Feliz, |
| 4 | Y-a-s-a-f-f F-e-l-i-z, do I have that |
| 5 | MR. FELIZ: Yes. |
| 6 | CHAIRMAN DUNNE: are in supervisors' roles |
| 7 | at the Erie County Probation Department. But, what |
| 8 | prompted me to invite them to engage in a dialogue with |
| 9 | us, and I understand you're not here to speak on behalf |
| 10 | of the department or the county, was an e-mail which |
| 11 | counsel had received from Judge Paul Buchanan of the |
| 12 | Family Court, Erie County Family Court, where he |
| 13 | states, here in Erie County, Department of Social |
| 14 | Services has become the lead agency for PINS rather |
| 15 | than Probation. We have a Multi-Department Diversion |
| 16 | Unit with DSS, Probation and Child Mental Health. We |
| 17 | also have a good cooperation with the Buffalo Public |
| 18 | Schools who have two resource officers assigned to |
| 19 | Family court. After two years of hard work, paren, |
| 20 | bureaucratic infighting, paren maybe he didn't want |
| 21 | that to be in there we have a system that is working |
| 22 | very well. Just to show that it can be done, so that |
| 23 | the comments should not be totally broad brushed that |
| 24 | it does not work or cannot work, gentlemen, I wonder if |
| 25 | you might be able to share with us how this |
| | |

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| 2 | Multi-Department Diversion Unit has operated and the |
| 3 | experience has been? |
| 4 | MR. SACUBULSKI: Certainly, I'll take this. |
| 5 | I supervise the Family Services Team. And if what I'm |
| 6 | told, and I have conversations with Judge Buchanan |
| 7 | regularly, apparently, Erie County is ahead of the |
| 8 | curve as far as in succes in PINS diversion. |
| 9 | The services that we use are a lot of the |
| 10 | wrap around services, high end family, functional |
| 11 | family therapy, community connections, along with |
| 12 | multi-systemic treatment and a variety of agencies, |
| 13 | which I guess we are more fortunate than many other |
| 14 | counties, here to provide. |
| 15 | That being the case, certainly, there are |
| 16 | still waiting lists and things that more services could |
| 17 | be available, and I believe those are in process, in |
| 18 | the works because, over time, the Department have shown |
| 19 | that they do indeed save millions of dollars to the |
| 20 | county and to the court system by offering these good |
| 21 | array of diversion services. |
| 22 | Interesting that you called me up here. I |
| 23 | just happen to grab a statistic sheet here, which was |
| 24 | compiled between the Department of Social Services, |
| 25 | Mental Health, showing some benchmarks here from when |
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| 2 | the PINS law was changed in April of '05, to the time |
| 3 | projected for the end of this year. Most of these |
| 4 | cases have been with Judge Buchanan since he deals with |
| 5 | most of the PINS work and the PINS diversion. Again, I |
| 6 | have to qualify that these are not official or manuals, |
| 7 | but these are just our most recent some stats we had |
| 8 | here. |
| 9 | Since the pay baseline from '04, '05, to the |
| 10 | projected trend of the end of 2007, there has been, in |
| 11 | Erie County, a 44 percent reduction in PINS petitions, |
| 12 | PINS petitions. Those numbers dropping from 808 down |
| 13 | to a projected 453 by the end of this year. There has |
| 14 | also been a 78 percent reduction in PINS youth placed |
| 15 | on formal PINS from that '04 '05 base. |
| 16 | CHAIRMAN DUNNE: Can I have that percentage |
| 17 | again? |
| 18 | MR. SACUBULSKI: 75 percent. That was 299 in |
| 19 | the '04-'05 base year. The projected figure of 68 this |
| 20 | year. My understanding is, currently, I believe there |
| 21 | is a approximately 50 PINS cases, adjudicated PINS |
| 22 | cases now active in Erie County Probation, |
| 23 | significantly |
| 24 | MR. FELIZ: It is a significant drop from |
| 25 | what we used to have. And, basically, what it is, the |
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| 2 | program, itself, concentrates very heavy at the front |
| 3 | end. It is providing the services the minute that the |
| 4 | individual is identified as coming into the system. |
| 5 | The services needed are then identified at that time. |
| 6 | The services are in place. If those services, for some |
| 7 | reason, were not able to correct that which we need to |
| 8 | study, then a court petition is filed, and that number |
| 9 | has drastically increased because we did not have the |
| 10 | services. They used to come into intake okay, and as |
| 11 | soon as they come in, there was very little services |
| 12 | that we can do before we before we penetrate the |
| 13 | Court system. |
| 14 | MR. SACUBULSKI: A couple of other |
| 15 | statistics. There has been a 37 percent reduction in |
| 16 | the average daily census for secured detention using |
| 17 | 2004 as the data base and a 70 percent reduction in the |
| 18 | average DA census for nonsecured detention. |
| 19 | Psychiatric inpatient, average daily census has been |
| 20 | reduced by 56 percent, and let's see, there has been a |
| 21 | 33.6 reduction in the annual residential treatment |
| 22 | center, bed days, from the 2005 basement. Some dollar |
| 23 | figures are in here. From those same data bases, 2007, |
| 24 | 5.1 million annual reduction in the residential |
| 25 | treatment center expenses. |

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| 2 | There has also been a \$6.2 million cost |
| 3 | avoidance factoring in a two-year residential treatment |
| 4 | center if I can read this increases from that |
| 5 | same base. |
| 6 | Now, the amount of the contract and services |
| 7 | dedicated for PINS diversion and JD services for |
| 8 | this for 2008, is \$3.1 million. Now, if you |
| 9 | subtract the I add that \$5 million and \$6 million |
| 10 | savings minus the expense of that 3.1 million, you can |
| 11 | see that is an \$8 million savings just from those |
| 12 | figures alone, which is projected. Again, those aren't |
| 13 | absolute. I do not mean to make that, such |
| 14 | declaration, but it just does give an indication of a |
| 15 | very, very positive outcome, at least, that we are |
| 16 | seeing in Erie County. |
| 17 | Also, in 2008, I believe, Erie County has |
| 18 | also a Juvenile Delinquency model Court, and these same |
| 19 | PINS diversion initiatives are expected to also be |
| 20 | encompassed in the juvenile delinquency model. |
| 21 | MR. FELIZ: It's a stretch to overlay this |
| 22 | into the JD arena. When we get a youth that comes into |
| 23 | the intake process, immediately have the services |
| 24 | available that will reduce the percentage that we are |
| 25 | personally sending into court to see if we can reduce |
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| 2 | that percentage by simply providing services before |
| 3 | that individual gets into court. That would be done in |
| 4 | cooperation with our Youth Detention System as well as |
| 5 | Probation as well as the DSS system. But, the core of |
| 6 | this, organized of why, though, actually work is, what |
| 7 | are the services that are being provided at the front |
| 8 | end, not wait until the judge orders it and also works |
| 9 | provided that family is receptive to an acceptance of |
| 10 | service. If the family is not willing to accept |
| 11 | services, we actually end up with not much of a choice |
| 12 | but having to refer the case to court perhaps to have |
| 13 | the family comply with the required services. |
| 14 | CHAIRMAN DUNNE: Have you found that there |
| 15 | are any legal impediments to your delivering of these |
| 16 | services up front? |
| 17 | MR. FELIZ: No, because it is something that |
| 18 | we have done, you know, historically. I mean, the |
| 19 | typical intake system, once, let's say, a youth gets |
| 20 | arrested by the police, issues an appearance ticket, |
| 21 | the appearance ticket comes to probation, probation |
| 22 | makes an attempt to adjust the case. In that attempt, |
| 23 | there is services that also provide, they are in place |
| 24 | and it could be something as simple as your going to |
| 25 | perform, you know, 20 hours of community services, you |
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| 2 | know, on the probation officer supervises them. Once |
| 3 | the community services is accomplished, you know, the |
| 4 | case gets adjusted and never makes it to court. |
| 5 | Sometimes, it may be as something as complicated, you |
| 6 | need to attend a substance abuse treatment |
| 7 | intervention. If the agency decides that that |
| 8 | individual needs treatment, then the individual gets a |
| 9 | role of treatment, and still, we would be able to |
| 10 | adjust the case provided that that family is willing to |
| 11 | abide by the treatment agency's responsibility, and we |
| 12 | can adjust the case and not make it into court. |
| 13 | The difference it would make is, how many and |
| 14 | how much services do we have available? On the PINS |
| 15 | arena, that you can see, the amount of services that |
| 16 | are accessible to the PINS cases is by far more than we |
| 17 | would personally have available for the JD case, and |
| 18 | what we believe is that since, by locating this, there |
| 19 | is \$8 million savings, if we can take some of that |
| 20 | money and put it up front in services, that will save |
| 21 | extremely an extremely large amount of individuals |
| 22 | that will be penetrating the judicial system, and I |
| 23 | think I think we think it will work. |
| 24 | MR. POZZI: Who is the direct beneficiary of |
| 25 | that \$8 million savings? |

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| 2 | MR. FELIZ: I don't know. We are the county. |
| 3 | MR. SACUBULSKI: I don't know if that is just |
| 4 | the general accounting funds order, social services |
| 5 | funds budget or also perhaps factoring in detention as |
| 6 | a separate department. I think it is a multi-agency. |
| 7 | MR. POZZI: As we look at this one, I think |
| 8 | one indication we made in dealing with the Criminal |
| 9 | Court, not socially, there needs to make investments, |
| 10 | you know, let's say, in probation, to bring workloads |
| 11 | into reasonableness, but also in a need for additional |
| 12 | revenues to purchase those programs that we need to |
| 13 | have in our communities. |
| 14 | MR. SACUBULSKI: Right. |
| 15 | MR. POZZI: It would be a smart investment. |
| 16 | It would not be a wise investment. It would just |
| 17 | increase one part of the system without allowing, as |
| 18 | you talk about front loading, having the ability to get |
| 19 | these cases and provide services almost the same day |
| 20 | when a PINS case comes in or you get an appearance |
| 21 | ticket, see the kid for the first time, too many |
| 22 | services immediately for that particular individual and |
| 23 | have a plethora of it. You can deal with the multitude |
| 24 | of issues that these kids have presented to us. |
| 25 | MR. SACUBULSKI: Yes. Matter of fact, the |
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| 2 | PINS Diversion Unit that I supervise, well, Erie County |
| 3 | Probation is located in the Erie County Family Court |
| 4 | Building except my unit, which they removed the |
| 5 | officers and the supervisor from that and actually |
| 6 | moved it to the Department of Social Services Building, |
| 7 | even to give the appearance of the concept to a parent |
| 8 | that comes in, here, take my kid, punish them, just |
| 9 | take them to the judge, I want to place him in |
| 10 | detention. |
| 11 | So, that whole mindset that was moved to |
| 12 | increase a more friendlier mindset to that where you're |
| 13 | offering services, let's sit down, let's work together. |
| 14 | This is very much parent driven for the services and, |
| 15 | actually, the parent does not warrant the services, |
| 16 | then it would end right there. |
| 17 | CHAIRMAN DUNNE: Linda? |
| 18 | MS. VALENTI: You used to have a problem with |
| 19 | police bypassing probation taking you directly to |
| 20 | detention and not allowing you to perform your intake. |
| 21 | That has been rectified then? |
| 22 | MR. SACUBULSKI: Fast process, and we try to |
| 23 | keep educating various law enforcement depending on |
| 24 | which jurisdiction you're talking. Some are better |
| 25 | than others. At conversations, different meetings, we |
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| 2 | keep trying to get that point across. Don't tell |
| 3 | MS. VALENTI: I'm sorry. You have |
| 4 | significant shortfalls in the budget. This was |
| 5 | impacting on probation? |
| 6 | MR. SACUBULSKI: Yes. |
| 7 | MS. VALENTI: It did not affect your juvenile |
| 8 | unit? |
| 9 | MR. SACUBULSKI: Yes. |
| 10 | MS. VALENTI: How has it? |
| 11 | MR. SACUBULSKI: It was close, pretty much to |
| 12 | 40 percent in a crunch after. To this day, we are |
| 13 | recovering from that. It is getting better. All of |
| 14 | the hires have to go through a hard control bind not |
| 15 | where we should be at all. |
| 16 | There has been a lot better times in the |
| 17 | past, but it is improving. |
| 18 | MR. POZZI: I think I've got to say this then |
| 19 | that you deserve a lot of cudoes for, you know, for the |
| 20 | statistics that you presented in light of the cuts that |
| 21 | have been made, and in your county is a real tribute to |
| 22 | the people. I'm not supplied by that because you know |
| 23 | how dedicated probation people are and the Department |
| 24 | of Social Services case workers, too, the people |
| 25 | business, and they do a great job, and the people |
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| 2 | always ask me the question, well, does probation work, |
| 3 | and I always tell people, if I ever get a chance to do |
| 4 | real probation work, I'll answer that question. See, |
| 5 | the reasonable caseloads and have all of the resources, |
| 6 | not only in the back end unfortunately where a lot of |
| 7 | services warrant, but to have those services in the |
| 8 | front end. So, my hat goes off to you guys surviving |
| 9 | and hopefully on the rebound. |
| 10 | MR. SACUBULSKI: The statistics, all of the |
| 11 | statistics really show a very strong, strong proof of |
| 12 | that. |
| 13 | MR. FELIZ: One thing that this system, |
| 14 | actually, this type of system actually creates is that |
| 15 | the efforts at the probation supervision level of, i.e. |
| 16 | the probation officer that supervises cases, the |
| 17 | individuals that are coming into probation requires a |
| 18 | lot more intensive supervision now. In other words, if |
| 19 | you're able to supervise 80 kids, 80 cases under the |
| 20 | old system, if you get 80 cases, I mean, you will end |
| 21 | up with no hair and working 24 hours a day. Because |
| 22 | since all of the most of the items that the old |
| 23 | probation cases used to be work-ons, those cases have |
| 24 | been taken out of the system by the time that the |
| 25 | individual comes to the probation. It's literally an |
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| 2 | intensive supervision case. |
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| 3 | So, in that light, that means that the |
| 4 | probation officer caseloads must be reduced in order |
| 5 | for the probation officer to be effective. If you keep |
| 6 | the same number of cases that you used to traditionally |
| 7 | have, that portion is not going to work. The probation |
| 8 | officer is definitely not going to be able to supervise |
| 9 | all of those cases because what you see coming into |
| 10 | probation right now, after they have gone through the |
| 11 | intake process, through the court system, perhaps the |
| 12 | court system may send them back through the intake |
| 13 | process again, and once all of that have failed inside |
| 14 | probation, you actually end up with a high intensive |
| 15 | supervision caseload. |
| 16 | MR. SACUBULSKI: We are just dealing with the |
| 17 | worst of the worst. |
| 18 | MR. RINALDI: What do you consider to be a |
| 19 | caseload for Department of Services? |
| 20 | MR. SACUBULSKI: I will say, and this is I |
| 21 | myself do not have, you know, experience of what kind |
| 22 | of cases that we will be getting, if 30 cases for aa |
| 23 | probation officer sounds like sounds like a doable |
| 24 | number. Right now, the Juvenile Intensive Supervision |
| 25 | caseloads is supposedly 15, and 15 cases, including |
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| 2 | electronic monitoring, it is an extremely busy |
| 3 | caseload. With this individual, I think that double |
| 4 | that number may be adequate may be adequate. But, |
| 5 | if you are going above 40, you may be you perhaps |
| 6 | may be stretching it. |
| 7 | MR. POZZI: There is no doubt that these kids |
| 8 | that you have in those type of programs are definitely |
| 9 | at risk for placement? |
| 10 | MR. FELIZ: That's correct. |
| 11 | MR. POZZI: And we all know what the cost of |
| 12 | placement is, right? |
| 13 | MR. SACUBULSKI: That's correct. |
| 14 | MR. POZZI: Extremely expensive. When you |
| 15 | talk about making that investment, whatever savings |
| 16 | you're realizing right now, more money was poured into |
| 17 | it in which the ability to provide more program and |
| 18 | more intensive supervision for these kids, it would |
| 19 | really directly benefit the counties and our Department |
| 20 | of Social Services sometimes that are responsible for |
| 21 | paving for one of these places, it would be a |
| 22 | significant savings in the budget. |
| 23 | MR. SACUBULSKI: Certainly understanding also |
| 24 | there is going to be a certain percentage of that |
| 25 | population that is going to need regarding what |
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| 2 | services, you know, this is still not going to work. |
| 3 | There is still going to be a percentage that I just |
| 4 | want to work on lowering that. |
| 5 | MR. POZZI: Okay. |
| 6 | CHAIRMAN DUNNE: Jack? |
| 7 | MR. CARTER: The measure that you've talked |
| 8 | about are very interesting and, obviously, show a |
| 9 | considerable amount of success. There are others such |
| 10 | as what happens to the folks who go through the |
| 11 | adjustment process and whether or not they come back. |
| 12 | Do they? |
| 13 | MR. SACUBULSKI: I can't I can't give you |
| 14 | any statistics or anything, but I've been hearing very |
| 15 | mostly positive things that if you put, you know, if |
| 16 | you had the low to medium cases, I think most of those |
| 17 | kids are going to do well anyway, like you didn't have |
| 18 | early intervention or not. This is more moderate to |
| 19 | high end cases that we are seeing the recidivism much |
| 20 | reduced. |
| 21 | MR. CARTER: It works on that level as well |
| 22 | as on the economic |
| 23 | MR. SACUBULSKI: I would understanding |
| 24 | that with the changes in the law, it's only been since |
| 25 | really 2005 that you're compiling any sort of where |
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| 2 | your case base is. |
| 3 | MR. CARTER: A little early, but it's looking |
| 4 | good. |
| 5 | MR. SACUBULSKI: Yes. |
| 6 | MR. POZZI: I think that is true for the most |
| 7 | juvenile programs that initial contact by kids coming |
| 8 | into the system and they have adjustments or whatever, |
| 9 | a likelihood to return is very, very small. There is a |
| 10 | very small percentage of kids that come through the |
| 11 | system that actually come through the system a second |
| 12 | or third time. |
| 13 | So, we really concentrate a lot of our |
| 14 | resources on very small significant parts of the kids |
| 15 | that actually come through the Family Court or come to |
| 16 | Probation's doors for intake services. |
| 17 | MR. SACUBULSKI: Yes. |
| 18 | MR. POZZI: It's in the high 90 percentile. |
| 19 | MS. VALENTI: I think I had a question as to |
| 20 | your predisposition. Could you tell I know that our |
| 21 | county submits an annual state plan, and one of the |
| 22 | problems had been delivery of the reports, whether it |
| 23 | be presentence reports as well as the predisposition |
| 24 | reports to the Court. |
| 25 | Are you still having problems in this area, |
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| 2 | and if so, how is it affecting your youth at this point |
| 3 | in time? |
| 4 | MR. SACUBULSKI: I'm not familiar with it. |
| 5 | Mr. Feliz could probably speak on it. |
| 6 | MR. FELIZ: Yeah. Erie County has a Juvenile |
| 7 | Division and Adult Division. The PDI report or |
| 8 | Presentencing Investigation Report issue a Juvenile |
| 9 | Division the counties are working on some issues |
| 10 | right now, and this is just programs that we hope to |
| 11 | see and increasing the number of probation officers |
| 12 | that will be doing PDIs; that way, to have a small unit |
| 13 | of investigators that can turn around and investigate |
| 14 | in four weeks, thereby reducing the number of days that |
| 15 | an individual will stay in detention or the holding |
| 16 | facilities. That is something that is on the works. |
| 17 | Yes, it is an issue. The turn-around of |
| 18 | PDIs, the present workload and present staff that we |
| 19 | have, we are talking a little bit over two months or |
| 20 | eight weeks. But, that does not affect the Juvenile |
| 21 | Division; only because of the numbers of PDI, you know, |
| 22 | totally different. There is totally different numbers |
| 23 | and it also has a lot to do with the relationship that |
| 24 | the Juvenile Division has. We only have one Family |
| 25 | Court. We only have one Juvenile Division. We all |
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| 2 | know whom the judges are. We all know how the judges |
| 3 | operate. |
| 4 | I may be able to simply, if I'm not able to |
| 5 | complete a PDI for the Judge, I will be able to simply |
| 6 | talk to the County Attorney, the law guardian and the |
| 7 | Judge, and say such and such may not be able to be |
| 8 | accomplished by such and such date. However, this is |
| 9 | the recommendation based on the information that we |
| 10 | have so far. |
| 11 | And the Judge may, at that point, say, well, |
| 12 | okay, we'll adjourn it. If the kid is doing well on |
| 13 | our home services program, which is kind of a |
| 14 | supervision program that is supervising the kid, you |
| 15 | know, pending adjudication, the Judge says, okay, let's |
| 16 | come back in two weeks, or the judge may say, I need |
| 17 | you here the day of the hearing, okay, and I will take |
| 18 | a verbal recommendation of whatever the cases or |
| 19 | whatever the case may be, and hoping that expecting |
| 20 | that written report follow-up within so many weeks, but |
| 21 | that is a relationship which is very unique to, you |
| 22 | know, to, I will say, to Erie County only because we |
| 23 | are the Family Court and the Probation Department, are |
| 24 | right in the same building and have worked with the |
| 25 | same judge for the past seven years. And, you know, he |
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| 2 | knows exactly he knows exactly what it is that, if I |
| 3 | tell the Judge, this is where this case is going, this |
| 4 | is what my report will say, binding all of the |
| 5 | information, and then he will say, okay, I need reports |
| 6 | within a week. The Judge may decide, you know, I will |
| 7 | just take, you know, a small statement from you, if |
| 8 | this is what your report is, and make, you know, he'll |
| 9 | make a decision based on that case. That's different |
| 10 | with the Adult Division. They serve a myriad of courts |
| 11 | and towns in different level courts in that |
| 12 | relationship; not assisting that way. |
| 13 | CHAIRMAN DUNNE: Tell me about your working |
| 14 | relationship with this Judge with whom you've been |
| 15 | associated for seven years. You see yourself as an |
| 16 | independent advisor or are you his colleague? How |
| 17 | would you characterize that relationship? |
| 18 | MR. FELIZ: I'm not I'm not a colleague. |
| 19 | No. |
| 20 | CHAIRMAN DUNNE: Go get me coffee or |
| 21 | MR. FELIZ: Definitely not. But, my |
| 22 | relationship with this particular judge, only because I |
| 23 | was the Juvenile Treatment Court Officer, which is a |
| 24 | very unique caseload of where the juvenile in this |
| 25 | particular caseload, but also, actually, managed by the |
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| 2 | Juvenile Treatment Court Team. |
| 3 | The Judge is the lead individual in this |
| 4 | particular team. Then there is several other |
| 5 | individuals, cases managers, treatment advisors, series |
| 6 | of stakeholders, and I'm the probation officer that |
| 7 | supervises, who supervises those kids. In dealing with |
| 8 | my particular judge, that particular judge, I will |
| 9 | simply be, clearly, accessible to him. You have no |
| 10 | professional basis; just, this family, this is what I |
| 11 | think the family needs, this is what is available and |
| 12 | so on and so forth. |
| 13 | And the judge will simply say, okay, go ahead |
| 14 | and implement that which you think is needed or the |
| 15 | Judge will say, let's come in together and we'll decide |
| 16 | what we need to do with the family. |
| 17 | In other cases, at any time, I can come back |
| 18 | to the judge and explain to the judge, "Judge, these |
| 19 | are the issues to the family. This is where we think |
| 20 | we should go." Then the Judge will say, it's okay. I |
| 21 | have that information. I need whatever other |
| 22 | information from somewhere else. I will look at |
| 23 | myself, and some of these cases, as the eyes of the |
| 24 | Court or what is going on with that particular family |
| 25 | out in the community, but, again, those are very I |
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| 2 | have always worked in specialized cases, juvenile |
| 3 | intensive supervision cases or juveniles of court |
| 4 | cases. |
| 5 | Now, I'm the supervisor of those units, which |
| 6 | still gives me, you know, fairly decent access to the |
| 7 | same judges that I used to work with. But, now, I'm |
| 8 | also able to obtain the resources that are available |
| 9 | there for those particular units that, before, as an |
| 10 | officer with the Juvenile Treatment Court, there was |
| 11 | like a unique set of resources that were only available |
| 12 | to that particular caseload. |
| 13 | MR. GREENBERG: You made reference earlier |
| 14 | to, I think, soon to be the Juvenile Delinquency Model |
| 15 | Court that you were planning to, essentially, replicate |
| 16 | on the PINS, what work you've done. |
| 17 | MR. SACUBULSKI: Yes. |
| 18 | MR. GREENBERG: Do you have a sense of, will |
| 19 | all juvenile delinquency proceedings be potentially |
| 20 | sent to that court or some sort of intact right there, |
| 21 | those that will be allowed to be and those that won't |
| 22 | be allowed to be |
| 23 | MR. SACUBULSKI: My understanding, upon the |
| 24 | initial appearance ticket, when the child presents |
| 25 | himself to the probation, that will be assessed at that |
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| 2 | initial meeting, that children's interview. |
| 3 | MR. FELIZ: That is correct. However, the |
| 4 | law requires very specific cases that will go to court. |
| 5 | Probation, the probation level cannot adjust. |
| 6 | MR. SACUBULSKI: Certain felonies. |
| 7 | MR. FELIZ: Certain crimes, certain offenses |
| 8 | have to go to court. Also, we will attempt to see how |
| 9 | we can work on this. If the victim says that that case |
| 10 | has to go to court, especially if the victim is |
| 11 | requesting an order of protection, the Probation |
| 12 | Department does not issue orders of protection, that |
| 13 | means that the case has to go to court in order for |
| 14 | that to take place. |
| 15 | There is some very they are not typical, |
| 16 | but there are some specific cases that, yes, they do |
| 17 | have to go to court. Barring that, the rest of the |
| 18 | cases would be handled that way, right. They will go |
| 19 | through the intake process. Right now, in Erie County, |
| 20 | we send to we send about 20 percent of our cases |
| 21 | that come through our intake unit, about 20 percent are |
| 22 | referred to court. What we are trying to do is to |
| 23 | reduce that 20 percent. That 20 percent, for us, it's |
| 24 | a fairly large number. Our county is a fairly large |
| 25 | county. Case law 20 percent sounds like a small |
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| 2 | number, okay. Number-wise, it is a fairly large number |
| 3 | for us. That is what we are trying to see, can we |
| 4 | reduce that 20 percent by about another 50 percent, |
| 5 | bring it down to 10 percent. |
| 6 | CHAIRMAN DUNNE: One of the issues that we |
| 7 | are looking at is the question of, in which court |
| 8 | should a criminal charge against a 13, 14 or 15 |
| 9 | year-old be initiated. And no statute provides |
| 10 | there is specific crimes which, otherwise, would be in |
| 11 | the Family Court and be prosecuted criminally. |
| 12 | Suggestion has been that rather than as the existing |
| 13 | law is, it is initiated in the Criminal Court and then |
| 14 | the Criminal Court Judge decides whether to refer it to |
| 15 | the Family Court. Those some are suggesting that |
| 16 | that procedure be reversed, that the charge be |
| 17 | initiated in the Family Court and leave it in the |
| 18 | Family Court Judge to refer it. |
| 19 | The question to you is, one, presently, are |
| 20 | you involved in advising the court, the Criminal Court |
| 21 | in the existing situation with regard to whether |
| 22 | referral should be made, and, second, if you're not, do |
| 23 | you think probation should be involved in the system, |
| 24 | assisting the Court, be it the Family Court or the |
| 25 | Criminal Court in making decision? Am I clear? |
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| 2 | MR. FELIZ: Yes, I do understand the |
| 3 | question. |
| 4 | The Probation Department presently, with |
| 5 | individuals that are in the Criminal Court system, you |
| 6 | know, let's call it the adult system, the Probation |
| 7 | Department actually does not have any input prior to |
| 8 | that individual getting into the court system. Simply, |
| 9 | the individual gets arrested. If he's 16 years old, |
| 10 | gets arrested by the police, but the local police |
| 11 | department, let's take him to the holding center. He |
| 12 | goes through the court system. |
| 13 | CHAIRMAN DUNNE: I'm talking about the 13, 14 |
| 14 | or 15 year old, right, the JO? |
| 15 | MR. POZZI: JO. |
| 16 | MR. FELIZ: I cannot answer the question |
| 17 | because I do not I myself do not have a lot of |
| 18 | linkage with the Criminal Court System instead of doing |
| 19 | some of the investigation of the kids. They are just |
| 20 | thrown back to the Family Court, but the initial onset, |
| 21 | I do not have |
| 22 | CHAIRMAN DUNNE: Mr. Sacubulski, same answer? |
| 23 | MR. SACUBULSKI: I'm just trying to think |
| 24 | back on some of the interviews. That would be the |
| 25 | sentence investigation that I've done with JOs. And do |
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| 2 | you think it would be wise to originate that in Family |
| 3 | Court as opposed to the criminal? What advantage do |
| 4 | you think that might have? What do you think? If I'm |
| 5 | just trying to follow the rationale, what advantage do |
| 6 | you think that might have? |
| 7 | CHAIRMAN DUNNE: Well, one, hopefully not to |
| 8 | criminalize a young person, but since the Family Court |
| 9 | has primary jurisdiction, youngsters up to 16, it would |
| 10 | seem to me that it ought to be in that form. The |
| 11 | initial decision ought to be made in that form. I'm |
| 12 | not advocating it. We are not sure where we are on |
| 13 | this, but maybe that is why I want to hear from you. |
| 14 | MR. SACUBULSKI: I guess, just in my |
| 15 | experience, as an officer and investigator, the |
| 16 | interviews I've conducted, they were always serious, |
| 17 | always involving murder or manslaughter or very serious |
| 18 | offense. In Buffalo, there is a lot of gang shootings, |
| 19 | those type of things. My opinion with that, I think |
| 20 | that that warrants an adult court on the situations for |
| 21 | those certain serious felony offenses. It is just my |
| 22 | gut feeling, I guess. |
| 23 | CHAIRMAN DUNNE: This wealth of experience, |
| 24 | I'm reluctant to let him go. |
| 25 | Any other questions? Well, gentlemen, thank |
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| 2 | you very much. |
| 3 | MR. CARTER: Thanks. |
| 4 | MR. POZZI: Thanks. |
| 5 | CHAIRMAN DUNNE: Previously, we looked for |
| 6 | the representatives from the Syracuse School District. |
| 7 | Mr. Polikarpenko, are you being accompanied by Vesta |
| 8 | Smith and Joseph Reddick. |
| 9 | For the purpose of introduction, witnesses |
| 10 | are here from the Syracuse School District Truancy and |
| 11 | Attendance program. I think you have a busy job. |
| 12 | MR. POLIKARPENKO: Yes, we do. |
| 13 | CHAIRMAN DUNNE: Thank you for being with us. |
| 14 | MR. POLIKARPENKO: Thank you. |
| 15 | CHAIRMAN DUNNE: I'd like to hear from you |
| 16 | and receive questions from the panel. |
| 17 | MR. POLIKARPENKO: Okay. Our issues |
| 18 | primarily relate to PINS when students are truant from |
| 19 | school, illegal absence. We are asked to, in some |
| 20 | cases, when everything else that the school can do has |
| 21 | been exhausted, make a referral to probation intake |
| 22 | here in Onondaga County. Then where they are given an |
| 23 | opportunity to have the case in diversion, which they |
| 24 | usually have from a month to three months to try to |
| 25 | work with the student and avoid Family Court. I guess |
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| 2 | that is one of the goals of having the Diversion Unit |
| 3 | to avoid Family Court as much as possible and get them |
| 4 | to realize that they are breaking the law by not |
| 5 | attending school on a regular basis. The cases that we |
| 6 | generally work on are cases where the student is |
| 7 | willfully absent from school. The parents have done |
| 8 | what they can do, many times. |
| 9 | CHAIRMAN DUNNE: How do you get to be |
| 10 | willfully absent? Is that a numerical test? |
| 11 | MR. POLIKARPENKO: Making the statement that |
| 12 | they are not going to go to school, refusing to go to |
| 13 | school, either being sent to school and not arriving |
| 14 | and being found to be, you know, in other places. We |
| 15 | have a program called STOP, which stands for Syracuse |
| 16 | Truancy Outreach Program, where a Police Officer |
| 17 | actually drives around town and notices school age |
| 18 | children on street corners and at the malls and various |
| 19 | places, and, occasionally, these are like one or two |
| 20 | time offenders, and other times, we've heard their |
| 21 | names before, have done referrals in the past on those |
| 22 | students and they continue to be truant. |
| 23 | One of my issues with the referral to |
| 24 | probation is that we are finding that more and more |
| 25 | when the student gets near the age of 16, even though |
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| 2 | mandatory attendance here in Onondaga County is to |
| 3 | attend school until the end of the year in which they |
| 4 | turn 16, we are finding we can try to make a referral, |
| 5 | actually make a referral after a lot of background work |
| 6 | is done meeting with the parent and the school or an |
| 7 | outreach visit to the home. Counseling a student as |
| 8 | much as possible about the consequences of, you know, a |
| 9 | referral to probation and what might happen in Family |
| 10 | Court. |
| 11 | But, we find that there the students who may |
| 12 | have been referred to probation a number of years |
| 13 | prior. Once they reach the age of around 15, 15 and a |
| 14 | half, then it becomes a bit pointless to make a |
| 15 | referral to probation because they are coming on their |
| 16 | 16th birthday, and even though they are required, |
| 17 | mandated by the state law to attend the rest of that |
| 18 | school year, the judges tend to dismiss the cases when |
| 19 | they find them to be 16. |
| 20 | So, that's one of our pet peeves, we'll say. |
| 21 | Any questions on that part? We have a |
| 22 | situation where there is, sometimes, there is a vague |
| 23 | distinction between whether or not the parents are |
| 24 | doing as much as possible to send the kids to school, |
| 25 | and if they are not, we tend to ask the social workers |
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| 2 | in the school buildings, order guidance counselors to |
| 3 | make the hotline report to the Child Protective |
| 4 | Services for educational neglect. And we generally do |
| 5 | that when the children are younger, may be less likely |
| 6 | to be able to get themselves ready for school, and that |
| 7 | is where actual truancy and neglect is kind of a vague |
| 8 | distinction between the two. |
| 9 | But, Child Protective Services will |
| 10 | investigate. Generally, we find that if it is a family |
| 11 | of more than one child that are not attending schools, |
| 12 | we think that would be a good reason to refer those as |
| 13 | well as the younger children because it is probably a |
| 14 | pattern within the family. |
| 15 | We've also noticed a family history of those |
| 16 | families that have had older siblings that have dropped |
| 17 | out because of low academics as well as truancy. And |
| 18 | then a number of those cases, we find if they are not |
| 19 | founded, there is no neglect charges brought upon the |
| 20 | parent and they don't make it to Family Court, then we |
| 21 | are asked to go our route and do the probation |
| 22 | referral. |
| 23 | So, it's like we have to cover all bases |
| 24 | before we get the Probation Departments and make that |
| 25 | referral. A lot of the probation cases that actually |
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| 2 | go to Family Court, they do the social investigations, |
| 3 | the student has the law guardian which, you know, makes |
| 4 | sure the student knows their rights, even if it gets |
| 5 | founded, that the student admits or is found that the |
| 6 | student has been truant, the cases go on and on and are |
| 7 | dragged out for quite a while and, usually, during the |
| 8 | summer, will be going to Family Court during the summer |
| 9 | when there is no school, we'll find, at times, you |
| 10 | know, there is a lapse, a little bit of a lapse at that |
| 11 | point, but we also find that even when they get 12 |
| 12 | months probation, the Probation Department doesn't have |
| 13 | a lot of options. They are not willing to try to place |
| 14 | these students simply for missing school. Usually, |
| 15 | those are reserved for juvenile delinquency, severe |
| 16 | problems in the home. |
| 17 | So, we are looking at, why bother in some |
| 18 | cases to carry it all of the way out when, if the |
| 19 | probation being on probation, the stipulation, one |
| 20 | of which is to attend school regularly, be on time, and |
| 21 | so on and so forth. There is no enforcement behind it. |
| 22 | So, that you know, a deterrent not a deterrent, but |
| 23 | an obstacle and some of the students that we have that |

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are chronically absent are also students that are

suspended quite a bit. And even though suspension is

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| 2 | considered an illegal action, it's not truancy, per se. |
| 3 | So, we can't bring those cases to the Probation |
| 4 | Department, but today, actually, I was asked by one of |
| 5 | our guidance counselors and administrators if we could |
| 6 | do that, if we could bring a student to probation for |
| 7 | being consistently disobedient in school, leaving the |
| 8 | building or being sent home and numerous suspensions, |
| 9 | and even though we do have a couple of alternative |
| 10 | schools here in the Syracuse School District, one for |
| 11 | elementary and middle school students and one for high |
| 12 | school students, they can only accommodate so many |
| 13 | students, and they are getting a little tighter on who |
| 14 | they will accept. |
| 15 | CHAIRMAN DUNNE: Tell me, in your official |
| 16 | position, are you called upon by the school district to |
| 17 | assist in the preparation for a PINS petition based on |
| 18 | truancy? |
| 19 | MR. POLIKARPENKO: Yes. |
| 20 | CHAIRMAN DUNNE: And can you tell me, does |
| 21 | the school district is there one school district you |
| 22 | work with? |
| 23 | MR. POLIKARPENKO: Yes, Syracuse City. |
| 24 | CHAIRMAN DUNNE: Does it have a policy, |
| 25 | written or otherwise, with regard to how much truancy |
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| 2 | is enough to make you take that final step? |
| 3 | MR. POLIKARPENKO: We look at 20 percent |
| 4 | absenteeism rate as a baseline, and, usually, 20 |
| 5 | percent or more, we will investigate to see what the |
| 6 | problem is, you know, nonexcessive absences. Those |
| 7 | that are under 20 percent and those, of course, that |
| 8 | have legitimate reasons for absence, we don't follow up |
| 9 | on, but most of those who are 20 percent or more, we |
| 10 | review and at attendance committee meetings at each |
| 11 | school and try to eliminate those that we can either |
| 12 | work with within the school or refer to some other |
| 13 | agency that can help. |
| 14 | MS. DeCATALDO: How do you work with them |
| 15 | within the schools? |
| 16 | MR. POLIKARPENKO: I beg your pardon? |
| 17 | MS. DeCATALDO: How do you work with these |
| 18 | youth in the schools? |
| 19 | MR. POLIKARPENKO: Well, we have them come to |
| 20 | the counseling office and, you know, inquire as to why |
| 21 | they are absent. We also asked parents to come in for |
| 22 | the parent conferences. There are times when that is |
| 23 | difficult, so we'll go out and do an outreach or do a |
| 24 | teleconference over the phone and get their side of the |
| 25 | story. There are some programs in the schools that |
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| 2 | have a little extra, extra services that they can use |
| 3 | to try to help the kids. |
| 4 | MS. DeCATALDO: Thank you. |
| 5 | MR. POZZI: What would be the typical profile |
| 6 | of a kid who is truant, would you say? Obviously, kids |
| 7 | are not doing well in school, they fall behind, they |
| 8 | always get to the point where they are almost |
| 9 | embarrassed because they are so far behind. Sometimes, |
| 10 | they don't even have the skills to begin with to |
| 11 | compete academically perhaps in those settings. So, |
| 12 | you get a kid, a probation was active or even through |
| 13 | your committee, you're able to get the committee to |
| 14 | return to school, you say you work with the kids, are |
| 15 | there special programs to try to make this kid catch |
| 16 | up, you know, and not put him in a situation where they |
| 17 | are back, let's say, you know, in general classes |
| 18 | again, where, you know, they are going to feel totally |
| 19 | inadequate, embarrassed, you know, and they are not |
| 20 | coming back to school again because they are put in |
| 21 | that, in an embarrassing situation? |
| 22 | I see you smiling. Is that something |
| 23 | MS. SMITH: I think they do. |
| 24 | MR. POZZI: So, I'm right in my presentation. |
| 25 | MR. REDDICK: They do. |

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| 1 | Public Hearing |
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| 2 | MS. SMITH: They do have modifying schedules |
| 3 | that kids are that are not performing well. They do |
| 4 | have alternative programs that they can be reached |
| 5 | until to see where they go. What else do they have? |
| 6 | Some have a technology school just opened up for GED |
| 7 | programs and vocational programs. So, there are other |
| 8 | settings, and instead of regular academic settings |
| 9 | where they feel they are not going to achieve or they |
| 10 | are so far behind where they can't. But, one of my |
| 11 | questions was, does the PINS case belong in the Family |
| 12 | Court system? And I think that it does, just for the |
| 13 | simple fact of what Pete was just saying, that |
| 14 | probation doesn't always seem to, the answer or what |
| 15 | they recommend or the whatever end. So, services |
| 16 | aren't always they are supposed to be mandated |
| 17 | through court. They are mandated, but with probation, |
| 18 | they are not. It is up to the parent or the child |
| 19 | whether they want to participate. I feel that it |
| 20 | shouldn't be a need of wanting to. They should be |
| 21 | mandated to do these interventions, so, possibly |
| 22 | address some of the problems that they are having so |
| 23 | that he can achieve, that family, or as the child can |
| 24 | get himself to school. And that was one of my reasons, |
| 25 | my questions that I wanted to ask and answer |

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| 1 | Public Hearing |
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| 2 | MR. REDDICK: I'm Joe Reddick. I'm with the |
| 3 | District Office. |
| 4 | CHAIRMAN DUNNE: Joseph Reddick, |
| 5 | R-e-d-d-i-c-k. |
| 6 | MR. REDDICK: There are many cases, programs |
| 7 | that our kids can get into to try to get them back into |
| 8 | focus to do school and do a couple of things. What we |
| 9 | are finding out, the same thing that many of you have |
| 10 | heard for many years, it starts and stops with the |
| 11 | parent. Most of these kids that we are trying to get |
| 12 | back into school are the same kids that we start |
| 13 | reading about later on when they are 17 and 18 and 19, |
| 14 | and I know that because I'm a retired police officer, |
| 15 | so I know how this recycle keeps going on, and not only |
| 16 | for one kid in the family. Peter was talking about |
| 17 | other family members having the same kind of problems. |
| 18 | It just leads down to one kid after the other kid, and |
| 19 | the next thing you know, he or she is hanging out on |
| 20 | the streets. |
| 21 | We, in the Probation Department, I think, |
| 22 | their hands are tied. There is only so far you can go |
| 23 | with the kids that are under age, and when they are not |
| 24 | under age and they are at the proper age for crime, we |
| 25 | start reading about them in the papers. We have no |
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| 1 | Public Hearing |
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| 2 | answers on how we are going to handle it and how to |
| 3 | make the parent or the student responsible for |
| 4 | attending school even though we continually run after |
| 5 | them in the streets or wherever they are hanging out to |
| 6 | try to get them back into school. |
| 7 | Once we get them back into school, guidance |
| 8 | counselors and the social workers take over on trying |
| 9 | to keep them abreast of what's going on in school and |
| 10 | how they can get that child and stuff. But, until we |
| 11 | are able to somehow legally make the parent and student |
| 12 | responsible, we are going to be in this situation for a |
| 13 | long time. It is not when I went to high school. I |
| 14 | went to Catholic school, and then regular high school, |
| 15 | if you missed three days, you were down in the judges. |
| 16 | They called them blue tickets. If you got a blue |
| 17 | ticket, you didn't want your parent to come down to |
| 18 | court for that blue ticket, and if you remember, if it |
| 19 | went so far, although this isn't the answer, if you |
| 20 | continue, if you went to reform school, that changed |
| 21 | some people's lives, but a lot of lives, it didn't |
| 22 | change. |
| 23 | So, we are still behind that eight ball |
| 24 | trying figure out what we can do to accomplish making |
| 25 | these students come to school that are continuously |
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Public Hearing

| 2 | truant, not only when they get into middle school, but |
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| 3 | when they are in elementary school, too. So, it is a |
| 4 | big problem. It's a big problem. |
| 5 | MR. BURNS: We heard earlier from Onondaga |
| 6 | County Probation staff about some of the programs that |
| 7 | they have instituted especially since the law changed |
| 8 | that really dissuaded practitioners from even trying to |
| 9 | place PINS cases. But, they talked about their FFT and |
| 10 | MST and programs and so forth. |
| 11 | My question is, I can certainly sense the |
| 12 | frustration that you've got. We heard that there is a |
| 13 | probation officer in every middle and high school. Is |
| 14 | there a lot of interaction with those officers, talking |
| 15 | about what they will be able to do even though they are |
| 16 | not going to move to place the child, what they can do |
| 17 | while the child is on 12 month probation or on a |
| 18 | diversion? Do they engage you? Are you a part of |
| 19 | those discussions about what programs these kids will |
| 20 | be going into? Is there a lot of dialogue with those, |
| 21 | with those probation officers now they are in schools. |
| 22 | MS. SMITH: We do hear about the programs |
| 23 | that they can participate in, but once again, if they |
| 24 | want to. |
| 25 | MR. REDDICK: Let me clarify that. They are |
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| 2 | not in every school. What they do, they are assigned |
| 3 | to four or five schools, and, like if I'm assigned to |
| 4 | Corcoran, I also have four or five other schools that I |
| 5 | have to be at. |
| 6 | So, they are really thin at how much time |
| 7 | they spend at one particular school. |
| 8 | Do they interact? Yes. They interact. |
| 9 | Usually, they are interacting with the kid that is at |
| 10 | the highest level. The kid that falls in the middle, |
| 11 | that is going to be there pretty soon, there is not |
| 12 | that much interaction. |
| 13 | MS. SMITH: I am at truant kids that are |
| 14 | accumulating JD charges on top of the truancy, now, |
| 15 | those, though, are receiving a place, basically, put |
| 16 | into a different programs, if they are willing to |
| 17 | participate, I guess, based on the fact that either you |
| 18 | go to a detention center for what you're doing or you |
| 19 | participate in these programs. But, just the PINS |
| 20 | truancy, it's like, fall by the waist side. |
| 21 | MS. GINSBURG: I have a question. Has there |
| 22 | been any effort, with working with lower schools, the |
| 23 | elementary schools, to try to engage these kids where |
| 24 | they, before they get to the middle school, and my |
| 25 | question, second question is, on back of that, what |
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| 1 | Public Hearing |
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| 2 | exactly do you see the as the role of the Court? If |
| 3 | the Court was to become more involved in these cases. |
| 4 | MS. SMITH: County Attorney program has this |
| 5 | program that they start with the elementary program |
| 6 | where you threaten the parents, find ways of jail time |
| 7 | and perhaps children don't attend school. |
| 8 | MS. GINSBURG: I thought of something a |
| 9 | little bit more therapeutic perhaps. |
| 10 | MS. SMITH: Thank you. |
| 11 | MS. GINSBURG: That's out. |
| 12 | MS. SMITH: Family, wrap-around case, as |
| 13 | opposed to, it does not work. It does not work, but |
| 14 | the hard core families, like we see over and over have |
| 15 | no effect. What do you do for those families? |
| 16 | MS. GINSBURG: Do you see common, in these |
| 17 | hard core families, common needs among that population? |
| 18 | MS. SMITH: Some of them, probably, yeah. |
| 19 | MR. REDDICK: I can handle one question. I |
| 20 | can't do like my Sister Joan Reddick when she was |
| 21 | alive. I can handle one question at a time. Yeah, |
| 22 | there is. There is a big problem. You know, there is |
| 23 | parents who are on welfare, don't use. There is kids |
| 24 | whose parents are selling drugs. They are selling |
| 25 | drugs. There is mental problems in the family. There |
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| 1 | Public Hearing |
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| 2 | is depression, problems in the family. We can cover |
| 3 | the whole medical problems, and, basically, a lot of |
| 4 | the kids that are truancy, although may not be the same |
| 5 | family of another kid, there is similarities in every |
| 6 | family. |
| 7 | So, it's, really, it's a big problem. The |
| 8 | courts may not agree with the jail right way. I do |
| 9 | believe in the therapeutic, but we have to start |
| 10 | somewhere, and it is just not in Syracuse, as you know. |
| 11 | It is across the board. It is across the board. |
| 12 | So, where do we start? What can the courts |
| 13 | do? I don't have the answer. I don't know what the |
| 14 | courts can do, other than in my background, and that is |
| 15 | not what you like. |
| 16 | MS. GINSBURG: Have there then been any |
| 17 | discussions or any work done, collaborations within the |
| 18 | city to try to address this kind of underlying role of |
| 19 | the family? Do you think it would be helpful or not |
| 20 | make any difference in the truancy issues. |
| 21 | MR. REDDICK: It would make a difference if |
| 22 | we have all of these discussions, and at the end, |
| 23 | something is done. If you just have to have a |
| 24 | discussion and show that you're trying, we are going to |
| 25 | continue to have the same problems. There is no |
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| 1 | Public Hearing |
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| 2 | outcome open at the end. |
| 3 | MS. GINSBURG: You're not having these |
| 4 | discussions yesterday? |
| 5 | MR. REDDICK: We've had discussions, but now, |
| 6 | with those discussions, where do we go from there? |
| 7 | MR. POZZI: Who are in those discussions? |
| 8 | MR. REDDICK: Sometimes, the superintendent, |
| 9 | but, usually, the head of secondary schools. Our boss, |
| 10 | Keith Gammet (phonetic), the principals, sometimes just |
| 11 | principals meet with principals and superintendent. |
| 12 | MR. POZZI: I think my answer to these |
| 13 | questions, what do you mean, may be referencing that. |
| 14 | This is not a problem just for the educational system, |
| 15 | that when I look at some of the underlying problems |
| 16 | that is apparent with the family, when you talk about |
| 17 | the poverty level, the lack of money, not being spent |
| 18 | properly, being used, whatever, collaborating with, you |
| 19 | know, DSS, collaborating with mental health, |
| 20 | collaborating with probation and anybody else, almost |
| 21 | forming like a collision that would actually look at |
| 22 | these cases individually and triage them and see what |
| 23 | services can be brought back into the family to try to |
| 24 | see if they can get healthy, if I can use that medical |
| 25 | term, and that definitely would be a step in the right |
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| 1 | Public Hearing |
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| 2 | direction when you're dealing with the kid, too, that |
| 3 | they are going back to an environment that is much |
| 4 | healthier, would be much more conducive to make sure |
| 5 | that that kid gets an education. |
| 6 | So, you know, it is something that we are |
| 7 | seeing you can't do by yourself. I know, in probation, |
| 8 | we can't do it by ourselves either. So, it seems to be |
| 9 | a real need to coordinate, you know, not only probation |
| 10 | and education, but also, you know, other governmental |
| 11 | agencies and looking at this case holistically and |
| 12 | trying to deal with those issues. Am I right? |
| 13 | MS. GINSBURG: That's it exactly. |
| 14 | MR. RINALDI: What he said. |
| 15 | MR. POZZI: You're not alone. None of us car |
| 16 | do that alone. That's the first thing I learned in |
| 17 | this business a long time ago. If there is an |
| 18 | expectation that probation, by itself, can get this |
| 19 | done or you can get this done by yourself, we are |
| 20 | living in a fools world and we really need to be |
| 21 | working together, and sometimes, I don't think we do |
| 22 | that very well. |
| 23 | MR. REDDICK: You're correct. That's very |
| 24 | important. As Vesta said, we have met. We have |
| 25 | talked, and what happens is, agencies still do their |
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| 1 | Public Hearing |
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| 2 | own thing. So, nobody knows what the other hand is |
| 3 | doing. |
| 4 | You know, if we all are in this together and |
| 5 | we all know what is going on together. |
| 6 | MR. POZZI: You bring up a good point that |
| 7 | the Chair always talks about is the sharing of |
| 8 | information on how agencies who are trying to work, |
| 9 | trying to help the same family and the same kid can't |
| 10 | share, sometimes, information that we have, and I know |
| 11 | we made great strides in probation to, with the |
| 12 | alternatives has done a great job in allowing people |
| 13 | like myself to share information in our case records. |
| 14 | That doesn't always happen; you know. Mental |
| 15 | health or DSS or another agency that leave restrictions |
| 16 | that, you know, they don't like either, but the law is |
| 17 | the law, and I think that is something we also need to |
| 18 | be looking at, you know, in order to be able to share |
| 19 | the amount of information that each one of us have in |
| 20 | trying to triage these cases. |
| 21 | So, that is a problem. I hate to steal your |
| 22 | thunder, Mr. Chairman. |
| 23 | CHAIRMAN DUNNE: I think I got the idea from |
| 24 | you. |
| 25 | Kathleen, do you have any other |
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| 2 | MS. DeCATALDO: Not really. The frustration, |
| 3 | I think, from everybody who works with these kids and I |
| 4 | live with adolescents, when they get to the age, when |
| 5 | they really don't want to go to school and they are so, |
| 6 | I guess, disengaged, they are not a pleasant population |
| 7 | to deal with. |
| 8 | So, I hear the frustration that you have with |
| 9 | them. But, the frustration that I have sympathy, |
| 10 | hearing, knowing that we can't force them. The courts |
| 11 | can't force them. I'm pointing at the Judge over there |
| 12 | because they can't, because of the big stick that the |
| 13 | Judge has, is to remove them and fix them, they don't |
| 14 | get fixed. They come back home to that same |
| 15 | environment and we need to figure out solutions that |
| 16 | keep that youth in the community, get them engaged in |
| 17 | school so they do turn their lives around, because the |
| 18 | courts and the courts really aren't the place for that. |
| 19 | It really is within the community, and we need to be |
| 20 | thinking about these kids. I wanted to figure out what |
| 21 | we are going to do with the ones that are already in |
| 22 | high school. It is elementary school. You guys even |
| 23 | said, every educator I've ever talked to said, |
| 24 | kindergarten, first grade, we know what kids are going |
| 25 | to be truant. In Middle School, why are we waiting |
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| 1 | Public Hearing |
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| 2 | until you guys get them. When the cow is out of the |
| 3 | barn, it is really too late, in many cases, although |
| 4 | there are still things we can do, and I think it really |
| 5 | needs a Rocco is right. We need a community coming |
| 6 | together to start dealing with these families, and I'm |
| 7 | not a big advocate with threatening parents with jail. |
| 8 | They do that in Florida, too. I think the County |
| 9 | Attorneys Office does it here. The District Attorneys |
| 10 | doesn't in Saratoga. They don't threaten jail. They |
| 11 | just have meetings. It is the County District |
| 12 | Attorneys. |
| 13 | MS. SMITH: District Attorney, Diane Brown. |
| 14 | MS. DeCATALDO: There are programs where |
| 15 | parents it is usually parents that don't value |
| 16 | education and understand what it can do for their child |
| 17 | and how it can change their lives who aren't engaged in |
| 18 | sending them to school. |
| 19 | So, to me, that seems to be where we need to |
| 20 | do the work with those families, with really young |
| 21 | children and getting them engaged and understanding |
| 22 | they can make it different for them. |
| 23 | You know, I hear your frustration with the |
| 24 | system, but I think we are all frustrated with dealing |
| 25 | with the difficult population and we want to end up |
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| 2 | doing the right thing by them. But, living with that |
| 3 | adolescence, you can't make them do. Very |
| 4 | infrequently, I find, anyway. |
| 5 | MR. POLIKARPENKO: And we hear all of the |
| 6 | time that the parents hands are tied literally because |
| 7 | there is no not that we want them to be spanked or |
| 8 | punished physically, but that is what we hear from the |
| 9 | parents all of the time. |
| 10 | MS. DeCATALDO: There is actually programs |
| 11 | that work. |
| 12 | MR. POLIKARPENKO: We will go to jail if it |
| 13 | doesn't work. |
| 14 | MS. DeCATALDO: Those that Onondaga |
| 15 | programs, those FTST programs, those are parenting |
| 16 | programs. |
| 17 | MR. POLIKARPENKO: Generally, we have to make |
| 18 | our referral to probation in order for them to get |
| 19 | access to those services, and then I have heard |
| 20 | recently that certain parents don't, who don't have |
| 21 | insurance are kind of it's kind of a deterrent for |
| 22 | them access certain counseling or, you know, agencies |
| 23 | and the community requires some sort of remuneration, I |
| 24 | guess. |
| 25 | MS. DeCATALDO: Unfortunately, Mary Winters |
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| 2 | isn't still here. Those shouldn't have been issues. |
| 3 | They aren't Medicade funded. They are funded by other |
| 4 | dollars that, shouldn't be other issues. |
| 5 | MS. SMITH: It goes back to, they want to |
| 6 | participate. That's what I have a problem with. If |
| 7 | they want to, whether it could somewhat solve some of |
| 8 | the problems. |
| 9 | MS. DeCATALDO: We'll see if the judge thinks |
| 10 | he can solve it. |
| 11 | MR. POZZI: That is a very frustrating |
| 12 | statement. Let me tell you one of the things that |
| 13 | we've learned with some of the younger kids and some of |
| 14 | the tough kids that we've dealt with in the City of |
| 15 | Mount Vernon, Westchester. We've begun some cognitive |
| 16 | work and we've put them through some exercises. We |
| 17 | were trying to get a feel for what their values were. |
| 18 | Let me tell you something: One of the things |
| 19 | we've learned from these kids, these tough gang kids, |
| 20 | we talk about them, and we had an episode in Syracuse |
| 21 | and in Rochester, and we had them in Westchester, is |
| 22 | that they do know the value of education. They know |
| 23 | that, and it really surprised my staff because they |
| 24 | thought these kids are not school gang members. They |
| 25 | do know the value of what an education is. The crazy |
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| 2 | thing is, we just can't figure out what stops them from |
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| 3 | following up on that. And sometimes, they realize it. |
| 4 | Sometimes, it may be a little too late in the game. It |
| 5 | is never too late. But, they are on probation or on |
| 6 | the formal probation, they understand, and the program |
| 7 | has been, once they come to that understanding, trying |
| 8 | to get them back into the educational system has been |
| 9 | difficult because what has happened is, the schools |
| 10 | have now exercised their rights with the kids, have |
| 11 | been out of school for a while, and there is a real |
| 12 | reluctancy on the part of the schools to take these |
| 13 | older kids back. |
| 14 | I'm not talking about 14, 15 year-olds. I'm |
| 15 | talking about kids that are now 18 and 19 years old; |
| 16 | that we need to get back into the educational system, |
| 17 | and rightfully, the schools have said, look, we've gone |
| 18 | through everything. We've now gotten rid of them. Why |
| 19 | do you want to take them back? You know kids that have |
| 20 | been, you know, we have to get them back because we |
| 21 | know, unless they get that education, they are not |
| 22 | going anywhere and they are just going to continue to |
| 23 | climb up the criminal scale and eventually wind up in a |
| 24 | county correctional facility or even a state |
| 25 | correctional facility. |

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| 2 | It is very, very frustrating when you know |
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| 3 | that and you try to figure out how to deal with that |
| 4 | and getting them back. |
| 5 | CHAIRMAN DUNNE: Well, thank you very much, |
| 6 | and Ms. Smith, appreciate your sharing. |
| 7 | We are particularly please to have you visit |
| 8 | with us today, Judge James Griffith we have met with |
| 9 | the Administrator and Supervising Judges of the Family |
| 10 | Courts from around the state. We have not actually |
| 11 | spoken to some of the folks from the trenches. |
| 12 | JUDGE GRIFFITH: That's just where I came |
| 13 | from. So, I'll be happy to share my thoughts for |
| 14 | whatever they are worth. |
| 15 | One of the issues that I have noticed a |
| 16 | flurry of e-mails over the last week or so, that Family |
| 17 | Court judges, at least in this part of the state, is |
| 18 | interested is the issue of probation, the version of |
| 19 | whether that has been a good idea for the Family |
| 20 | Courts. I forgot which year it was, but fairly recent, |
| 21 | but all of the counties, Section 735, diversion court. |
| 22 | I have Oneida County, Utica and Rome. It is over this |
| 23 | way, about an hour, has been a diversion county for a |
| 24 | number of years. So, we are not now new to it. |
| 25 | Unlike, I guess, some of my colleagues, although not |
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| 2 | all of them, I think the system that we have works very |
| 3 | well. |
| 4 | I just wanted to talk to you about it for a |
| 5 | second. We have, as initiated by the Oneida County |
| 6 | Probation Department, which is, I have to think, an |
| 7 | unusually creative and energetic group, what we call a |
| 8 | Committee to the Appropriate Placement, which reviews |
| 9 | every application to file a FINS petition in a week, on |
| 10 | a weekly basis. In other words, it meets once a week, |
| 11 | that X child's, any court personnel, which is a good |
| 12 | idea, but does include representatives of the |
| 13 | Department of Mental Health, different agencies that |
| 14 | provide services such as juvenile drug rehabilitation |
| 15 | service, mental health services. |
| 16 | Obviously, somebody from the Probation |
| 17 | Department and a variety of agencies and providers, and |
| 18 | it talks about every petition on a weekly basis. I |
| 19 | think that gets to the issue that I heard a little bit, |
| 20 | before I started here, about the importance of |
| 21 | collaboration, and there is really nothing that I think |
| 22 | is more important than collaboration. I think the way |
| 23 | it is set up in Oneida County works particularly well |
| 24 | in one indicia of them, that one indicium of that is |
| 25 | the fact that agencies that provide services, not for |
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| 2 | profit services are not clamoring for a seat at the |
| 3 | table in these meetings. And from that, I take it that |
| 4 | they are not concerned that they need to be there, so |
| 5 | they can get their share of the business. |
| 6 | There is a level of trust among this group |
| 7 | that allows this group, this Committee on Appropriate |
| 8 | Placement to be a reasonable size, and for its |
| 9 | customers, such as they are, the agencies that can |
| 10 | provide some of these services to feel comfortable that |
| 11 | the recommendations being made will be appropriate and |
| 12 | the wealth will get spread and the work will get spread |
| 13 | around. |
| 14 | This committee diverts about 85 percent of |
| 15 | the cases, historically from the Family Court or, I |
| 16 | guess, that is about six out of seven, and I would note |
| 17 | that they do that sometimes just by monitoring the |
| 18 | Probation Department systems and monitor some of these |
| 19 | kids sometimes by providing services on a somewhat |
| 20 | voluntary basis. |
| 21 | You can't force the kids, of course, to take |
| 22 | them, the parents to take them, but there is a sort of |
| 23 | a moralization or threat, whatever, that gets a lot of |
| 24 | the families to engage in these services, and if there |
| 25 | is not a follow through, they try other services, and |
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Public Hearing

| 2 | if there is not a follow through, they then send the |
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| 3 | cases to court. |
| 4 | So, this is not a jam process to try to |
| 5 | reduce my work load, as much as I am grateful for |
| 6 | reducing the work load, but they really do to follow |
| 7 | through. Now, it took me a few years to figure this |
| 8 | out because, by definition only, cases that I would see |
| 9 | would be the ones where this varied, this menu of |
| 10 | diversion services didn't work. |
| 11 | By definition, I didn't see it, the |
| 12 | successes, so case after case, I see, truancy starts in |
| 13 | a mental health evaluation had in November and a mentor |
| 14 | was put in December, and now, nothing seems to have |
| 15 | worked, and now, I got the kids. |
| 16 | So, I had, I think, a very skewed perspective |
| 17 | on it and took two or three meetings between the |
| 18 | probation folks and me before I finally realized they |
| 19 | were having about an 85 percent success rate with these |
| 20 | cases. By success, I don't mean just keeping them out |
| 21 | of court. I mean, success by getting them to do a lot |
| 22 | better going to school or whatever they were doing. |
| 23 | These aren't just truancy cases, of course. So, I |
| 24 | think the key to that successful diversion program was |
| 25 | multi-agency. I'm not sure which of the cliches I can |
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| 2 | remember, but multi-agency collaboration and also the |
| 3 | fact that it has been a collaboration rather than of |
| 4 | absence. |
| 5 | Judge Fitzgerald from Louisville says, |
| 6 | corroboration, it is not a matter of people pointing, |
| 7 | sitting around pointing fingers around and see who gets |
| 8 | clobbered the most or the least. This is done through |
| 9 | the leadership of our Probation Department. We have |
| 10 | another committee on which I do sit called the Single |
| 11 | Point of Access Committee for residential treatment |
| 12 | centers in which the Probation Department initiated |
| 13 | this with a committee for our county, and that's been |
| 14 | quite successful. |
| 15 | Again, the key there is, it's mental health |
| 16 | resources represented in the schools, represented. |
| 17 | That committee is chaired by the superintendent of one |
| 18 | of our two BOCES in our county. And all of the |
| 19 | interested parties are heard from. This is a monthly |
| 20 | meeting and actually invite me to this one unlike the |
| 21 | Committee on Appropriate Placement. And, again, just |
| 22 | as this was initiated by our Probation Department, |
| 23 | which had been tasked with trying to get kids with a |
| 24 | serious mental health needs at the appropriate places, |
| 25 | and that is whole another set of bureaucracies and set |
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| 2 | of issues. But, again, our probation took the lead in |
| 3 | that. |
| 4 | Now I wouldn't say they currently have the |
| 5 | lead. It is the school system, that BOCES takes the |
| 6 | lead and the probation had the lead in setting that up. |
| 7 | CHAIRMAN DUNNE: May I ask why they focused |
| 8 | on BOCES, because what's running through my mind is, a |
| 9 | truancy may be due, in large measure to the kids |
| 10 | saying, what they are teaching in regular schools is |
| 11 | not relevant, I'm not interested, but giving an |
| 12 | opportunity to work with my hands and learn a trade or |
| 13 | special skill, that appeals. |
| 14 | JUDGE GRIFFITH: Well, I don't think that was |
| 15 | actually in our part of the state, and maybe others. |
| 16 | BOCES tends to be a convenient cross jurisdictional |
| 17 | entity that gets involved in stuff that is not really |
| 18 | at its course, educational issue, and I think that is |
| 19 | one example of it. I think I don't know whether |
| 20 | somebody planned it out that way or whether it was |
| 21 | serendipity. It has turned out really well because it |
| 22 | puts the educational component in the middle of these, |
| 23 | what, otherwise, mental health designation, but the |
| 24 | schools are sort of the touch basin for the mental |
| 25 | health problems of our areas, and, I mean, the |
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| 2 | Probation Department could chair this group as long as |
| 3 | the educational the schools were represented, but |
| 4 | the mental health problems could chair this group. |
| 5 | I just think it was kind of a lucky break |
| 6 | that it ended up, the superintendent of probation was |
| 7 | probably missing at the meeting, skipped the meeting |
| 8 | where they decided who was going to chair it. So, he |
| 9 | got to do it. |
| 10 | But, it's worked out really well. I mean, I |
| 11 | guess, the other, I would agree with you to the extent |
| 12 | that probation is our sort of hospital beds of lots of |
| 13 | kinds of alternatives that in our area, for better or |
| 14 | for worse, the BOCES 2 District that serves Oneida |
| 15 | County, two BOCES districts have become the site of the |
| 16 | alternative schools. |
| 17 | It is a big what it's like in the rest of |
| 18 | the state, but all tentative, getting the problem kids |
| 19 | out of the regular schools and putting them in an |
| 20 | alternative school is something that we are trying now, |
| 21 | and there are two. BOCES have each set up alternative |
| 22 | schools that consult with the school districts, can use |
| 23 | to send their kids. They, as I say, they are the hopes |
| 24 | of lots of alternatives for troubled kids, something |
| 25 | that the probation department did not initiate, but we |
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| 2 | are just starting in Utica, oddly enough, a community |
| 3 | service program for PINS and JD kids, but the city is |
| 4 | going to administer and they are going to put kids |
| 5 | doing jobs with police officer Department of Public |
| 6 | Works, firemen, Utica zoo, which is a city agency, and |
| 7 | in an unusually surprisingly line, continued part of |
| 8 | the program, is that the city is actually looking at |
| 9 | this community service program. This is a program that |
| 10 | I'd say, and then in addition, you're going to do 25 |
| 11 | hours of community service within next six months or |
| 12 | else, and our existing community service programs, I |
| 13 | think, are not particularly good. This is one that the |
| 14 | City of Utica has just started and they plan to use it |
| 15 | as a conduit to get kids' summer jobs and to get kids |
| 16 | full-time employment, and though, as I say, unusually |
| 17 | enlightened, from my point of view, that they are |
| 18 | looking at the at risk youth to actually get them the |
| 19 | summer job. That is not probably, unusually, |
| 20 | unenlightened. That is what the summer job should be |
| 21 | for. |
| 22 | But, they are hoping as recruitment for under |
| 23 | represented communities to actually find a kid who just |
| 24 | kind of needs this, anything in the right direction, |
| 25 | we'll get the summer job and does well there to |
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| 2 | encourage him to apply in a year or two for fire |
| 3 | department, police department or something else. |
| 4 | So, that is going to be a program |
| 5 | administered by our Probation Department in which the |
| 6 | courts will have no say other than, as I mentioned |
| 7 | before, I'll be pointing my finger at somebody and say, |
| 8 | 40 hours of community service. |
| 9 | You know, something else, I just wanted to |
| 10 | get a little far afield from probation for a second in |
| 11 | light of some of the questions and comments you were |
| 12 | make from our last panel. Utica has an unusually |
| 13 | strong boy scout program. It has actually gotten |
| 14 | national recognition. It may sound silly and pianic, |
| 15 | but when you're talking about reaching kids in the |
| 16 | elementary schools, they had gone from having boy |
| 17 | scouts or cub scouts, twin scouts in all of Utica. |
| 18 | Utica is a city steadily getting smaller, is now about |
| 19 | 70,000 people; had 20 kids. They have a new regional |
| 20 | director of the boy scouts who has now got 900 kids in |
| 21 | the elementary schools, and what he says, I think, with |
| 22 | wisdom beyond his years, kids will be in gangs and we |
| 23 | want to, and I have gangs, and I expect you folks are |
| 24 | in a gang, I'm in a gang called the Oneida County Bar |
| 25 | Association, I'm in a gang, Presbyterian Church, and we |
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| 2 | are all in gangs and we think a lot of these kids are |
| 3 | missing the structure and missing discipline, and when |
| 4 | they get into street gangs, they get structure and they |
| 5 | get discipline. Let's find some goods and get them in |
| 6 | grades one through four and get them into gangs that |
| 7 | will be the right kind of gangs, and I guess I would |
| 8 | urge you to look into the boy scout program that the |
| 9 | Utica area has because although that really doesn't |
| 10 | have anything to do with probation, I think it does |
| 11 | speak to the issue of engagement of kids at a young |
| 12 | age, which, by the way, I think, is probably the |
| 13 | easiest way to get some value for our treatment dollars |
| 14 | if we did that. |
| 15 | Yes, ma'am? |
| 16 | MS. VALENTI: I just wanted to point out that |
| 17 | in Orange County the county probation has been using |
| 18 | Girl Scouts for the JD and the PINS population, having |
| 19 | told them for a few months they were Girl Scouts. |
| 20 | Their problems are, there were various projects that |
| 21 | they were undertaking. I know that Orange County is |
| 22 | something we might have some more discussion follow-up |
| 23 | on, that her efforts in that area. |
| 24 | JUDGE GRIFFITH: One area of collaboration |
| 25 | that I haven't seen and that I have encouraged on |
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| 2 | without much success on the issue of probation |
| 3 | department or our social services agencies, engaged in |
| 4 | name, is to do it through the neglect system. It seems |
| 5 | to me that, as in West Utica, it is widely claimed that |
| 6 | there will be kids standing on the porch next to their |
| 7 | parents who may or may not be drinking a beer, throwing |
| 8 | rocks at the next house. The guy in the next house |
| 9 | comes out and says, what the hell is going on and gets |
| 10 | greeted by that parent with an obscenity. That, to me, |
| 11 | sounds like neglect. That sounds like action creating |
| 12 | an imminent risk to the child, and I think that Social |
| 13 | Services, Department of Social Services, is an agency |
| 14 | that, at least, could be at and sometimes is |
| 15 | well-designed to address the family instead of just the |
| 16 | kid. |
| 17 | I think that one of the problems with |
| 18 | juvenile justice and with probation is their ability to |
| 19 | engage parents. They are limited. Both the probation |
| 20 | department and Department of Social Services have |
| 21 | resisted my importuning that they consider bringing |
| 22 | neglect cases against parents of at risk kids for not |
| 23 | providing them appropriate supervision. What probation |
| 24 | will do in my county is, the parents won't bring them |
| 25 | to their mental health appointment, their drug rehab |
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| 2 | appointment or whatever, we'll try to get either a |
| 3 | neglect proceeding started or try to get me to sanction |
| 4 | the parents somehow, but I think it could be a lot |
| 5 | broader than that and I think that is a system that is, |
| 6 | at least in theory, already designed to deal with |
| 7 | parents. |
| 8 | CHAIRMAN DUNNE: Judge, a number of the |
| 9 | witnesses today, as well as at our hearing last week, |
| 10 | were advocating that PINS be taken out in the Family |
| 11 | Court and placed within the Department of Social |
| 12 | Services. Have you got any reaction to that? |
| 13 | JUDGE GRIFFITH: Well, I guess I don't know |
| 14 | what the enforcement remedies the Department of Social |
| 15 | Services has. I have a pretty big hammer on the kids, |
| 16 | much more than juvenile delinquents, than PINS cases, |
| 17 | but, I mean, in the probation officers, say for a |
| 18 | signature fraction of these kids, walking into the |
| 19 | courtroom and saying the scowling judge in a black robe |
| 20 | makes a difference, and I guess I'd like to think so. |
| 21 | I wish it were more than the ones that they say, but, |
| 22 | you know, in some ways ironic that some of the kids, |
| 23 | the easiest way to change the behavior of some of the |
| 24 | kids, is to the simplest, which is to drag them into |
| 25 | court. Those are maybe the kids with the least needs, |
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| 2 | not always, but, probably, usually, whereas some of the |
| 3 | kids with the most needs find a better form of |
| 4 | treatment or behavior modification with services. |
| 5 | I think to change the behavior of PINS kids, |
| 6 | you do need a hammer, and I'm not sure what the |
| 7 | specific proposals would be, but I think that the |
| 8 | Department of Social Services doesn't have all of the |
| 9 | hammers that I do. So, I guess I would be concerned, |
| 10 | and not just under that proposal, in some of the way we |
| 11 | do business, that that would just be a Band-Aid of the |
| 12 | program, sort of give the illusion that you're dealing |
| 13 | with a problem with providing services and just, you |
| 14 | know, wish the clock would move a little faster so the |
| 15 | kid would turn 18. |
| 16 | That would be part of my concern. Not that I |
| 17 | long for the business, but, you know, I do think that |
| 18 | there is an advantage. I mean, again, I think the |
| 19 | system that we've got where I am, works out pretty |
| 20 | well. We've got almost the equivalent that for the 85 |
| 21 | percent excludes kids that are getting services, and |
| 22 | for the 15 that don't get diverted, I think that going |
| 23 | into court probably helps. |
| 24 | I mean, I guess my last thoughts would be, |
| 25 | some have suggested that this commission is sort of a |
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| 2 | stalking horse for the notion that probation ought to |
| 3 | be in the court system rather than the separate agency. |
| 4 | I think that would be a very bad idea. I think its |
| 5 | core function in terms of probation making |
| 6 | recommendations to the judges is to what to do about |
| 7 | PINS and JD case kids after there has been a fact |
| 8 | finding. I think the disinterested nature of the |
| 9 | probation department is very helpful. |
| 10 | I talked to some of the old timers who said |
| 11 | that, you know, it was not unusual, when they did work |
| 12 | for the court system, for the Judge to tell them at the |
| 13 | beginning of the investigation what the results ought |
| 14 | to be. This is a kid that ought to go away, this is a |
| 15 | kid that shouldn't go away. I don't think there is |
| 16 | anyway around that. If probation is an arm of the |
| 17 | court and I also fear that creative and invasion that |
| 18 | we have had in our county, maybe we are just lucky, but |
| 19 | I think that would be stifled by being part of a large |
| 20 | lumbering central planting style bureaucracy. |
| 21 | The Unified Court System and the Office of |
| 22 | Court Administration seems to be, I mean, there is no |
| 23 | competition for people to come to Family Court. They |
| 24 | can't try some other court instead, and I think that |
| 25 | sort of top down management prevails in Cuba and sort |
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| 2 | of prevails in the sensibility of the Office of Court |
| 3 | administration. |
| 4 | CHAIRMAN DUNNE: Do you have that down? |
| 5 | JUDGE GRIFFITH: Judge Griffith. That would |
| 6 | be the disservice to the families of Oneida County. I |
| 7 | hope that anybody cherrypicking your observations would |
| 8 | not use them to come to that conclusion. |
| 9 | So, well, my filibuster is done, and I'm |
| 10 | happy to answer questions and I'm happy not to. |
| 11 | CHAIRMAN DUNNE: Well, just one. The apples |
| 12 | don't fall far from the tree. |
| 13 | JUDGE GRIFFITH: That's a nice compliment. |
| 14 | CHAIRMAN DUNNE: Questions? Jack? |
| 15 | MR. CARTER: You spoke about the core |
| 16 | function of probation, one core function as, actually, |
| 17 | as we've been talking with folks, judges and others |
| 18 | from probation. What we found is that probation |
| 19 | actually represents a spectrum of services that are |
| 20 | provided in the Family Court context. You know, all of |
| 21 | the way from the first time, I think, that the case |
| 22 | comes through the door until after disposition, after |
| 23 | placement. In looking at that continuum of services, |
| 24 | the possible services, have you ever seen anything |
| 25 | has anything ever occurred to you that it would be nice |
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| 2 | if you had some resources in a particular area that, |
| 3 | perhaps, probation could do, for example, in dealing |
| 4 | with kids who have been, against whom charges have been |
| 5 | filed, but for whom there has been no adjudication? |
| 6 | JUDGE GRIFFITH: I mean, during that time |
| 7 | period? |
| 8 | MR. CARTER: Correct, or any other time |
| 9 | during that, again, that continuing from the beginning |
| 10 | until the end of the case, have you ever thought, as a |
| 11 | Family Court Judge, boy, I could use a case manager, I |
| 12 | could use somebody to |
| 13 | JUDGE GRIFFITH: Well, that would be |
| 14 | terrific, and I also run a Family Treatment Court of |
| 15 | neglected kids who suffer from substance abuse |
| 16 | problems. It would be wonderful to have a case manager |
| 17 | to take the case either from the beginning or almost |
| 18 | the beginning and try to put together services for |
| 19 | kids. The hard part there is to separate those cases |
| 20 | that need a variety of services from those cases where |
| 21 | you just need to shake the kid by the lapels and say, |
| 22 | you know, damn it, we need it, you got to go to school, |
| 23 | and there are quite a few of those. But, it would be |
| 24 | terrific. |
| 25 | I mean, our Probation Department, for some of |
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| 2 | the reasons I said, maybe it is just sort of a |
| 3 | historical accident, is very in tune with the idea of |
| 4 | grabbing services from different places and helping |
| 5 | kids, and where we are, and this maybe continued from |
| 6 | parts of the state, I rarely have a PINS trial or a |
| 7 | juvenile delinquency trial. There are almost always |
| 8 | admissions or not so many cases, but, significant |
| 9 | numbers of, nonetheless, significant portions |
| 10 | negotiated, a CD, and, I mean, our probation officers |
| 11 | are case managers and we are also lucky enough to have |
| 12 | some cases like the Oneida Kids Agency, which is a |
| 13 | community based, wrap-around services that we give. |
| 14 | Instead of putting kids on probation, we give kids with |
| 15 | mental health diagnoses, the kids in Oneida, we have |
| 16 | one that one of our RTF setups, the families, a four |
| 17 | months program, and they get handed off to each of |
| 18 | those agencies. It has case managers. |
| 19 | One of the other areas, I think, the problem, |
| 20 | the problem, such as this with the case managers, would |
| 21 | be that this interim period is actually pretty short. |
| 22 | Things happen, at least where I am pretty fast, and we |
| 23 | stick to deadlines and the possibility of providing |
| 24 | services while the case is going along, would be a |
| 25 | little hard to do because we get to the point of |
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| 2 | sending it out for probation investigation pretty fast. |
| 3 | Now, where we do have something like case |
| 4 | managers, and I didn't mention before and I don't want |
| 5 | to take all afternoon, but I will mention this, both |
| 6 | the Utica School District and the Rome School District |
| 7 | got safe school grades. They got a lot of dough from |
| 8 | that and got probation officers put in the schools |
| 9 | including, on a rotating basis, some elementary |
| 10 | schools, and my theory about why we haven't had better |
| 11 | services or more PINS cases, more probation services |
| 12 | and elementary schools, is that the kids are small |
| 13 | enough that they are not a threat. At the time, we |
| 14 | seem to get PINS cases when boys and girls get to be |
| 15 | about maybe four foot six and they are big enough to |
| 16 | slug somebody. So, it really hurts, and that is an |
| 17 | extraordinarily short-sighted way to ration our |
| 18 | services, and that is where we can get more bang for |
| 19 | your buck, was that simple point of access meeting with |
| 20 | a bunch of people including the psychiatrist who is |
| 21 | contracted with the group, she said, you know, you |
| 22 | should take all of the money you spend on these kids |
| 23 | who get raped by their parents and hit over the head |
| 24 | with two-by-fours, and we provide services to them when |
| 25 | they are 16, and just say, forget about that, we'll |
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| 2 | take all of that money and put it and help troubled |
| 3 | kids, for the money we are spending on the one kid, and |
| 4 | I said, well, it would be a little hard to figure out |
| 5 | how to write that press release. But, there is some |
| 6 | logic to spending our money where we get the most |
| 7 | value. As far as I can tell, you can't fight kids very |
| 8 | early. |
| 9 | Our Probation Department has started and is |
| 10 | part of the safe school surveys and other mental health |
| 11 | surveys with kids, and as young as first grade, and |
| 12 | that's a good program, but I'm not sure we would have |
| 13 | it if it weren't for safe school kids. But, I guess |
| 14 | having filibustered for another five minutes, I think, |
| 15 | at elementary schools, they are case managers. They |
| 16 | are not just identifying kids, not just monitoring |
| 17 | kids, but pulling together services, and that will pay |
| 18 | enormous dividends. And in ten years maybe they |
| 19 | won't need me in ten years. Okay. |
| 20 | MR. BURNS: You started, in your remarks, you |
| 21 | mentioned some e-mail dialogue, and you can certainly |
| 22 | decline to answer this, and I don't think the Senator |
| 23 | can subpoena your e-mails, but |
| 24 | JUDGE GRIFFITH: I'd be happy, sure. |
| 25 | MR. BURNS: We are always interested about |
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| 2 | what judges are thinking about our programs. You've |
| 3 | shared your Oneida County experience. I appreciate |
| 4 | that. But, is there anything going on within the |
| 5 | Judiciary, within the Family Court Judges Association |
| 6 | or some either dissatisfaction or concern or anything |
| 7 | going on that |
| 8 | JUDGE GRIFFITH: Well, yes. I assumed that |
| 9 | you were just sort of aware of this, and I would like |
| 10 | to know, my e-mails have some security, there was just |
| 11 | about a week ago, I guess, in anticipation of this, a |
| 12 | flurry of e-mails from judges and counties, that hate |
| 13 | the diversion program because the schools didn't like |
| 14 | it and the Probation Department wasn't doing a very |
| 15 | good job at picking the cases, it was just slowing |
| 16 | everything down and the school year would go by and |
| 17 | come March, Family Court are getting their cases of |
| 18 | truancy starting in September, and there was sort of a |
| 19 | counter flurry of e-mails from judges. I don't think |
| 20 | I'm giving away secrets. I know in Tompkins County and |
| 21 | Schenectady County, judges said, gee, works pretty well |
| 22 | over here. They were shorter than the e-mails that |
| 23 | were complaining what a lousy system it was. |
| 24 | So, I don't know whether that is a function |
| 25 | of how long each county has been what I call a 735 |
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| 2 | County. But, it may be a condition that needs to be |
| 3 | worked out of that system, maybe, in the counties that |
| 4 | are sort of new to it. |
| 5 | I haven't distinguished those, but I don't |
| 6 | think there was anything particularly private about |
| 7 | those e-mails. If you'd like, I can just identify the |
| 8 | counties where there seems to be dissatisfaction, and |
| 9 | counties, you think, probation diversion is working |
| 10 | pretty well. I'd be happy to supplement my testimony |
| 11 | with that information. |
| 12 | But, it is apparently of interest. I didn't |
| 13 | realize that other counties were having problems. Ours |
| 14 | works pretty well. |
| 15 | CHAIRMAN DUNNE: Any other questions? Thank |
| 16 | you very much. |
| 17 | JUDGE GRIFFITH: Pleasure was mine. Thanks |
| 18 | for your attention. |
| 19 | CHAIRMAN DUNNE: Judge Biagio DiStefano, |
| 20 | neighboring Madison County. |
| 21 | Welcome, Judge. |
| 22 | JUDGE DiSTEFANO: Neighboring Madison County. |
| 23 | I had to wait for the cows to cross. |
| 24 | CHAIRMAN DUNNE: Beautiful county. |
| 25 | JUDGE DiSTEFANO: It's been a long day for |
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| 2 | you. You've been listening. I was going to go come |
| 3 | anyway, and then I received a call from the President |
| 4 | of the Family Court Judges Association asking me to |
| 5 | represent them. |
| 6 | CHAIRMAN DUNNE: Good. |
| 7 | JUDGE DiSTEFANO: And their position on a |
| 8 | number of these issues, and even though the original |
| 9 | notice that came out dealt with the matter of probation |
| 10 | and some of the things that involve probation and were |
| 11 | perhaps that should go, the majority of the calls that |
| 12 | I have got and the requests that I received deal with |
| 13 | the issue of PINS, so, and the involvement perhaps with |
| 14 | the probation department and the problems that may |
| 15 | exist, and in some places, don't exist in others. |
| 16 | So |
| 17 | CHAIRMAN DUNNE: Judge, may I ask you, are |
| 18 | you a three hatter? |
| 19 | JUDGE DiSTEFANO: I am. |
| 20 | CHAIRMAN DUNNE: And are you the only Family |
| 21 | Court Judge? |
| 22 | JUDGE DiSTEFANO: No. There is one other. |
| 23 | CHAIRMAN DUNNE: There is? |
| 24 | JUDGE DiSTEFANO: We have two, three hat |
| 25 | judges. We do County, Family, Surrogate's. Family |
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| 2 | Court takes about eighty-five percent of the case. |
| 3 | Load PINS used to be a major portion of the amount of |
| 4 | time devoted to Family Court that we used to receive. |
| 5 | We would each have about seventy-five cases a year. |
| 6 | This year, I had three. The other judge may have had |
| 7 | two. |
| 8 | What we have received is a significant |
| 9 | increase in juvenile delinquency cases. What we have |
| 10 | received is a significant increase in parents coming |
| 11 | in, throwing their children out of the homes. And when |
| 12 | we ask them, isn't this a PINS situation? Well, we've |
| 13 | gone through that, but they keep giving us a run about |
| 14 | and takes forever. This is the only recourse that we |
| 15 | have. That is happening that never happened before. |
| 16 | That is happening now. |
| 17 | So, we see more people in juvenile |
| 18 | delinquencies and type of juvenile delinquencies of |
| 19 | children getting involved with fights at home, put |
| 20 | their fists through the wall. So, instead of filing |
| 21 | PINS, they call the cops. That is what is happening. |
| 22 | That is a major part of the increase in family offenses |
| 23 | dealing with these PINS types of cases. |
| 24 | But, that is a side issue. Yes, I have a |
| 25 | three hat judge, and that takes about 85 percent of the |
| | Adam H Alweis - Senior Court Reporter |

| 1 | Public Hearing |
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| 2 | case load. I think the fundamental purpose of the |
| 3 | probation is to really assist the Court. |
| 4 | I agree with the judge, Judge Griffith, if he |
| 5 | said that probation should never be involved in a state |
| 6 | authorized organization. I totally agree with him and |
| 7 | everybody else agrees with him and the Judges |
| 8 | Association that it shouldn't be part of OCA, it |
| 9 | shouldn't be part of anything other than what it is. |
| 10 | CHAIRMAN DUNNE: Excuse me. Family Court |
| 11 | Judges Association has taken a following position |
| 12 | opposed to our recommendation, that it be a part of the |
| 13 | judicial branch. |
| 14 | JUDGE DiSTEFANO: Well, that is interesting. |
| 15 | What is the judicial branch these days? I guess who |
| 16 | would control that and who would oversee that and what |
| 17 | directions they would have, I guess, it is going to |
| 18 | require an enormous amount of money to replace what is |
| 19 | in existence now. |
| 20 | Is that what the state is interested in |
| 21 | doing? |
| 22 | CHAIRMAN DUNNE: Rather than take the time |
| 23 | now, I'd like to send you a copy of our report. |
| 24 | JUDGE DiSTEFANO: Sure. |
| 25 | CHAIRMAN DUNNE: The proposal which basically |
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| 1 | Public Hearing |
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| 2 | keeps the authority for running the probation in the |
| 3 | county, but that it would be |
| 4 | JUDGE DiSTEFANO: No, I had not seen this. |
| 5 | CHAIRMAN DUNNE: It would become part of the |
| 6 | judiciary, but yet with a governing or supervising |
| 7 | commission on probation, which would set policies, but |
| 8 | it would be part of the overall judiciary supervision. |
| 9 | JUDGE DiSTEFANO: Well, I guess I'm not going |
| 10 | to say that is the position of the Family Court Judges |
| 11 | Association. A lot of the judges said, look, we can |
| 12 | get we didn't get an awful lot of notice on this. |
| 13 | This is a major, huge issue dealing with PINS cases, |
| 14 | and to deal with, okay, we are going to send somebody |
| 15 | down there and take ten minutes and then present our |
| 16 | case, they are hoping that there is a lot more time, |
| 17 | and it is going to be voted into what is going to |
| 18 | happen along these lines, because we see a lot of |
| 19 | problems on the local level, and I'll get into it. |
| 20 | CHAIRMAN DUNNE: Would you please, yes. |
| 21 | JUDGE DiSTEFANO: Yes. The idea of it |
| 22 | expanding juvenile delinquents and increasing to |
| 23 | include 16 and 17 year-olds, we are totally against. |
| 24 | We were totally against as having 18 year-olds included |
| 25 | in PINS case because, now, that happened, and we are |
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| 1 | Public Hearing |
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| 2 | definitely opposed to increasing juvenile delinquency |
| 3 | to include 16 and 17. |
| 4 | Expanding the probation role in assisting the |
| 5 | Court in making detention decisions, when you get to a |
| 6 | point of making a decision that is going to involve |
| 7 | someone's detention, that should be up to the Judge and |
| 8 | the Probation Department. In the past, through the use |
| 9 | of predispositional reports, mental health evaluations, |
| 10 | whenever we can get them to do those reports, those are |
| 11 | things that do assist us in making those evaluations. |
| 12 | But, other than that, we don't need extra people |
| 13 | telling us whether or not someone should be detained |
| 14 | and in a PINS case. It was always the absolute last |
| 15 | resort. It was what was supposed to be everything |
| 16 | else was supposed to be used before that. |
| 17 | So, when you get to that point, I'm not sure |
| 18 | we need somebody else telling us that is this is the |
| 19 | point, you know, it is the point you've used, done |
| 20 | everything else, that's the last straw. I don't |
| 21 | believe probation should be involved with victims |
| 22 | except to collect restitution for the victims that have |
| 23 | been obtained, but other than that, I don't see them |
| 24 | getting involved in victims as opposed to getting |
| 25 | involved with those individuals who have perpetrated |
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| 2 | whatever problem is caused beyond probation. |
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| 3 | Now, the major part of our concern is, does |
| 4 | the PINS cases belong in Family Court? And that is, |
| 5 | yes or no, and the reason for that is, there are now, |
| 6 | since this diversion has started, there are a number of |
| 7 | counties that feel that it does work and that when all |
| 8 | of this was going on, and somebody said, I was coming |
| 9 | down here to speak, and there were a few thoughts that |
| 10 | said, yeah, it is working all right up here, there are |
| 11 | a few counties that say that. There are the majority |
| 12 | of counties that say it does not work, and they do not |
| 13 | feel that it is working at all. |
| 14 | CHAIRMAN DUNNE: The "it" being diversion? |
| 15 | JUDGE DiSTEFANO: Yes, and the reason behind |
| 16 | that is, when you have the court involved, a petition |
| 17 | would be filed, the case would come into court, you |
| 18 | would appoint a law guardian, and I think you are |
| 19 | forgetting law guardians are a very influential part of |
| 20 | a PINS or JD process and they are very helpful in |
| 21 | solving of disputes between the family members and the |
| 22 | police and the schools. They do an excellent job and |
| 23 | they have done an excellent job. But, once this we |
| 24 | are also able to keep on track the time that a case |
| 25 | would have to be resolved. A case would come in, they |
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| 1 | Public Hearing |
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| 2 | we would appoint a law guardian. We would say this |
| 3 | case is coming back in thirty days. I want a result. |
| 4 | I want to see what's going on. We can deliver a |
| 5 | predisposition report from the probation department. |
| 6 | We would get sufficient information available to us |
| 7 | from the schools or whatever was necessary. This |
| 8 | process of going through the diversion process, except |
| 9 | we never see the case. I don't know that these cases |
| 10 | exist. We don't get these things until a year and a |
| 11 | half later there. Somebody then says, all right, we've |
| 12 | done everything we can. Here's a letter from whatever |
| 13 | the lead agency is saying that we can't do anything. |
| 14 | Here is the case back. |
| 15 | Now, what are we supposed to do? Are we now |
| 16 | supposed to automatically rectify the situation when |
| 17 | the whole diversion process hasn't happened? By that |
| 18 | time, you have parents who don't know how the system |
| 19 | works, can't get to diversion of meetings all of the |
| 20 | time. The diversion process may send somebody off to |
| 21 | mental health. Mental health, you can never get them |
| 22 | to cooperate. You change the counselors every other |
| 23 | time the person gets there. As a result, the parents |
| 24 | walk off. They say, "Enough of this, I don't need this |
| 25 | anymore." They are not going to get involved with that |
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Public Hearing

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| 2 | system. |
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| 3 | It is a system that is not made for people |
| 4 | who are having problems with their children. They |
| 5 | don't know how to work the system, so, they just stop |
| 6 | going. We don't see them at all. So, then the case |
| 7 | comes back or the parents not cooperating, something |
| 8 | else is not happening. The school is now glad that the |
| 9 | kid has moved out of district, so they dropped the |
| 10 | case. |
| 11 | All of those controls that we had when the |
| 12 | case came back that said, what is happening with this |
| 13 | kid, what's the law guardian's report, what is going on |
| 14 | in the school, and I don't care if we moved to a |
| 15 | different district, we still have jurisdiction over |
| 16 | this kid, I'm not going to let this kid go to some |
| 17 | other school because the parent figures it is the easy |
| 18 | way out. We had the ability to control this and to do |
| 19 | something about it. Now, we don't. But, what people |
| 20 | think that, okay, now the case is coming to court. So, |
| 21 | you can have the schools, you have the comments, you |
| 22 | have the parents, all thinking that, okay, now, it is |
| 23 | in school; now, it is in court. What is the judge |
| 24 | going to do? Judge can't do an awful lot of anything |
| 25 | because all of that has already been done or, at least, |

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Public Hearing

| 2 | the diversion process is started. |
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| 3 | So, if a kid hasn't gone to school, you go |
| 4 | through this diversion process, he still hasn't gone to |
| 5 | school. Now, a year has gone by. We would have taken |
| 6 | care of that case in thirty days. We would have |
| 7 | wrapped that out. That kid was either going to school |
| 8 | or he was going to be placed to make sure he goes to |
| 9 | school or the parent was going to get a neglect charge |
| 10 | filed against them because there is educational |
| 11 | neglect. |
| 12 | There is all sort of things you could have |
| 13 | done. You could have got the probation department |
| 14 | involved with the predisposition, offered the report to |
| 15 | checks things out. The law guardian would contact the |
| 16 | school. We would get all of that fed back to us in a |
| 17 | very short period of time. Now, we don't. Now, we |
| 18 | get now, we find out now, we find out we know |
| 19 | what was going to happen. We have the probation |
| 20 | department started in our county. That didn't work out |
| 21 | because it didn't have the manpower then. They gave it |
| 22 | to the Department of Social Services. Giving this to |
| 23 | the Department of Social Services, who are concerned |
| 24 | about whose nickel is going to be spent if this kid |
| 25 | gets placed by the Court is like putting a fox in |
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Public Hearing

| 2 | charge of the chicken coop. |
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| 3 | They are never going to send the case to |
| 4 | Family Court because, why should they? If they did, |
| 5 | the kid might get placed. If the kid gets placed they |
| 6 | are going to have to pay for it. The diversion goes on |
| 7 | forever. We don't see these cases. We don't see these |
| 8 | cases unless a school, and these are the ones that |
| 9 | BOCES, I have to hand it to this one teacher. He is |
| 10 | the one who is adamant. He is yelling at the diversion |
| 11 | people and saying, enough is enough. We need this to |
| 12 | go to court because none of this is working. And those |
| 13 | are the cases that we have. |
| 14 | Now, the problems that we originally had are |
| 15 | the same problems that the diversion has. When we used |
| 16 | to get a case in, and I think you asked the question, |
| 17 | Mr. Carter, about what things you may need or what |
| 18 | could help the Court in doing certain things, common |
| 19 | denominator to all of the PINS cases is usually a |
| 20 | broken home. That is usually the first thing. The |
| 21 | parent, assuming the parent wants to get something |
| 22 | done, is a big stretch. I mean, that doesn't always |
| 23 | happen, but, apparently, they are looking for a quick |
| 24 | fix. They don't want to get really involved with the |
| 25 | situation. This is probably the third, fourth or fifth |
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| 2 | kid they are bringing in on a PINS. It is not the |
| 3 | child's fault. There is an environment that exists in |
| 4 | the house that requires some direction. |
| 5 | Now, you could have the Department of Social |
| 6 | Services check it out to see if there is a neglectful |
| 7 | situation. The Court can always do that, but the main |
| 8 | problem was, all right, I want a predispositional |
| 9 | report, I'm going to put this kid on the probation and |
| 10 | there needs to be mental health counseling. The |
| 11 | Probation Department would have to then turn around to |
| 12 | the Mental Health Department and say, all right, we |
| 13 | would like to bring this child up for an appointment. |
| 14 | You can't come up now. You have to make an |
| 15 | appointment. Make an appointment, come the next week. |
| 16 | We can't take any cases today. Come the next week. |
| 17 | You're going to meet so and so, but it is not going to |
| 18 | be for a month because we are short-handed. |
| 19 | After they met the first month, that person |
| 20 | has now left the Department of Mental Health. Now, we |
| 21 | are going to give you another case worker. On and on |
| 22 | and on until the person leaves, until the parent says, |
| 23 | enough of this, I can't keep leaving work to come up to |
| 24 | the county seat to meet the Mental Health Department |
| 25 | that is doing nothing, and we have no control over the |
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| 1 | Public Hearing |
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| 2 | Mental Health Department. We don't have a budget. We |
| 3 | don't have resources that can then say, all right, |
| 4 | you're going to have to provide this service. |
| 5 | And on top of that, they have charged people |
| 6 | out here with a PINS petition, coming in with a JD |
| 7 | petition, coming in, we would send, put them on |
| 8 | probation with a condition of mental health, he finds |
| 9 | that the Mental Health Department is charging people, |
| 10 | and if they can't pay, they don't show up. |
| 11 | So, then we have a violation of probation. |
| 12 | Then we have all of these things. Well, the same |
| 13 | reasons that we had the problems is the same problem |
| 14 | that diversion is having. You have offices that are |
| 15 | run by boards of supervisors in counties that are |
| 16 | worried about the budget, how much is it going to cost |
| 17 | the probation department, how much is it going to cost |
| 18 | the Mental Health Department or the Department of |
| 19 | Social Services. We don't want you to place those kids |
| 20 | because it cost a lot of money. We don't want the |
| 21 | Mental Health Department to do anything extra. It is |
| 22 | not a money making operation. These kids don't have |
| 23 | insurance. So, don't take those cases, don't be |
| 24 | available to them. |
| 25 | So, that is why the PINS process was always a |
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| 1 | Public Hearing |
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| 2 | problem because we never had the tools to actually |
| 3 | force Mental health to do what they need to do because |
| 4 | the county, as long as they hold the purse string of |
| 5 | those local agencies, they are not giving them any |
| 6 | direction to do anything for free. |
| 7 | So, the diversion has the same you have |
| 8 | the DSS in charge of the diversion process. We had all |
| 9 | of these meetings. I went to every single meeting they |
| 10 | had. I was satisfied with the people that they put on |
| 11 | board as the persons in charge of the diversion. |
| 12 | One month later, they get rid of one person. |
| 13 | The other person is put back on another program. There |
| 14 | is now half a person there with no involvement with |
| 15 | mental health, and this is after the summertime because |
| 16 | all of the kids that never went to school at the end of |
| 17 | last year are now not going to school at the beginning |
| 18 | of this, and PINS petitions are being filed. There |
| 19 | aren't people to take care of the diversion and there |
| 20 | is no one there to see the kids. You think they are |
| 21 | going to man that place adequately? Not in my county. |
| 22 | They are not. |
| 23 | I've gotten to the point, we've talked about |
| 24 | this with a couple of judges, of just declaring that |
| 25 | the PINS process and diversion program is broken. As a |
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| 1 | Public Hearing |
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| 2 | result, we will take every petition directly to the |
| 3 | Court. |
| 4 | Now, as the other judge said, you think we |
| 5 | need these cases? Absolutely not. I don't need any |
| 6 | more work. But, it is not happening. These kids are |
| 7 | not getting the help that they are supposed to get from |
| 8 | this diversion process, when, in many cases, DSS is in |
| 9 | control of the operation. And it makes it different |
| 10 | for probation, but you're going to have to then provide |
| 11 | resources to the probation department to, adequately, |
| 12 | to get enough individuals who are good probation |
| 13 | officers with experience with children, not just a new |
| 14 | person that comes out of school, and you, all of a |
| 15 | sudden, put them on the PINS list. |
| 16 | So, our recommendation is that you can still |
| 17 | have the diversion process, but the PINS case comes |
| 18 | into the Judge. The Judge appoints the law guardian, |
| 19 | determines what the situation is. It would involve a |
| 20 | lot of cases right at the beginning, right at the very |
| 21 | beginning with a law guardian who has done a good job. |
| 22 | Things get settled because they are afraid of coming |
| 23 | into court. They see that somebody really means |
| 24 | business, and as a result, the cases get settled. |
| 25 | But, once that is done, we have a law |
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| 1 | Public Hearing |
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| 2 | guardian, we set that thing for thirty days, the kid is |
| 3 | not going to school, I want to know it in two weeks. |
| 4 | And a trial is held immediately. If needed to wait a |
| 5 | year for a kid not going to school, he doesn't go back |
| 6 | to school. He's out of his grade. He feels too old. |
| 7 | He's not with the people that he knows. He's the first |
| 8 | one to drop out. |
| 9 | So, the diversion that goes on forever, that |
| 10 | doesn't correct anything on a fast basis, is not |
| 11 | helpful. So, the case comes in, we then decide if the |
| 12 | diversion is a good idea, bad idea, then we bring the |
| 13 | case back within a period of time to make sure that the |
| 14 | diversion process is working. Either way, there needs |
| 15 | to be some mandate on the Mental Health Department to |
| 16 | actually do the jobs. Also, it is for diversion |
| 17 | diversion program or because the Court has ordered that |
| 18 | as part of probation or needs, there needs to be mental |
| 19 | health, a mental health component. |
| 20 | CHAIRMAN DUNNE: Jack, do you have anything |
| 21 | to say? |
| 22 | MR. CARTER: Just make sure I understand, |
| 23 | Judge. Just to restate it, your sense is, it would be |
| 24 | best if the PINS petition was filed initially with the |
| 25 | court, that that would do like, almost, the preliminary |
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| 1 | Public Hearing |
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| 2 | intake function treatment, or, in the Court, and then |
| 3 | refer cases to diversion if they didn't settle at that |
| 4 | particular point? |
| 5 | JUDGE DiSTEFANO: That's right. |
| 6 | MR. CARTER: And that, obviously, involves a |
| 7 | significant additional work load for Family Court |
| 8 | Judges, but it seems |
| 9 | JUDGE DiSTEFANO: As if we don't have one |
| 10 | now? |
| 11 | MR. CARTER: Sure. |
| 12 | JUDGE DiSTEFANO: Yeah. If you are going to |
| 13 | do the job, if you really care about what happens, then |
| 14 | you do it, but it is not being done now. We only see |
| 15 | these kids later on already. We'll see them in |
| 16 | criminal, in other courts, at a later time if we don't |
| 17 | fix the problem now. |
| 18 | MR. CARTER: You mentioned, on a completely |
| 19 | different note, actually, you mentioned that it wasn't |
| 20 | perhaps appropriate for probation folks to be involved |
| 21 | with victims, victims of wrongdoing by children. One |
| 22 | of the features of basic principles involved in |
| 23 | restorative justice is apologies to victims. Have you |
| 24 | ever has anyone in your Court ever used that? |
| 25 | JUDGE DiSTEFANO: Apologies? |
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| 1 | Public Hearing |
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| 2 | MR. CARTER: Apologies. |
| 3 | JUDGE DiSTEFANO: Absolutely. |
| 4 | MR. CARTER: To that extent, if a probation |
| 5 | officer were to be overseeing children make apologies |
| 6 | to the victims of their wrongdoing, that would be an |
| 7 | appropriate intervention as far as probation was |
| 8 | concerned, would it not? |
| 9 | JUDGE DiSTEFANO: Yeah. I'm not sure I'm |
| 10 | not sure it is needed because a lot of things get taken |
| 11 | care of. You have a juvenile delinquency case, you |
| 12 | read in the piece of paper, you expect some monitor to |
| 13 | come down the steps, it is a little kid about four foot |
| 14 | two. All of a sudden, you are going to put that kid on |
| 15 | probation, not if the parents are decent people, not if |
| 16 | they are going to take care of the situation. Do they |
| 17 | do something wrong? Yes. Is it going to be developed |
| 18 | without probation? Absolutely. Are they going to |
| 19 | apologize to the person whose property they stole or |
| 20 | broke? You bet they are. They are going to do it with |
| 21 | their parents right there, right there. We don't note |
| 22 | probation |
| 23 | MR. CARTER: If that was an element of |
| 24 | probation, if you were going to do with a probationer, |
| 25 | that wouldn't be appropriate for probation to be |
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| 1 | Public Hearing |
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| 2 | involved? |
| 3 | JUDGE DiSTEFANO: No, but that gets done all |
| 4 | of the time. |
| 5 | MS. VALENTI: When you talked about going |
| 6 | directly to the Court, it may be very unlikely that |
| 7 | change back will take place, but if you had to put in a |
| 8 | time frame for probation to address, to have to go back |
| 9 | to you for approval, would you want to go back to that |
| 10 | concept which we used to have, the ninety days, I |
| 11 | believe it was, for the PINS; going back for an |
| 12 | additional 90 days and the JD of sixty, with interest |
| 13 | to move it up for six month for probation? |
| 14 | JUDGE DiSTEFANO: Ninety days is a long time. |
| 15 | You'd have to take a look at the type of case involved, |
| 16 | and after a while, you get a pretty good idea of what's |
| 17 | going on with the family, what's going on with the |
| 18 | child, is it really the child or is it the child having |
| 19 | some unique problems, is there a bully? |
| 20 | Each case is totally different. So, you gear |
| 21 | it towards and the law guardians are excellent. In |
| 22 | our county, the law guardians are right on top of |
| 23 | things. And, so, when they say to you, Judge, I think |
| 24 | we are going to need a little more time, or, Judge, we |
| 25 | think we need to get this case right back in, well, |
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| 1 | Public Hearing |
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| 2 | they are telling you that for a reason, and they are |
| 3 | letting you know then whether they think this is going |
| 4 | to last that long or nothing is going to happen or |
| 5 | you're going to get this kid back in before he does |
| 6 | something worse. |
| 7 | So, the time elements, to a specific time, it |
| 8 | doesn't always fit that way. It doesn't work that way. |
| 9 | Just as long as there is somebody who is making sure |
| 10 | that the case is not lost and just as long as parents |
| 11 | see that something is being done, that there is a |
| 12 | consequence, that teachers realize that if they file a |
| 13 | petition, someone is going to follow up on this, it is |
| 14 | not just going to be lost. It is more than just |
| 15 | dealing with the child in this case. It is all of the |
| 16 | other people that are waiting to see if the Court is |
| 17 | really going to do something about this or anything is |
| 18 | being done. |
| 19 | So, there needs to be some time frame that |
| 20 | somebody, at some point, can say, enough is enough, |
| 21 | this case needs to get addressed, and I don't think it |
| 22 | is right to allow case workers in the diversion process |
| 23 | to make that decision, especially when you have the one |
| 24 | child going and seeing three different counselors |
| 25 | because the counselors are leaving, taking other jobs. |
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| 1 | Public Hearing |
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| 2 | So, all okay, let's reinvent the wheel with another |
| 3 | counselor and time just keeps going. Courts would not |
| 4 | allow that. |
| 5 | MS. GINSBURG: Can you explain how the Court |
| 6 | would not allow that? |
| 7 | JUDGE DiSTEFANO: How they would not allow |
| 8 | that? If the Court had control in that case, if that |
| 9 | case was filed in court and the diversion says well |
| 10 | first of all, you have to remember, when a PINS |
| 11 | petition is filed against somebody, there is an |
| 12 | accusation. There is an allegation that this kid is |
| 13 | doing something wrong. Well, this child may have |
| 14 | medical problems, may have a mental health situation |
| 15 | that actually prevents this child from knowing right |
| 16 | and wrong, there may be problems at home that this |
| 17 | child is not going to school for a specific reason. |
| 18 | So, all of these things may not be the child's fault, |
| 19 | but the child is being charged. So, you have a matter |
| 20 | pending. |
| 21 | When you're in the courtroom, you also have |
| 22 | to consider the person who is accused, and, therefore, |
| 23 | it would cause the law guardian to say, well, look, we |
| 24 | are going to find out if there is a problem. But, if |
| 25 | he finds out or she finds out where the school |
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| Т | Public Hearing |
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| 2 | indicates or someone indicates, the probation |
| 3 | department indicates that the services are not really |
| 4 | for this child, services may need to be for the parent |
| 5 | and is the parent going to cooperate, no, the parent |
| 6 | never shows up, the parent refuses to bring the kid to |
| 7 | counseling, the parent refuses to bring the kid to |
| 8 | school, then all of those things moves the case along |
| 9 | by either saying that, maybe, the Department of Social |
| 10 | Services Child Protection should look at the parents. |
| 11 | Maybe the school should meet with the law guardian and |
| 12 | see if there is a better program in the school that |
| 13 | this child should be involved with as opposed to just |
| 14 | being in the class. And these are things that the |
| 15 | Court has the ability to do and does when we used to |
| 16 | have the cases, but if we don't see the cases, none of |
| 17 | that gets done. We are relying on others in the |
| 18 | diversion process and hoping it works, and then we only |
| 19 | get the cases back when nothing works. |
| 20 | MS. GINSBURG: If there are insufficient |
| 21 | social services in the county, the Court can't augment |
| 22 | that? |
| 23 | JUDGE DiSTEFANO: We used to, and the reason |
| 24 | for that was this. We would tell the Department of |
| 25 | Social Services, what services are you doing for this |
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| 1 | Public Hearing |
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| 2 | child? What mental health services, we can't get them |
| 3 | into the Mental Health Department. If you can't get |
| 4 | this kid into the Mental Health Department and know |
| 5 | that that house is filthy, that that house is dangerous |
| 6 | for this child, I'm going to place this kid. I'm going |
| 7 | to place this kid in a facility unless you get some |
| 8 | mental health assistance here. |
| 9 | Okay. So, they never they couldn't get |
| 10 | the Mental Health Department to do it. As a result, in |
| 11 | our county, the Department of Social Services |
| 12 | contracted with an organization called Liberty |
| 13 | Resources, which then provided and managed the mental |
| 14 | health component, and it was wonderful. It really |
| 15 | worked. They were able to see them that week. We were |
| 16 | able to see them the next week, see them on a regular |
| 17 | basis as well. |
| 18 | As this went to the diversion, Liberty |
| 19 | Resources is out of picture. Now, we are back to the |
| 20 | Mental Health Department because there was no one |
| 21 | yelling at the DSS to get them to provide these |
| 22 | services. We will threaten, if you don't do this, I'm |
| 23 | placing this child, and that was the motive, was the |
| 24 | money. The status is, this is what happens. |
| 25 | MS. GINSBURG: May I ask one follow-up |
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| 1 | Public Hearing |
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| 2 | question? |
| 3 | You said it was a position of the Family |
| 4 | Court Judges Association that they didn't want 16 and |
| 5 | 17 year-olds in Family Court. |
| 6 | JUDGE DiSTEFANO: No, not in Family Court, |
| 7 | increased juvenile delinquency to include 16 and 17 |
| 8 | year-olds. |
| 9 | MS. GINSBURG: We can rephrase it that way. |
| 10 | Can you state the basis for that position? |
| 11 | JUDGE DiSTEFANO: Just like you have PINS at |
| 12 | 18, by the time they are 18, what are you going to do? |
| 13 | When they are already 16 and 17, if they are committing |
| 14 | the types of matters that are very serious, they could |
| 15 | be charged as an adult by the District Attorney's |
| 16 | Office. If there are incidents of small crimes, they |
| 17 | are handled, at least from what I've seen, I used to be |
| 18 | a prosecutor. They are handled appropriately in the |
| 19 | court system. They have the protection of what's |
| 20 | called youthful offender. But, the types of and |
| 21 | there is an awful lot of discretion as to what types of |
| 22 | charges get imposed. The police, are they going to |
| 23 | make arrests, are they going to work it out between |
| 24 | themselves. There is a lot of things that happen off |
| 25 | the books that deal with kids at that particular age. |

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| 2 | On the other hand, they have already gone if you're |
| 3 | still at 16 and 17 doing these things that were |
| 4 | juvenile delinquents, you came through the PINS |
| 5 | process, you came through the prior JD process, at some |
| 6 | point, you have to be old enough to start figuring out |
| 7 | that you can't do this stuff, and to keep it in Family |
| 8 | Court, I think, reduces the responsibility that a child |
| 9 | should have at that age. |
| 10 | MS. GINSBURG: Thank you. |
| 11 | CHAIRMAN DUNNE: Joe? |
| 12 | MR. RINALDI: Youthful offender status is |
| 13 | only required for a first time misdemeanor and not for |
| 14 | a felony, is eligible. After that, we kept it in |
| 15 | Family Court. They would still have the protection for |
| 16 | all offenses, is that not true? |
| 17 | JUDGE DiSTEFANO: That is true. I'm also the |
| 18 | County Court Judge, and unless the person commits a |
| 19 | very serious felony in which there were injuries |
| 20 | inflicted on a home owner in the middle of a burglary |
| 21 | or a murder, they are going to get under youthful |
| 22 | offender status. I mean, I'm not going to ruin |
| 23 | somebody's record for the rest of their lives and not |
| 24 | give them youthful offender status for something that |
| 25 | is an indiscretion. Judges do that all of the time and |
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| 1 | Public Hearing |
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| 2 | you don't hurt a kid. You don't hurt a child for no |
| 3 | reason. If you're going to commit a serious crime, |
| 4 | then for the protection of everybody else, they are not |
| 5 | going to get youthful offender status. If it was |
| 6 | serious, it wouldn't be a JD determination. The |
| 7 | prosecutor would already decide not to keep it as a |
| 8 | juvenile delinquency. They can choose to prosecute him |
| 9 | as an adult. So, it's already there. |
| 10 | CHAIRMAN DUNNE: Jack? |
| 11 | MR. CARTER: I have nothing further. |
| 12 | CHAIRMAN DUNNE: Linda? |
| 13 | MS. VALENTI: Do you ever entertain sealing |
| 14 | of JD records after successful completion? |
| 15 | JUDGE DiSTEFANO: Yes. |
| 16 | MS. VALENTI: And what percentage? |
| 17 | JUDGE DiSTEFANO: Everyone. |
| 18 | MS. VALENTI: Everyone? |
| 19 | JUDGE DiSTEFANO: Our clerks office, I sign |
| 20 | those routinely, sealing of the records. I think that |
| 21 | is required. |
| 22 | MS. VALENTI: Concerned cases after a |
| 23 | portion, it is discretionary as to whether a judge does |
| 24 | it? |
| 25 | JUDGE DiSTEFANO: I do it. I haven't turned |
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| 1 | Public Hearing |
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| 2 | one down. If this could be a juvenile delinquency and |
| 3 | is not taken as a serious felony, there is no reason |
| 4 | not to seal that record. One of the other things, I |
| 5 | think we also have some concerns about is in the |
| 6 | Criminal Procedure Law, recently, and this deals with |
| 7 | the probation department. Somewhere along the lines, |
| 8 | somebody decided, and it probably was the probation |
| 9 | department, if you're going to transfer probation to |
| 10 | another jurisdiction, when a person gets sentenced in a |
| 11 | criminal case, the Court no longer has discretion. You |
| 12 | have to transfer that case to whatever county the |
| 13 | person lives in. That has caused an unbelievable |
| 14 | amount of problems. The only thing that has helped is |
| 15 | the probation department. That doesn't help the |
| 16 | prosecutors. It doesn't help defense counsel. It |
| 17 | doesn't help the Court. |
| 18 | And we would hope that that doesn't extend to |
| 19 | the Family Court Act because there are a number of |
| 20 | cases where you have a person who is charged with a |
| 21 | crime, and part of the crime is a payment of |
| 22 | restitution. So, as part of the conditions of the |
| 23 | sentence, you're supposed to pay restitution. If that |
| 24 | case then is going to get transferred to another |
| 25 | county, because the person lives in the other county, |
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| 1 | Public Hearing |
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| 2 | what would traditionally happen, in the past, is, I |
| 3 | would keep jurisdiction over the issue of restitution |
| 4 | to make sure that the person got paid. Otherwise, the |
| 5 | case comes back, and you're able to do that. |
| 6 | Now, you can't do that. So, now, if you're |
| 7 | going to have to transfer the local case to another |
| 8 | county, I do think another county is going to really be |
| 9 | interested in collecting Madison County's restitution. |
| 10 | MR. POZZI: I would hope so. |
| 11 | JUDGE DiSTEFANO: No. |
| 12 | MS. VALENTI: Our agency had sponsored |
| 13 | legislation, and I drafted it, and we had the |
| 14 | recommendation of many Probation Departments and the |
| 15 | Probation Professionals Association for a swift and |
| 16 | certain sanctions and accountability of the offender, |
| 17 | and since probation has been designated the restitution |
| 18 | clerk in this agency in virtually every county in the |
| 19 | state, except New York City, it hasn't proven a problem |
| 20 | before. So, the restitution collection, well, |
| 21 | certainly |
| 22 | JUDGE DiSTEFANO: What? |
| 23 | MS. VALENTI: Certainly, that we have revised |
| 24 | fiscal standards, and our rule in that area, I've |
| 25 | gotten many answers and questions in the area of |
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| 1 | Public Hearing |
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| 2 | restitution, and I've not heard the Probation |
| 3 | Department not following through on restitution. |
| 4 | JUDGE DiSTEFANO: Well, it is not the |
| 5 | Probation Department for following through. The |
| 6 | Probation Department, having received money, will file |
| 7 | a petition with the local court and prosecute and send |
| 8 | them a notice that says the money hasn't been paid, |
| 9 | right? |
| 10 | But, that then it is up to the prosecutor to |
| 11 | bring the case to court. If they don't bring it back |
| 12 | to court, the Judge has no dealings with the case. So, |
| 13 | then it is up to the local District Attorney's Office |
| 14 | to decide which one of those cases they are going, if |
| 15 | they are going to go after restitution. |
| 16 | MS. VALENTI: There is judgments that should |
| 17 | have been filed in courts as well? |
| 18 | JUDGE DiSTEFANO: Judgments, money judgments? |
| 19 | MS. VALENTI: Yes. |
| 20 | JUDGE DiSTEFANO: In criminal cases? I'd |
| 21 | love to see some statistics as to how much money gets |
| 22 | collected on money judgments from individuals who go to |
| 23 | state prison. Now, to avoid though a problem in the |
| 24 | plea bargains, this is where it becomes a problem, you |
| 25 | don't take a plea unless the restitution is paid up |
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| 1 | Public Hearing |
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| 2 | front, you want a deal? |
| 3 | MS. VALENTI: We are working many |
| 4 | probation departments are working closely with the |
| 5 | prison as to enhance the collection rate of |
| 6 | restitution. |
| 7 | JUDGE DiSTEFANO: Get their cigarette money |
| 8 | while they are in prison. |
| 9 | CHAIRMAN DUNNE: Any other questions? |
| 10 | Judge, thank you very much. |
| 11 | JUDGE DiSTEFANO: Thank you very much. |
| 12 | CHAIRMAN DUNNE: We appreciate your spending |
| 13 | the afternoon with us. |
| 14 | If there are no further witnesses, we'll call |
| 15 | this hearing closed. |
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| 1 | Public Hearing |
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| 2 | CERTIFICATE |
| 3 | I, Adam H. Alweis, Senior Court |
| 4 | Reporter, Fifth Judicial District, State of New |
| 5 | York, do hereby certify that the foregoing is a true |
| 6 | and accurate transcript of my stenographic notes |
| 7 | from the proceedings had therein. |
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| 10 | Adam H. Alweis |
| 11 | Senior Court Reporter |
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