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PUBLIC HEARING

before

ASSEMBLY LAW, PUBLIC SAFETY AND CORRECTIONS COMMITTEE

New Jersey Code of Juvenile Justice, with specific emphasis on
juvenile detention and the referral of juvenile cases to adult court

August 16, 1988
West Deptford Municipal Court Room
Thorofare, New Jersey

MEMBER OF COMMITTEE PRESENT:

Assemblyman Gary W. Stuhltrager, Chairman

ALSO PRESENT:

Assemblyman Jack Collins
District 3

David L. Sallach
Office of Legislative Services
Aide, Assembly Law, Public Safety
and Corrections Committee

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New Jersey State Legislature

ASSEMBLY LAW, PUBLIC SAFETY AND CORRECTIONS COMMITTEE

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NOTICE OF A PUBLIC HEARING

The Assembly Law, Public Safety and Corrections Committee will hold a public hearing on August 16, 1988, at 10:00 a.m. in the West Deptford Municipal Court Room, Grove and Crown Point Road, Thorofare, New Jersey 08086.

The subject of this public hearing is the New Jersey Code of Juvenile Justice, with specific emphasis on Juvenile Detention and the Referral of Juvenile cases to adult court.

Persons who would like to testify or who need further information on the public hearing should contact David Sallach, Aide to the Assembly Law, Public Safety and Corrections Committee at (609) 984-0231.

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ASSEMBLYMAN GARY W. STUHLTRAGER (Chairman): Good morning, ladies and gentlemen. I would like to call this hearing before the Assembly Law, Public Safety and Corrections Committee to order. I want to thank everyone for joining us here today.

There have been a number of incidents which we are not here to talk about in the specific, but which have somewhat prompted us to take a look at the workings of the Juvenile Justice Code. Some questions have been raised, such as these: Are people getting away with murder simply because they are less than 18 years old? Are the standards set up in the Juvenile Justice Code to determine when a juvenile should be charged as an adult appropriate? Are they too strict? Are they too lenient? Are they sufficiently precise, or are they too vague, so that we can't really reach a determination as to who and when someone should be tried as an adult?

With respect to prosecutors, do the prosecutors have too much discretion, or too little discretion, with respect to when they choose to ask for a waiver to try a juvenile in adult court? Are the sentencing alternatives which the court has at the end of a case-- Do they provide sufficient flexibility to really deal with the numerous and varied situations we find with respect to juveniles?

These are some of the questions that we hope to explore through this Committee process. I hope those of you who are speaking can address yourselves, perhaps, to those specific questions.

This Code was enacted just four or five years ago. Many hours of work went into the Code, and certainly I would like to give special recognition here to my predecessor, Assemblyman Martin Herman, who really was the craftsman putting this Code into place.

In general, the Code has been well-received. I don't think, even as we have this hearing here today, that people are

clamoring for an overhaul -- a total reform of this Code. I think what we are hearing is, we want to examine just what has happened over these last four years, and whether or not we need revisions or modifications to make it work better.

We have a number of witnesses here today. We have tried to have witnesses who represent various segments of the community who deal with the juvenile justice system. We have law enforcement, probation, representatives who have dealt with the corrections aspect, community activists, and victims. I think with that as a varied background, we will be able to reach a better determination as to exactly where we will be going with respect to revising or reforming this Code.

Before we begin, I would like to indicate to you that there are sign-up sheets on the table at the front. If you would like to testify, I would ask that you walk up, fill one out, and give it to one of the Committee aides, and we will call on you in due course.

Joining us as a member of the Committee today, is Assemblyman Jack Collins, representing the Third Legislative District. Assemblyman Collins, perhaps you would like to say a few words.

ASSEMBLYMAN COLLINS: Thank you, Mr. Chairman. As Chairman Stuhltrager just mentioned, this issue we are going to talk about today is one that all people are concerned with, at some level. It does peak and valley so often, unfortunately, when some heinous activity takes place. As a representative of the General Assembly and serving on this Committee today, I really stand in the place of the other 78 members who are interested in this particular topic, and who will, through the procedures here today, and the transcript that will be made, be able to find out at least what some members of society feel about the issue of juvenile justice.

Assemblyman Stuhltrager mentioned some of the key questions that we are concerned about today. They are

questions that aren't just going to be discussed today. They are going to be discussed in the future, just as they have been discussed in the past. I think this is one of the subjects where there is no definitive answer. We have to be flexible, and able to move in society, as society changes, as we see more of how people interact with each other, and how we have changes and growth patterns. These are the things that we have to weigh when we are setting up a Juvenile Justice Code.

So, for those of you who will testify today, I thank you in advance for your testimony, whatever position you may take, because I, for one, feel there is no definitive position. What you say today will go a long way toward having an impact on where we are going to go with juvenile justice. As I said earlier, Assemblyman Stuhltrager and I are here, and another Assemblyman or two may join us before the day ends. But all of the 80 members of the Assembly, and the 40 in the Senate, will have access to the transcript of today's testimony.

We look forward to a profitable discussion. Mr. Chairman, I appreciate the opportunity to be here.

ASSEMBLYMAN STUHLTRAGER: Thank you, Assemblyman. We are going to begin the testimony with representatives of the Attorney General's office. We have Susan Holley and Martha Moore. I believe you would like to come up together. Is that correct? (affirmative response from audience)

S U S A N H O L L E Y: Good morning. I am Susan Holley from the Department of Law and Public Safety. With me today is Marty Moore. Marty is the Chief of the new Juvenile Justice Unit within the Division of Criminal Justice.

Just briefly, as you know, the Division of Criminal Justice is responsible for the uniform enforcement of the criminal laws throughout the State. It is the mission of this new Juvenile Justice Unit to develop and coordinate and enhance law enforcement response to the problems of juvenile crime and delinquency prevention. We are here today to offer our

assistance and to gather information from those who will testify. Ms. Moore will explain a little bit about what she is doing now with the Juvenile Justice Unit. We are also here to answer your questions, if we can.

MARTHA MOORE: Good morning. First of all, I would like to thank you for the opportunity to come and speak before you concerning the juvenile system. I would like to commend you in your examination of the system. I think the time is right to reexamine the Code. It has been in existence for a few years now, and it is certainly timely to now examine whether some of the purposes of the Code are, in fact, being achieved, or whether there is need for some changes.

Briefly, what I would like to do is just apprise you of the results of a study we were asked by the Legislature to do under the new Code, which was to examine the existence of the waiver statute and to report back to the Legislature after a period of time, as to what has been the use and results of efforts to seek waiver through adult court.

In response to the Legislature, we did submit our report back in 1985, which was when it was due. I would like to just briefly comment on some of the highlights of that report, so that perhaps we can have a framework from which to have our discussion this morning.

Based on the report, which examined what happened in 1984, it was revealed that waiver is an option that is very infrequently utilized in the juvenile system. Without getting into any reasons as to whether that is good or bad, I would just like to bring to your attention the fact that the report indicated that overall, when you consider the number of juveniles arrested for violent crimes, only about 1-1/2% of them are ever waived. In 1983, which was prior to the Code, there were 151 prosecutors' motions to seeking waiver. Now under the new Code, there are two ways in which a juvenile can be waived. Either on the juvenile's own motion, which is done

sometimes for defense purposes, or when a prosecutor seeks waiver. I am only really going to address the issues of when a prosecutor seeks waiver.

In 1984, there were 95 instances where prosecutors did seek waiver. Although the number dropped, the percentages of when that was granted increased. It was granted in 71 cases, which is 81%, as opposed to 62% in '83. Perhaps that at least tells us that prosecutors have greater guidance, given the new Code, as to when to seek waiver, because apparently the courts agreed with them at a greater rate than they did in the past. Of these 95 waivers, it really amounted to 104 particular juveniles, 77 of which were waived as a result of the prosecutors' efforts, and 27 were waived as a result of defendant efforts.

Most of the juveniles who are waived tend to be male; they tend to be at least 17 years old. Fifty-nine percent are black; 27% are white; 14% are Hispanic. Almost all of them are waived because of a crime of violence -- 95% for a crime of violence -- and most of those are waived for a crime of robbery, either of the first or second degree. Defense motions tended to be made in situations that did not involve violent crimes.

In terms of when courts granted waiver, we found that their denials were not-- Generally, they did not deny waiver in an instance involving robbery, but there tended to be-- Most likely there was a denial when the offense was either murder or aggravated assault.

Once waived, we found that 78% of the juveniles waived to adult courts eventually entered guilty pleas, and most of them to the most serious charge. Of those who were sentenced, 62 of them received custodial sentences, most of them to State correctional facilities. Thirty-three of them got fixed terms; 18 was the mandatory minimum. Twenty-four got indeterminate terms.

When you compare, for example, first degree robbery, which seems to be the offense that most readily is used -- or when waiver is used, it is most readily for a robbery offense-- When we compared those juveniles who are charged with robbery and those who are waived versus those handled in Family Court, we found that of those who were waived, all of them received a custodial sentence, whereas those who were handled in the Family Court-- Only about one-fifth of them received a custodial sentence. The adult sentences also tended to be longer.

Waiver is an option that is so infrequently used, that there are only three counties that filed over 10 waiver motions for the whole year, the first being, of course, Essex. Camden was second, and Passaic third. We also found that whenever a juvenile was arrested or charged with murder a waiver motion was filed, so at least it is being considered in all of the serious cases.

I did not come with any prepared testimony. I thought I would just apprise you of what the statistics revealed, and then be available to offer whatever assistance we can provide, if and when you do undertake an examination of the juvenile system. One of the things we are doing in the Division-- As Sue has indicated, we initiated a Juvenile Justice Section. Our purposes initially are to develop a Law Enforcement Action Plan to help implement the major portions of the Code, and do what we can in terms of improving law enforcement's ability to respond to juvenile crime and juvenile offenders.

Those are really all the remarks I have.

ASSEMBLYMAN STUHLTRAGER: Fine. I have a couple of questions that you, or perhaps Sue can answer. This report -- and I had an opportunity to review the report -- really ends up only covering, I guess, one year of operation under the Code. Do you have any data, because I know the statute provides that prosecutors must report, in writing, on each of their waiver

requests? Do we know whether the statistics have changed significantly? I did note that the Code -- that people were afraid of the Code, in the sense that we were going to have wholesale waivers to adult court. Obviously, the first year did not indicate that. It actually went down in gross numbers. Do we have any idea where we have gone since the 1984 numbers?

MS. MOORE: The Code required us to do a one-year report. We did not repeat it. There is legislation pending now that would require that it be done on an annual basis. So, we really don't have another year of statistics available.

ASSEMBLYMAN STUHLTRAGER: You have all the information available, I would think, since they have to report any time they ask for a waiver, and the decision has to be in writing. The material is probably there, even if you haven't compiled it, I would think. Is that correct?

MS. MOORE: We don't have any annual statistics that I can give you. Our feeling is that waiver is still very infrequently used; that there really has not been a tremendous change in the degree with which waiver is sought.

ASSEMBLYMAN STUHLTRAGER: I did note in the report that one of the provisions, I think, of the Code that has--

MS. MOORE: I have just been handed information concerning a study that was done by the JDC -- the Juvenile Delinquency Commission. Based upon their statistics, the number of juveniles waived has not changed from '85, '86, or '87.

ASSEMBLYMAN STUHLTRAGER: Significantly, you're saying?

MS. MOORE: The number has not changed.

ASSEMBLYMAN STUHLTRAGER: Okay. I notice in the report, at least dealing with 1984, that there were 18 waiver requests that were denied, meaning that the prosecutor asked for an individual to be tried as an adult, and the court, for one reason or another, decided not to. I know one of the

provisions of the statute itself has caused some people to feel it is overly subjective perhaps in 2A:4A-26, where if the juvenile can show that the probability of his rehabilitation before reaching the age of 19 substantially outweighs the reasons for waiver, then the waiver would not be granted. Some have raised concerns that that provision is so subjective as to whether or not someone could be rehabilitated-- How do you really apply that?

But, I did note that only one denial of that 18 even partly -- and it was only partly, actually -- was based on that. Do you have any information with respect to whether or not those bases for denial of a waiver have been utilized any more frequently since then?

MS. MOORE: No, I do not. I do not have any additional statistics for you, just our general feelings concerning this. As you know, this is a carry-over from earlier statutes and, given the philosophy from which the Juvenile Court has sprung, there is this need to consider each case individually in terms of a potential for rehabilitation.

ASSEMBLYMAN STUHLTRAGER: In your opinion -- and I recognize that it is just your opinion really -- is it a workable standard, or is it so subjective that it really just allows the court to really go off and make a decision on some other basis in a particular case?

MS. MOORE: I would rather not give my own opinion concerning--

ASSEMBLYMAN STUHLTRAGER: How about the Division's opinion then?

MS. MOORE: I'd rather not comment on an opinion at this point. We have not formulated an opinion. We are in the process of examining the Code and undertaking an effort to eventually seek legislation where we feel it is necessary. But we are not through that fact-gathering process.

ASSEMBLYMAN STUHLTRAGER: Are there any areas you have reached a determination on, where you are looking for revision, or refinement, let's say, within the Code itself?

MS. MOORE: There is one area where we feel there is a definite need to make some changes. That concerns the sharing of information. Years ago, the feeling was that if you shared any information concerning a juvenile with law enforcement or the schools or DYFS or any other youth-serving agency, that that was harmful to the juvenile. From that attitude, I think we have sort of swung the other way. I believe more and more people are realizing the benefits and the fact that it can be beneficial to share information for a positive purpose. We're looking, and we will be looking, to revise the statute concerning the sharing and disclosure of information, so that law enforcement can work with the schools and with the social service agencies to help juveniles at an earlier stage -- intervene at an earlier point, instead of waiting until they become serious or chronic juvenile offenders.

ASSEMBLYMAN STUHLTRAGER: Do you feel confident that sharing of information can be accomplished with sufficient protections of confidentiality for the--

MS. MOORE: As it is now, we are permitted under the Code to share certain information with school principals on a confidential basis. It does not become part of the record, and it is all done for the benefit of the juvenile. We feel this can be broadened, and that the safeguards can be implemented to ensure that when it is done, it is done for a positive purpose.

ASSEMBLYMAN STUHLTRAGER: Thank you. Assemblyman Collins?

ASSEMBLYMAN COLLINS: I have only one question, Mr. Chairman. I think you may have just answered it with that final comment. When we are talking about the sharing of information, how expansive is that sharing network? You mentioned school principals. Is that where it stops? Is it

between law enforcement agencies? Does it go as far as social service agencies, such as probation or any of those areas which may be involved with the juvenile? How expansive is that sharing?

MS. MOORE: Right now, there isn't a lot of sharing.

ASSEMBLYMAN COLLINS: There isn't? But, as people are talking about increasing sharing, are there any limits to it? Are there any parameters?

MS. MOORE: Generally, yes. It is always maintained with a certain degree of confidentiality. It is information that it is helpful to share, in terms of law enforcement experiences -- instances -- criminal activity perhaps, which occurs on school grounds. All parameters of it have not been fully worked out. We just know this is an area which warrants some attention, and we hope to be able to devise some kind of recommendation to you for legislation in this area.

ASSEMBLYMAN STUHLTRAGER: Where do you-- I don't mean to interrupt you, but just on that one point, where do you stand in terms of your own evaluation of the statute as it presently exists? Are you anticipating a recommendation in the next three months, six months, or is there any timetable at all?

MS. MOORE: Concerning disclosure of information, or--

ASSEMBLYMAN STUHLTRAGER: Whether it be that, or-- I take it you have actually undertaken a broader overview of the statute, and that was one area you have an idea in. But if there is anything else, do you have any timetable?

MS. MOORE: We are looking to complete our efforts to develop the Law Enforcement Juvenile Justice Action Plan by this fall. When we do that, we will then be looking to work on legislative initiatives in response to what we have learned during that process.

ASSEMBLYMAN STUHLTRAGER: Okay. Assemblyman, I'm sorry.

ASSEMBLYMAN COLLINS: When you were giving us figures based on the report in 1983, I think you mentioned that the average age was 17; 59% were black males, and so on. Now, if the average age was 17, and a juvenile becomes an adult at 18, then almost everyone who dealt with a waiver would have to be 17 -- if that is the average. Once they turn 18, they are adults. It leads to a question, and you already voiced your reluctance -- and I can understand that -- to express your own opinion. But when I started thinking of this-- We have, as the Chairman mentioned, that if a juvenile can be rehabilitated, subjectively, by the age of 19, then there is no waiver granted. And if the average age is 17 for the people in the study, there would be no 14s or 15s or 16s in there, because you would have to have a like number of more than 18s to balance it out, and it just can't be.

So, my question is, in the study, were there any young people below the age of 16 who were waived?

MS. MOORE: Well, the finding was that most of them were 17-year-olds. When I speak of--

ASSEMBLYMAN COLLINS: Most of them were-- Okay, then I threw the word "average" in. Excuse me.

MS. MOORE: What I am referring to is the age at the time the offense was committed. That is the controlling age. I would have to look up the particular chart -- which I can do before we are finished today -- to advise you of that. But most of them were 17, so obviously there had to be some that were under that age at the time the crime was committed. You have to keep in mind that as you get younger, and you compare them with the requirements of examining as to whether there is a probability of rehabilitation--

ASSEMBLYMAN COLLINS: Exactly.

MS. MOORE: --before age 19, that probability begins to decrease the younger the juvenile is.

ASSEMBLYMAN COLLINS: Absolutely. I understand that. That is exactly why I asked the question. I threw the word "average" in. You said "most." I'm sorry. That was exactly what generated the question. If the average were 17, then none of the younger ones were being waived. The question that came to my mind was, in this "modern" age, you know, our 14s and 15s are much more sophisticated than they were years back, and so on. But that is something we will discuss, I'm sure, as the day goes on. Thank you.

MS. MOORE: In specific response to that question, sir, I can tell you that, given the study's statistics, two of the juveniles were age 14 at the time of the offense; 10 were age 15; 25 were age 16; and 58 were 17.

ASSEMBLYMAN COLLINS: I see that now. Thank you.

ASSEMBLYMAN STUHLTRAGER: Let me ask you-- I'll throw this out to you, and if it is not your particular area, anyone else who comes up to testify can certainly address it. The Code sets age 14 as the cutoff point where a waiver could be requested. Does the Division have any feelings-- Are they evaluating that age as a cutoff point, or is that something that in the opinion of the Attorney General is firmly established, and there is no real intention to tamper with the age limit that is in the statute?

MS. MOORE: It used to be older. I think we supported it when the change was made driving it to 14. I don't think any jurisdiction really has it below 14. There would be some real serious considerations as to whether any juvenile under age 14, given what we traditionally have considered the age of reasoning-- It would be very difficult to drop the age below 14. We are not looking to do so, at this point.

ASSEMBLYMAN STUHLTRAGER: So, you would not support a standard that did not include a specific age cutoff, but went on a case-by-case basis with respect to the individual juvenile?

MS. MOORE: I don't think we are looking to drop the age below 14.

ASSEMBLYMAN STUHLTRAGER: All right. Thank you. Do you have anything else, Marty? Sue? (no response) Thank you. I hope you are going to enjoy West Deptford Township here for a few more hours, listening to some of our other testimony.

MS. MOORE: Thank you very much.

ASSEMBLYMAN STUHLTRAGER: Thanks for coming down.

Next I would like to call Tom Stokes. Tom is Vice President of the New Jersey Juvenile Detention Association. Good morning, Tom.

T H O M A S S T O K E S: Good morning. I didn't come with a prepared statement either, but I want to express a concern that in lieu of all of the testimony you will hear today, and the statistics, you do not lose sight of what the Code is intended, or should be intended to do. There will be feelings from communities and friends of victims when it comes to heinous crimes where waivering is considered, but I don't think we should lose sight of the fact that what is best for the juvenile should be considered amongst everything else.

ASSEMBLYMAN STUHLTRAGER: Tom, are the alternatives and options available to you, in terms of dealing with the juveniles-- Are they sufficient, or do you think there is a need for legislation to broaden the available options for dealing with the juveniles? I am looking at a newspaper article on a bill that was recently passed in the Senate, appropriating money to expand the alternative community programs and County Youth Service Commission options with respect to juveniles.

MR. STOKES: Absolutely. I think the more options available, the better everyone is. Each juvenile who comes into my facility has different needs, as we all do here. So what works for one juvenile won't necessarily work for another. So the more options we have available, I think the

better we can reach the goal of ensuring that that juvenile not repeat the same undesirable behavior.

ASSEMBLYMAN STUHLTRAGER: I know you began -- and I am not going to ask this question as a challenge to your priority -- the best interest of the juvenile-- Certainly that is the concern of everyone, and yet I am sure that as we sit here today, we are going to hear testimony from people who believe that it is not just the juvenile, but balancing the best interest of that child with the interests of the community at large, those people who may happen to live in the neighborhood where that juvenile is back out on the street. Are we able to deal with that juvenile in such a way that we can determine when he is a danger to the community, and we have the means available to keep him out of the community?

MR. STOKES: I think that is one of the reasons why you, as Chairmen and Assemblymen, have these kinds of hearings. As Assemblyman Collins said earlier, I don't think there is a definitive answer. What forces, or incites one person to commit a heinous crime against another, and doesn't do so in other people? I don't know. I think if anyone knew, we wouldn't have this kind of a hearing, and we wouldn't need to be looking at the Juvenile Code and other criminal codes in the State.

There is no doubt that the Code needs some improvement and revamping and needs to be reviewed, but what the workable answers are, I don't know, and I don't know of anyone who does know. So periodically we need to have these kinds of hearings to get the views of society.

ASSEMBLYMAN STUHLTRAGER: Do you know if your Association has any particular suggestions that they are looking at with respect to revision or modification of how we deal with juveniles?

MR. STOKES: The President of the New Jersey Juvenile Detention Association will be up here shortly after me, so I will leave that to him.

ASSEMBLYMAN STUHLTRAGER: All right. I will be happy to ask Mr. Brownlee that question. Assemblyman Collins?

ASSEMBLYMAN COLLINS: If what is best for the juvenile is to put him under your care, or under the care of any of the other social agencies, as we now deal with juveniles, be it at the county level here in Gloucester, or whatever it would be throughout the State, how do our facilities and the professionalism of our staff and so on-- How are we handling the bigger problem of these young people being put with you and then eventually facing having to leave you? Are the resources there? I mean, this is a chance for you to give a little plug for what is needed, if anything is needed.

MR. STOKES: I could be here for the rest of the day to tell you what is needed.

ASSEMBLYMAN COLLINS: Well, then, make it a short plug.

MR. STOKES: The juvenile detention facility -- not only in Gloucester County, but in others-- We are not rehabilitative in nature. We are a short-term holding facility for pre-adjudicated juveniles. Sure, we could always use more resources. Typically -- and I know there is a lot of misunderstanding when it comes to juveniles and how they are handled in the system -- a murder suspect is not a problem, so to speak, in a detention facility, as most people would think. They are typically our better behaved juveniles. So, when we are talking about cases where a waiver is considered, we are typically talking about more heinous crimes. Those particular individuals are not typically a problem. We have more difficult problems with some of the less offenders.

But, certainly resources are always needed. We have to maintain a juvenile who is charged with a heinous offense for a longer period of time, because there are more circumstances to be looked at in the case. We are structured as a short-term facility. So the resources that we have, as they apply to that particular individual, run out more quickly than they do for the typical short-term individuals we have.

Staff training is a whole other issue. I know there is a bill on the Governor's desk at this point, I believe, that is going to talk about training as a resource for the staff. That is essentially the only resource that my staff has to deal with any of the kids I have in the detention center. At this point, there is no mandatory training for anyone who wants to work in a juvenile detention center. It is ludicrous when you think about it. So resources, sure. The more resources, the better, the same as alternatives for juveniles in the system.

ASSEMBLYMAN COLLINS: Okay.

ASSEMBLYMAN STUHLTRAGER: Tom, thank you. Let me correct a faux pas and call the President of the New Jersey Juvenile Detention Association, Ralph Brownlee. Good morning. I'm sorry about that. I would have called you first. Do you have any testimony you would like to begin with?

R A L P H B R O W N L E E: Good morning. No. Just like Tom, I have no prepared statement. I am here to answer any questions I can.

ASSEMBLYMAN STUHLTRAGER: Okay. I think, in that case, our questions would really revolve around the criteria for placing the juvenile in detention, and I suppose whether or not, in your opinion-- I do note within that, that public safety for the community is one of the criteria for detention. Number one, do you agree with that, and number two, in that whole statute, which goes on for two pages -- that section -- do you have any comments or suggestions for changes, or is it working adequately, as you see it?

MR. BROWNLEE: First of all, I do believe the criteria for placement in detention is absolutely necessary for the protection of the community. Detention could be classified as a necessary evil today. First of all, there are 18 detention facilities around the State. One is operated by the Department of Corrections in Skillman. County-run facilities are mandated and inspected and approved through the Department of Corrections by the Juvenile Delinquency and Monitoring Unit.

As far as the criteria goes, the criteria encompasses all. It should not be expanded upon.

ASSEMBLYMAN STUHLTRAGER: Do you believe the criteria, as set forth, is sufficient?

MR. BROWNLEE: Absolutely.

ASSEMBLYMAN STUHLTRAGER: Okay. Thank you for coming, Mr. Brownlee. I hope you stay with us. If you have anything to add, feel free to let us know, and we will bring you back up.

Excuse me, Mr. Brownlee, I was reminded of a question I didn't want to ask. With respect to the population, do you have any overcrowding problems? Has the population been stable, let's say, with respect to 1984? And hence, with respect to the Juvenile Justice Code, have we seen any changes in levels of incarceration?

MR. BROWNLEE: Actually, the population is climbing on a daily basis. There are quite a few facilities around the State that are overcrowded. Quite a few others are at capacity. There is a situation now in one particular county where they are, at times, three times their capacity, and are trying to farm children out to other facilities for detention purposes. There are a few in the northern part of the State that, on a daily basis, are at two to three times their capacity. In particular, with my facility in Cumberland County, we are fortunate enough to have a facility that is big enough not only to handle Cumberland County, but Cape May County, and big enough to take the overflow from a few other counties. Historically, since we opened up in 1974, we were able to accommodate other facilities, or other counties, on a frequent basis, on a daily basis.

Recently, since 1984, since the new Juvenile Code went into effect, for some reason, and I am not quite sure why, we are at capacity and, on occasion, do go over capacity. The majority of those residents that we house are Cumberland County residents.

ASSEMBLYMAN STUHLTRAGER: Are there any circumstances where the overcrowding situation at a particular facility, or in a particular region, or perhaps statewide, results in juveniles who otherwise would be detained, being released -- being detained, I should say, under, say, a risk to the community section, being released simply because of the overcrowding situation?

MR. BROWNLEE: Yes.

ASSEMBLYMAN STUHLTRAGER: From a regional perspective, is that something that we experience here in the Gloucester/Salem/Cumberland region, since I know you are familiar with that, being from Cumberland County?

MR. BROWNLEE: Yes. A determination has to be made when you are reaching that type of capacity. It is a dangerous situation, number one, in a correctional facility. A determination must be made at times who is less of a risk.

ASSEMBLYMAN STUHLTRAGER: Right, much as we see in Philadelphia. Everytime they have an order that they are overcrowded, they release so many people. They are in jail for a reason, but they let them out because of the court order that they are overcrowded. Who makes that determination in this case?

MR. BROWNLEE: Well, that is a consensus that is built around several people. Of course, the detention administration is involved with the decision, but in addition to that, the judge, probably the prosecutor, and the defense attorney.

ASSEMBLYMAN STUHLTRAGER: The defense attorney would always want him out, wouldn't he? The defense attorney would generally say, "He can be released, don't you think?"

MR. BROWNLEE: Oh, absolutely.

ASSEMBLYMAN COLLINS: Ralph, let me just be more specific with regard to the releases. You say there is a consensus, and I can accept that. But, are we to assume then that because of overcrowding, and because those people who have

the consensus feeling that a particular youngster should be out, that there is no minimal charge to determine who gets out? Could we have people who committed murder out if there were overcrowding, or armed robbery, or are they elementary? Is there any ground rule? Is there any minimal charge that would hold sway in that kind of a situation?

MR. BROWNLEE: Not to my knowledge. It is very doubtful that anyone charged with a serious offense would be considered for release.

ASSEMBLYMAN COLLINS: But, it is possible. In other words, if we were overcrowded, and a particular accused murderer, we'll say, was in a holding situation -- whatever it would be -- if the consensus felt that, "Well, this is a nice person," or, you know, "This is someone who has been a good person--"

MR. BROWNLEE: I doubt that that would ever happen, sir.

ASSEMBLYMAN COLLINS: But, it is possible. In other words, there is no standard that says, "Someone charged with this crime, this crime, this crime, no matter what the overcrowding situation is, may not be released"?

MR. BROWNLEE: Well, in that case, yeah, I guess it would be possible.

ASSEMBLYMAN COLLINS: Okay.

ASSEMBLYMAN STUHLTRAGER: Is there any segregation of younger from older juveniles within the facilities?

MR. BROWNLEE: That depends upon the facility. There is nothing mandated by administrative law that would indicate it is necessary to separate according to age.

ASSEMBLYMAN STUHLTRAGER: Is there any segregation based upon type of offense?

MR. BROWNLEE: No.

ASSEMBLYMAN STUHLTRAGER: So, any segregation within a facility that takes place is really just something that the

local administrator there determines. For instance, "This kid is particularly violent. The crime he is charged with is particularly heinous. We are going to keep him away from these other people," or "He is just a violent person within the building itself." Is that a fair statement?

MR. BROWNLEE: Segregation would come from the administrator.

ASSEMBLYMAN STUHLTRAGER: The local administration. It is not a statutory or an administrative thing that goes above the local facility?

MR. BROWNLEE: Right. It is not statutory, no.

ASSEMBLYMAN STUHLTRAGER: Okay. Thank you very much.

Let me switch gears a little bit. I would like to call Anita Skill (phonetic spelling) to the witness table.

A N I T A S K I L L: (speaking from audience) I am not speaking--

ASSEMBLYMAN STUHLTRAGER: Excuse me, Anita. I can't hear you. (Ms. Skill's response inaudible to transcriber.) Okay. Sir, what is your name? (addressed to gentleman who walked up to witness table)

R I C H A R D B A K E L Y: My name is Rich Bakely.

ASSEMBLYMAN STUHLTRAGER: Okay, Rich. I have you down on my list, Rich, as President of C.A.L.

MR. BAKELY: I am representing C.A.L., yes.

ASSEMBLYMAN STUHLTRAGER: C.A.L. or CRIMES? I have all these acronyms. You're C.A.L., right?

MR. BAKELY: Citizens Against Leniency. That is our organization, yes.

ASSEMBLYMAN STUHLTRAGER: Okay. I was, at one point, confronted with C.A.L. -- Citizens Against Landfills. You're not part of them here today, are you?

MR. BAKELY: No, sir.

ASSEMBLYMAN STUHLTRAGER: Good. Mr. Bakely is Citizens Against Leniency. He resides in Pitman. Mr. Bakely,

thank you for joining us here today. I see you have a prepared statement, and we look forward to hearing it.

MR. BAKELY: Yes, sir, thank you. We appreciate the opportunity to speak in front of the Committee, and want to thank the Committee for this opportunity. I would hope that through forums such as this, public awareness could be heightened, and people will realize that we certainly have a problem in our juvenile justice system.

We are here today to appeal for help from our elected officials to toughen the prosecution and sentencing of criminal offenders. Today, we focus on the juvenile offender.

In 1987, in Gloucester County, there were nearly 2000 juvenile arrests. Approximately one-fourth of all juvenile arrests are for indexed crimes. These are more serious crimes, which include murder, rape, and robbery. About 5% of the juvenile arrests were for violent offenses. In the last 10 years, arrests for these violent offenses have increased nearly 50%. In the State of New Jersey, murders committed by juveniles increased 17% this past year.

The Philadelphia Cohort Study highlighted relationships between juvenile criminality and adult criminal careers. They found that about 43% of those with juvenile arrests were subsequently arrested between the ages of 18 and 26. The peak age for the first arrest was 17, but the earlier the first arrest, the greater likelihood for subsequent arrests, and the more serious the subsequent offenses are likely to be.

We support an increase in the waiving of serious juvenile offenses to adult court. According to the National Survey on the Disposition of Juveniles, on average, only 1% of juvenile cases are waived to adult court. About 60% of the cases are handled non-judicially. We are certainly not opposed to the handling of relatively minor juvenile offenses without formal court hearings. But, keep in mind that 25% of juvenile

arrests are serious offenses, and yet only 1% of these cases are waived to adult court. Prosecute the crime and don't excuse the offender because of age. Crimes involving bodily harm to another, when committed by a juvenile, should be prosecuted as if committed by an adult. If a juvenile is capable of committing an act of violence against another, he must be forced by society to face the consequences of his actions. Sanctions for juveniles capable of heinous crimes must not be tempered merely because of age.

We must put an end, also, to sentencing disparity. Equally blameworthy offenders must receive similar sanctions, regardless of age. Imposing different punishments for the same type of crime, with sentencing disparity, should be abolished. In a recent case, a 16-year-old and an 18-year-old abducted a woman, and raped and murdered this woman. They were both found guilty of the crime and charged. The 18-year-old was sentenced to 20 years to life imprisonment. The 16-year-old adjudicated juvenile was sentenced to 10 years, and will probably be freed on probation in five to seven years. This is the same kind of case, the same acts, and the juvenile will probably be in society in five to seven years, merely because of one or two years' difference in age.

In a judicial system that acts primarily around age, and secondarily around specific acts, sentencing disparity thrives and, once again, justice and the rights of law-abiding citizens suffer. Our juvenile court system should not handle the violent offender, so long as juvenile courts emphasize the status of juvenility to the neglect of its responsibility to protect society.

Forcing the juvenile courts to consider both age and acts would create attention. Our society struggles with the argument of whether minor status should confer special protection, regardless of acts committed, or whether acts of violence should be punished with little regard for the age of

the offender. We believe the latter. A murder victim is no less dead at the hands of a juvenile. We need punishment that will deter criminals from repeating their crimes, and deter other members of society from committing similar acts. Many of our youthful offenders regard a bit of time spent in juvenile correction facilities as their right of passage. The little bit of time spent is considered to be merely an inconvenience.

In conclusion, we call for a refocusing of our priorities of criminal justice away from the present over-concern of the rights of criminals, juvenile or adult, and compassion for the offenders, to concern about the rights of law-abiding citizens and victims of crime. We need to focus more on protecting our society from criminal elements, and less on our futile attempts to rehabilitate criminals.

The statistics on recidivism show conclusively that our system does not rehabilitate criminals. Our hospitals and sanatoriums are filled with victims of paroled and otherwise released criminals, many of whom began their careers as juvenile offenders. We appeal to our legislators and our judicial system to prosecute the crime, not forgive it due to age, and then punish the criminal, not merely inconvenience him or her. Criminal acts must be treated as criminal acts. Stop the offenders from going through our revolving-door justice system.

Thank you.

ASSEMBLYMAN STUHLTRAGER: In the one case you cited, the 16- and 18-year-olds, do you know whether a waiver was sought in that case?

MR. BAKELY: No, I don't know if a waiver was sought or not. Obviously, if it was sought, it was not granted.

ASSEMBLYMAN STUHLTRAGER: Obviously if it was sought, it was not granted. I guess, to summarize, you want to make sure that the acts of the juvenile are given paramount importance, and the age considered more as a secondary

criterion in determining what we are going to do in terms of handling them through the justice system.

MR. BAKELY: Exactly right, yes.

ASSEMBLYMAN STUHLTRAGER: I know one thing that would be helpful to the Committee, in terms of moving from what I think is a very visceral and common reaction -- and your statement, I think, could be repeated by hundreds, if not thousands of people throughout this community, and the entire State obviously -- and that is to be specific. I know that is not the purpose of your statement here today, but as we look at the Code of Juvenile Justice, we want to be specific in terms of what we are going to revise, what we are considering changing.

I hope that from this point, as we move forward, that is where we will be looking. Translating our gut feelings into black and white and part of these statute books here, is not always an easy task, when we are balancing all of those interests. But I think you have captured what people feel. They want to put a stop to it, and the best way they can is to be detailed within the statutory framework we have.

I'm glad you came today. Assemblyman Collins?

ASSEMBLYMAN COLLINS: Thank you, Mr. Chairman. My only question would be a general one. You gave a specific case-- You quite eloquently stated your position. My question is: Nowhere in there did you support -- that I heard -- any difference in the legal system affecting juveniles and adults. As the Chairman just said, we want to put the action first, and then maybe as a secondary matter, consider age. I didn't exactly hear you say that, but you agreed when he brought that forth as a premise.

My question is: Should there be a difference between adults and juveniles across-the-board? Should we look at a juvenile exactly the same as we look at an adult in all cases? Or, should there not be somewhere a break point, whether it is

age, whether it is -- maybe not just chronological age, maybe mental age -- or is it your position that, "Hey, they're human beings. Everybody is human, no matter what the age, no matter where they are from. Let's do it"?

MR. BAKELY: We believe that the acts committed, the motivation behind those acts, and the mentality behind those acts, should all be treated the same, whether the chronological age of the offender happens to be 16, 18, or 25. The age itself is not the only criterion for the reasoning behind sentencing or why people commit the acts they commit. We do not think there should be strict rules on the age as to whether an offender should be waived or not. Each case should be treated individually. These people -- these criminal offenders -- should be treated as different cases. And if the offender has demonstrated that he has the maturity and the mentality to commit these acts -- and, in many cases, will commit these acts again -- that should be the basis on whether or not these cases are waived to adult court. It should not be based strictly on whether there is an age difference involved, or not.

ASSEMBLYMAN COLLINS: Let me just put this out, not at all to put you on the spot, but just to get a grasp -- and I'm sure you have thought about all of these issues-- I want to just stay with age for a moment, and then I want to come back to the crimes themselves. Could I get you to change your position if the age of the juvenile was 12? Would that make any difference to you?

MR. BAKELY: There is some point in each individual's life where he becomes of age, where he can reason, where he reaches mental and emotional maturity, and he can be held responsible for his acts. I don't think you can put an age on that. Obviously, a six-year-old, if we want to go to extremes, does not have the mental maturity or emotional capability to fully understand right and wrong, and the consequences of acts. I don't think you can look at a 12-, a 13-, or a

14-year-old and say that based on his or her age, they have that emotional or mental maturity to fully understand or not understand the consequences of their acts. The age itself should not be considered primary in the decision.

ASSEMBLYMAN COLLINS: One other question. I think it is a normal reaction to move our minds to the most heinous of crimes when we are talking about this. But there are crimes committed by juveniles that are "adult" crimes -- burglary, robbery, auto theft, things like that. Is your position the same on all crimes, that age should not be a factor? I think, you know, as you said in your comments, a victim is just as dead, no matter what. But how about some of the lesser crimes? Could there be an age break in those, in your mind, or do you follow the same philosophy?

MR. BAKELY: As I said, our main concern as far as that, was with violent crimes. Violent crimes certainly should be treated as violent crimes, regardless of age. There is a difference, of course, with nonviolent crimes. But we also have to keep in mind that according to studies, the very large percentages of these juveniles who commit the so-called lesser crimes of burglary, or possession of narcotics, or things like that, do wind up going on to commit other crimes in future years. Many times these are more serious crimes, and lead to more serious problems.

ASSEMBLYMAN COLLINS: Thank you very much.

ASSEMBLYMAN STUHLTRAGER: Thank you, Mr. Bakely. I hope you will stay around today.

MR. BAKELY: Thank you.

ASSEMBLYMAN STUHLTRAGER: Maybe staying in the same vein, and almost perhaps following up on Assemblyman Collins' question about crimes that are not the most heinous crimes we can imagine-- Mr. Chudzinski is here. He is here, isn't he? (no response) Okay, Henry Chudzinski is not here, correct? (no response) Dave (speaking to Committee aide), would you see

if he is outside? We will move on, and bring Henry back later. I have Joan Sampieri on my list, from the Commission on Sex Discrimination in the Statutes. Welcome, Joan.

J O A N S A M P I E R I: Good morning. I have a few brief remarks. I know this may seem a little strange for the Commission to be testifying on juvenile crime. The Commission is empowered by the Legislature to take a look at statutes and at the way in which the State of New Jersey has handled issues -- gender-based issues -- between men and women. In the last two years, the Commission has made it its business to look at criminal justice.

In the study of criminal justice, we have focused primarily on the area of adult criminal justice, for one thing, because there are more clearly based gender discriminatory issues, and also because information has been more readily available to us. In the juvenile justice system, it is anything but systematic. Looking for information is sometimes like crawling down a rabbit warren. It has been somewhat difficult for us to get a good handle on the juvenile justice system, but that information which we have gotten leads us today, not, unfortunately, to give you any answers, but to pose yet another question.

Of the index offense arrests of juveniles in 1987, nearly 17% were juvenile girls. By the time they wend their way through the system, only approximately 5% ever show up in permanent custody after sentencing. It is our concern that as the laws in the past, and as subjective determinations in the past have treated women differently in some areas, in this instance we may be treating juvenile males very differently, simply based on gender, based on assumptions of society that perhaps young males behave in a different fashion. If you look at 17% of index offenses -- of the arrests committed by juvenile women, that is not a small percentage. It is extremely important to us. The Commission, as part of its

mandate, is not permitted to explore much further. We must look at things in terms of legislation and in terms of recommendations to the Legislature. We are finalizing our report on criminal justice. We should be finished with that probably within the next six to eight months, and will be presenting it to the Legislature.

We are unable to devote our time, simply because of our mandate, to looking at the in-depth reasons for this. But we would ask that as the Legislature and as the Attorney General's office look at juvenile justice -- and as the Juvenile Justice Disposition Division does -- that a consideration be what appears on the surface to be a disparity of treatment between males and females. That disparity appears to impact more heavily on young males than it does on young women.

ASSEMBLYMAN STUHLTRAGER: Meaning that the sentencing is more severe?

MS. SAMPIERI: Yes, and even detention appears not to be a normal remedy for young women. It appears that young women are sent home, except apparently in issues of incorrigibility, which is an odd, indeterminate thing. Yes, young women appear more often to be diverted by the system, perhaps because of that young woman's background, but also perhaps because of assumptions about that young woman and the fact that she may be seen differently than a young man.

ASSEMBLYMAN STUHLTRAGER: Other than reducing judicial flexibility for handling an offender regardless of gender-- Other than that, is there really any way we could reach it statutorily?

MS. SAMPIERI: It doesn't appear to be. That is why I am saying we can't go beyond -- the Commission cannot go beyond this portion of our study, because there does not appear to be any way to remedy it. Perhaps as we again look at -- what used to be called consciousness raising -- the differences between

the treatment of men and women, and perhaps in the educational process of judges and those who do the pre-sentencing disposition work-ups, gender might be a necessary consideration. Let us look at the differences.

ASSEMBLYMAN STUHLTRAGER: I would think that probably at every step along the way, whether it is the work-up stage or all the way up to being before the judge for actual disposition. I can see where a female might benefit just by being a female, but I would tend to think that if their recidivism rate is as high as males -- if that, in fact, is true -- certainly sooner or later it is going to catch up with that person. But that does not justify the disparity you are finding, or at least the indications that there could be a disparity, without any other justification than gender.

MS. SAMPIERI: In my opinion, it is better to catch up with them early, than to see them repeat through the system later on. Better to have them in a juvenile center early, than have them end up in Clinton.

ASSEMBLYMAN STUHLTRAGER: All right. That's interesting.

ASSEMBLYMAN COLLINS: Just one question. With regard to the crimes committed by young men and young women, are they the same crimes? Would that have any bearing?

MS. SAMPIERI: Yes, with the exception of rape and the index offenses, obviously, because of the gender difference. Yes, in all of the index offenses, approximately 17% of those crimes-- I think of the 35 murders, there was a lesser number of women. There were only two murders committed by young women. But in each of the other index offenses, young women hold at about 17%.

ASSEMBLYMAN COLLINS: Thank you.

MS. SAMPIERI: Thank you.

ASSEMBLYMAN STUHLTRAGER: All right, thank you, Joan.

MS. SAMPIERI: Thank you very much.

ASSEMBLYMAN STUHLTRAGER: Mr. Brownlee, I am just wondering whether or not your experience with respect to detention would correspond with what we just heard in that testimony, with respect to the gender differences, at least in terms of pure numbers, if not the reasons?

MR. BROWNLEE: (speaking from audience) That is absolutely true. From what I understand from her statement, she is advocating more female juveniles being incarcerated in detention facilities, with the hope of keeping them out of Clinton. I don't necessarily agree with that assumption.

ASSEMBLYMAN STUHLTRAGER: I think maybe you are going a little broader. I think her point really was, let's treat them equally. If that happens to result, because of how we impose our sentencing, in greater detention, then so be it. But let's make it equalized, if nothing else. Whether or not detention is advisable to avoid going to Clinton at a later date as the way to go-- Of course, that is another issue.

MR. BROWNLEE: Yes, that is another issue.

ASSEMBLYMAN STUHLTRAGER: Okay. But you can confirm certainly that the number of females in the facilities is even less than the percentage of the crimes they commit?

MR. BROWNLEE: Absolutely.

ASSEMBLYMAN STUHLTRAGER: All right, thank you. We have Dave Armor. Dave? Dave is from Gloucester County Youth Services. He has had extensive experience in a number of different areas in the juvenile justice system. Thanks for coming, Dave.

DAVID ARMOR: Thank you. I am the Director of Youth Services in Gloucester County, which includes responsibility for the Juvenile Detention Center. Let me state first, personally, I am in favor of a strong waiver provision in the Juvenile Code. I had the fortunate experience in 1982 and 1983 to be involved with the task forces -- the groups which met in Trenton to discuss various components of the new Juvenile Code,

and be involved in those discussions, which included provisions for the waiver provision in the statute.

The discussions at that point, when looking at the waiver provision, revolved around the difficulty of achieving waiver. Let me just illustrate the significant change that occurred with the new law. You have the prosecution on the right side. Prior to the change in the Code, the prosecution would come into court, and say to the court, "This juvenile cannot be rehabilitated in the juvenile system. Therefore, he or she should be waived to adult court." The burden was on the prosecution to come in and say that this individual could not be rehabilitated.

With the change in the law, the burden shifts to the defense. The prosecution states that this juvenile should be waived. The defense then, under the new statute, must come into court and say, "Wait a second. This individual can be rehabilitated under the juvenile system and, therefore, should not be waived to adult court." So, the burden shifted from the prosecution to the defense -- a fundamental change.

The discussion went back and forth concerning age and the implication of the shift. Basically, this shift was part of the "get tough" side of the package. The assumption was, "We are going to make it easier for the prosecution to show that an individual should be waived." It was not intended purely, however, to merely increase the numbers of individuals waived. It was an effort to make it easier to achieve waiver in appropriate cases, because the prosecutors were saying, "It is very difficult for us, even in appropriate cases, to achieve waiver." So there was a very fundamental shift that occurred. It was an effort, as I said, to make a more effective waiver statute.

One of the other points I wanted to make is, to the best of my knowledge, in talking to some of the corrections people, there has not been a tremendous outcry that with those

individuals where waiver has failed -- where waiver has been attempted and the individual has remained in the juvenile system-- There has not been an outcry that the juvenile system has been ineffective in meeting the needs of that individual. Generally, the outcry is to whether or not the person should be in the adult system or the juvenile system. There has not been tremendous criticism that the juvenile system cannot handle the cases effectively, once waiver has not been achieved. I think that is significant basically that our juvenile system is working, for the most part.

We discussed age 14. As was mentioned, the age was lowered to 14. There was a lot of discussion around this area and, Jack, you indicated some of the subjective discussions about age-appropriate responsibility. It is a very difficult question. We felt that in establishing the age at 14, it balanced some of the interests of the tremendous number of people who testified around this issue. There was a lot of debate at the State level, and at the local level, which was brought to the State when we were considering this provision. We feel 14 is an arbitrary point, but we had to establish a point. We considered lowering it again to respond to community interest in having waiver possible for younger juvenile offenders, when appropriate.

The system, as it is in place right now, still provides individual discretion. I think, by and large, it provides an adequate system to consider individual cases, so that even a 14-year-old, with certain circumstances surrounding the case, could be waived to adult court. The decision is made at several levels, and I guess at the community level, where there is a decision to speak up and be heard, about the feelings of the community. The next decision is at the prosecutorial level, where the prosecutor makes a decision whether or not waiver will be sought, and then the court, through the judge, makes the decision as to whether waiver will be granted.

One area I am not sure about that may be considered is, what type of testimony might be heard at a waiver hearing? I am not familiar enough with the procedures to know whether or not interested individuals could come in and testify from the community. As I said, I am not familiar, so I don't know if that is the case. That is one area that might be considered to be included in a waiver hearing, if it is not.

One other assumption, I think, that perhaps needs to be looked at, and researched perhaps in-depth-- I think that is the assumption that the sanctions are more severe in the adult system automatically, and that perhaps there will be better justice if juvenile offenders more often are served by the adult system. There are certain cases, like the one that was mentioned earlier, where there seems to be some disparity in sentencing. But we must understand that there are certain other decisions that are made along the line, both on the juvenile and the adult sides, where provisions for parole and good time and other factors come into the picture. I think to assume that a more severe penalty occurs automatically by being placed into the adult system is a questionable assumption, without more data. To make a decision to change the statute based on that assumption, I think, needs to be researched in-depth. I don't have that answer, but I think it would be well to perhaps look at that. It might be possible that sometime in the adult system, in some cases, a person could do less time as an adult than they would as a juvenile.

Again, by and large, I am in favor of a strong waiver statute. I feel that appropriate juveniles should be waived. In the discussions at the State level in designing the statute, we attempted to make it easier to occur for appropriate cases. I guess the question is very subjective as to what is an appropriate case; what are the provisions when the waiver is appropriate? That ultimately, at this point, falls on the judge at the Juvenile Court level, to make that decision.

ASSEMBLYMAN STUHLTRAGER: All right, Dave. Thank you.

ASSEMBLYMAN COLLINS: Dave, just one question. You say you support a strong waiver system. Do you think the one we have now is strong enough?

MR. ARMOR: I think it is strong enough in that the burden falls on the defense to prove that rehabilitation can be accomplished by 19. That is a much stronger scenario than we had previously. The reality is-- As you say, you are looking at a five-year time period in which to achieve rehabilitation. I think in certain cases, in certain clearly violent crimes, the defense will have to do a lot of work to prove that that can be accomplished by age 19. It provides also an individual case basis, where even in a serious crime, individuals may not be best served by either being in the adult system or having a serious penalty due to individual circumstances.

Related to that, to bring up an individual case-- Jack, regarding your question of a serious crime, there is one case in Gloucester County where an individual was charged-- I am not sure of the exact charges, but the case involved the death of a parent with a weapon. He did not remain in the juvenile detention center and locked up. He was available for a home detention program during the course of the trial, based on the individual circumstances of the case. I think the hallmark of the juvenile system is that there are individual circumstances that must be considered that are not only in the best interest of the individual, but in the best interest of the community at large in terms of what the best disposition is. I believe that the statute, as it stands now, is effective in considering those individual cases.

ASSEMBLYMAN STUHLTRAGER: Home detention in Gloucester County isn't like it is in Vermont, is it, where John Zaccaro is, where he can have a maid and a health club next-door?

MR. ARMOR: No. Home detention is one response to the overcrowding situation. It provides that juveniles who may be

maintained in the home without risk to the community have that option. You are probably aware that juveniles do not have a bail option, unlike adults. I consider it sort of a modification of a bail system. Those who qualify seek the cooperation of the prosecution, the defense, and the judge to determine that, even though they are under the supervision of the detention center and may be brought back, they may await their time until disposition remaining in the home. Very often that involves continuing in school. The case of the homicide victim was a very unusual case. That is the only one in the last 10 years that I can think of -- that serious a case -- that was applicable for home detention. In most cases, it is more minor offenses.

ASSEMBLYMAN STUHLTRAGER: I guess the concept of home detention-- I know that was one of the cases that drew my attention to this problem. When you have a juvenile who was living at home when whatever the offense was was committed, it obviously means, not only is the juvenile disposed to that type of conduct, but perhaps was not getting the kind of parental supervision he should have had in the first place. Then, to put him back in home detention, if it is going to protect not only the rights of the juvenile, but the interest of the community, when it has already failed once-- I believe in the case I am thinking of, it actually was the second time. What do you have to do to forfeit home detention?

MR. ARMOR: The juvenile who is on home detention can be violated for any provision of the contract that is signed stipulating the conditions. That can be revoked at any time, and the juvenile brought back to the system, at the discretion of the detention center. At that time, they come back to the center and are on some restriction, and possibly at some future date, are reconsidered with changed conditions. So, it is carefully monitored by the detention center staff. We have a home detention worker who specifically has that responsibility

to supervise, conduct home visits, and monitor, which includes checking up on the school, if school is part of the provision.

Some conditions could be that the juvenile may not go out of the house, or would have a curfew, etc. We look at each case individually to determine what the conditions are, and then monitor it, and violate it as soon as a violation occurs. If a violation occurs twice-- In other words, if an individual would come back into the detention center and then at some future date go out again, if he is violated again, then he forfeits the possibility of home detention at that point. I don't have the statistics with me, but we have had this program in effect since, I think, 1980. The statistics are excellent, in terms of either a subjective or objective evaluation of its success. Not only has it been effective in having kids complete their home detention contract period successfully without further offenses in terms of percentages, but it has been very effective in allowing us not to build a larger facility in Gloucester County. By having this program, we saved the taxpayers a \$2 million construction cost -- that was the cost 10 years ago -- for building a 27-bed facility. By implementing this program, we were able to save those capital and overhead costs and present a very effective program. In fact, it was intended as the model, and was included in the new Juvenile Justice Code as a possible alternative.

ASSEMBLYMAN STUHLTRAGER: I can see, though, Dave, where home detention, in effect, for those people who may live in a community that has been victimized by a particular juvenile-- They can see this as a revolving door of justice, because the juvenile, before he would ever even be sent to the detention facility, probably has had more than one skirmish with the authorities for one offense or another. Finally, they are sent to the facility and are put out on home detention. So it's not really like it is their first bite of the apple. They probably have had something before.

So now they are at the facility and then they are on home detention. Then they do something else, they violate their home detention, and they are back in, but then they even have another shot to go back on home detention. If someone is living next-door, for instance, they are not following with precise detail exactly every step along the justice system for this person. All they know is whether the person is going in and out the front door every day. For that person, I can see where his viewpoint would be, "Well, what in the world has really happened? We haven't missed a day where he has been at the house, and nothing really has happened." You can call it home detention, you can call it anything you want, but, in effect, if he has been victimizing the community at large, whether it is one individual through assaults or robberies or whatever, or neighborhood burglaries, the community really has had no relief, and this juvenile has basically had, probably, three or four opportunities.

I come back to this: You are putting them back into a home environment that has failed to keep whatever the events were that were happening from happening. It's not just once. It is not one time where someone went out and did something, probably. It is probably a series of events. I just, you know-- It's satirical, maybe, but--

MR. ARMOR: I understand the criticism and where it is coming from. I think the same analogy could be justifiably applied to the adult bail system. A lot of people--

ASSEMBLYMAN STUHLTRAGER: You're probably right.

MR. ARMOR: --are not happy with the bail system, when they see a recidivist. I think, you know, it is sort of a compromise to provide the same rights to juveniles that you would to adults. It is almost saying, "Well, there will be no provision for a juvenile who is accused of a crime to have access to a bail system." It is almost a double standard.

ASSEMBLYMAN STUHLTRAGER: Whereas preventive detention among adults is very controversial, in fact it is more commonplace with juveniles.

MR. ARMOR: Right. And now, with detention with adults, they have the monitoring system -- the telegraph system that broadcasts over the phone. You know, they wear the ankle bracelets, and things like that, as a response to overcrowding.

The home detention program is not assigned arbitrarily. Everybody is not in agreement in every case. Certainly, we have to justify, and have the agreement of the judge and the probation officer, that it is appropriate. In most cases, the judge and the probation officer, if the kid is on probation, agree that in this particular case home detention is best served in that. So, it is not something that is arbitrarily controlled by the detention center. There are other inputs from the system. I think, overall, the benefits far outweigh the negative aspects. It has proved to be a very effective program over the years.

ASSEMBLYMAN COLLINS: One final question, Dave, to clarify a point. If the juvenile on home detention-- He or she gets two violations of the home detention before any action is taken. Is that what I picked up?

MR. ARMOR: What I said was-- Let's say there is one violation. Let's say another crime is committed. The kid goes out and does another B&E, say, or something like that.

ASSEMBLYMAN COLLINS: While on home detention.

MR. ARMOR: Chances are that kid would not be eligible. I'm talking about a case where a kid has a curfew, and he is at home on a home detention program, and he violates that curfew. The parent calls up, and says, "My kid came home at 11. He is supposed to be in at seven." We would violate that kid and bring him back to the detention center, put him in lockup overnight, and then rediscuss and perhaps renegotiate. In that type of a case, we would then possibly provide the opportunity to go out again.

In cases where there is another offense, we would not automatically put the person back on. The point is, for violations of any provisions of the contract, it is not unlimited. It is after the second offense. When the kid comes back, we say, "Okay, you are not eligible. You have eliminated that alternative at this point. You are going to have to stay in lockup until you are released by the judge," in terms of disposition.

ASSEMBLYMAN COLLINS: Just for whatever it is worth, and I understand your support of the system, and I see some values in that plan, and so on-- I would think that I may well speak for the general public. We do have to be concerned with the general people in our society, not just those involved in whatever area of society we are dealing with. But terms such as "contract" and "renegotiate," are just really buzzwords. It just seems to me to cast a negative shadow on the whole plan. I mean, they are the words that have to be used. It is a contract. But, just sitting here listening to the discussion of this with you and the Chairman, and now in your response to me, words like "renegotiate," I consider as being-- You say be in at seven, he is in at eleven, and now we are going to renegotiate. Not that that would always be the case. These are just terms, it would seem to me, which cast a very dubious shadow over what you ascertain as a successful program. That's all. Just semantics, as such.

MR. ARMOR: Sure. I think the term "bond ordinance" has a certain ring to it, too, that, you know, raises a lot of questions when you start talking about raising money for construction and dollars. Certainly -- not to be argumentative -- I think you need to balance those kinds of things. Certainly, if you took a look at the number of petitions that are signed against juveniles, if we did not have the diversion system we have had, we would have to have a 500-bed facility in Gloucester County to maintain the number of kids.

So, there are balances. We will stand on our record, in terms of the program. In Gloucester County, we have been recognized nationally for our home detention program as an effective model that has been responsive, not only to the community concerns, but also to fiscal responsibility as well. So, we are very proud of that. It is also recognized at the State level as an effective approach.

I understand the concern, but upon closer examination, I think some of those answers can be-- Those questions should be raised. I think, over the years, we have modified the program to answer some of those concerns. We have been responsive to those concerns. However, I do appreciate and understand those concerns.

ASSEMBLYMAN COLLINS: Not to beat this, but in the two-and-a-half years that I have been an elected official, not having any experience before that other than being "a member of the general public," I really feel that one of the biggest concerns-- One of the things that should concern government the most, is the whole idea of how society responds to any programs, from justice programs, to auto insurance, to any of them, in the sense that society, I feel, has to have faith in government, at every level. As we chip away at that, rightly or wrongly, in the minds of people, it is just something that I think we always have to be alerted to, whether it is a particular word or a system or a program or whatever. That is the only reason I responded that way.

Thank you, Mr. Chairman.

ASSEMBLYMAN STUHLTRAGER: Dave, thanks a lot for coming to testify today.

MR. ARMOR: Thank you, Gary.

ASSEMBLYMAN STUHLTRAGER: I believe I have gone through my list of people who have signed up. There were one or two people whose names I called who weren't here at the time. Whether they have come in-- Is there anyone else who

would like to testify with respect to this topic? (affirmative response from audience) Sure, please come forward. Hi. How are you today? Will you please give us your name?

C A R O L A N N K R E M E N T Z - L U G I A N O: Yes. My name is Carol Krementz-Lugiano. I am a detective with the Vineland Police Department in Cumberland County. I am also a representative of the New Jersey Juvenile Officers Association. I am going to be giving some minor points from the law enforcement perspective.

ASSEMBLYMAN STUHLTRAGER: Good, I'm glad you came.

MS. KREMENTZ-LUGIANO: One of our major concerns, as police officers throughout the State, is the Justice Code and its impact on law enforcement -- the street cop. We find that the system of the Crisis Intervention Unit varies greatly from county to county. Some counties respond immediately to a crisis, while other counties simply tell the officer to send the juvenile home with the parent, and contact the CIU the next day. That is barring any kind of an emergency or actual crime crisis type thing.

ASSEMBLYMAN STUHLTRAGER: I don't want to interrupt you, but the ones who respond-- What is their response? What do they do?

MS. KREMENTZ-LUGIANO: Normally, they will send out a caseworker to go to the police department or, you know, as the Code says, the police officer will take the juvenile to whatever location the caseworker designates. I know in my county, we don't seem to have an emergency response. We are told, "Well, tell them to come in the next morning. Send them home." When you are dealing with a family, where everyone is upset and angry-- Our hands are tied, basically, with the crisis intervention portion of the Juvenile Justice Code. We are dealing with everything as it happens, not the next day, when people may have calmed down. Sometimes we just have no recourse, so we send them home, and then we are back there

again an hour later. It just goes on and on and on, but we are still told the same thing.

ASSEMBLYMAN STUHLTRAGER: In counties where it is working more appropriately, from your perspective, whose discretion is it that is making that happen, and conversely, I guess, in counties where it is not working, whose decisions are being followed? What level of office? Is it the prosecutor, or is it someone else?

MS. KREMENTZ-LUGIANO: Juvenile probation seems to have the ultimate word.

ASSEMBLYMAN STUHLTRAGER: Probation.

MS. KREMENTZ-LUGIANO: In our county, the CIU is part of the juvenile probation, and they wear different hats on different days. We are familiar with the caseworkers -- just about all of them -- because they all do the same thing, from one time to the next.

ASSEMBLYMAN STUHLTRAGER: So it's probably your chief of probation in whatever county you are dealing with, who would be able to implement this crisis intervention system, or not.

MS. KREMENTZ-LUGIANO: Right. We have discussed that with them on various occasions, but they seem to be satisfied with the way it is run. They are not looking at it, I guess, from-- You know, everyone has their own point of view, of course. They just don't seem to look at it from ours, where we have to deal with these families all the time, immediately in their homes and at the police station. So, the perspective is a bit different.

ASSEMBLYMAN STUHLTRAGER: Okay.

MS. KREMENTZ-LUGIANO: Most departments have found that there is nothing they can do in an emergency situation if a juvenile has not committed a crime or a disorderly person offense. Prior to the new Code, the police had a course of action that we felt was relatively useful. By putting a juvenile in a JINS Shelter for an incorrigible offense, it gave

a message that that type of behavior would not be tolerated. With the new Code, juveniles know they can continue a course of behavior for quite a long period of time before anything is done about it in the juvenile court system.

ASSEMBLYMAN STUHLTRAGER: At least as long as they don't do anything that constitutes a disorderly person offense.

MS. KREMENTZ-LUGIANO: Right.

ASSEMBLYMAN STUHLTRAGER: What are you referring to when you say "incorrigible"? I mean, what types of things amount to incorrigibility, but do not rise to the level of disorderly person offenses, or a crime?

MS. KREMENTZ-LUGIANO: Okay, a truant, someone who is continually running away. I can give you an example just from my police department, of a girl who ran away approximately 10 time within a six- to eight-month period.

ASSEMBLYMAN STUHLTRAGER: They run away. You pick them up, bring them back, and there is nothing to charge them with.

MS. KREMENTZ-LUGIANO: Yeah. She would take off for a while, you know, like a week at a time. The family was getting really upset by it. Every time we would pick her up, we would call over to probation and say, "This is the 'X' time-- If we take her home, she will run away again. There is no point in bringing her home to a place if she is going to run away." But their response would be, "Well, let her go home, and we will deal with it tomorrow. Tell her mother to give us a call." Finally, it got to the point where they had to put her in detention just as a type of violation. The judge had said, "You are going to stay home and do what you are supposed to do. If you don't, we will deal with it." So they put her in detention for that, but because she had not committed a crime, they were told, "Well, you can't put juveniles in detention for things like that. You have to deal with it in other ways."

ASSEMBLYMAN STUHLTRAGER: Is there another way?

MS. KREMENTZ-LUGIANO: I don't know what those other ways are.

ASSEMBLYMAN STUHLTRAGER: I mean, if they keep running away, even if a foster home were an option, they would just run away from there. I guess it is just a constant battle until time takes its course and they turn 18 and they run away, and they stay away, or they don't.

MS. KREMENTZ-LUGIANO: What happened in this particular case was, after about a year's time, the Family Preservation Unit became involved. It was a conflict, I guess. The mother was pregnant, and it bothered this girl, or whatever. But eventually, after the mother had the baby, everything was worked out. But what do you do in the meantime, you know, when you keep on saying, "Well, send the child home"?

ASSEMBLYMAN STUHLTRAGER: What baby is that? Do you mean the girl had a baby?

MS. KREMENTZ-LUGIANO: The mother had the baby.

ASSEMBLYMAN STUHLTRAGER: The girl's mother?

MS. KREMENTZ-LUGIANO: Right.

ASSEMBLYMAN STUHLTRAGER: Oh, okay.

MS. KREMENTZ-LUGIANO: But the Family Preservation Unit seemed to have worked it out a year afterward. In the meantime, we were running at two or three o'clock in the morning. She was running the streets, doing, you know, things that were inappropriate -- we'll put it that way -- and hanging around with inappropriate people. That is the problem you run into in an incorrigible type case. We find that crisis intervention statewide-- You know, we know the statistics. The people who are involved in probation and crisis intervention will say, "Well, this is working great," but when you talk to the police officer, I think you are going to get a totally different perspective, because they are dealing, as I said before, with everything as it is not further on down the

line. We have to deal with it immediately, and sometimes there is just nothing we can do. We have to tell the parent, "Well gee, I'm sorry but, you know, this is the way the system works."

When we had the JINS Shelter, it seemed that the juveniles had more respect for the law, because they knew they would be locked up for the night, or for the weekend, or whatever. Once we took that away, they seemed to feel, "Well, nothing is going to happen to me. I will go over there and have a conference with these people just to pacify them," and then we see them again. We just don't really feel that the crisis intervention aspect is working, to our advantage anyway.

ASSEMBLYMAN STUHLTRAGER: In any event, I suppose you would feel better if at least it was taken out of the line officer's hands, and gotten into the system at an earlier time through probation immediately upon--

MS. KREMENTZ-LUGIANO: Yeah, if there were some type of a system. We know you can't classify them as crimes or disorderly persons, but when you have these so-called status offenses, the kids just know that nothing is going to happen to them. It just goes around in a circle. If there could be some kind of intervention immediately, you know, to handle that-- I don't have an answer for you.

ASSEMBLYMAN STUHLTRAGER: Is there any model program that you might cite someone, to say, "Hey, it is never going to work perfectly. We know it; we understand it. But in this county, or in this town, it works about as good as it is going to work"? Do you have any idea on that?

MS. KREMENTZ-LUGIANO: No. I know a lot of departments have their own diversionary programs. What they do is, when a juvenile comes in, instead of referring them, they have their own contracts they work out. Even if there is a disorderly person offense, they will say, "Instead of signing a complaint against this juvenile now, we will make this contract out where you have to follow the rules of the home, listen to

your parents," and on and on, and, "Then if we find out you violated it, we are going to press charges against you and you will have to go through the system." That is really the only thing that is going on.

ASSEMBLYMAN STUHLTRAGER: I like that contract. Are you in need of contracts at home, Jack? (laughter)

MS. KREMENTZ-LUGIANO: My department doesn't have that, but I know there are quite a few. Atlantic City has it--

ASSEMBLYMAN STUHLTRAGER: Okay, all right. If you have anything more, feel free.

MS. KREMENTZ-LUGIANO: --and Lacey Township has contracts like that.

ASSEMBLYMAN STUHLTRAGER: I didn't mean to interrupt you.

MS. KREMENTZ-LUGIANO: Oh, no, that's okay.

The police are the first link in the chain of the criminal justice system. Their input is valuable in determining what works and what doesn't. That seems to be a problem we have. Whenever there are any kind of hearings, we never know about it. I happened to catch this in the paper, which is why I am here. Other than that, you know, you deal with the tension, the probation, and all of these other things, but the police, who have to introduce the kids into the system in the first place-- No one seems to really get their perspective on what is going on with these new laws.

ASSEMBLYMAN STUHLTRAGER: Of course, that becomes a difficult proposition, too. With the shift work of the police, if we have a hearing at 10 o'clock in the morning, and they just got off the 12 to 8 shift, you know, do they get paid for coming? Are they on duty? Are they off the street? It is not easy, but I certainly think that some sort of notice would--

MS. KREMENTZ-LUGIANO: I know the symposium they had in Princeton-- Out of the whole State, only seven of us were there. That went through the New Jersey Juvenile Officers

Association, and we were allotted seven police officers to attend from the whole State.

ASSEMBLYMAN COLLINS: Did you say "allotted"?

MS. KREMENTZ-LUGIANO: Yeah, from what the president was told. He was told, "You can only ask 'X' amount of police officers to go." I understand you have a problem with attendance. I mean, you don't want everybody all converging, but we were allotted what amounted to seven.

We also feel the Legislature should seriously consider reinstating the "contributing to the delinquency of a minor" statute. We have found ourselves in situations where extremely young females are keeping company with older males. Unless any sexual activity can be definitely proven, our hands are tied as to what we can do. There are no statutes that cover situations such as this. Both the police and the families are left frustrated when there is no recourse.

ASSEMBLYMAN STUHLTRAGER: I guess my question is, what are they doing then? What conduct do you want to reach, the fact that they are together?

MS. KREMENTZ-LUGIANO: In a personal situation I had, there was a very mature 12-year-old girl. To look at her you would not believe she was 12 years old. She was keeping company with a 28-year-old. Her family would tell her, "We don't want you with him. Hang around with kids your own age." But because she was so physically developed and emotionally mature, older men were attracted to her and, of course, she responded to that.

ASSEMBLYMAN STUHLTRAGER: Obviously, there are laws against--

MS. KREMENTZ-LUGIANO: No. There are laws against sexual activity. If we could prove that she was having sex with him, then that would be a criminal offense, with the ages. Our only recourse was to sign a complaint for interference with custody. But technically the way that

statute is worded, it does not apply. It applies mostly to custodial situations with parents. So when it got before the grand jury, it was thrown out, because it really didn't apply. We tried to get around the rule. So now she is back seeing the guy again, from what I understand, and you can't keep your eye on someone 24 hours a day. He had signed her out of school as her uncle, which is why we signed the interference with custody complaint, but even though contributing to the delinquency of a minor is general, it would have covered something like this, because 28-year-olds, naturally, should not be associating with 12-year-olds.

ASSEMBLYMAN COLLINS: But, just a question. Twelve and 28, I'm sure has caught everyone's attention. But should the law be doing that -- overseeing parental rules or guidance? I mean, is it the law's responsibility to step in there?

MS. KREMENTZ-LUGIANO: I think partially. I think naturally it is a parental responsibility. In fact, most of these incorrigible offenses and disorderly persons -- anything -- really boils down to the family, you know, does the family care what a child does? A lot of times the parents don't care. They don't set curfews; they don't punish. But I think that when you have an older person who takes advantage of the fact that there is no law that can hold, we'll say him, in this case, responsible-- He is going to take advantage of that.

ASSEMBLYMAN COLLINS: Okay, but what violation, if you could write the law-- I mean, you say there should be parental supervision, and let's use this case, because I think it is one that definitely weighs on the side of what you are arguing for-- My question is, what will be the violation? What is the law, that a 12-year-old can't associate with a 28-year-old?

MS. KREMENTZ-LUGIANO: Well, no, it depends on what you are doing. If you are spending a lot of hours, you know, with somebody, if you are leaving school--

ASSEMBLYMAN COLLINS: But how about if you are spending hours watching Walt Disney movies?

MS. KREMENTZ-LUGIANO: Well, we can't all be naive. You know, I don't want to-- (laughter)

ASSEMBLYMAN COLLINS: Where are you going to draw the line on this? Just let's deal with the emotional maturity. These are two people who agree on chess or Walt Disney movies. The point I am getting to is-- It's a shocker, as you presented it, but what is wrong with it until after we see the facts? In other words, if all of a sudden there is incorrigible activity, if there are laws being violated, if they commit crimes, but just the fact that they are 12 and 28-- You already agreed that it should be parental, but they are not doing the job in your particular illustration. Then the law should step in and say what, a 28-year-old can't be with a 12-year-old for six hours a day?

MS. KREMENTZ-LUGIANO: Well, I imagine you could compare it to the seat belt law. Do we have to tell people that they must wear seat belts? Aren't they responsible enough to wear them themselves and to put their children in car seats? Why does there have to be a law that says, "You obviously can't take care of yourself in a car, so now the law is going to tell you to wear a seat belt"? You know, I kind of compare it to that.

ASSEMBLYMAN COLLINS: I will even accept that comparison, but what will the law say?

MS. KREMENTZ-LUGIANO: That is a good question. What did the law say before? They felt that anything a person did to circumvent what a parent had told a child to do-- If a parent says, "Your bedtime is 10 o'clock," or, "You must be in the house by 10 o'clock," and this older person is saying, "Stay with me until 11," that type of a thing. They are minor points, but--

ASSEMBLYMAN COLLINS: It will be a tough one, I think we both agree. Your illustration has not fallen on deaf ears, I'll tell you that.

MS. KREMENTZ-LUGIANO: See, that was a stickler for me. We just had nothing to do, and the parents were coming to us, you know, "What am I going to do?" I talked to the girl for hours to make her see reason, but she-- As I said, we can't be naive, but we do not want to assume that certain things are going on. Maybe they're not, but the chances are, when you look at things realistically, that eventually down the road something is going to happen that you have to try to prevent. You can't say, "Well, now that she's pregnant, we'll do something, because sexual assault has been committed technically under the law," because then you run into the situation where you have a hostile witness. You go before the grand jury, and she may or may not cooperate. In my experience, I have had a lot of these kinds of cases thrown out of the grand jury, so it never goes to court, and then you are back where you started from.

We need something that can get the message across to older people who prey -- I don't want to say "prey," that's the wrong word -- but who entice, so to speak, a younger person to do things that their parents don't want them to do. It could be curfew; it could be anything under the sun. It's like a family who will harbor a juvenile. A juvenile runs away and stays at a friend's house. We go over to the house and the family says, "Well, Johnny isn't here," but Johnny is there. Unfortunately, we cannot force our way into the house to get him out. That is another situation where you have someone contributing to delinquency, not as a crime, but delinquency as incorrigible, those kinds of aspects.

ASSEMBLYMAN STEHLTRAGER: Let me ask you to focus for one second on the waiver provisions themselves, from a police officer's perspective, whether or not they are adequate, are they overused, underused? Do you have any thoughts on that?

MS. KREMENTZ-LUGIANO: No, I don't really have any thoughts on that because I haven't had any dealings with it personally. The officers from the Association-- We have never discussed that issue, so I don't know statewide what's happening as far as that. I think as far as sentencing and things, the more serious crimes we have no qualms about. They seem to be handled fairly adequately, you know, the way the system can allow them with the overcrowding. You have to make allowances for a lot of things when there are not enough facilities. We understand all of that. It's just the minor things, I think really, that have tied the police officer's hands, and have frustrated the parents.

ASSEMBLYMAN STUHLTRAGER: Okay.

MS. KREMENTZ-LUGIANO: That seems to be our main concern. Just in closing--

ASSEMBLYMAN STUHLTRAGER: Go ahead, I'm sorry.

MS. KREMENTZ-LUGIANO: --I know I kind of took a while -- we think that society and legislators have to stop thinking of juveniles as children. The testimony reflected the ages and the seriousness of the crimes, but too many people will say, "Well, he is only 12 years old. He doesn't know what he is doing." I think if some of the legislators spent time with the police over weekends and dealt with these kids, they would find out that they know exactly what they are doing. They know the law sometimes more than we do. They know what they can get away with. They know how to manipulate the law, and say, "Well, I am just a child, therefore my behavior is excusable. As long as I give them what they want to hear, they'll feel sorry for me." I think there are a lot of bleeding hearts. I don't mean to be critical, but, you know, when you deal with the same kids over and over and over again in their natural situation -- in their homes and on the streets -- it is very simple. Some of them-- They would kill me, and they would kill you, just as soon as look at you. There is a very small

minority of those kids, but there are kids who think nothing of breaking the law, who just don't care. Sometimes it is the only attention they get from anybody.

Something must be done to curb the increase in juvenile crime. I know we can't come up with all of the answers, and we never will, but I think we have to stop thinking of them as -- some of those kids as children, when their minds are just as sharp, just as street-wise as a lot of adults.

ASSEMBLYMAN STUHLTRAGER: And they are just as dangerous, in some cases.

MS. KREMENTZ-LUGIANO: Oh, absolutely.

ASSEMBLYMAN STUHLTRAGER: I want to thank you for coming to testify. Make sure we have your name, and we will put it on our list, so that if we have any future hearings on the same general topic, you will be notified.

MS. KREMENTZ-LUGIANO: Thank you.

ASSEMBLYMAN STUHLTRAGER: Is there anyone else?
(affirmative response) Come up, please.

JOANNE THAYER: Hi, Gary.

ASSEMBLYMAN STUHLTRAGER: Hi, Joanne.

MS. THAYER: I filled out a slip. I wanted to make sure to be heard by 12.

ASSEMBLYMAN STUHLTRAGER: Have a seat; take your time.

MS. THAYER: Thank you. I am Joanne Thayer.

ASSEMBLYMAN STUHLTRAGER: It's nice to see you, Joanne.

MS. THAYER: Nice to see you, Gary.

My concerns are with the civil rights that are being violated all the time by police officers with regard to juveniles. The fact is, there is a one-sided type thing where girls are sent home and boys are not. I was very happy to hear the comments I heard earlier, that someone in authority is aware of that.

My other concern is the sharing of information. If a child is, for instance, suspended from school for having a gun in his or her locker, and that gun was bought at K Mart, and it is a rubber band gun-- If he or she was suspended from school and, say, were questioned in a crime, could that suspension from school for being in possession of a gun -- a toy gun bought at Toys-R-Us -- be shared with the police -- that kind of thing. I think the rights of children -- young people -- are my concern.

Also, of course, are the rights of the public. I have been known to have a task force -- Alice will tell you (referring to a person in the audience)-- Our school was constantly being broken into. We had a task force that staked out the school, and we caught the men who were breaking in. One was 21 and one was 18. They weren't children. They were just getting into the school ruining things.

So, my concerns are basically that juveniles' civil rights are not constantly violated. I see them being violated all the time.

ASSEMBLYMAN STUHLTRAGER: I think in any revision to the Code, it is essential that everybody's constitutional rights-- Just because you happen to be under the age of 18 does not mean that you have forfeited your constitutional rights in this country, though the rules may vary slightly in certain circumstances. You have heard testimony regarding that today.

MS. THAYER: Of course, they should vary under certain circumstances. I agree with that.

ASSEMBLYMAN STUHLTRAGER: I don't think -- well, certainly not from this Committee, let's say -- you are going to see any wholesale abrogation of the rights of someone, just because he happens to be between the ages of 14 and 18.

MS. THAYER: I guess my suggestion then would be education at the local level that juveniles do have rights, and

that they should not be questioned without their parents being present, and that the parents do not have to be questioned with their child or young adult, unless they have a lawyer present. They don't have to be there because the police officer said, "You have to be there." A lot of people don't know that. They go there and they are upset. I think that could be cured easily with education at the local level.

Thank you.

ASSEMBLYMAN STUHLTRAGER: Okay, Joanne. Thank you very much.

Is there anyone else who has joined us today who wishes to testify? Does anyone have anything they want to recap, where they may have stated something before? (no response)

Let me just let you know where I see us going from here. First off, I want to thank all those who took the time to come today. We thought that a hearing to go over the present Code and people's ideas for specific changes, as well as people's ideas for general changes-- For those people who support the Code in its present form, it was important that we get that information before us.

I want to thank Assemblyman Collins for showing up today and contributing to what we were discussing.

In the short term, I can say there has been no legislation that has been specifically prepared. This hearing was more for information gathering, and was designed to give us a direction in which to head. I think one thing that has become clear to me, even probably before the hearing as I looked at the report, is, there is a real need for updated information. I could not find, in our "Legislative Index," the statute proposed that will give us an updated report, but I am assuming you are accurate that it is in there. I couldn't find it. Our topical index isn't always the greatest. I will find out where that is, and what committee it is in, and will certainly sign on as a co-sponsor and get that bill heard.

The 1984 information is somewhat dated at this point. Before we can really determine whether or not the statute, statistically at least, is working the way we think it should work, we are going to need updated information.

A number of the other things-- Sharing of information was brought up here today. The Juvenile Justice Action Plan that is going to be proposed sometime in the fall-- I'm sure that anyone who took the time to come here would certainly be interested in seeing what that Juvenile Justice Action Plan holds once it is released. Certainly you can stay in contact with my legislative office, and once we have it, we will be happy to share it with you.

The whole question of the waiver and the discretion-- I am disappointed a little bit that we didn't have someone from the prosecutor's staff here. Vacations and so forth made that difficult. But we are going to be reaching out to the prosecutor's office, too, because I think it became clear here today that their discretion in this whole process is a very important aspect of it. I would like to hear what they think the statute is, and how it is working, and whether or not it is something they think should be changed, from their perspective.

I want to thank those who testified from the community activist/citizen standpoint. Our last speaker falls into that category, and yet even as she spoke, was speaking more from the juvenile rights perspective. And we have had speakers here testifying more from the perspective of the rights of the community as a whole.

Thank you all for attending. We have no further comment from Assemblyman Collins. If you gather further information, or have suggestions -- I know that some groups are going to be doing further research statistically -- please let us know what that information is, so we can make an informed decision as to what legislation to propose in the future.

Thank you all for coming. Thank you.

(HEARING CONCLUDED)

