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Written Testimony of

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Hearing on Reforming the Juvenile Justice System to

Improve Children's Lives and Public Safety

and the

Reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP A)

House Committee on Education and Labor

United States House of Representatives

April 21, 2010

Chairman Miller, Ranking Member Kline, members of the Committee, thank you for inviting me to testify today on behalf of the National District Attorneys Association (NDAA), the oldest and largest organization representing 40,000 district attorneys, state's attorneys, attorneys general and county and city prosecutors with responsibility for prosecuting 95% of criminal violations in every state and territory of the United States.

Juvenile justice remains one of the most important challenges facing America's criminal justice system. When juveniles commit crimes and enter into America's criminal justice system, each step juveniles are processed through will affect their perception and respect – or lack thereof –

for law and order for the rest of their lives. In the past, too many troubled juveniles who could have been guided by innovative prevention, intervention and treatment services instead fell through the cracks of an overburdened and under funded juvenile justice system, leading too many juveniles to a full-time life of crime.

S. 678, The Juvenile Justice Delinquency Prevention Act (JJDP), would assist State and local governments in their efforts to reduce juvenile crime through the funding of prevention programs and activities while authorizing a formula grant program, a comprehensive juvenile delinquency and prevention block grant program, and incentive grants for local delinquency prevention programs.

While NDAA applauds the efforts made by Senator Leahy and other members of the Senate Judiciary Committee to address serious problems facing America's juvenile justice system within S. 678, we do have concerns with some of the framework in this legislation; specifically, mandating that States will be penalized under federal formula grant funding unless certain benchmarks are met within each States' criminal justice system regarding the detention of juveniles. With increased budget challenges felt by State and local jurisdictions in America, coupled with the shortage of State and federal detention facilities, it is our hope that a reasonable amount of flexibility will be allowed for States to comply in order to not punish other State agencies focused on juvenile justice services. During his introduction of S. 678 to the United States Senate, Senator Leahy was mindful of these concerns, stating "We must do this with

ample consideration for the fiscal constraints on States, particularly in these lean budget times, and with deference to the traditional role of states in setting their own criminal justice policy.”¹

NDAA also believes it is important to allow States to decide how to both address the needs of youth in the juvenile justice system, while also ensuring the safety of the community. It is important for States to have the flexibility to deal with youth offenders through a variety of programs, such as community-based programs, faith-based programs, residential facilities, and detention centers, depending on the needs of the youth and of the community.

NDAA would also like to applaud the efforts made in S. 678 to authorize additional resources to enhance substance abuse services for juveniles, including evidence-based or promising prevention and intervention programs for youth. Due in large part to my service as Deputy Director of the White House Office of National Drug Control Policy (ONDCP), I’ve seen countless examples of juveniles who have lost their way due to the affects of substance abuse - both by themselves and by their immediate family. It has been reported that 80% of juveniles that enter into America’s juvenile justice system have been connected to substance abuse ², and it remains no secret that the lifeblood of gangs in America is through the sale of illegal drugs into our communities; significant examples of how dangerous substance abuse and the culture surrounding illegal drugs are towards America’s impressionable youth.

As an elected State and local prosecutor for almost 16 years, I had the opportunity to appear in juvenile court and at our Juvenile Detention Center on many occasions. I submit to you that the

¹ <http://thomas.loc.gov/cgi-bin/query/F?r111:1:./temp/~r111IouwDd:e18913:>

² <http://thomas.loc.gov/cgi-bin/query/F?r111:1:./temp/~r111IouwDd:e18913:>

goal was, and is today, to do individual justice in each case. I also submit to you that, while one can always find an outrageous anecdote to try and make a point, in every jurisdiction I am aware of juveniles are not incarcerated or taken to detention for status offenses such as truancy or runaways; juveniles are not placed into general population with adult offenders; and the “Overrepresentation of Minorities in the Juvenile Justice system”, is not a result of intentional discrimination. Any State and local prosecutor will tell anyone that will listen that:

- (a) Prosecutors take victims and offenders as they receive them;
- (b) The majority of victims of minority juvenile crime are also from the minority population in urban communities, and;
- (c) Many juvenile offenses occur in high crime areas, where the community has demanded and received intense police presence to increase public safety, and because of that increased presence more juvenile offenders are apprehended.

This isn't to say we can't do better – and we should. In preparation for this hearing, I called DA's from a large city (Brooklyn, New York), a medium-sized city (Sacramento, California) and a small city (my hometown of Cedar City, Utah; population 30,000). Representatives from each of these cities stated, in sum and substance, that unless a juvenile commits a serious violent crime, a serious sex crime or has repeated serious criminal behavior and simply cannot be controlled, that it would be extremely rare for a juvenile to be incarcerated in detention.

With the foregoing in mind, States must have the latitude to use all of the tools in the criminal justice system and prosecutors, defenders and judges must have to freedom to craft individual sanctions in order to protect the victim, the community and the juvenile offender. Again, I am

certain there are examples of when the system did not work, but in the vast majority of cases the system does work and placing restrictions upon those that are “on the front line and know their business” is not helpful. While those of us that work in the criminal justice system can always do better, improvement and policy discussions should also take place at a state and local level.

Chairman Miller, Ranking Member Kline, members of the Committee, I appreciate the opportunity to testify before you on this important legislation and will answer any questions that you may have.