

**“Keeping Youth Safe While in Custody: Sexual
Assault in Adult and Juvenile Facilities.”**

**Gabriel A. Morgan
Sheriff**

February 23, 2010

Good afternoon members of Congress. It is with great humility that I accept Chairman Conyers' invitation to testify at this hearing of the Subcommittee on Crime, Terrorism, and Homeland Security on the issue of "Keeping Youth Safe While in Custody: Sexual Assault in Adult and Juvenile Facilities."

I am here today to add my voice to an overwhelming body of work that states that incarcerating juveniles in adult facilities is dangerous and the practice is counterproductive in reducing crime.

The number of youth held in adult jails on a daily basis exceeds 7,500; and the number of youth prosecuted as an adult is approximately 200,000. In a 2007 study commissioned by the Campaign for Justice, Jolanta Juskiewicz, Ph.D., authored, "To Punish a Few: Too Many Youth Caught in the Net of Adult Prosecution." Dr. Juskiewicz found that two-thirds of that approximately 200,000 were subject to pre-trial detention in adult facilities. Moreover, Dr. Juskiewicz discovered:

1. If detained pre-trial, two-thirds of the youth in adult systems were held in adult jails.
2. As many as one-half of the youth prosecuted in the adult system do not receive an adult court conviction.
3. Most youth who were not convicted as adults spent more than one month in an adult jail.
4. Fewer than 25% of convictions in adult court result in a prison sentence.
5. The majority of youth sentenced to probation or given a juvenile sanction were held pre-trial in an adult jail.

In the late 1800s, Illinois instituted a juvenile court system that subsequently served as the model throughout the United States. The institution of a juvenile court system was designed to protect the welfare and rehabilitation of youthful offenders. This system created specialized detention centers, training schools, and youth centers apart from adult offenders and facilities. Their aims were to provide a structured, rehabilitative environment in which the educational, psychological, and vocational needs of youthful offenders could be addressed. Starting about 1987 juvenile crime started to escalate and continued on that trajectory until 1996. It should be noted that the juvenile crime rate has receded. However, a growing perception exists that the juvenile justice system is ineffective and a need to treat juveniles as adults is the answer. Nothing could be further from the truth. It is my observation and most of the empirical data supports:

Minors are granted special civil rights to education, training, medical, and emotional care that are unique to children. These rights are extremely difficult to enforce in an adult jail facility. An adult jail facility lacks the resources, specialized staffing, and the physical plant to deliver the required services.

Youthful offenders often present behavior problems when placed in general population. These same juveniles are more likely to be victims of brutal crimes that may include sexual assaults. Again, our ability to effectively manage the juvenile's safety is tenuous at best. Most of the time we are forced to put them in protective custody or in some form of administrative

segregation for their own protection. This amounts to an additional punishment, inasmuch, as the juvenile is in an isolation cell for the majority of the day.

These findings and many cited in my written submission begs the question; is this a violation of the Eight Amendment of our Constitution. Further, as a civilized body are we guaranteeing the provisions of the Fourteenth Amendment due process and equal protection clause.

Upon taking office, I was faced with an overcrowded jail that the National Institute of Corrections called a “ticking time bomb.” I had over 700 inmates in a facility that was designed for 248. Every time a juvenile was transferred to my custody it was a nightmare. For the protection of the juvenile, I had to move adult prisoners into already overcrowded blocks, further creating an added danger to the adult inmate and the correctional staff.

This situation was further complicated by the fact that almost 30% of the adults in my facility suffered from some form of mental illness. I lacked the professional staff to adequately deal with this population. Our Community Services Board would evaluate the most outrageous behavior. Despite my constant request for additional funding, my request was denied until there was a tragedy. After a brave deputy by the name of Brian Dodge was critically injured, losing one of his eyes at the hands of an inmate suffering from mental illness, I was able to secure a grant to address this problem.

It took Corporal Dodge’s injury for something to be done. There are plenty of juveniles who have fallen victim in adult facilities. In my state of Virginia a juvenile can be tried as an adult at the age of 14 and they are subject to the same facility as an adult offender.

As a criminal justice practitioner, I must also caution of the unintended consequences of good meaning laws. Please do not saddle us with unfounded mandates that would be impossible to accomplish without additional resources. We do our best with the limited resources that are given to us by state and local government. However, since the mid 1980s politicians seeking election or re-election have held the criminal justice system hostage to sound bites. Politicians talk about getting tough on crime and they pass many draconian laws without regard to the data and evidence-based practices. As a practitioner and a taxpayer, I would submit that we must be smarter on crime. We must begin to focus more on prevention, rehabilitation, and reintegration. We cannot afford to continue in this manner. We are wasting human capital along with monies that could provide greater returns on our investment.

Prevention is always cheaper than correction. It is time to do what was started in the late 1800s in Illinois. It is time to ensure a juvenile court system is designed to protect the welfare and rehabilitation of youthful offenders. We desperately need a system that will recognize that 99% of these juveniles will return to communities; and it is up to us to decide how they will return.

Thank you for allowing me to be here today and to add my voice in support of America’s children.

Allen J. Beck & Paige M. Harrison, Bureau of Justice Statistics, Sexual Victimization in Local Jails Reported by inmates, 2007 (2008)

Allen J. Beck & Paige M. Harrison, Bureau of Justice Statistics, Sexual Victimization in State and Federal Prisons Reported by inmates, 2007 (2008)

A Campaign for Youth Justice Report, (2007). Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America.

Austin, J., Johnson, K., & Gregoriou, M. (2000). *Juveniles in Adult Prisons and Jails*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

Bishop, D., Frazier, C., Lanza-Kaduce, L., & White, H. (1996). The Transfer of Juveniles to Criminal Court: Does It Make a Difference? *Crime and Delinquency*.

Delguzzi, K. (1996, April 30). Prison Security Went Awry: Youth Killed When Adults Entered Cellblock. *Cincinnati Enquirer*.

Fagan, J. (1996). The Comparative Impacts of Juvenile vs. Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders. *Law and Policy*.

Fagan, J., Forst, M., & Vivona, T.S. (1989). Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy. *Juvenile and Family Court Journal*.

Fixing a Broken System: A Review of the OJJDP Mandates. Hearing before the Subcommittee on Youth Violence of the Senate Committee on the Judiciary, 105th Cong., 1st sess. (1997) (testimony of Shay Bilchik, Administrator, OJJDP)

Flaherty, M.G. (1980). An Assessment of the National Incidence of Juvenile Suicide in Adult Jails, Lockups, and Juvenile Detention Centers. The University of Illinois, Urbana-Champaign.

Greene, R., & Dougherty, G. (2001, March 19). Kids in Prison: Young Inmates Report Highest Rate of Assault. *The Miami Herald*.

Juszkiewicz, J. (2000). Youth Crime/Adult Time: Is Justice Served? Prepared by Pretrial Services Resource Center for *Building Blocks for Youth*.

Juvenile and Offenders and Victims: 1999 National Report. (1999). Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

Lyons, D.C. (1997, June 12). Teenage Rapist Dies in Prison. *Ft. Lauderdale Sun Sentinel*, p. 3B.

Myers, D. (1999, doctoral dissertation). Excluding Violent Youths from Juvenile Court: The Effectiveness of Legislative Waiver. University of Maryland, Baltimore.

Winner, L., Lanza-Kaduce, L., Bishop, D., and Frazier, C. (1997). The Transfer of Juveniles to Criminal Court: Reexamining Recidivism Over the Long Term. *Crime and Delinquency*, 43: 548-563.