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Law and Criminal Justice Committee
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**Remarks of Robert G. Schwartz
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Since time began, most kids have wanted to get an education, have a good job, and grow up to be a healthy, productive member of society. That is still true today. But on their path to adulthood, some children and teens make mistakes and wind up in trouble with the law.

One of the nice things about being in this field for so many years is that I have a long view of the cycles of American juvenile justice policies that have addressed kids who get in trouble. I haven't been around since time began, but I do have some perspective.

For much of the past few decades, juvenile justice policy has been like a bad baseball team. Knowledge, policies, budget considerations and juvenile crime rates were out of sync, much like a baseball team that doesn't get good pitching, defense and hitting at the same time.

The good news today is that the MacArthur Foundation-- by its support of research and its creative grant-making through Models for Change—has contributed to an alignment of interests and values that once seemed to be at odds. Pitching, defense and hitting are coming together in juvenile justice. Working with other foundations, legislators, families, experts and juvenile justice stakeholders, the MacArthur Foundation has nurtured a modern era of juvenile justice policy that protects the public, saves dollars, and is good for kids.

How does this work?

It is useful to think of the juvenile justice system as a pipeline through which water flows. Along the pipeline are diversion valves, which are the decision points at which children are either diverted from the pipeline or continue through its various gates and locks-- these are the points of arrest, detention, adjudication, disposition (sentencing), and disposition review. One of the signal characteristics of the juvenile justice system is its many options: at every stage, "valves" are available to send some children home, some to other systems, and others to non-institutional care.

As legislators, you control the design of the pipeline. The laws you pass shape the decisions and conduct of police and probation officers, judges and service providers. Those are the people who make decisions every day about which kids enter the system, what happens to them when they are in it, and what kind of people they will be when they exit.

We are now in a promising period in which sound juvenile justice policy is bolstered by powerful evidence of how adolescent development shapes teens' behavior. We know things today about the adolescent brain that were unknown before neuroscientists began using MRI's to see what, if anything, is happening inside kids' heads. We have evidence-based programs that have track records of reducing re-offending *and* reducing unnecessary incarceration. We have state budgets that benefit from leaner juvenile justice systems. And, as we learned again last week when the Department of Justice released another report-- over the past 20 years we have had a steady decline in violent juvenile crime.

These changes didn't happen by accident.

In the mid-1990s, led by Laurie Garduque's vision, the MacArthur Foundation created a Research Network on Adolescent Development and Juvenile Justice. Over a 10-year period, the network conducted research on teens' competence to stand trial, on teens' blame-worthiness, and on the reasons why most youth cease offending. Bolstered by the more recent developments in neuroscience, the MacArthur research network's findings have been potent. Research has shown that kids differ from adults in significant ways—in the way they recognize and respond to risks; in the way they control impulses; in the way they are influenced by peers; and in their capacity for change.

This new knowledge has led to legislative reform and case law that is reshaping juvenile justice in America. It is fair to say that in 2012, social science, behavioral science, and neuroscience require that juveniles be treated by the law differently than adults.

Models for Change has built on the research. Models for Change has challenged old-fashioned misconceptions. It has replaced fears with facts. It has shown that the juvenile justice system can protect the public while giving kids room to reform. In doing so, MacArthur through Models for Change has invested in four core states—Pennsylvania, Illinois, Louisiana and Washington-- and in twelve other jurisdictions. MacArthur's investments have supported networks of families, community leaders, educators, government officials and legal advocates. Models for Change has accelerated the pace of reform towards a more rational, fair, and effective system for kids. It has supported reforms that hold kids accountable in developmentally appropriate ways.

The progress we've seen in Models for Change communities shows that when committed people come together, real reform can create lasting change. MacArthur

hasn't promoted a single way of doing things. Rather, it has found that different solutions work in different states with different problems. At the same time, there are common elements across states. Models for Change reforms emphasize collaborative action and proven models that are driven by evidence.

While states are unique and solutions vary, systems reform is practical, desirable, and successful. As you just heard, Sarah Brown has put together for NCSL a decade-long overview of state legislative trends in juvenile justice. It is a rich collection, which, fortunately for you, time doesn't permit me to review in detail. Instead, I want to touch on examples of my home state, Pennsylvania's, reforms through Models for Change, and highlight several Models for Change reforms in other states. I will then hit lightly on reforms elsewhere in the country.

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Models for Change in Pennsylvania has influenced different parts of the pipeline.

Let me begin with diversion. In Pennsylvania, prosecutors, judges, public defenders and others wanted to reduce unnecessary referrals to the juvenile justice system. They wanted to divert youth from the front of the pipeline. Together, through Models for Change, these stakeholders developed diversion principles and published a guide for public officials. The guide offers examples of diversion policies that local jurisdictions can use.

MacArthur funded several Model Diversion Counties. Pennsylvania's State Advisory Group—which distributes federal juvenile justice dollars-- provided funding to 13 additional counties. All of the counties are complying with the diversion guidelines established by Models for Change. They keep kids out of the juvenile justice system who

don't need to be there-- they are kids who can be better served elsewhere by a county's mental health system, or in their schools or communities. Juvenile court petitions in the state are down. There has been no adverse impact on public safety.

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Models for Change in Pennsylvania also addressed Disproportionate Minority Contact. Berks County—where Reading is located-- is an example of reducing the incarceration of youth of color through structured decision-making and community-based alternatives. This effort began as an effort to reduce unnecessary pre-trial detention of Latino youth. Through Models for Change, the county's highly respected chief juvenile court judge led ongoing meetings of citizens and stakeholders. This group used data supplied by Models for Change experts. They developed a data-driven reform effort that has had remarkable results.

In the last five years, Berks County has reduced its annual pre-trial detention population by 60% without compromising public safety. The goal of reducing detention of Latino youth has had a remarkable ripple effect. Berks County has not only seen a daily reduction of Latino youth in detention, but a reduction of African-American youth as well. Pre-trial detention reform contributed to a cultural shift that also led Berks County to reduce its post-trial use of out of home placement by two thirds over those five years. The County found a way to serve well over 200 more youth in their homes rather than sending them to costly placement facilities far from their communities.

What are some of the elements of this reform?

After doing thoughtful data analysis, the county established a new Evening Reporting Center in a neighborhood where many of the youth involved in the juvenile

justice system lived. The Evening Reporting Center was modeled on one that had proven very successful here in Cook County. The Evening Reporting Center is an alternative to detention for those youth awaiting court hearings who need additional supervision, but who do not pose such a danger to public safety that they need to be locked up around the clock before trial. Since the beginning of the program, every youth in it has attended every scheduled court appearance; close to 100 percent have avoided committing a new offense while under the program's supervision.

Important to the County's reduction of out of home placements was its change in philosophy. It not only expanded its use of effective community-based alternatives like the Evening Reporting Center, but it increased use of other evidence-based programs that are delivered in youths' homes. For example, the County introduced Multisystemic Therapy, a proven, effective, home-based intensive intervention. Over 80 percent of youth exited Multisystemic Therapy successfully, without reoffending; and the same percentage avoided juvenile justice placement.

Berks County's successful drop in detention has had an additional ripple effect. This year, the County Commissioners closed the juvenile detention center and contracted with a local provider for the small number of beds the County now needs. The former juvenile facility is now being used as a community corrections center for reintegrating adult offenders.

These developments have translated into substantial savings for the County, which has a population of just over 400,000. The County reduced its out of home placement costs by \$2.4 million in 2009, with a further drop in 2010. In addition, efforts from this initiative have leveraged federal funding for a YouthBuild program that gives

kids job skills. Federal support to the County was nearly one million dollars for the first three years of YouthBuild.

One of the expectations of Models for Change was that local success would be replicated. Indeed, Berks County's successes have led to improved practices elsewhere in Pennsylvania. One example: our state advisory group has funded evening reporting centers in five additional Pennsylvania counties.

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Placement facilities and re-entry are also part of the juvenile justice pipeline.

MacArthur, through Models for Change, invested in re-entry, also called reintegration or aftercare. A significant part of re-entry was ensuring that youth leaving residential care got back into school or had jobs in their communities. Models for Change began with a focus on education. In the beginning, Models for Change supported training of juvenile probation officers—who function like parole officers in Pennsylvania—to be education advocates. This was huge. Probation officers acquired the skills to get kids back to school so they weren't on the street when they left residential care.

The problem, though, was that too many of these students weren't getting credit from their home schools for what they had studied while they were in care. Thus, many of the kids who returned to school soon dropped out. In addition, they had not been prepared, while in care, to get jobs when they returned home. Counselors inside residential programs were teaching kids things like how to repair a '64 Chevy. Not very useful today.

Our juvenile probation officers came together to change what happens inside Pennsylvania's residential programs. With support from our state advisory group and funding from MacArthur, Models for Change created the Pennsylvania Career and Technical Training Alliance, known as PACTT. PACTT has worked hard with residential programs to make sure that what they are teaching in classrooms is aligned with standards set by the Pennsylvania Department of Education. Now kids in custody get credit for what they learn. In addition, PACTT has added scores of programs in facilities that lead to kids having a certificate in job-training programs for real jobs in their home communities. These are industry-recognized certifications for career and technical programs. Residential facilities are doing industry aligned skills training in high employment tracks: computer literacy, culinary arts, indoor/outdoor maintenance, construction, auto mechanics . . . Before Models for Change, these facilities offered a mere handful of out-of-date programs. By March of this year, PACTT's 26 affiliated residential facilities offered 73 high quality career and technical education programs.

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Outside of Pennsylvania, Models for Change has had success in the other core states—Illinois, Washington and Louisiana. Right here, Redeploy Illinois invested in eight sites serving 28 Illinois counties. Between 2005 and 2010, these programs served over 1500 youth and families. The eight Redeploy sites in Illinois reduced their commitments in 2010 by 53 percent from their baseline levels. These are young people who would have otherwise been incarcerated in the state's costly juvenile prisons. The results were so impressive that in 2009, the Illinois General Assembly passed a law to convert Redeploy Illinois from a pilot program to a permanent initiative that will be

accessible to roughly 70 additional counties.

Illinois has been among a handful of states that have treated 17 year olds as adults under the criminal law. With support from Models for Change, Illinois recently raised the age of juvenile court jurisdiction to give juvenile courts authority over 17 year olds charged with misdemeanors, keeping them out of the adult system.

Washington State has diverted truants from juvenile court, thus keeping kids who haven't committed crimes from entering the pipeline. Indeed, new Washington legislation redirects funding to prevent truancy, and to get dropouts back into school. Louisiana, too, has focused on keeping kids who haven't committed crimes out of court—in Louisiana the legislature created a commission to study and issue recommendations for improving services to this population. Both Washington State and Louisiana have also invested in Evidence-Based Practices that research has found to be effective. Louisiana, like Pennsylvania, has introduced mental health assessments so that professionals at any stage of the juvenile justice pipeline can reliably ascertain youths' mental health needs.

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Models for Change has also supported three “action networks” that have addressed disproportionate minority contact; improved the quality of defense attorneys for youth; and enhanced services to youth with mental health needs.

I'll illustrate the work of the action networks by focusing on one of them.

The mental health action network developed strategies for four new states that assist schools, law enforcement, probation and mental health professionals in diverting

youth with behavioral health problems to community-based services and away from unnecessary involvement in the juvenile justice system.

The mental health action network also created a national training curriculum for juvenile correctional, detention and probation staff that teaches them about mental health problems experienced by youth, and provides practical strategies for intervening and responding to their needs and issues. The action network has had strong influence on policies and practices in Colorado, Connecticut, Ohio and Texas.

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Look around. Models for Change has contributed to a wave of reform outside of the four core states and those served by the action networks. State after state is improving its justice system for juveniles.

Indiana sought to increase kids' participation in court-ordered mental health services. So the state passed a law that prohibits statements made during court-ordered mental health screening, assessment and treatment from being used against kids in court. This makes sense. We attorneys want to encourage our clients to cooperate with mental health providers, to build a trusting relationship with them. That won't happen if kids who are told to trust therapists are charged with new crimes because of what they say during court-ordered treatment. Pennsylvania, through Models for Change, has enacted a similar law.

Mississippi enacted laws three years ago that authorize its Department of Human Services to develop regional and community-based residential facilities and specialized therapeutic programs and facilities. Colorado this year enacted laws to reduce referrals to juvenile court from schools. And Colorado enacted legislation this year that reduced

prosecutors' control over who should be tried as an adult, returning much of that authority to judges. Connecticut raised its age of juvenile court jurisdiction, joining most other states in making 18 the age of adult court responsibility. California, Texas, Georgia and New York are among the many states that are closing juvenile facilities, reducing the number of unnecessary lock-ups, and returning supervision of youth to local communities. Missouri continues to operate a model system of small programs close to kids' homes.

Ohio's 2011 sentencing reform bill includes a range of positive changes for the public and for youth. It explicitly supports research informed, outcome-based programs and services; revises mandatory sentencing guidelines for youth to allow for judicial discretion when the youth was not the main actor in a crime; and establishes a reverse waiver provision that makes it possible for young people automatically transferred to adult court to return to juvenile court at the discretion of the judge. And Ohio law creates a temporary interagency task force to make recommendations to the legislature for addressing the needs of delinquent youth with significant mental health issues.

In Pennsylvania, in the wake of the "kids for cash" judicial corruption scandal, our General Assembly this year strengthened our juvenile justice system by ending shackling of kids in courtrooms, requiring judges to explain their reasons for placing children in residential care, and creating a virtually unwaivable right to counsel to ensure that youth are treated fairly as they travel through the juvenile justice pipeline.

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I would be remiss, in a discussion with this audience of state laws recognizing adolescent differences, if I didn't mention the U.S. Supreme Court's June decision ending *mandatory* sentences of life without parole for juveniles.

Starting in 2005, when it ended the juvenile death penalty, the Supreme Court has recognized constitutionally significant developmental differences between juveniles and adults. These differences affect the constitutionality of sentencing of youth who are tried as adults. The Court has discussed the adolescent development literature that I mentioned earlier, recognizing adolescents' "impetuous and ill-considered actions and decisions," their vulnerability "to negative influences and outside pressures, including peer pressure," and their capacity for change. Those differences, in the words of experts, make juveniles "less guilty by reason of adolescence." Youth isn't a defense, but it is a mitigator. And because "the character of a juvenile is not as well formed as that of an adult," even experts, at the time of sentencing, cannot reliably predict who this person will become in the years ahead.

More than two dozen states that have mandatory life sentence laws will now have to enact new policies, grounded in what we know about adolescence, that account for the brutal harm that teens can do, but also recognize that they are not quite as culpable as adults. At some reasonable time in their lives, these offenders should have an opportunity to show that they have changed.

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While states will have to address juvenile lifers, they are a small number compared with youth in the juvenile justice system. And of the kids involved with the

juvenile justice system, far fewer than 10 percent have been arrested for violent crimes. Most juvenile crime is still the stupid stuff of adolescence.

The old juvenile justice system wasn't working. It was overburdened, costly and, in too many cases, stripped kids of their potential to get an education or find a good job. Models for Change has helped communities save money, decrease recidivism rates and develop alternatives to incarceration that hold kids accountable while giving them opportunities to become capable members of society. These are solid outcomes that should inform your efforts when you return home.

As legislators your work is about amending the past and creating the future. It is about taking mistaken juvenile justice policies and replacing them with those that are effective. You have exciting opportunities to create systems that recognize kids' enormous capacity for change, and that attend to their assets and aspirations as well as their needs. Your challenge is to create systems that turn youth who are tax takers into tax payers. Models for Change has shown that this is doable through its efforts in states that have great differences. Aligning fiscal responsibility, public safety, and good kid outcomes is in our enlightened self-interest. All of us who are involved with Models for Change look forward to applauding, and supporting, your efforts.