

2       - - - - - X  
 3       TASK FORCE ON THE FUTURE OF PROBATION  
 4       PUBLIC HEARING  
 5       - - - - - X

6       HELD AT :                Onondaga County Courthouse  
 7                                Montgomery Street, Room 400  
                               Syracuse, New York 13202

8  
 9       DATE:                    October 16, 2007

10

11

12       PANEL MEMBERS PRESENT:    JOHN DUNNE, Chairman  
                                       KATHLEEN DeCATALDO  
 13                                    JACK CARTER  
                                       LINDA VALENTI  
 14                                    ROCCO POZZI  
                                       ROBERT BURNS  
 15                                    JAMIE GREENBERG  
                                       JOSEPH RINALDI  
 16                                    NANCY GINSBURG

17       ALSO PRESENT:            GRETCHEN WALSH, ESQ.

18

19       REPORTED BY:             ADAM H. ALWEIS  
                                       SENIOR COURT REPORTER

20

21

22

23

24

25

|    | Index   |      |
|----|---|------|
|    | SPEAKERS:   | PAGE |
| 1  |   |      |
| 2  |   |      |
| 3  | 1. MARY WINTER, JACQUELINE DeNERO                     | 4    |
| 4  | 2. LESLIE BARNES                                      | 37   |
| 5  | 3. MARK WALDAUER, ESQ.                                | 59   |
| 6  | 4. JANE GOLDNER                                       | 71   |
| 7  | 5. JOANNE DAVIS, ELIZABETH BRADY                      | 91   |
| 8  | 6. JOHN SACUBULSHKY, YASAFF FELIZ                     | 105  |
| 9  | 7. PETER POLIKARPENKO, VESTA SMITH,<br>JOSEPH REDDICK | 130  |
| 10 | 8. HONORABLE JAMES GRIFFITH                           | 153  |
| 11 | 9. HONORABLE BIAGIO DiSTEFANO                         | 173  |
| 12 |   |      |
| 13 |   |      |
| 14 |   |      |
| 15 |   |      |
| 16 |   |      |
| 17 |   |      |
| 18 |   |      |
| 19 |   |      |
| 20 |   |      |
| 21 |   |      |
| 22 |   |      |
| 23 |   |      |
| 24 |   |      |
| 25 |   |      |

1                                   Public Hearing

2                                   CHAIRMAN DUNNE: Just for the record, I want  
3 to, first of all, thank Judge Tormey and also Mary for  
4 the hospitality to be here.

5                                   This is the last of a series of public  
6 hearings. The Task Force on the Future of Probation in  
7 New York is holding hearings, and, particularly, on  
8 probation's relationship to the Family Court.

9                                   Most appreciative for your cooperation and  
10 those from the public that are here to help us, and I'd  
11 ask that the members of the Task Force identify  
12 themselves.

13                                   Kathleen?

14                                   MS. DeCATALDO: Kathleen DeCataldo, Executive  
15 Director of the Permanent Judicial Commission for  
16 Justice for Children.

17                                   MR. CARTER: Jack Carter, Director, Law  
18 Guardian Program.

19                                   MR. POZZI: Rocco Pozzi, Probation,  
20 Westchester.

21                                   MR. BURNS: Bob Burns, Administrator of  
22 Monroe County, Office of Probation and Community  
23 Direction.

24                                   MR. GREENBERG: Jamie Greenberg, Director of  
25 Family Services, New York State Probation Service.

Adam H. Alweis - Senior Court Reporter

1                   Public Hearing

2                   MR. RINALDI:  Joseph Rinaldi, President,  
3                   Probation Officers Association.

4                   MS. GINSBURG:  Nancy Ginsburg, Legal Aid  
5                   Society of New York City.

6                   CHAIRMAN DUNNE:  Mary Winter, you are at the  
7                   top of everyone's list, and in terms of interested,  
8                   dedicated, experienced and committed, and particularly  
9                   grateful to you both, personally, because of the  
10                  guidance you've given to me, but also your open door to  
11                  assist us in our work, and I want to thank you for  
12                  coming and sharing your thoughts with us today.

13                  I know that you had prepared testimony, but I  
14                  know that based upon what we've learned so far, we are  
15                  going to press some tough questions to you.

16                  MS. WINTER:  Thank you.  I welcome them.  
17                  Glad to see all of you.  Welcome to Syracuse.  And I  
18                  think I've seen all of you before.

19                  And ask me anything, and you can ask Jackie.  
20                  Ask any of these people from Broome County anything.  
21                  We are really interested in helping.

22                  The Onondaga County Probation Department  
23                  seeks to increase public safety, reduce recidivism and  
24                  promote safe communities by helping persons in need of  
25                  supervision and juvenile delinquents change their

                  Adam H. Alweis - Senior Court Reporter



1                                   Public Hearing

2                   reform movement. That is how we started with the risk  
3                   assessment. And the last step that we have not  
4                   completed, we are finishing. It's taking much longer  
5                   than I ever thought it would, having the instruments  
6                   used, which the police actually come up to Hillbrook  
7                   with a kid --

8                                   CHAIRMAN DUNNE: Mary, may I interrupt you?

9                                   MS. WINTER: Yes.

10                                  CHAIRMAN DUNNE: In this exchange of  
11                   information, which is a very positive move, have you  
12                   encountered any confidentiality issues or objections?

13                                  MS. WINTER: Not yet. Most of the  
14                   information and risk assessment is objective  
15                   information. We tried to keep it like that so our  
16                   instrument does not have things like mitigating factors  
17                   that would, might say something, like strong family  
18                   support. It's as unjudgmental as we can make it  
19                   because we have learned that one of the causes of the  
20                   minority confinement, if you put those issues, leaves a  
21                   bad neighborhood, whatever it is, so we try to have  
22                   objective factors only late together crime past  
23                   history, past failures to appear. Anything else you  
24                   can think of. So, that's about it.

25                                  So, the judges have been great, and I would

Adam H. Alweis - Senior Court Reporter







1                                   Public Hearing

2           client. But, you know, people want -- people come in  
3           here and want to get their kids. That's not thought a  
4           way for us, and that is difficult.

5                           So, if we can, we try to do it as early as  
6           possible and we make that decision. Sometimes, we end  
7           up opening an official intake diversion case, and  
8           rarely we send them to court. We send cases to court,  
9           kids were on the run, we don't really know where they  
10          are, and we do have kids that take off. But, that is  
11          how it is perceived.

12                           CHAIRMAN DUNNE: A parent has filed a  
13          complaint of -- we try to talk to them into diversion,  
14          and the response is, that little monster, I want him  
15          out of my house. I want you to file a petition.

16                           Do you have any authority to look over that?

17                           MS. WINTER: Absolutely. They have to  
18          participate in services. If they can't go to court,  
19          that is what the law says, they have to participate in  
20          services or they can't go to court. It is all about  
21          engagement. That's what it is about, and it is, you  
22          know -- certainly, some of the programs we use are  
23          really good with engagement, and it is a skill we try  
24          and continually teach the probation officers.

25                           So, saying all of that, I think we should

Adam H. Alweis - Senior Court Reporter









1 Public Hearing

2 you one thing I'm particularly interested in is the  
3 whole area of early intervention. I know Jackie had  
4 mentioned something about work. But, could you  
5 describe what you do in some detail?

6 MS. WINTER: You mean, early intervention?

7 CHAIRMAN DUNNE: With a family.

8 MS. WINTER: With PINS, it can be either. We  
9 do early intervention with PINS and we do early  
10 intervention with JD. So, Jackie, speak up on this if  
11 you have anything.

12 It is sort of what I call a low level, not  
13 hugely problematic situation; you know. We would refer  
14 people off sometimes to preventative services because,  
15 through social services, for mediation services, to  
16 some drug and alcohol services. Although, frankly,  
17 drug and alcohol services, adolescents are terrible and  
18 look like many adult services. So, you know, they  
19 don't work very well.

20 MS. DeCATALDO: RESPID?

21 MS. WINTER: RESPID. We use RESPID. The  
22 complaint with mediation, our homeless, and who has our  
23 RESPIDs, they are just experts that work with parents  
24 on reunification. Someone who comes in with a,  
25 particularly, like a tough JD case is going, we are

Adam H. Alweis - Senior Court Reporter







1                                   Public Hearing

2                   so abysmally, what do you do on education?

3                                   MS. WINTER: We have a probation assigned to  
4                   every middle and high school. They try -- they even  
5                   try to do a principal's work in the school if the  
6                   schools want us to. You know, we might have you talk  
7                   to a kid in family trying to do that, trying to do  
8                   everything we can to get the kids to go to school. You  
9                   know, they are in one door and out the other.

10                                   Recently -- we just had this conversation  
11                   yesterday. The schools, I will note, are looking into  
12                   a new project to work with Lemoyne College, one of our  
13                   local colleges, to perhaps run the school. We just  
14                   heard about that yesterday. You know, we end up  
15                   talking to alternative education people all of the  
16                   time. They sort of whine along with us. But, a lot of  
17                   our kids are at home. They get two hours a day in  
18                   school.

19                                   So, these smart kids that go to city public  
20                   schools, you know, they can be fine at two hours a day.  
21                   Our kids need 12 hours a day, not two hours a day,  
22                   where they are out running around doing all of the  
23                   things they are not supposed to be doing the rest of  
24                   the day.

25                                   MS. DeCATALDO: I actually had another

Adam H. Alweis - Senior Court Reporter

1                                   Public Hearing

2                   question I wanted to ask.

3                                   On the assessment detention, I'm still a  
4                   little bit confused because I know you're a YASI  
5                   county. Coming here five or six years ago on a  
6                   presentation on the YASI there, you were trying to  
7                   implement detention assessment. How do those two go  
8                   together in the YASI?

9                                   MS. DeNERO: Not very well.

10                                  MS. WINTER: Not well.

11                                  MS. DeNERO: Not very well. The risk  
12                   assessment we developed based on many national models,  
13                   you know, that have been in practice for ten years.  
14                   So, we had the benefit of learning from their revisions  
15                   and, you know, the objectivity that they brought to it,  
16                   and I think it is more comprehensive about the  
17                   immediacy of this issue. Should this child be detained  
18                   or not? It gets to that point. Whereas YASI attempts  
19                   to look at other issues, strengths or needs. Needs are  
20                   contained in the YASI, which is a good thing, but it  
21                   doesn't inform necessarily that detention decision. It  
22                   is not as efficient in informing the detentions  
23                   decision right now, and in its current form.

24                                  MS. DeCATALDO: Are you still using both?

25                   Are you using the YASI more when you have to do a

Adam H. Alweis - Senior Court Reporter







1 Public Hearing

2 MS. WINTER: We had the Institute of Justice  
3 come in, and with two years of detention reform. So,  
4 that started and we had a large steering committee of  
5 different community leaders and command in the police  
6 were certainly a big player and all of the players in  
7 the general justice system, actual community folk type  
8 people than I would like, but that is difficult to get  
9 that going. And we continue -- continue -- we are done  
10 with our formal assistance from Vera now, but we  
11 continue to meet. They were on all our subcommittees,  
12 and, you know, a risk assessment subcommittee and  
13 alternatives to detention subcommittee and core  
14 processing and PINS.

15 MR. CARTER: Is that the same process that is  
16 going on with the home health folks and --

17 MS. DeNERO: It is different.

18 MS. WINTER: It is different.

19 MS. DeNERO: We have a monthly continuing of  
20 low care that brings together our city school  
21 districts, BOCES services, Mental Health, Probation,  
22 Office of Mental Retardation and Developmental  
23 Disabilities also.

24 MR. CARTER: You're talking on an ongoing  
25 basis about these sort of issues?

Adam H. Alweis - Senior Court Reporter

1 Public Hearing

2 MS. DeNERO: Yes. It came on with common  
3 cases and kids that fell through the cracks and  
4 cases -- it has developed into really policy and  
5 planning.

6 MR. CARTER: Okay. Thank you.

7 MR. POZZI: Couple of questions, Mary. When  
8 you developed the risk assessment instrument, was there  
9 any resistance by the judges to utilize the tool  
10 initially? Was it kind of box them in, that taking  
11 some of the discretion away?

12 MS. WINTER: I think they were concerned  
13 about it initially, but we had a couple of judges that  
14 were, really, that came to every single meeting, every  
15 one of our meetings, and that really helped, you know,  
16 in the part. I believe they were officially allowed  
17 to. They kept saying they couldn't officially allow to  
18 participate, but they would come to the meetings and --  
19 I just lost my train of thought here.

20 So, and they know that when we make a  
21 recommendation, it is just that. It is a  
22 recommendation. They can do what they want. And,  
23 initially, I said before, we started just giving them  
24 the recommendation and talking to a couple judges. We  
25 are just going to give you everything. The Law

Adam H. Alweis - Senior Court Reporter







1                   Public Hearing

2                   MS. GINSBURG: How do you handle assessment  
3 adjustment when the police department is the  
4 complainant?

5                   MS. WINTER: That's all we get is the police  
6 department. And once they send over paperwork, that is  
7 pretty much it.

8                   MS. GINSBURG: It is your discretion?

9                   MS. WINTER: Absolutely. Absolutely.

10                  MS. GINSBURG: I just might --

11                  MS. WINTER: They might make him note, they  
12 want something.

13                  CHAIRMAN DUNNE: Is that a formal policy that  
14 the police department has adopted? I ask that, Mary,  
15 because we are trying to figure out what it is in New  
16 York City, police department, law enforcement  
17 officials.

18                  MS. WINTER: In my experience, I've never had  
19 anything where the police would send it over, expect  
20 they had sent it to probation -- that's what they do --  
21 and drop off the paperwork and 99.9 percent of the  
22 time, we never hear from them again.

23                  MS. GINSBURG: I just have a question on the  
24 other end, on the violation end. What do you see as  
25 the biggest reasons for violation of the probation and

Adam H. Alweis - Senior Court Reporter



1 Public Hearing

2 MS. GINSBURG: When you're getting an order  
3 from the Court, is school attendance part of the order,  
4 and you're just dealing with that internally?

5 MS. WINTER: Correct.

6 MS. GINSBURG: If a person says, "I'm 16 and  
7 I'm just not going to school," what is the department's  
8 response to that?

9 MS. WINTER: Well, you have to stay until  
10 your 17, your birthday.

11 MS. GINSBURG: Technically.

12 MS. WINTER: Technically, if we had violated  
13 kids not going to school, we would violate everybody,  
14 every kid. They would all be gone.

15 MS. GINSBURG: What is the -- how do you  
16 respond?

17 MS. DeNERO: We just keep working on it,  
18 working cases.

19 MS. WINTER: Working the case. That's what  
20 Jackie says. We just keep working, trying get the  
21 school together, a program would go, trying and sending  
22 the kid to one or more intensive programs called Prism.  
23 About 56 kids in it. There is -- it is a collaboration  
24 with the Salvation Army and the Department of Social  
25 Services, and, you know, they only have five cases

Adam H. Alweis - Senior Court Reporter



















1                   Public Hearing

2                   MS. WINTER:   Yet, we do.

3                   CHAIRMAN DUNNE:  At night?

4                   MS. BARNES:   Yes, we do, often.  Our  
5                   officers, we have a big push to get all of our officers  
6                   out into the field in the evening, and we do curfew  
7                   checks with the police.  We have Operation Night Watch.  
8                   We have an impact.  We have saturation details, but we  
9                   also have officers that can go out 24 hours a day.

10                  Matter of fact, this past Sunday, we had an  
11                  electronic monitoring situation where one of the  
12                  officers went out and one of our other officers was out  
13                  on Sunday morning doing home visits order, early Sunday  
14                  morning, but evening work all of the time for sure.

15                  But, again, you know, all of our enforcement  
16                  tools, we are good at those roles, but it is also  
17                  important we are trying to catch someone doing  
18                  something right by being a positive role model and  
19                  helping to connect our youth and families to the  
20                  communities.  Our officers work with youth and families  
21                  through the entire spectrum of this system.  We have  
22                  our family access and connection team, which is Monroe  
23                  County's response to the new PINS legislation.  Our  
24                  pre-PINS department, twelve officers assigned to that  
25                  team who work specifically trying to locate youth who

                  Adam H. Alweis - Senior Court Reporter



























1                                   Public Hearing

2                                   MS. GINSBURG:  If you could infiltrate the  
3                                   kingdom, what changes would be put in place?  When you  
4                                   say there are challenges, we are aware there are  
5                                   challenges.  We want to know specifically what those  
6                                   challenges are and what would help you in providing  
7                                   services to the kids, what changes in schools?

8                                   MS. BARNES:  Well, I think that probably --  
9                                   what would be the biggest help?  We had a clear line of  
10                                  communication and a clear line of schools -- we have  
11                                  two officers that are school change initiatives to  
12                                  those officers, get all of the kids from the school,  
13                                  whether they are intake, investigation, supervision and  
14                                  work right with the schools.

15                                  We have some schools that have student  
16                                  support centers in the schools and the probation role  
17                                  and the probation presence is embraced.  There are  
18                                  other schools that would like probation to be the  
19                                  school resource officers and would like us to be the  
20                                  ones going out, you know, in the morning and gathering  
21                                  up and saying, get to school, you know, really just  
22                                  being the full heavy hand, so --

23                                  MS. GINSBURG:  The school accepting the kids  
24                                  back after they are arrested and detained?

25                                  MS. BARNES:  Yeah.  The schools will take the





1 Public Hearing

2 high risk for that youth. I mean, they know they have  
3 a case pending in court. They don't know what's going  
4 to happen and they really don't have anyone to be  
5 steering them during that, what could be a really  
6 critical period of time.

7 MR. CARTER: Thank you.

8 CHAIRMAN DUNNE: Thank you very much. Pardon  
9 me.

10 Linda?

11 MS. VALENTI: Do you feel you need additional  
12 time in order to adjust a case for an urgent JD?

13 MS. BARNES: I would like to have more  
14 additional time.

15 MS. VALENTI: What would you recommend?

16 MS. BARNES: Six months, at a minimum. Six  
17 months would be a -- so, four months is really a short  
18 period of time. That's why we got rid of six months  
19 for PINS.

20 MS. VALENTI: You have to go back to court to  
21 do that extra time?

22 MS. BARNES: We do that on almost every  
23 cases.

24 MR. POZZI: Leslie, it sounds like you work  
25 for a wonderful agency.

Adam H. Alweis - Senior Court Reporter

















1                                   Public Hearing

2                   relative that the child can be with or a similar,  
3                   suitable adult or even a step-up to a group home  
4                   setting.

5                                   You almost have to have supplemented  
6                   resources. There is never a bed available, when they  
7                   have a bed. There is always a waiting list. There is  
8                   never a therapist available to jump in. You always  
9                   have to get a priority all too often.

10                                   I'm not saying that is a crime. I'm not  
11                   saying it is endemic of the whole system, but that has  
12                   been my experience and there are some cases where you  
13                   know this child is not going to follow the rules of  
14                   probation. Whatever the reasons are is probably a  
15                   pretty good risk recidivism and you wish, I think,  
16                   would just have more beds available to take this child  
17                   out of the system for his protection and for everybody  
18                   else's protection.

19                                   CHAIRMAN DUNNE: Thank you very much.

20                                   MR. WALDAUER: Got another person?

21                                   MS. VALENTI: I was just looking at your  
22                   response to interim probation. Would you rather have,  
23                   instead of an age JD being increased, having your  
24                   expanded intensive intervention?

25                                   MR. WALDAUER: The reason is, there are

Adam H. Alweis - Senior Court Reporter





















1                                   Public Hearing

2                   additional treatment slots that you would need to have,  
3                   you know, to reduce that waiting list down?

4                   MS. GOLDNER:   Yes.

5                   CHAIRMAN DUNNE:   Any other questions?

6                   MS. GINSBURG:   Are there kids in your county  
7                   that get placed with CFS because there are no  
8                   developmental health services?

9                   MS. GOLDNER:   We have very few that are  
10                  placed with OCFS.  If children are placed, which I  
11                  think the county has too many that are placed,  
12                  typically, is with our local Department of Social  
13                  Services, and that, either, they stay in foster home in  
14                  the county or if they are placed in residential  
15                  programs, which would be outside the program.

16                  MS. GINSBURG:   Do you know what your  
17                  placement rate is?

18                  MS. GOLDNER:   I couldn't tell you off the top  
19                  of my head.  I know when I look at numbers from other  
20                  counties, again, with us being a small county, it  
21                  definitely is higher than it should be, and our  
22                  detention youth is still very high.  We have two Family  
23                  Court Judges in our county, both well-respected, and  
24                  they respect our agency highly.  I think that they tend  
25                  to like to be action oriented.  So, when they do have a

                  Adam H. Alweis - Senior Court Reporter





















1                                   Public Hearing

2                   And if you strengthen probation, maybe your placements  
3                   go down, and that certainly helps in the DSS budget.

4                                   So, I mean, he's wanted us to do electronic  
5                   monitoring. We've instituted several programs that we  
6                   have had before. Even drug testing, in the past, the  
7                   county legislator wasn't too keen on that. But, I  
8                   asked for it and the county administrator told me, he  
9                   agreed, he was surprised we hadn't been doing it. So,  
10                   actually, I would say it's gone quite well. I don't  
11                   know if I'm still on a honeymoon. We don't usually  
12                   have a five year honeymoon, but, so far, they have been  
13                   supportive.

14                                   CHAIRMAN DUNNE: You mentioned the county  
15                   jail. Have you ever been consulted or have you shown a  
16                   concern about the conditions and whatever facility the  
17                   county maintains for detaining youngsters? You have a  
18                   separate facility?

19                                   MS. GOLDNER: When you say, youngsters, are  
20                   you talking sixteen to seventeen year-olds?

21                                   CHAIRMAN DUNNE: Yes.

22                                   MS. GOLDNER: I haven't really been concerned  
23                   about it except that our county jail, it isn't all that  
24                   old. However, very shortly after it was built, it was  
25                   realized the amount of personnel to oversee the jail

                 Adam H. Alweis - Senior Court Reporter

1                                   Public Hearing

2                   was extremely high and the design of the jail was very  
3                   poor.

4                                   So, actually, they are already looking at  
5                   building a new one. And, so, that is an issue that is  
6                   discussed about; the jail administrator would really  
7                   like to have a design that he could separate some of  
8                   the younger people from the older people, and they do  
9                   in some ways now, but there is still interaction, and  
10                  they also, when it is overcrowded, they have to ward  
11                  people out in neighboring jails. That is very  
12                  expensive.

13                                  Beside the expense, the concern is, the  
14                  person doesn't have their availability to counsel and  
15                  to other programs that are available in the Cortland  
16                  Jail. So, I mean, I think our jail is administered  
17                  pretty well. I think, I guess, the conditions today,  
18                  I'm not that concerned with. I would definitely like  
19                  to see more programs in the jail. They just don't have  
20                  the space right now to have different educational  
21                  programs and mental health programs that they would  
22                  like to.

23                                  CHAIRMAN DUNNE: Anyone else? Thank you very  
24                  much. Appreciate your being here.

25                                  Adam has suggested that we are going to take

Adam H. Alweis - Senior Court Reporter

1                                   Public Hearing

2                   a break. We are five minutes ahead of ourselves.  
3                   However, may I just, our afternoon witnesses are Joanne  
4                   Davis and Elizabeth Brady.

5                                   Are they here? Good. Thank you.

6                                   Peter Polikarpenko, Syracuse School District.  
7                   Anybody from the school district?

8                                   All right.

9                                   (Luncheon recess.)

10                                   AFTERNOON SESSION

11                                   CHAIRMAN DUNNE: We shall reconvene and we  
12                   have visitors from Niagara County. We have Joanne  
13                   Davis, who is the DSS Supervisor in Niagara County and  
14                   Elizabeth Brady.

15                                   If you'd care to sit, stand --

16                                   MS. BRADY: I prefer to sit, if that would be  
17                   okay, front and center.

18                                   CHAIRMAN DUNNE: Thank you for making the  
19                   effort to be here. My only regret is, our dear friend  
20                   and member, Judge Richard Clock (phonetic) who is  
21                   scheduled to be here, something came up and prevented  
22                   his participating.

23                                   MS. BRADY: I know Judge Clock.

24                                   CHAIRMAN DUNNE: Good man.

25                                   MS. BRADY: My name is Elizabeth Brady. I'm

Adam H. Alweis - Senior Court Reporter







1                                   Public Hearing

2                                   MS. BRADY:  Yeah.

3                                   CHAIRMAN DUNNE:  Give me, if you would, the  
4                                   rationale for why these various people are in the same  
5                                   courtroom at the same time?

6                                   MS. BRADY:  In our county, what happens is,  
7                                   when a PINS case is brought to Family Court and a  
8                                   possibility of placement is necessary or additional  
9                                   services through the Department of Social Services, a  
10                                   case worker would be -- the intake case worker would  
11                                   get the referral from probation.  Then they would  
12                                   assign it to an undercare case worker.  They and the  
13                                   County Attorney, to represent them, would attend the  
14                                   same further proceedings or dispositional hearing as  
15                                   Probation Officer and the County Attorney assigned to  
16                                   them.  So, there is a duplication of both, both  
17                                   agencies being represented by separate attorneys in  
18                                   court at the same time.  These proceedings may be, you  
19                                   know, one proceeding, two proceedings, you know,  
20                                   sometimes they may be a continuation depending on the,  
21                                   you know, families not attending or court congestion,  
22                                   whatever.  So, it is not a quick in and out proceeding.  
23                                   So, the manpower and hours for the manpower is what his  
24                                   concern is.

25                                   CHAIRMAN DUNNE:  And if we were to suggest

Adam H. Alweis - Senior Court Reporter



1                   Public Hearing

2                   So, at this stage, we are showing a lot of  
3                   confusion on who should be responsible and more  
4                   duplication of services, itself.

5                   CHAIRMAN DUNNE: Thank you. Does your  
6                   colleague want to --

7                   MS. DAVIS: No.

8                   MS. BRADY: The only thing we were talking,  
9                   on the way, the requirements now for CPS, when a  
10                  removal is made, is to contact a relative or a family  
11                  friend, a caregiver to provide for the child prior to  
12                  placing a child in foster care. We are seeing more and  
13                  more cases where we are working with care givers who  
14                  have custody of these older youth due to the parents  
15                  neglect. So, a relative may have custody under a  
16                  neglect order with services by the Department of Social  
17                  Services, and in an attempt to work on services for the  
18                  parent who is neglectful to the child.

19                  When we are working with the caregiver, we  
20                  are seeing more and more youth problems, you know, and  
21                  we are attempting to work to resolve the behavior  
22                  problems with the caregiver and the youth, and when  
23                  that fails, we have attempted to contact probation  
24                  because of the need to make the child's accountable for  
25                  some of his actions. These are kids with, maybe, some

                  Adam H. Alweis - Senior Court Reporter



1                                   Public Hearing

2                   caregivers would get custody, temporary custody on the  
3                   parents' neglect order with supervision by the  
4                   Department of Social Services and services provided by  
5                   the Department of Social Services.

6                                   MR. POZZI: I just had the opportunity to  
7                   spend a couple of days with the Director of Probation  
8                   from Niagara and did a presentation, and during the  
9                   presentation, one of the things he said was, caseloads,  
10                  you know, in Niagara County were strictly high for  
11                  probation. Apparently, they have been cut in officers.  
12                  He was expecting a continuation of those cuts even  
13                  through this year, and I would think that, you know,  
14                  probation's ability then to respond to immediately to a  
15                  lot of these cases is really because of the caseload  
16                  and workload size of the probation officers. Because  
17                  he was talking about cases well over 150, 160.

18                                  MR. BURNS: His specialized workload was 140.

19                                  MR. POZZI: It is just impossible for them.  
20                  He had -- his officers were in no position to be able  
21                  to really respond immediately to almost any type of --  
22                  any type of case.

23                                  MS. BRADY: Right.

24                                  MR. POZZI: That's what made me --

25                                  MS. BRADY: They also have a lack of services













1 Public Hearing

2 MR. SACUBULSKI: S-k-i.

3 CHAIRMAN DUNNE: And Mr. Yasaff Feliz,  
4 Y-a-s-a-f-f F-e-l-i-z, do I have that --

5 MR. FELIZ: Yes.

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

Adam H. Alweis - Senior Court Reporter













1                                   Public Hearing

2                                   MR. FELIZ: I don't know. We are the county.

3                                   MR. SACUBULSKI: I don't know if that is just  
4 the general accounting funds order, social services  
5 funds budget or also perhaps factoring in detention as  
6 a separate department. I think it is a multi-agency.

7                                   MR. POZZI: As we look at this one, I think  
8 one indication we made in dealing with the Criminal  
9 Court, not socially, there needs to make investments,  
10 you know, let's say, in probation, to bring workloads  
11 into reasonableness, but also in a need for additional  
12 revenues to purchase those programs that we need to  
13 have in our communities.

14                                  MR. SACUBULSKI: Right.

15                                  MR. POZZI: It would be a smart investment.  
16 It would not be a wise investment. It would just  
17 increase one part of the system without allowing, as  
18 you talk about front loading, having the ability to get  
19 these cases and provide services almost the same day  
20 when a PINS case comes in or you get an appearance  
21 ticket, see the kid for the first time, too many  
22 services immediately for that particular individual and  
23 have a plethora of it. You can deal with the multitude  
24 of issues that these kids have presented to us.

25                                  MR. SACUBULSKI: Yes. Matter of fact, the

Adam H. Alweis - Senior Court Reporter













1                                   Public Hearing

2           your case base is.

3                           MR. CARTER:  A little early, but it's looking  
4           good.

5                           MR. SACUBULSKI:  Yes.

6                           MR. POZZI:  I think that is true for the most  
7           juvenile programs that initial contact by kids coming  
8           into the system and they have adjustments or whatever,  
9           a likelihood to return is very, very small.  There is a  
10          very small percentage of kids that come through the  
11          system that actually come through the system a second  
12          or third time.

13                          So, we really concentrate a lot of our  
14          resources on very small significant parts of the kids  
15          that actually come through the Family Court or come to  
16          Probation's doors for intake services.

17                          MR. SACUBULSKI:  Yes.

18                          MR. POZZI:  It's in the high 90 percentile.

19                          MS. VALENTI:  I think I had a question as to  
20          your predisposition.  Could you tell -- I know that our  
21          county submits an annual state plan, and one of the  
22          problems had been delivery of the reports, whether it  
23          be presentence reports as well as the predisposition  
24          reports to the Court.

25                          Are you still having problems in this area,

Adam H. Alweis - Senior Court Reporter





1                                   Public Hearing

2                   knows exactly -- he knows exactly what it is that, if I  
3                   tell the Judge, this is where this case is going, this  
4                   is what my report will say, binding all of the  
5                   information, and then he will say, okay, I need reports  
6                   within a week. The Judge may decide, you know, I will  
7                   just take, you know, a small statement from you, if  
8                   this is what your report is, and make, you know, he'll  
9                   make a decision based on that case. That's different  
10                  with the Adult Division. They serve a myriad of courts  
11                  and towns in different level courts in that  
12                  relationship; not assisting that way.

13                               CHAIRMAN DUNNE: Tell me about your working  
14                   relationship with this Judge with whom you've been  
15                   associated for seven years. You see yourself as an  
16                   independent advisor or are you his colleague? How  
17                   would you characterize that relationship?

18                               MR. FELIZ: I'm not -- I'm not a colleague.  
19                   No.

20                               CHAIRMAN DUNNE: Go get me coffee or --

21                               MR. FELIZ: Definitely not. But, my  
22                   relationship with this particular judge, only because I  
23                   was the Juvenile Treatment Court Officer, which is a  
24                   very unique caseload of where the juvenile in this  
25                   particular caseload, but also, actually, managed by the

Adam H. Alweis - Senior Court Reporter



1                                   Public Hearing

2           have always worked in specialized cases, juvenile  
3           intensive supervision cases or juveniles of court  
4           cases.

5                           Now, I'm the supervisor of those units, which  
6           still gives me, you know, fairly decent access to the  
7           same judges that I used to work with. But, now, I'm  
8           also able to obtain the resources that are available  
9           there for those particular units that, before, as an  
10          officer with the Juvenile Treatment Court, there was  
11          like a unique set of resources that were only available  
12          to that particular caseload.

13                          MR. GREENBERG: You made reference earlier  
14          to, I think, soon to be the Juvenile Delinquency Model  
15          Court that you were planning to, essentially, replicate  
16          on the PINS, what work you've done.

17                          MR. SACUBULSKI: Yes.

18                          MR. GREENBERG: Do you have a sense of, will  
19          all juvenile delinquency proceedings be potentially  
20          sent to that court or some sort of intact right there,  
21          those that will be allowed to be and those that won't  
22          be allowed to be --

23                          MR. SACUBULSKI: My understanding, upon the  
24          initial appearance ticket, when the child presents  
25          himself to the probation, that will be assessed at that

Adam H. Alweis - Senior Court Reporter



















1                                   Public Hearing  
2           considered an illegal action, it's not truancy, per se.  
3           So, we can't bring those cases to the Probation  
4           Department, but today, actually, I was asked by one of  
5           our guidance counselors and administrators if we could  
6           do that, if we could bring a student to probation for  
7           being consistently disobedient in school, leaving the  
8           building or being sent home and numerous suspensions,  
9           and even though we do have a couple of alternative  
10          schools here in the Syracuse School District, one for  
11          elementary and middle school students and one for high  
12          school students, they can only accommodate so many  
13          students, and they are getting a little tighter on who  
14          they will accept.

15                           CHAIRMAN DUNNE: Tell me, in your official  
16          position, are you called upon by the school district to  
17          assist in the preparation for a PINS petition based on  
18          truancy?

19                           MR. POLIKARPENKO: Yes.

20                           CHAIRMAN DUNNE: And can you tell me, does  
21          the school district -- is there one school district you  
22          work with?

23                           MR. POLIKARPENKO: Yes, Syracuse City.

24                           CHAIRMAN DUNNE: Does it have a policy,  
25          written or otherwise, with regard to how much truancy























1                                   Public Hearing

2                   own thing. So, nobody knows what the other hand is  
3                   doing.

4                                   You know, if we all are in this together and  
5                   we all know what is going on together.

6                                   MR. POZZI: You bring up a good point that  
7                   the Chair always talks about is the sharing of  
8                   information on how agencies who are trying to work,  
9                   trying to help the same family and the same kid can't  
10                  share, sometimes, information that we have, and I know  
11                  we made great strides in probation to, with the  
12                  alternatives has done a great job in allowing people  
13                  like myself to share information in our case records.

14                                  That doesn't always happen; you know. Mental  
15                  health or DSS or another agency that leave restrictions  
16                  that, you know, they don't like either, but the law is  
17                  the law, and I think that is something we also need to  
18                  be looking at, you know, in order to be able to share  
19                  the amount of information that each one of us have in  
20                  trying to triage these cases.

21                                  So, that is a problem. I hate to steal your  
22                  thunder, Mr. Chairman.

23                                  CHAIRMAN DUNNE: I think I got the idea from  
24                  you.

25                                  Kathleen, do you have any other --

Adam H. Alweis - Senior Court Reporter











1                                   Public Hearing

2                                   It is very, very frustrating when you know  
3                                   that and you try to figure out how to deal with that  
4                                   and getting them back.

5                                   CHAIRMAN DUNNE: Well, thank you very much,  
6                                   and Ms. Smith, appreciate your sharing.

7                                   We are particularly please to have you visit  
8                                   with us today, Judge James Griffith we have met with  
9                                   the Administrator and Supervising Judges of the Family  
10                                   Courts from around the state. We have not actually  
11                                   spoken to some of the folks from the trenches.

12                                   JUDGE GRIFFITH: That's just where I came  
13                                   from. So, I'll be happy to share my thoughts for  
14                                   whatever they are worth.

15                                   One of the issues that I have noticed a  
16                                   flurry of e-mails over the last week or so, that Family  
17                                   Court judges, at least in this part of the state, is  
18                                   interested is the issue of probation, the version of  
19                                   whether that has been a good idea for the Family  
20                                   Courts. I forgot which year it was, but fairly recent,  
21                                   but all of the counties, Section 735, diversion court.  
22                                   I have Oneida County, Utica and Rome. It is over this  
23                                   way, about an hour, has been a diversion county for a  
24                                   number of years. So, we are not now new to it.  
25                                   Unlike, I guess, some of my colleagues, although not

Adam H. Alweis - Senior Court Reporter





















1                                   Public Hearing  
2           appointment or whatever, we'll try to get either a  
3           neglect proceeding started or try to get me to sanction  
4           the parents somehow, but I think it could be a lot  
5           broader than that and I think that is a system that is,  
6           at least in theory, already designed to deal with  
7           parents.

8                           CHAIRMAN DUNNE:   Judge, a number of the  
9           witnesses today, as well as at our hearing last week,  
10          were advocating that PINS be taken out in the Family  
11          Court and placed within the Department of Social  
12          Services.  Have you got any reaction to that?

13                          JUDGE GRIFFITH:  Well, I guess I don't know  
14          what the enforcement remedies the Department of Social  
15          Services has.  I have a pretty big hammer on the kids,  
16          much more than juvenile delinquents, than PINS cases,  
17          but, I mean, in the probation officers, say for a  
18          signature fraction of these kids, walking into the  
19          courtroom and saying the scowling judge in a black robe  
20          makes a difference, and I guess I'd like to think so.  
21          I wish it were more than the ones that they say, but,  
22          you know, in some ways ironic that some of the kids,  
23          the easiest way to change the behavior of some of the  
24          kids, is to the simplest, which is to drag them into  
25          court.  Those are maybe the kids with the least needs,

















1                                   Public Hearing

2           County.  But, it may be a condition that needs to be  
3           worked out of that system, maybe, in the counties that  
4           are sort of new to it.

5                           I haven't distinguished those, but I don't  
6           think there was anything particularly private about  
7           those e-mails.  If you'd like, I can just identify the  
8           counties where there seems to be dissatisfaction, and  
9           counties, you think, probation diversion is working  
10          pretty well.  I'd be happy to supplement my testimony  
11          with that information.

12                          But, it is apparently of interest.  I didn't  
13          realize that other counties were having problems.  Ours  
14          works pretty well.

15                          CHAIRMAN DUNNE:  Any other questions?  Thank  
16          you very much.

17                          JUDGE GRIFFITH:  Pleasure was mine.  Thanks  
18          for your attention.

19                          CHAIRMAN DUNNE:  Judge Biagio DiStefano,  
20          neighboring Madison County.

21                          Welcome, Judge.

22                          JUDGE DiSTEFANO:  Neighboring Madison County.  
23          I had to wait for the cows to cross.

24                          CHAIRMAN DUNNE:  Beautiful county.

25                          JUDGE DiSTEFANO:  It's been a long day for

Adam H. Alweis - Senior Court Reporter































1 Public Hearing

2 intake function treatment, or, in the Court, and then  
3 refer cases to diversion if they didn't settle at that  
4 particular point?

5 JUDGE DiSTEFANO: That's right.

6 MR. CARTER: And that, obviously, involves a  
7 significant additional work load for Family Court  
8 Judges, but it seems --

9 JUDGE DiSTEFANO: As if we don't have one  
10 now?

11 MR. CARTER: Sure.

12 JUDGE DiSTEFANO: Yeah. If you are going to  
13 do the job, if you really care about what happens, then  
14 you do it, but it is not being done now. We only see  
15 these kids later on already. We'll see them in  
16 criminal, in other courts, at a later time if we don't  
17 fix the problem now.

18 MR. CARTER: You mentioned, on a completely  
19 different note, actually, you mentioned that it wasn't  
20 perhaps appropriate for probation folks to be involved  
21 with victims, victims of wrongdoing by children. One  
22 of the features of basic principles involved in  
23 restorative justice is apologies to victims. Have you  
24 ever -- has anyone in your Court ever used that?

25 JUDGE DiSTEFANO: Apologies?

Adam H. Alweis - Senior Court Reporter













1                                   Public Hearing

2                   question?

3                                   You said it was a position of the Family  
4                   Court Judges Association that they didn't want 16 and  
5                   17 year-olds in Family Court.

6                                   JUDGE DiSTEFANO:  No, not in Family Court,  
7                   increased juvenile delinquency to include 16 and 17  
8                   year-olds.

9                                   MS. GINSBURG:  We can rephrase it that way.  
10                   Can you state the basis for that position?

11                                  JUDGE DiSTEFANO:  Just like you have PINS at  
12                   18, by the time they are 18, what are you going to do?  
13                   When they are already 16 and 17, if they are committing  
14                   the types of matters that are very serious, they could  
15                   be charged as an adult by the District Attorney's  
16                   Office.  If there are incidents of small crimes, they  
17                   are handled, at least from what I've seen, I used to be  
18                   a prosecutor.  They are handled appropriately in the  
19                   court system.  They have the protection of what's  
20                   called youthful offender.  But, the types of -- and  
21                   there is an awful lot of discretion as to what types of  
22                   charges get imposed.  The police, are they going to  
23                   make arrests, are they going to work it out between  
24                   themselves.  There is a lot of things that happen off  
25                   the books that deal with kids at that particular age.

                 Adam H. Alweis - Senior Court Reporter



1 Public Hearing

2 you don't hurt a kid. You don't hurt a child for no  
3 reason. If you're going to commit a serious crime,  
4 then for the protection of everybody else, they are not  
5 going to get youthful offender status. If it was  
6 serious, it wouldn't be a JD determination. The  
7 prosecutor would already decide not to keep it as a  
8 juvenile delinquency. They can choose to prosecute him  
9 as an adult. So, it's already there.

10 CHAIRMAN DUNNE: Jack?

11 MR. CARTER: I have nothing further.

12 CHAIRMAN DUNNE: Linda?

13 MS. VALENTI: Do you ever entertain sealing  
14 of JD records after successful completion?

15 JUDGE DiSTEFANO: Yes.

16 MS. VALENTI: And what percentage?

17 JUDGE DiSTEFANO: Everyone.

18 MS. VALENTI: Everyone?

19 JUDGE DiSTEFANO: Our clerks office, I sign  
20 those routinely, sealing of the records. I think that  
21 is required.

22 MS. VALENTI: Concerned cases after a  
23 portion, it is discretionary as to whether a judge does  
24 it?

25 JUDGE DiSTEFANO: I do it. I haven't turned









1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Public Hearing

C E R T I F I C A T E

I, Adam H. Alweis, Senior Court  
Reporter, Fifth Judicial District, State of New  
York, do hereby certify that the foregoing is a true  
and accurate transcript of my stenographic notes  
from the proceedings had therein.

\_\_\_\_\_

Adam H. Alweis  
Senior Court Reporter