

Hillary Transue Written Testimony

Senate Judiciary Committee Hearing 5.23.22

In 2007, my mother was contacted by a police officer regarding a Myspace page about my vice principal. The officer told my mother if she contacted an attorney, he would charge me with abuse of the internet and internet stalking, both federal charges. Because my mother agreed not to involve an attorney, the officer reduced my charge to harassment, misdemeanor 3.

I later received a summons for an intake meeting with juvenile probation where I met with an officer who asked many personal questions concerning my relationship with my parents, whether I had tried drugs, and my sexuality. The officer concluded the interview by claiming I would “probably not” be sent to juvenile detention. According to the officer, I would receive juvenile probation or community service.

The day of Ciavarella’s court, I was asked if I had an attorney. I said, “no”. I was then handed a sheet of paper and told to sign. It was not explained to me that I was signing a document waiving my right to an attorney. My rights were not explained to me. I was not aware I would not be assigned an attorney by the court.

When I entered Ciavarella’s courtroom, he asked if I made the MySpace page. I said “yes”. He said, “Based on her admission, I’ll adjudicate her delinquent.” Former judge Ciavarella then spent the next 2 to 3 minutes chastising me before passing his sentence. I was handcuffed and taken to a holding cell before told to sign another document, this one agreeing to be admitted into the “FACT program”, a youth forestry facility program in Wind Gap, Pa.

The several other girls sentenced with me cried the entire way to our placement. We cried during the two minutes phone calls with our parents and as we self-administered harsh chemical lice treatments into our hair. At the forestry facility, we were treated like criminals. When we would push back against this kind of sentiment, the staff would inform us we were not being punished but rehabilitated. We marched across the campus with our hands behind our backs and were ridiculed and/or punished on the occasions in which we were brazen enough to demand compassion or respect from any of our jailers.

It was not made immediately clear to any of us that our sentences were a standard minimum of three months, that we were placed indefinitely and pending our judge's review. This meant any personal slights or perceived misbehaviors would be enough for the judge to resentence a child to another three months, until they met his personal standards of behavior. A child could be written up for refusing to wash their hair, asking for too many helpings at dinner, refusing meals, verbal altercations with other girls, or being too tired to participate in a physical exercise. A write up was akin to an additional three months.

In alignment with the experiences of all youth in placement, the alternative school I was forced to attend did not provide a meaningful education. Teachers would often sit at their desks reading books or texting. If a student requested a textbook to peruse, that would sometimes be the only education they had access to all day. Teachers who were generous enough to actually teach would provide basic instruction, teaching lessons normally mastered by middle school. This is why many youths fall behind and are unable to return to their previous schools, because the education services in placement are deeply inadequate. In some

jurisdictions in Pennsylvania, 64% of youth involved in the juvenile justice system do not graduate from high school.

After my early release, procured through the efforts of Juvenile Law Center, my school was resistant to readmit me in the appropriate grade, though I'd only been unenrolled for three weeks. My teachers adopted new attitudes towards me. Other kids shied away from me. When I met new friends, I could not discuss this significant life event in front of their parents, who would not be comfortable knowing a juvenile delinquent was in their home. The stigma of having been in placement was almost as detrimental to my emotional well-being as the placement itself.

In the end, the judge reluctantly consented for me to serve 6 months probation instead of my indefinite out-of-home placement sentence. But it was communicated to me that any act of indiscretion in school or my community would give the judge cause to rescind my consent decree and send me back into a placement facility. I was subjected to random weekly drug tests and visits with the school probation officer in front of my peers. If I violated the terms of my consent decree or behaved in any way that required disciplinary action by the school, from missing a homework assignment to a verbal argument, I could be "sent away". "Sent away" is the language the judge used. He certainly did not delude himself nor any of the children he placed about the true nature of where he was sending them.

Half of all youth in placement are there for technical violations of probation. Youth on probation who have not committed new offenses are routinely removed from the community for rule violations. This costs Pennsylvania over \$140 million a year. Youth often have their probation revoked without a formal violation hearing, as required by the PA Rules of Juvenile

Court Procedure. A formal hearing allows the court to consider other options short of placement and gives youth the assistance of counsel to provide the court with balanced information about their progress.

At fourteen, I was just mature enough to withstand the emotional trauma from such a significant upheaval of my life. It is unconscionable to expect a 10-year-old to survive that kind of experience. Many ten-year-old children still engage in imaginative play. It horrifies me to imagine a child that young be expected to endure in the system, or to appreciate the gravity or consequences of their behavior. It is imperative that the minimum age of court jurisdiction be raised to the age of 13, as per the juvenile task force Recommendation 8.

The American Bar Association supports raising the minimum age of juvenile court jurisdiction to begin at 14, and some states have already raised the minimum ages. New Hampshire begins juvenile court jurisdiction at age 13; Utah, California, Delaware, New York, and Massachusetts begin juvenile court jurisdiction at age 12, all with some exceptions for the most serious offenses. We must prevent as many children as possible from coming into contact with the system. It is for this reason that Recommendation 13 must also be brought into effect.

Youth incarceration costs nearly \$200,000 per youth per year, while even the most intensive community-based interventions cost 50 times less. The most effective community-based services as an alternative to placement—multisystemic therapy (MST) and family functional therapy (FFT)—are 50 times cheaper than placement. Yet, they are no longer contracted for in Pennsylvania. Recommendation 13, which addresses the use of diversionary programs, can avoid the harms of the juvenile justice system and better serve juveniles in their communities where they have better outcomes.

My experience in juvenile court and my resulting placement embittered me to the system and adults around me. It stunted my emotional progress and temporarily disconnected me from my community. Fortunately, I had strong enough supports to enable my emotional growth. However, many youths do not have strong community support or connections; community-based diversionary programs would help connect youth to their communities and establish support where there may have been none. It would increase the resiliency of youth by linking them to resources within their communities. Diversion is more effective at reducing likelihood of re-arrest than formal court processing. The Task Force found diversionary programs have an 80% success rate when utilized.

I am also in strong support of Recommendations 14 & 15, limiting detention and placement, respectively, and establishing specific criteria by which to sentence youth. Former judge Ciavarella made sensational headlines with reports of him sending kids to placement for infractions as ridiculous as “throwing steak” at family members. I was sent away for a crime that should have been handled by my school. Being sent to placement for minor infractions is typical in Pennsylvania. 3 out of 4 juveniles sentenced are in placement for first time, nonviolent offences. Relying too heavily on court discretion allows for judges with practices like those of the infamous Kids for Cash judge. By eliminating reliance on court discretion for sentencing of youth, not only can incidences of juveniles being placed for extremely minor offences be reduced, but racial disparities in the system can also be eliminated.

The task force found that Black youth are 400% more likely to be incarcerated than White youth. It is crucial, now more than ever, that the system be corrected to eradicate this gross disparity. It is also imperative that youth of color be allowed to contribute their voices to

this discussion. No one can attest to the gravity of this situation better than youth who have been directly impacted by it. All youth voices should be heard, but especially youth of color, because they comprise a significant portion of youth harmed by the system.

We must also focus efforts on eliminating fines and fees for youth in the juvenile justice system. Many who enter the system are unable to pay these fines and fees and are further penalized as a result. While some of these fines and fees may seem insubstantial to those from more financially stable backgrounds, people from impoverished families and communities can easily be overwhelmed by them. Given the current age of juvenile court jurisdiction, what ten-year-old can be expected to pay these fines?

Recommendation 21 calls for the elimination of fines and fees as a result of the juvenile justice system. Due to unpaid costs, youth are kept under court supervision much longer than needed, unable to have their records expunged, and can even be incarcerated. Black youth also made up 31% of cases for contempt for nonpayment, and 57% of youth who remained under court supervision until age 21. Restitution should be primarily handled by external sources such as the crime victim's compensation fund, and only ordered from youth for unreimbursed losses if a youth can afford to pay. Restorative justice programs and restitution pilot projects are alternatives that allow for restoration and accountability without devastating economic consequences for youth.

Finally, I would like to show support for Recommendation 9 which eliminates direct file. Youth should never be directly charged in adult court and doing so robs children of the opportunity to be treated as children, causing irreparable harm. The elimination of direct file still allows for children to be transferred to the adult system through the transfer process, it

would just require a juvenile court hearing first. Juveniles who end up in the court system are often treated as being much older than they are, as being criminally deviant in the same way as adults. But none of them have the emotional capacity to process many of their experiences because their brains have not finished developing.

The types of rehabilitation-focused, evidence-based programming that are commonly available in juvenile placements in PA are not present in adult jails and prisons. Youth prosecuted as adults are far more likely to be rearrested than youth whose cases remain in the juvenile system. Black youth comprise 7% of Pennsylvania's youth population, but they make up 58% of youth prosecuted as adults. By eliminating direct file, juveniles will be given the opportunity to be treated as children and racial disparities within the system can be corrected.

Many in Luzerne County, including myself, assumed the horrors were over after the infamous trial and sentencing of former judge Ciavarella. His crimes against children and the community were found so egregious that an interbranch commission on juvenile justice was established to determine just how the judge was able to abuse the system so it could be improved. However, juveniles in Pennsylvania are still facing abuse at the hands of the system in places like Wordsworth and Glen Mills. By developing legislation and reforms based on the task force recommendations established in January, 2020, Pennsylvania can show its commitment to better serving youth.

Though I am honored to provide testimony that might affect meaningful change, I am somewhat embarrassed to imagine my voice might be speaking over those who have something more important to say. Minimal input from youth and families was afforded in this process due to poor advertising for the meetings, which were unrecorded, and a lack of youth-

friendly processes that would have allowed for meaningful youth involvement. Impacted youth and their families best know the harms of the system and must be engaged in developing and monitoring system reforms. I am not an adequate representation of the kinds of youth being most impacted and should not be expected to speak for the countless youth whose interactions with the system were more devastating than my own. There are many youths more qualified to provide invaluable insights on these recommendations.

Pennsylvania cannot afford to be behind the curve in adopting juvenile justice practices which better serve youth. We have already been embarrassed by former judge Ciavarella. It is time to show the rest of the country how committed we are to serving Pennsylvania youth. Repeated abuses of the youth justice system require new forms of system accountability. We need to hold the adults who run the system accountable if we want the system to credibly be able to hold youth accountable.