Mr. Dunlap.

(Panel Sworn)

CHAIRMAN WALTON: Thank you. Now, Mr. Dunlap.

MR. DUNLAP: Thank you, Mr. Chairman.

First I would simply say that it's an ominous task at best to follow Senator Kennedy. If I had any smarts about me I probably would just say I conclude my remarks and move on, but I've got responsibility, and hopefully I can carry it out.

My name is Earl Dunlap, and, as the Chairman indicated, I'm the Chief Executive Officer of the National Partnership for Juvenile Services, but probably more importantly, at least from my perspective, is that I've been in juvenile justice now for almost 40 years. When I graduated from high school and went to college, it was my parents' hope that I would either be a doctor or a lawyer; that didn't necessarily work out, and we all agreed that I had enough experience as a teenager as a juvenile delinquent that I probably would have a leg up in the juvenile justice system by spending more time in it, and fortunately that's worked out for me.

Over that 40-year period of time -- I started in this business as a child care worker -- that was a term used years and years ago -- at the exorbitant rate of $2.10 an hour and thought I'd died and gone to heaven. Since that
time I have moved through the system to probation officer, director of a detention facility, director of an urban juvenile justice system, director of the Missing and Exploited Child Unit that became the framework for the National Center for Missing and Exploited Children, as a federal monitor, and while I continue in the role of the partnership, I've managed to weave my way back to operating a juvenile detention center again, a 50-bed facility in a rural county in Henry County, Indiana, which Commissioner Aiken is familiar with. And I also am involved in coaching administrators in the District of Columbia, in a facility in Michigan, and in all likelihood in the near future in Indianapolis, given the situation that they find themselves in.

First I want to thank and commend the Commission for considering the issues of safety and well being of children and youth in juvenile justice facilities, and secondly I would applaud those who have and will testify before you today. All of these individuals are highly respected for their expertise, and many are directly responsible for the improvements in the juvenile justice detention and corrections profession, and I'm not sure based on just the testimony today what I can add, but I will give it my best shot.

I would offer the following for the Commission's
consideration. I'm not here to denigrate the juvenile
detention and correction system or many of my colleagues who
work tirelessly to make a difference. To the contrary, I'm
here to speak on behalf of many who are faced with the daily
challenges of operating a detention and corrections facility
and who may not be in a position, as many of them are not,
in a position to speak on their own behalf. It is my belief
that the Commission must have a clear understanding of who
the children and youth are that are being locked in
detention or corrections. Many of those that have and will
testify today will either reinforce or expand on these
thoughts.

Sadly, our nation's poor and minorities are, in
fact, the majority in juvenile detention and corrections.
This is a cause for great concern when self-reporting data
suggests that all youth commit crime at about the same rate.
Interestingly enough, a report in 2003 from the National
Center for Juvenile Justice, white children were found to be
in detention and corrections at a rate of 190 kids per
100,000, blacks were found at 502 per 100,000, which in and
of itself is a little disturbing. I would also offer the
example of Washington, D.C., arguably our nation's most
politically correct jurisdiction, whose detention and
corrections population is in excess of 95 percent minority.
There are many, many more that range from 60 to 70 percent.
While I do not wish to burden the Commission with a lot of data, particularly after lunch, my experience as a practitioner indicates that the majority of children and youth who are locked up are those who have been poorly served in the earlier years by the social services system, have serious mental health disorders, or at a minimum, mental health issues, come to detention as a status offender, and there was some discussion this morning about weeding out status offenders, kids that are charged or brought before the court for offenses that if they were adults would not be offenses. One of the interesting ways the jurisdictions manage to weave around that process now and get these kids into our detention environment is law enforcement charge them with domestic violence, which is the newest game in town to get kids into detention on minor violations.

One of the things that we know is that less than three in ten offenders enter a detention facility on a part one crime offense, so, that would -- that simply converts to better than 70 percent of the kids in our nation's juvenile detention center really represent no public safety risk whatsoever. In many cases, instances, the actual offense or status charge is secondary to the factors I've briefly mentioned. However, the simple fact of the matter is that in so many jurisdictions the only temporary out-of-home
resource available is the juvenile detention setting. To be more specific, one of the things that we do know from the various studies that we've been involved in is that between 45 and 60 percent of all kids who go into juvenile detention are released in 96 hours or less. Now, one of the things that Senator Kennedy said that was of great concern is that these kids who have serious mental health problems end up in detention, which is very true, they go to detention because there simply is no other resource available in the community that can handle these kids at that point in time.

We also know that youth requiring long-term commitment are sent to state youth correction facilities because it is the cheapest option available to local jurisdictions. In some states there is no cost to the local jurisdiction whatsoever, and as a result, local communities are allowed to abdicate their responsibility. In other states they pay a small percentage of the corrections cost but it's still cheaper than placing the kid in a private facility that can provide more appropriate services.

It is also my belief that the following has in a significant way contributed to the abuse in our juvenile detention and correction system. Over the last two decades the need for cheaper quick fixes, in many instances brought on by isolated incidents, subsequent media sensationalism,
and the value of media sound bites have, in fact, promoted programs such as "Scared Straight," boot camps, punk prisons, and the need to reduce the age of the juvenile in order to get them into an adult setting. In my opinion it has, in fact, cast a shadow over the adult corrections system as an environment that features overt punishment, sexual exploitation and physical intimidation, something that for the most part is not welcomed by my adult counterparts, nor is it necessarily deserving. But we've done a great job in the last ten to 15 years of hyping and marketing cheap, quick-fix programs that allegedly scare kids straight, and I would submit to this Commission that there's nothing that we can do to scare these kids straight. The majority of them come from dysfunctional families and they're already scared, but not straight.

Throughout the decade of the '90s there was an enormous push to build our way out of the perceived juvenile crime problem; however, along the road, through additional new and more state-of-the art construction, someone forgot to advise decision-makers that construction of these facilities only represents seven percent of the long-term cost. Additionally, decision-makers were erroneously advised that they would profit from building these beds. Administrators in many of these facilities continue to wait on adequate operational funds and these funds equate to
adequate staffing to reasonably assure safety.

In contrast, inadequate physical plants, some not intended for what they are being used for, crowding, inadequate housing such as dormitories, lack of adequate information at the point of admissions, the ridiculous resident-to-staff ratios, poor classification decisions, all contribute to the problem of abuse in our facilities.

For me, the number one issue is this: our nation's present laws and social policy affecting children and youth have required or promoted that the juvenile courts and detention and corrections as a natural extension operate in isolation or under a shroud of secrecy. While well intended in relationship to the confidentiality issue, I believe a balance must be established as current practices do little more than leave the fox to guard the hen house, and the classic example of that, the prosecutor for Marion County spoke to this morning in relationship to what happened in Indianapolis.

In a sense, while my statement will have its dissenters, many of our laws, policies and strategies further fence in the children in youth and detention and corrections. Each and every one of the children and youth in these environments need unimpeded access to report their grievances and violations. The dissenters will argue that we have child protection laws; others will argue that we
have regulations and standards that must be complied with, and we do. How is it, then, that we have a Justice Department investigating a number of state and jurisdictions; how is it that we have a number of consultants, many of who are my colleagues here today being called to states and jurisdictions to assess these problems? Why is there now a Prison Rape Elimination Commission?

Lastly, let us be mindful of the undeniable reluctance on the part of children and youth to tell their story, particularly as a victim of physical and sexual abuse. They enter our environments not trusting, they are given reasons while in our environments not to trust, and ultimately it begs the question, if they are to trust, who is it that they do trust? As a practitioner I can tell you that it's not what I know in the daily operation of my facility that worries me but, rather, what it is I may not know and may discover too late. We must be vigilant and we must be proactive.

I'll close by simply offering a couple issues that I picked up on this morning, particularly from some of the Commission's questions.

One of the issues was sustainability. The issue or sustainability of any system that's gone from bad to good or less bad to more good is a $64 million question, from my perspective, of 40 years of experience. Frankly, I'm not
sure sustainability is achievable, largely because our children are caught up in the political process. I mean, that's the bottom line. And agendas change from county to county and state to state, and when those agendas change, everything changes with it. When there's a reform effort, when there's dollars available, it doesn't take much to work magic if you have common sense and you care.

Secondly, although I don't wish to point a finger at anyone, my organization, for example, and juvenile detention specifically, it took 20 years for juvenile detention to even be recognized by the Department of Justice once the Juvenile Justice and Delinquency Prevention Act was passed in 1973. In 1992 we received a grant for a hundred thousand dollars to do what's called a desktop guide to good juvenile detention practice. For about ten years our funding increased to the point where we were at about a million dollars in 2001. That subsequently has eroded away to about where it was at in 1991. Now, the issues that we are all presented with are enormous and when the funding starts to go in the other direction one has to question the priorities that we've established for our children.

And one final thought, and I always raise this to the staff that I work with on a daily basis: in many respects what we're talking about here is common sense, and one of the things I will suggest to my staff is that...
they're, one, in this facility to work because they need a pay check, or two, because they care about kids and they get lucky and get paid for doing it. If they're here in our facility for the second reason, they'll be around for a long, long time. If they're here for the first reason, they've got something up their sleeve and ultimately they will be gone.

Thank you. I appreciate you all taking the time to listen to me.

CHAIRMAN WALTON: Thank you very much.

Your Honor, thank you for your presence. I have the utmost respect for the work that you do because my last job before I went to the federal bench was heading our Family Division which included the Juvenile Court in the District of Columbia, so, I know the difference that judges can make in the lives of children, so, we welcome your presence.

JUDGE BLITZMAN: Thank you very much, Your Honor. First of all I'd like to say that I'm very, very glad that Mr. Dunlap got to follow Senator Kennedy, and did a great job, I might add.

I was extremely excited, honored and flattered when I received an e-mail from Mr. Thomas inviting me on behalf of the Commission to appear to address these issues. I've been asked to speak or address the issue of detention