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**Testimony before the Senate Subcommittee on The Constitution, Civil Rights, and Human Rights  
Subcommittee Hearing on “Ending the School to Prison Pipeline”**

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Good Morning Chairman Durbin, Ranking Member Graham, and members of the Senate Subcommittee on the Constitution, Civil Rights and Human Rights. Thank you for having me here to testify today about the School-to-Prison Pipeline, the negative effects of zero tolerance policies in our schools, and how we transformed our systems in Clayton County, Georgia to reduce school arrests while simultaneously improving graduation rates and school and community safety.

My name is Steven Teske and I currently serve as chief judge at the Clayton County Juvenile Court in Georgia. In addition to the thirteen years I have spent on the court, I have been involved in the juvenile justice system in many other capacities. The Governor has appointed me to represent the 13th Congressional District on the Board of the Georgia Children and Youth Coordinating Council (and served as the Chair of the Board), to serve as vice-chair of the Governor’s Office for Children and Families, to serve on the Georgia Commission on Family Violence, and to serve on the Judicial Advisory Council to the Board of the Department of Juvenile Justice. I have also served as a representative for Georgia on the Federal Advisory Committee on Juvenile Justice for the United States Department of Justice’s Office of Juvenile Justice and Delinquency Prevention. My Governor, Nathan Deal, recently appointed me to the Georgia Council on Criminal Justice Reform to provide recommendations to improve juvenile justice in Georgia. In 2008, I served as the President of the Georgia Council of Juvenile Court Judges.

In my testimony today, I would like to define zero tolerance and how it is used in school systems to push kids out of school and into the juvenile and adult justice systems, creating a “School-to-Prison Pipeline.” Using my home county of Clayton as a case study of zero tolerance and its negative impact on graduation rates and school safety, I will discuss how our community worked collaboratively to reduce school arrests and develop a system of care to assess and treat chronically disruptive students and to improve graduation rates and school and community safety.

**The Clayton County Model: A Collaborative Approach**

When I took the bench in 1999, I was shocked to find that approximately one-third of the cases in my courtroom were school-related, of which most were low risk misdemeanor offenses. Upon reviewing our data, the increase in school arrests did not begin until after police were placed on our middle and high school campuses in 1996—well before the horrific shootings at Columbine High School. The year before campus police, my court received only 49 school referrals. By 2004, the referrals increased over 1,000 percent to 1,400 referrals, of which 92% were misdemeanors mostly involving school fights, disorderly conduct, and disrupting public school.

Despite the many arrests, school safety did not improve. The number of serious weapons brought to campus increased during this period of police arrests including guns, knives, box cutter knives, and straight edge razors. Of equal concern was the decrease in the graduation rates during this same period—it reached an all-time low in 2003 of 58%. It should come to no one’s surprise that the more students we arrested, suspended, and expelled from our school system, the juvenile crime rate in the community significantly increased. These kids lost one of the greatest protective buffers against delinquency—school connectedness.

I also witnessed an increase in kids of color referred to my court. By 2004, over 80% of all school referrals involved African-American students. The racial disparity in school arrests was appalling and I felt I was contributing to this system of racial bias by not doing something.

It was also frustrating for me as a judge to see the effectiveness of the prosecutor and probation officer weakened by my court system being inundated with low risk cases that consumed the court docket and pushed kids toward probation—kids who made adults mad versus those that scare us.

The prosecutor required more time for the most serious cases that, if proven beyond a reasonable doubt, the child would require intensive supervision for the protection of the community. Instead, the prosecutor’s attention was taken from the more difficult evidentiary and “scary” cases—burglary, robberies, car thefts, aggravated assaults with weapons-- to prosecuting kids that are not “scary,” but made an adult mad. This craziness trickled over into probation cases in which probation officers were spending most of their time watching over low risk cases, which now made up two-thirds of their caseload. By 2004, the average caseload size grew to 150 per officer. The recidivism rate increased to over 70% by 2004 because the high risk kids were receiving less supervision—all a direct result of our zero tolerance policies in the schools. Zero tolerance was negatively impacting the entire community and something had to be done.

I turned to the Juvenile Detention Alternatives Initiative (JDAI)--an initiative of the Annie E. Casey Foundation, which was established over 60 years ago in 1948 to help build better futures for disadvantaged children in the United States. To further this mission, the Annie E. Casey Foundation funds initiatives aimed at strengthening those public systems established to respond to the challenges faced by fragile and disadvantaged children and families.

One of these initiatives is JDAI, which began over 20 years ago as an effort to strengthen the nation’s juvenile justice systems and improve the odds that delinquent youth would become productive adults. JDAI focuses on the detention component of juvenile justice - a worthy ambition in its own right - but was based on the notion that the policies, practices and skills that would be required to change detention would have a transformative effect on other components of the system as well.

Since its inception in the 1990s, JDAI has grown exponentially from a handful of sites to more than 200 local jurisdictions in 39 states, including Clayton County.

In 2003, using the eight core strategies of the JDAI Model, I exercised my convening role as a juvenile judge and invited the School Superintendent and Chief of Police to meet and discuss the overwhelming increase of school referrals to the juvenile court and how this may be handled in other ways. Our meetings generated more questions as a result of each stakeholder's self-interest. What are school administrators to do with these disruptive students no longer referred to the court? When should police intervene in school disruption matters? How do we identify the underlying problems causing the disruption? What do we do to address those problems given the limited capacity and resources of the schools? How do we ensure the safety of the schools? The collaborative process generated new and difficult questions that extended the time to develop a system to meet the goal. It also required more stakeholders at the table, including mental health, social services, and private providers; parents; youth; and the NAACP. With the consent of the stakeholders, I appointed a neutral person to facilitate the meetings. I participated in the discussions but limited my role to convener.

I convened the meetings twice a month. The facilitator assigned tasks to stakeholders between each meeting. The "interactive process" took nine (9) months. The stakeholders agreed that two written agreements or Memoranda of Understanding (MOU) were necessary to address the interests of all stakeholders: 1) reduce suspensions, expulsions, and arrests and 2) develop alternatives to suspension and arrests, including assessment and treatment measures for chronically disruptive students.

The first MOU, titled "School Referral Reduction Protocol," identified misdemeanor offenses no longer eligible for referral to the juvenile court unless the student had exhausted a two-tier process that includes: 1) Warning on the first offense to student and parent; 2) referral to a conflict skills workshop on the second offense; and 3) referral to the court on the third offense.

The second MOU created a multidisciplinary panel to serve as a single point of entry for all child service agencies, including schools, when referring children, youth, and families at risk for petition to the court. The panel, called the Clayton County Collaborative Child Study Team (Quad C-ST), meets regularly to assess the needs of students at risk for court referral and recommends an integrated services action plan to address the student's disruptive behavior. The panel consists of a mental health professional, the student's school social worker and counselor, a social services professional, juvenile court officer, and approved child service providers, and it is moderated by a trained facilitator provided by the court. The panel links the child and family to services in the community not available to the school system. The panel developed an array of evidence based treatment programs such as functional family therapy, multi-systemic therapy, cognitive behavioral programming, wrap-around services, and more.

## **Outcomes**

Immediately following the School Referral Reduction Protocol, referrals to the court were reduced by 67.4%. The school police, who had spent most of their time arresting students for low-level offenses, were now on campus most of the day and engaging students using a positive approach versus the use of handcuffs and a transport in the back of a patrol car.

The implementation of the protocol produced a residual effect in the felony referral rate, with a decrease of 30.8%. According to school police, the warning system was used for some felony offenses involving typical adolescent behavior. The decision by school police over time to extend their discretion to use the warning for certain offenses outside the scope of the protocol indicates a shift in cognition. When prohibited from making arrests, school police began to engage students and developed an understanding that discipline should be applied on a case-by-case basis. This resulted in greater reductions in referrals.

By the end of the 2011-12 school term, the number of students referred to the juvenile court for school offenses was reduced by 83%. The number of youth of color referred to the court for school offenses was reduced by 43%.

Another byproduct of the protocol was a reduction in serious weapons on campus by 73%. These involve weapons outside the discretion of police and must be referred to the court by law. These results appear to refute the belief among school administrators that zero tolerance promotes school safety. A survey of school police show that the cessation of school arrests increased police presence on campus because they were no longer leaving campus to transport and file referrals. This in turn increased their knowledge of the student body. Their increased presence promoted friendly engagement of students.

This positive engagement coupled with the students' perception that the police were there to help (because arrests drastically declined) produced sharing of information by students to police about concerns on campus. Consequently, students now share information that leads to solving crimes in the community, as well as crimes about to occur on campus. "Schools are a microcosm of the community," as stated by the supervisor of the school police unit (Richards, 2009). If one wants to know what is going on in the community, talk to the students. However, the students must want to talk to you. Therefore, the aim of school policing is to gather intelligence on student activity through positive student engagement.

At the same time, the School Referral Reduction Protocol went into effect; the Quad C-ST began work to develop alternatives to OSS and connect the school system with other community providers. These alternatives resulted in an 8% decrease in middle school OSS (Clayton County Public School System, 2010).

After implementing these integrated systems, the school system observed an increase in graduation rates, resulting in a 24% increase by the end of the 2010 school year, which surpassed the statewide average. Although Clayton County has improved the overall rate of graduation, we continue to struggle with on-time graduation rates. Although they have improved over this same time period, much more can be done to graduate kids on time, including a prohibition on out-of-school suspensions for many infractions and the development of alternatives to suspension similar to alternatives to detention promoted by the JDAI Model. Baltimore City Schools, under the leadership of Dr. Alonso, is a good example of this approach.

Clayton County is now employing a System of Care (SOC), managed by a full-time administrator, incorporating the QUAD C-ST previously mentioned to a greater number of chronically disruptive students for assessments and treatment in lieu of suspension, expulsion, and arrest. By reducing suspension rates in addition to arrest rates, Clayton County can significantly improve its on-time rates as it has the overall rates of graduation.

Regardless of overall or on-time graduation rates, the more students that graduate, the less juvenile crime in the community. For example, before the introduction of the protocol to reduce school arrests in 2004, the juvenile felony rate in Clayton County reached an all-time high, but declined 51% after the protocol, reducing school arrests and improving graduation rates.

The implementation of this protocol has reduced the average probation caseload size to 25, which includes the kids that scare us—not the ones that make us mad. Consequently, the increase in surveillance and the intensive interventions employed with our probationers has resulted in a reduction in recidivism of 24%—down from over 70%. This decline represents greater success among these troubled youth and fewer victims.

Finally, the protocol coupled with our JDAI practices was instrumental in achieving other results that have reduced recidivism and turned cost savings into local re-investments to serve our youth. These results include:

- 70% decrease in average daily detention population (ADP)
- 64% reduction in average daily detention population of minority youth
- 43% reduction in average length of stay
- Felony re-arrest (prior to adjudication) of less than 1%
- 43% fewer commitments to state custody
- 40% fewer commitments of minority youth
- 67% reduction in formal petitions

The Clayton experience is not a novel idea. It is grounded in research that supports common-sense notions—that keeping kids in school will increase graduation rates that in turn will positively impact community safety and improve our economy.

Some of these results have been replicated in other jurisdictions including Birmingham, Alabama and Wichita, Kansas. The family court judge in Birmingham, Brian Huff, was the first to replicate this collaborative approach. During the 2007-08 school years, school police in Birmingham referred 513 students to court, of which 99% were African American and 96% were petty misdemeanor offenses. The judge also brought stakeholders together and developed a written protocol similar to that of Clayton County. The referrals declined by 75% and detention rates fell by 72%. Recently, the juvenile judge in Wichita convened stakeholders meetings and established a protocol resulting in a 50% decrease in school arrests. Judge Patricia Koch, District Court Judge of Rapides Parrish, LA, is another example of

judicial leadership to bring about collaborative reform to end the school-to-prison pipeline. By using her convening power, the stakeholders in her Parrish have developed a system similar in concept to Clayton County that has reduced school referrals from 1,148 in 2006 to only 58 in 2011. Other jurisdictions have followed suit to change their systems to reduce school arrests including Columbus, OH; Sioux City, IA; Broward County, FL; Bibb County, GA; Middlesex County, MA; Los Angeles County, CA; and several jurisdictions in Connecticut.

### **The National Scope: It's Not Just Clayton County**

We are a nation in crisis when it comes to educating our children. On one hand we promulgate laws to promote the education and welfare of children and on the other we implement policies that effectively push them out of school, creating what has been coined the "School-to-Prison Pipeline." These competing approaches create a dysfunctional paradox that harms children and the community.

In an effort to address school discipline, educators have adopted a zero tolerance approach resulting in a dramatic increase in out-of-school suspensions (OSS) and expulsions. The introduction of police on school campuses exacerbated the problem by using arrest and incarceration as another disciplinary tool.

The widespread use of zero tolerance policies is probative of educators' belief that such "get tough" strategies have value in correcting behavior and/or to remove disruptive students. No matter the reason, zero tolerance policies deny recent research on adolescent brain development that "mischief is a foreseeable derivative of adolescence" (Teske, 2011). Other studies show that zero tolerance strategies in general are ineffective, harmful to students, and fails to improve school safety.

### **Zero Tolerance Defined:**

During the early 1990s, school systems began adopting this "get tough" approach for minor school infractions, using out-of-school suspension (OSS) for up to ten days and expulsions. By widening the net of infractions, the use of OSS nearly doubled annually from 1.7 million in 1974 to 3.1 million in 2001 (Poe-Yamagata & Jones, 2000). The most contradictory application of OSS involves truant students. Suspending a truant student is indicative of the inherent problems with zero tolerance policies in a school setting. It confounds the mind that professionals trained and certified to teach our children are duped into believing that suspending a student who doesn't want to be in school is an effective tool. It is not surprising that some have referred to zero tolerance as "zero intelligence" (Richardson, 2002).

Zero tolerance can be defined as a "philosophy or policy that mandates the application of predetermined consequences, most often severe and punitive in nature, that are intended to be applied regardless of the seriousness of behavior, mitigating circumstances, or situational context" (Skiba et al., 2006). The punitive nature of zero tolerance practices increased with the introduction of police on school campuses. What was typically handled in the principal's office now involved a police officer with the power to arrest. In addition to suspension, students were handcuffed and transported to juvenile

intake locations. The net for incarceration widened. Studies have referred to this phenomenon as the “School-to-Prison Pipeline” (Wald & Losen, 2003).

School administrators administer zero tolerance practices believing that the removal of disruptive students will deter others from similar conduct, creating a safer classroom environment. This belief fails to take into consideration the growing body of research that zero tolerance is contrary to adolescent cognition and the role school plays as a protective buffer against delinquency.

The Surgeon General’s report on youth violence revealed that a child’s connection to school was a protective factor against risk factors for violence (U.S. Department of Health and Human Services, 2001). Other studies found that students’ belief that adults and peers in school care about them is related to lower levels of substance abuse, violence, suicide attempts, pregnancy, and emotional distress (McNeely, Nonnemaker, & Blum, 2002). Studies also reveal that this belief, referred to as school connectedness, is linked to school attendance, graduation rates, and improved academics (Rosenfield, Richman, & Bowman, 1998; Battin-Pearson et al., 2000).

Despite efforts by many juvenile judges to stop these minor school offenses from reaching their courtroom using informal intake diversion mechanisms, more must be done. Research shows a strong link between school arrests and drop-out rates. One study found that a student arrested in school is twice as likely to drop out and four times as likely to drop out if the student appears in court. (Sweeten, 2006). Juvenile judges should consider what steps can be taken to prevent any unnecessary referral to the court

Removing students from school which serves as a buffer against delinquency is counterproductive to the goals of education, the best practices in juvenile justice, and community safety. Take for instance what we know about the importance of assessing the risk of juvenile offenders to determine the level of services needed to prevent re-offending. Studies show that recidivism is reduced among high risk youth if they are provided with intensive interventions. Conversely, these same studies show that intensive interventions applied to low risk youth increase the risk of re-offending (Andrews, Bonta, & Hoge, 1990). Applying these findings to zero tolerance strategies, the harsh treatment of students committing minor infractions increases the risk of anti-social and delinquent behaviors. Studies show that the use of OSS and arrests without consideration of the risk level of the student exacerbates the problem by making students’ behavior worse (Andrews & Bonta, 1998; Mendez, 2003). Another study on the use of OSS of elementary and middle school students found that OSS is a predictor of future suspensions (Mendez, 2003). The study also found that OSS contributes to poor academic performance and failure to graduate. It should be common sense that keeping kids in school will increase graduation rates.

Zero tolerance as a philosophy and approach is contrary to the nature of adolescent cognition and disregards the research in adolescent brain research. The research using magnetic resonance imaging ((MRI) found that the frontal lobe of the brain, which filters emotion into logical response, is not fully developed until about age 21 (Giedd et al, 1999). Adolescents are “biologically wired to exhibit risk-taking behaviors, impulsive responses, and exercise poor judgment” (Teske, 2011).

The implications of these studies within the context of zero tolerance approaches are important to show the negative impact on adolescents. The use of OSS and arrests for behavior that is neurologically normative for adolescents aggravates the existing challenges confronting youth. Neurologically speaking, youth are still under construction and require positive surroundings, including school (Giedd et al, 1999). Removing youth from school settings that serve as a protective buffer increases the probability of negative outcomes for the student, school, and the community.

This hearing cannot be timelier given the increasing involvement of national organizations and private philanthropies with initiatives designed to dismantle the School-to-Prison pipeline. I have already mentioned the Annie E. Casey Foundation JDAI Model that inspired the Clayton County School Referral Reduction Protocol. The National Council of Juvenile and Family Court Judges (NCJFCJ), of which I am a member, passed a resolution against zero tolerance policies in school settings. NCJFCJ spearheads an effort with the support of a number of organizations including the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and Atlantic Philanthropies, a Schools Pathways to Delinquency Committee, which I co-chair, to develop curriculum to train judges across the country to deliver technical assistance to local jurisdictions on how to develop a protocol to reduce school arrests. The Council of State Governments has created a Discipline Juvenile Justice Focus Group, also with the support of Atlantic Philanthropies and others to develop policy recommendations that promote effective strategies to improve student conduct and reduce school arrests, suspensions, and expulsions.

### **Recommendations**

As the Committee looks for ways to end the School-to-Prison Pipeline, I ask the Committee consider the following recommendations:

- Amend the No Child Left Behind (NCLB) Act to encourage schools to seek alternatives when dealing with disruptive students other than referring them to the juvenile justice system.
- Amend the NCLB Act and the Individuals with Disabilities Education Act (IDEA) to provide for Title I funding to develop alternatives to out-of-school suspensions, expulsions, and referrals to the juvenile court, including training for law enforcement and school administrators on best practices for handling school-related offenses.
- Amend the NCLB Act and IDEA to mandate collaboration between schools, law enforcement, juvenile justice, prosecutors, and other relevant stakeholders to reduce the unnecessary referral of students to the juvenile justice system while simultaneously developing programs to improve retention, safety, and graduation rates.
- Reconsider the 1994 Gun Free Schools Act only as it relates to the automatic, one-year suspension of elementary age and some younger middle school students to allow local school districts to exempt those students where the evidence is clear and convincing that the student had no intent to use a weapon in an assault or to cause physical injury. From time to time, school systems are



reluctant to suspend a child of tender years whose only intent was to show off a weapon that was negligently placed in his or her hands by an adult parent or guardian.

- Reauthorize the Juvenile Justice Delinquency Prevention Act (JJDP A) and incentivize the reinvestment of detention dollars into effective community-based programs similar to the programs in Ohio, Illinois, and Texas to include school and justice system programs to reduce school arrests.
- Strengthen the disproportionate minority contact core protection of the JJDP A to expressly require efforts, initiatives, and programs similar to Clayton County's model to reduce and eliminate racial and ethnic disparities in the referral of students to the juvenile court.

Thank you again for having me here to testify and I look forward to any questions you have for me.