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The Role of the Prosecutor in Juvenile Justice: Advocacy in the Courtroom and Leadership in the Community

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THE ROLE OF THE PROSECUTOR IN JUVENILE JUSTICE: ADVOCACY IN THE COURTROOM AND LEADERSHIP IN THE COMMUNITY

James C. Backstrom[†] and Gary L. Walker^{††}

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I. INTRODUCTION¹

Juvenile justice is the most challenging and complex area of practice for prosecutors in America today. During the 1980s and continuing until 1994, there was an unparalleled increase in the number of criminal offenses committed by juveniles in this country.

Arrests of juvenile offenders for murder skyrocketed between 1985 and 1993, rising approximately 150%.² Juvenile arrests for aggravated assault also rose dramatically by more than 120% from 1983 to 1994.³ Total arrests of juveniles for serious, violent offenses increased by 67% between 1985 and 1994.⁴ Arrests of juveniles for weapons offenses rose by 93% during this same timeframe.⁵ In many areas of our country, substantial growth also occurred in nonviolent juvenile crime during this time period.⁶ The growth rates in juvenile crime between 1985 and 1994⁷ far outpaced the rate for adults, which began to decline in most categories beginning in 1992.⁸

Fortunately, juvenile crime rates in America began to decline in 1994. In 2000, there were an estimated 1200 juvenile arrests for murder.⁹ "Between 1996 and 2000, juvenile arrests for murder fell 55%."¹⁰ Murder arrests were 74% lower in 2000 than they were in

1. This Article was initially completed on December 1, 1999. It was updated in December 2005 to incorporate changes to the *National District Attorneys Association's Resource Manual and Policy Positions on Juvenile Crime Issues* adopted on July 14, 2002, and to incorporate current juvenile crime statistics in the Introduction section.

2. BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES 1997 209 (1997).

3. HOWARD N. SNYDER, U.S. DEP'T OF JUSTICE, JUVENILE JUSTICE BULLETIN, JUVENILE ARRESTS 1996 5 (1997).

4. BUREAU OF THE CENSUS, *supra* note 2, at 209.

5. *Id.*

6. FED. BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, UNIFORM CRIME REPORTS FOR THE UNITED STATES 1994 221 (1995).

7. *Id.*

8. FED. BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, UNIFORM CRIME REPORTS FOR THE UNITED STATES 1993 225 (1994); FED. BUREAU OF INVESTIGATION, *supra* note 6, at 225; FED. BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, UNIFORM CRIME REPORTS FOR THE UNITED STATES 1995 216 (1996); FED. BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, UNIFORM CRIME REPORTS FOR THE UNITED STATES 1996 222 (1997); FED. BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, UNIFORM CRIME REPORTS FOR THE UNITED STATES 1997 243 (1998).

9. HOWARD N. SNYDER, U.S. DEP'T OF JUSTICE, JUVENILE JUSTICE BULLETIN, JUVENILE ARRESTS 2000 1 (2002).

10. *Id.* at 3.

1993.¹¹ “Juvenile arrests for violence in 2000 were the lowest since 1988.”¹² Aggravated assault arrests dropped 14% from 1996 to 2000 as well.¹³ “The number of juvenile arrests in 2000—2.4 million—was 5% below the 1999 level and 15% below the 1996 level.”¹⁴ Additionally, the juvenile arrest rate for Property Crime Index offenses fell 37% between 1994 and 2000.¹⁵ “Between the peak years and 2000, the juvenile arrest rate for robbery declined substantially (57%), falling to its lowest level in two decades.”¹⁶

This decline is obviously good news and hopefully predictive for the future. The question remains, however, whether juvenile crime decreases will continue over the next two decades given the large increases we have seen and will continue to see in the number of juveniles in our country between 1990 and 2010. Estimates in a 1998 Bureau of the Census report reflect a growth in juvenile population of approximately 22% during this time period.¹⁷

Despite dramatic decreases in the overall number of juvenile offenses since 1994, juvenile crime continues to be a significant problem in America. Perhaps the most significant example of the encroachment of juvenile violence into rural and suburban America has been the rash of tragic school shootings that have occurred since 1996 in Moses Lake, Washington; Bethel, Alaska; Pearl, Mississippi; West Paducah, Kentucky; Jonesboro, Arkansas; Springfield, Oregon; and Littleton, Colorado, among other cities.¹⁸ Two of the most recent school shootings in this country occurred in Minnesota: in 2003 at Cold Spring and in 2005 at Red Lake. School shootings in America from 1996 to 2005 left sixty students and teachers dead and 113 others seriously wounded.¹⁹ The defendants in these cases were between the ages of eleven and

11. *Id.* at 1.

12. *Id.* at 4.

13. *Id.* at 3.

14. *Id.*

15. *Id.* at 5.

16. *Id.* at 6.

17. BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, POPULATION PROJECTIONS OF THE UNITED STATES BY AGE, SEX, RACE, AND HISPANIC ORIGIN: 1995 TO 2050 72 (1996); BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, U.S. POPULATION ESTIMATES BY AGE, SEX, RACE, AND HISPANIC ORIGIN: 1990-1997 28 (1998).

18. Infoplease, A Time Line of Recent Worldwide School Shootings, <http://www.infoplease.com/ipa/A0777958.html> (last visited Mar. 2, 2006); *see also* Richard Lacayo, *Toward the Root of the Evil*, TIME, Apr. 6, 1998, at 38 (reflecting on school shootings after the Jonesboro, Arkansas shooting).

19. Infoplease, *supra* note 18.

eighteen.²⁰ These types of multiple killings by children were unheard of even two decades ago. While not reflective of typical juvenile crime in America today, this does represent an alarming trend which cannot be ignored.

It is important to start, or continue, large-scale community-wide efforts to address the problem of juvenile crime in America. Despite decreases in the rates of juvenile crime, there remain significant instances of extreme violence by juveniles.²¹ When this is combined with the growth in the number of juveniles in America, the continuing problems of drug and alcohol use by minors, and the rapid growth in methamphetamine use,²² we can ill afford to sit back and wait.

The challenge for prosecutors dealing with juvenile crime is not merely a reflection of increasing caseloads. No longer does the prosecutor serve merely as the gatekeeper to the juvenile court system by determining which juveniles should be charged with crimes, which should be diverted from prosecution, and whether efforts should be made to seek waiver or transfer to adult criminal court. While these basic, core functions remain for all prosecutors, juvenile prosecutors must do far more to cope with the complexity of juvenile crime today. Greater expertise is needed to address violent crimes committed by juveniles and new laws dealing with victim rights, transfer to adult court, and expanded juvenile court jurisdiction. Today's juvenile prosecutor must not only serve as an advocate for justice, for the victim, and for community values, he or she must also serve as a negotiator and dispositional advisor in juvenile cases. Additionally, today's juvenile prosecutor must go beyond the courthouse and become a community leader and teacher, working with civic and social groups, churches, and schools, to prevent juvenile crime before it occurs. This Article addresses both the core functions and the expanding challenges facing today's juvenile prosecutor.

20. *Id.*

21. *See supra* notes 18-20 and accompanying text.

22. Each author has noticed a continuing rise in the number of methamphetamine prosecutions in his respective jurisdiction during recent years.

II. ORGANIZING THE PROSECUTOR'S OFFICE TO RESPOND MOST EFFECTIVELY TO JUVENILE CRIME

A. *Assigning an Experienced and Trained Juvenile Prosecutor Is Critical*

Working with juvenile cases may be the most important work any prosecutor will do during his or her career. It is therefore vital that juvenile prosecutors receive appropriate training and be selected on the basis of their "skill and competence."²³ The chief prosecutor should look to issues such as "knowledge of juvenile law, interest in children and youth, education, and experience" in determining which assistants should be assigned to handle juvenile court matters.²⁴ Prior criminal trial experience and adequate training to develop trial skills are also very important.²⁵

The practice of assigning juvenile court cases to entry-level prosecutors, which historically has been the pattern in many prosecutors' offices, must change. In today's world, juvenile cases are clearly as important, and certainly more complex, than those involving adult offenders. Juvenile cases often pose technical difficulties not always seen in adult cases, and tomorrow's adult criminals are being seen in juvenile court today. Additionally, the presentation of evidence and dispositional alternatives require expertise that the new, under-trained, or less experienced prosecutor cannot provide. Juveniles who commit criminal offenses require special attention. With a more effective approach to the handling of juvenile offenders, the chances for successful rehabilitation may be greater than with most adult offenders. Therefore, it is vital to have a single, trained, experienced deputy who can evaluate the case, the juvenile's criminal and social history, and the dispositional alternatives in the effort to obtain justice.

B. *Vertical Prosecution of Juvenile Cases Should Occur Whenever Possible*

Vertical prosecution (assigning the same prosecutor from initial charging through disposition) ensures continuity in the handling of juvenile cases. The lack of continuity resulting from using different prosecutors in the same case may reduce the

23. NAT'L DIST. ATTORNEYS ASS'N, NATIONAL PROSECUTION STANDARDS § 92.1d (2d ed. 1991).

24. *Id.*

25. *Id.*

opportunity for obtaining meaningful consequences and successful rehabilitation.²⁶ Vertical prosecution provides a message that the prosecution will stand firm,²⁷ both to the juvenile's attorney and to the court. It is beneficial to have one person applying consistent criteria in an effort to hold juveniles accountable for their behavior. Continuity may also be accomplished by assigning all probation violations and future cases to one prosecutor,²⁸ preferably the same individual who handled the initial prosecution, if possible.

In larger jurisdictions, vertical prosecution may be more difficult. When cases are waived or transferred to adult court, those cases are usually prosecuted by the adult prosecution unit. However, the adult unit prosecutor should discuss all of the details surrounding the juvenile's background with any juvenile prosecutor who has previously dealt with the youth to ensure the most effective prosecution and the most appropriate sentence.

C. Juvenile Cases Should Be Processed as Quickly as Possible

"Time is a major consideration in handling juvenile cases. Children often fail to remember what action[s] they took yesterday, let alone several months earlier."²⁹ The longer it takes to complete a juvenile case, the more likely the child will lose the long-term message.³⁰ While speedy processing of all juvenile cases is a goal, timely response is most important when dealing with serious, violent, or habitual offenders.³¹ These offenders serve as an example to other juveniles. Therefore, the juvenile justice system

26. NAT'L DIST. ATTORNEYS ASS'N, RESOURCE MANUAL AND POLICY POSITIONS ON JUVENILE CRIME ISSUES 6 (2002).

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.* The NDAA has defined serious, violent and habitual offenders as follows:

- a serious offender is one who is caught for the first time having committed multiple felony offenses, a major economic crime, repeated misdemeanor crimes of violence, or other offenses defined by a local jurisdiction as serious;
- a violent offender is one who was involved in the commission of a felony crime of violence;
- an habitual felony offender is one who was found guilty of at least two prior felonies.

None of these categories is mutually exclusive. *Id.* at 2-3.

needs to demonstrate that the community has expectations of behavior, will not tolerate violations of those expectations, and will swiftly sanction any violations.³² When the crime is far removed from the ultimate disposition of the case, such a demonstration cannot be made.³³

III. THE PROSECUTOR SERVES AS THE GATEKEEPER TO THE JUVENILE JUSTICE SYSTEM

A. *Charging Function*

A prosecutor should serve as a gatekeeper to the juvenile justice system by determining who should be charged with crimes, who should be diverted from prosecution, and whether efforts will be made to seek waiver or transfer to adult criminal court. The discretionary decision to charge or not charge is the heart of the prosecutorial function.³⁴ The exercise of appropriate prosecutorial discretion is as essential in juvenile court as it is in adult court. Such discretionary decisions require legal expertise, consistency of purpose, and accountability.³⁵ The decision as to which charges, if any, are appropriate or whether the juvenile should be diverted into a program designed to ensure accountability without charging should be based upon all of the available facts and evidence in a case.³⁶ While the prosecutor's primary duty is to seek justice and to protect the public safety, it is also appropriate to consider the special interests and needs of the juvenile to the extent that this can be done without compromising the safety and welfare of the community.³⁷

A juvenile prosecutor should have the right to screen cases to determine whether facts of each case are legally sufficient for prosecution.³⁸ Legal sufficiency exists only in those cases in which a prosecutor reasonably believes the charges can be proven by admissible evidence at trial.³⁹ In other words, the prosecutor must

32. *Id.* at 6.

33. *Id.*

34. *Id.* at 7 (citing *Brown v. Dayton Hudson Corp.*, 314 N.W.2d 210, 214 (Minn. 1981)).

35. *Id.* at 7.

36. *Id.* at 8.

37. NAT'L DIST. ATTORNEYS ASS'N, *supra* note 23, § 92.1b.

38. *Id.* § 92.2a.

39. *Id.* § 92.2b.

determine that there is sufficient probable cause to believe “that a delinquent act was committed and that the juvenile accused committed it.”⁴⁰ If not, no charges should be pursued.⁴¹

The NDAA believes that any system in which the prosecutor’s office does not have the responsibility, either by law or practice, to initiate juvenile court prosecutions is inappropriate.⁴² The NDAA sets forth the following reasons for this conclusion:

- Prosecutors have a responsibility to represent the State in court on juvenile cases and therefore should have the right to determine what cases are filed in that court.
- Prosecutors are unable to utilize an effective prosecution policy or effectively implement prosecution standards without control over the charging decision.
- Prosecutors are trained on the legal aspects of the charging process.
- Prosecutors give public safety a high priority in their decision-making process.
- Prosecutors take into consideration the interests of the victim and have a process for giving and receiving information from victims.
- Prosecutors have access to both the criminal and social background of the juvenile.
- Prosecutors are more easily accountable to the public than are other individuals in the juvenile justice system.⁴³

The charging of crimes is an executive function which the judicial branch should not perform because of the need to maintain appropriate separation of powers. Also, charging is not an appropriate police or corrections department responsibility because of the need to ensure proper legal review of the sufficiency of the evidence.⁴⁴ In addition, as lawyers and officers of the court, prosecutors are governed by ethical standards that are not applicable to police or corrections officials. The decision to charge someone with a crime is appropriately a decision that should be

40. *Id.*

41. *Id.*

42. *Id.* § 92.2; NAT’L DIST. ATTORNEYS ASS’N, *supra* note 26, at 8.

43. NAT’L DIST. ATTORNEYS ASS’N, *supra* note 26, at 7.

44. *Id.* at 8.

made by an independent prosecutor who serves in the executive branch of government.

B. Development of Charging and Disposition Guidelines

Many prosecutors have adopted written charging and disposition guidelines. In Minnesota, prosecutors are required to do so by law.⁴⁵ Guidelines do not limit the discretion of a prosecutor's office in charging and disposing of cases, but help to assure the public that prosecutors exercise their discretion by using fair, non-discriminatory criteria. Charging and disposition guidelines for juvenile cases should therefore be developed by the prosecutor's office.

C. Diversion

The decision to divert a case from prosecution is also a charging decision. "[I]t is a determination that sufficient evidence exists to file a charge in court but that the goals of prosecution can be reasonably reached through diversion."⁴⁶ Prosecutors should consider establishing diversion programs for appropriate first-time or low-level juvenile offenders who pose no apparent danger to the public safety.

Diversion programs should contain criteria to insure that the diverted juvenile offender is held accountable for his/her actions and that restitution is made to the victim of the crime where appropriate. Diversion programs can also play an important role in education and prevention efforts which are critical to efforts to reduce rising levels of juvenile crime in this country. In the event an agency other than the prosecutor's office coordinates a juvenile diversion program, the prosecutor should be involved in establishing the eligibility criteria and other guidelines for the program. Any diversion program should contain provisions to insure that diverted juveniles who do not successfully complete the program are referred back to the prosecutor's office for prosecution.⁴⁷

The NDAA's National Prosecution Standards for Juvenile

45. MINN. STAT. § 388.051, subd. 3 (2004). A copy of the Charging and Disposition Guidelines of the Dakota County Attorney's Office for either adult or juvenile offenses can be found at <http://www.co.dakota.mn.us/attorney>.

46. NAT'L DIST. ATTORNEYS ASS'N, *supra* note 26, at 8.

47. *Id.*

Justice address the factors that should be taken into consideration by a prosecutor in determining whether to charge juveniles formally or whether to divert them from prosecution. These factors include:

- (1) The seriousness of the alleged offense;
- (2) The role of the juvenile in that offense;
- (3) The nature and number of previous cases presented by the police or others against the juvenile and the disposition of those cases;
- (4) The juvenile's age and maturity;
- (5) The availability of appropriate treatment or services;
- (6) Whether the juvenile admits guilt or involvement in the offense charged;
- (7) The dangerousness or threat posed by the juvenile to the persons or property of others;
- (8) The provision of financial restitution to victims; and
- (9) Recommendations of the referring agency, victim, and advocates for the juvenile.⁴⁸

As with charging and disposition guidelines, the use of diversion-program guidelines promotes public confidence that eligibility standards for the program are fair, nondiscriminatory, and appropriate. These guidelines will also assist juvenile offenders, their attorneys, and parents in clearly understanding who is eligible for the program and what the program requirements will be.

D. Prosecution of Juveniles in Adult Criminal Court

Juveniles who commit crimes are usually subject to the jurisdiction of juvenile court. In certain situations, depending upon the seriousness of the crime, the threat to public safety, the age of the juvenile, the juvenile's criminal history and other relevant factors, the juvenile offender may be tried in adult criminal court. The process by which this is accomplished is commonly referred to as transfer, waiver, or certification, depending upon the jurisdiction. Whether or not a juvenile offender

48. NAT'L DIST. ATTORNEYS ASS'N, *supra* note 23, § 92.2g.

should be prosecuted in adult court is one of the most critical decisions within the juvenile justice system.⁴⁹

The process of certifying serious, violent, and habitual offenders to adult court is being reviewed, or has recently been changed, in a number of jurisdictions throughout America. For instance, in the past four years, Minnesota⁵⁰ and Michigan⁵¹ have both adopted such changes.

Three main categories of laws exist in various states with respect to the decision of whether a juvenile should be prosecuted as an adult:

- (1) The legislature mandates the transfer of a juvenile case to adult court,
- (2) The prosecutor is vested with the discretion to determine whether to transfer a juvenile case to adult court, and
- (3) The juvenile court judge is vested with the discretion to determine whether a juvenile case should be transferred to adult court.⁵²

Most jurisdictions follow a process similar to category (3) in which the juvenile court judge makes the final decision on whether a case should be transferred to adult court. However, the prosecutor has the discretion to initiate the process. In exercising that discretion, the prosecutor is called on to assess the seriousness of the crime and the threat to the public safety, and not to make a determination based on the best interests of the child, which has long been the standard applicable in most juvenile court proceedings.⁵³

A number of states are considering legislation requiring that juveniles who commit serious or violent crimes, and who are over a certain age, be automatically prosecuted as adults. Minnesota has adopted this automatic adult prosecution standard for youth who are at least sixteen years old and charged with first degree

49. NAT'L DIST. ATTORNEYS ASS'N, *supra* note 26, at 10.

50. MINN. STAT. § 260B.125 (2004).

51. MICH. COMP. LAWS ANN. § 712A.4 (West 2002).

52. NAT'L DIST. ATTORNEYS ASS'N, *supra* note 26, at 10.

53. This is the best practice approach used by the authors of this article within their respective jurisdictions. See OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, DELINQUENCY CASES WAIVED TO CRIMINAL COURT, 1988-1997, FACT SHEET #02 (2000); OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, JUVENILE TRANSFERS TO CRIMINAL COURT IN THE 1990'S: LESSONS LEARNED FROM FOUR STUDIES 45 (2000).

murder,⁵⁴ and in Michigan the waiver decision for juveniles over the age of fourteen rests with the prosecutor only in certain enumerated offenses.⁵⁵ In contrast, the NDAA has adopted a policy recommending that for serious, violent, and habitual offenders, where factually appropriate, prosecutors should be given the discretion to file such cases in adult court without judicial intervention.⁵⁶

The NDAA also believes that “[o]nce a juvenile case has been transferred to adult court for prosecution, prosecutions for all further crimes committed by the youth also should occur in adult court regardless of the seriousness of the offense,”⁵⁷ if there has been a finding of probable cause⁵⁸ in adult court for the original offense. “In those situations where a prior case in which a juvenile is being tried as an adult has not been completed, additional charges filed against this juvenile in unrelated cases should also be dealt with in adult court.”⁵⁹

A number of states have adopted new juvenile code provisions providing for prosecution of juveniles who commit serious crimes, not necessarily sufficient to result in adult prosecution for the offense, in a manner that results in sanctions greater than a simple juvenile court disposition.⁶⁰ These types of juvenile code provisions are commonly referred to as “blended sentencing” laws.⁶¹

54. MINN. STAT. § 260B.007, subd. 6(b).

55. MICH. COMP. LAWS ANN. § 600.606(1).

56. NAT’L DIST. ATTORNEYS ASS’N, *supra* note 26, at 9.

57. *Id.* at 11.

58.

The notion of “probable cause” is added to the policy concerning this issue to address those situations in which a juvenile who is prosecuted as an adult is acquitted for the most serious crime but convicted of a lesser offense. In such a case, the acquittal on the more serious charge should not be grounds to keep future offenses involving the youth out of adult court, because a finding of probable cause concerning the commission of the more serious offense previously was made by a court or grand jury. Obviously, if evidence is brought forth resulting in the dismissal of such charge before trial, or if evidence brought forth at trial leads a judge to conclude that probable cause no longer exists as to the more serious offense in question, this same logic would not hold. Thus, no automatic presumption of adult prosecution in future cases should apply under those circumstances.

Id.

59. *Id.*

60. *Id.*

61. For an excellent discussion of blended sentencing referencing various state laws see PATRICIA TORBET ET AL., U.S. DEP’T OF JUSTICE, STATE RESPONSES TO SERIOUS AND VIOLENT JUVENILE CRIME 11-16 (1996).

Minnesota, for example, has adopted a “blended sentencing” model called Extended Jurisdiction Juvenile (EJJ) Prosecutions.⁶² EJJ prosecutions are commonly thought of as “one last chance” for the juvenile offender to correct his or her behavior before facing an adult prison sanction. Cases prosecuted under Minnesota’s EJJ law result in an adult prison sentence for the crime which is stayed pending successful completion of a juvenile disposition in the case.⁶³ The juvenile court’s jurisdiction is also extended from age nineteen to twenty-one.⁶⁴ If the juvenile EJJ offender fails to comply with the conditions of the juvenile court disposition or commits a new crime before age twenty-one, the stay of the adult prison sanction can be lifted and the prison term imposed.⁶⁵

The NDAA has adopted a position in favor of “blended sentencing” structures for serious, violent, or habitual offenders who are not prosecuted as adults.⁶⁶ The prosecutor, however, needs to exercise care that these “blending sentencing” models are imposed in a logical, fair, and consistent manner.

IV. THE PROSECUTOR IS AN ADVOCATE FOR JUSTICE, THE VICTIM, AND COMMUNITY VALUES

The prosecutor needs to be an advocate for justice, the victim, and community values. It is easy in a juvenile justice system, which has long looked to the best interests of the child as its primary purpose, for prosecutors to lose their focus on the need to serve as advocates for justice. While prosecutors should consider the special interests and needs of a juvenile when handling a case, they should never lose sight of their primary duty to seek justice and protect the public safety and welfare of the community.⁶⁷

Juvenile prosecutors should ensure that the crime victims are kept properly notified of important decisions in the case, including charging and disposition matters, in the same manner as in adult prosecutions. Victims should be notified of and offered the opportunity to attend all hearings in a juvenile case and should be contacted, if possible, prior to accepting a plea agreement. The prosecutor should also ensure that the victim has the opportunity

62. MINN. STAT. § 260B.130 (2004).

63. *Id.*

64. *Id.*

65. *Id.*

66. NAT’L DIST. ATTORNEYS ASS’N, *supra* note 26, at 11.

67. NAT’L DIST. ATTORNEYS ASS’N, *supra* note 23, § 92.1b.

to address the court prior to disposition. Furthermore, the prosecutor must make efforts to ensure that restitution is paid so that the victim can, to the greatest extent possible, be made whole and not suffer financial losses as a result of the criminal activity.⁶⁸

Juvenile prosecutors also must keep in mind that they serve the interests of all the citizens in the community. The prosecutor's actions should be consistent with community values. To ensure awareness of these values, juvenile prosecutors should attend and participate in community meetings and other activities concerning juvenile crime or crime prevention within their jurisdictions. By doing so, they will hear, firsthand, the feelings of the public concerning juvenile crime and its consequences.

While many appropriate programs involving concepts of "restorative justice"⁶⁹ have been developed and implemented across the country, it is important to ensure that these types of dispositions do not adversely impact the crime victim. In this regard, the NDAA's Resource Manual and Policy Positions on Juvenile Crime Issues points out that "victims should not be required to participate in such [restorative justice] programs which require mediation between the offender and victim. Many crime victims do not desire any further contact with the offender who has victimized them and their rights in this regard need to be respected."⁷⁰

In reference to the pursuit of justice, the prosecutor must keep in mind the concepts of fairness and accountability. Whether it is through court disposition or part of a diversion program, the punishment for an offense should be applied fairly to all defendants under similar circumstances and should hold juvenile offenders accountable for their actions. The prosecutor may elect to exercise discretion to dismiss a case that may be technically sufficient, but that lacks prosecutorial merit from a policy or economic standpoint. The prosecutor may dismiss a case at any time in the proceedings if it is determined to be in the best interests of justice.⁷¹ However, care should be taken to conform to appropriate guidelines in making these decisions. As mentioned above, prosecutors should adopt written charging and disposition

68. NAT'L DIST. ATTORNEYS ASS'N, *supra* note 26, at 21-22.

69. See *infra* Part V (discussing concept of "restorative justice").

70. NAT'L DIST. ATTORNEYS ASS'N, *supra* note 26, at 23.

71. This is the best practice approach used by the authors within their jurisdictions. See NAT'L DIST. ATTORNEYS ASS'N, *supra* note 23, Commentary, at 258.

guidelines that are available to the public to ensure both internal consistency and public accountability.

V. THE JUVENILE PROSECUTOR MUST SERVE AS A TRIAL AND DISPOSITIONAL ADVOCATE AS WELL AS AN EFFECTIVE NEGOTIATOR

Making a charging decision does not end the prosecutor's role and responsibilities. The prosecutor should take an active role in all phases of a juvenile case, including both adjudication and disposition.⁷² The prosecutor should ensure that decisions involving juvenile cases are made in a timely fashion to protect juveniles' rights to a speedy disposition of their cases. Cases requiring the detention of a juvenile offender should receive priority treatment. As previously mentioned, the timely resolution of juvenile cases is even more important than in the adult criminal system. Juveniles need to understand clearly the harmful nature of their actions and receive a timely disposition that holds them appropriately accountable. A disposition occurring many months after the juvenile's act will not have the same force and impact as one occurring in a timelier manner. Prompt determinations also promote public confidence in the system and fairness to the victim and community.⁷³

The juvenile prosecutor should assume the traditional adversary role in the adjudicatory hearing, recognizing, however, the particular vulnerability of child witnesses.⁷⁴ All juvenile witnesses, including suspects should they testify, must be treated fairly and with sensitivity in direct examination, cross-examination, and throughout the adjudicatory process.

The prosecutor should also be involved in all plea negotiations with a juvenile or the juvenile's attorney. In negotiating pleas, a prosecutor should follow appropriate guidelines for the disposition of cases to ensure fairness and public confidence in the decision. As mentioned above, efforts should be made to contact the victim prior to entering any plea agreement in order to obtain the victim's comments or concerns.

Further, the prosecutor should be consulted in all decisions affecting the disposition of a case. No case should be dismissed without providing the prosecutor with notice and an opportunity to

72. NAT'L DIST. ATTORNEYS ASS'N, *supra* note 23, § 92.5-92.6.

73. *Id.* § 92.2.

74. NAT'L DIST. ATTORNEYS ASS'N, *supra* note 23, § 92.5b.

be heard.⁷⁵ Juvenile prosecutors should take an active role in the dispositional hearing in a juvenile case, including making recommendations to the court as to the appropriate disposition.⁷⁶ The prosecutor should review all reports prepared by the corrections department and others before making this recommendation. The prosecutor must “ensure that the court is aware of the impact of the juvenile’s conduct on the victim and community and should further report to the court concerning restitution and community service.”⁷⁷ The prosecutor should also take into consideration what the penalty for the crime would be if it had been committed by an adult.

The prosecutor should provide input concerning the most appropriate dispositional program alternatives for a given case. Prosecutors should periodically evaluate the effectiveness of dispositional programs used for juvenile offenders within their jurisdictions from the standpoint of the public’s and the youth’s interests.⁷⁸ A dispositional decision which places a juvenile in a program that is not accomplishing the goals for which it was created is a waste of taxpayer resources and is not in the best interests of the juvenile offender or the public. The prosecutor should also seek new and more appropriate resources, and may create these resources through diversion programs coordinated by the prosecutor’s office.⁷⁹

Age alone should not be a mitigating factor in the prosecutor’s recommended disposition or the court’s sentencing order for cases involving serious, violent, or habitual juvenile offenders.⁸⁰ The prosecutor’s dispositional recommendation, in the final analysis, should focus upon the prosecutor’s primary role of protecting the public safety and welfare, holding the juvenile appropriately accountable for the crime committed, and meeting the needs and interests of the juvenile offender.⁸¹

Regardless of whether the juvenile or adult justice system is used to adjudicate serious, violent, or habitual juvenile offenders, meaningful sanctions should apply. Unfortunately, many states do not have sufficient resources to ensure that serious, violent, or

75. *Id.* § 92.5d.

76. *Id.* § 92.6a.

77. NAT’L DIST. ATTORNEYS ASS’N, *supra* note 26, at 15.

78. NAT’L DIST. ATTORNEYS ASS’N, *supra* note 23, § 92.6d.

79. *Id.*, Commentary, at 264.

80. NAT’L DIST. ATTORNEYS ASS’N, *supra* note 26, at 14.

81. *Id.* at 13-14; *see also* NAT’L DIST. ATTORNEYS ASS’N, *supra* note 23, § 92.6c.

habitual offenders are placed in a correctional setting. Such resources are needed. Probation alone is not an appropriate sanction for serious, violent, or habitual juvenile offenders. The NDAA has concluded that the “primary factors affecting a juvenile’s sentence should be the seriousness of the crime, the protection of the community from harm, and accountability to the victim and the public for the juvenile’s behavior.”⁸² Prosecutors should consider factors such as the seriousness of the juvenile’s prior criminal history.

The concept of balanced and restorative justice, sometimes referred to as BARJ, has been incorporated into the juvenile codes of several states and has been expanding into practice in many other jurisdictions.⁸³ Restorative justice has different definitions in various jurisdictions. The primary concept, however, is the development of a new framework for criminal justice that focuses on the injury resulting from the crime and the importance of repairing the harm to victims, communities, and relationships.⁸⁴ Restorative justice looks to the need to “restore” a community, the victim, and the offender through the disposition of the criminal case. The NDAA has recognized the importance of incorporating restorative justice goals by adopting sentencing policies that include the need for a juvenile’s sentence to “emphasize provisions for community safety, offender accountability, and competency development so that offenders can re-enter the community capable of pursuing non-criminal paths.”⁸⁵ It is important, however, not to lose sight of the need to retain “balance” in the restorative justice framework. Protecting public safety and insuring appropriate punishment for criminal behavior committed by juvenile offenders is critical, and juvenile prosecutors must assure that these important considerations are not overlooked in “restorative” dispositions in juvenile cases.

The NDAA Resource Manual and Policy Positions on Juvenile Crime Issues also underscores the importance of ensuring an adequate response to less serious crimes committed by juvenile offenders: “As to less serious offenders, while there is a need to

82. NAT’L DIST. ATTORNEYS ASS’N, *supra* note 26, at 14.

83. *See, e.g.*, 42 PA. CONS. STAT. § 6301 (1996).

84. *See* Kathy Elton & Michelle M. Roybal, *Restoration, a Component of Justice*, 2003 UTAH L. REV. 43, 49-51 (2003) (discussing restorative justice as a theory for juvenile justice).

85. NAT’L DIST. ATTORNEYS ASS’N, *supra* note 26, at 14.

rehabilitate the juveniles, an important aspect of rehabilitation includes punishment. There needs to be adequate resources for the court to impose punishment through the use of appropriate and effective sanctions.”⁸⁶

The prosecutor’s role does not end with a disposition hearing. The prosecutor should continue to represent the State’s interests in all appeals, as well as in hearings concerning revocation of probation, modification of disposition, or other collateral proceedings attacking orders of the court.⁸⁷ The prosecutor should also take steps to let the juvenile court know if its orders are not properly being followed.⁸⁸ This follow-up by the prosecutor to ensure that dispositions are properly being carried out also helps maintain public confidence in our system of juvenile justice. Failure to provide consequences for noncompliance of parole or probation conditions endangers the public, creates a negative image of the system, and increases the likelihood that juvenile offenders will become more violent or habitual in their behavior. In this regard, the NDAA has adopted a policy that “[t]here should be assured consequences, including the use of detention space, for those juveniles who violate conditions of probation.”⁸⁹

VI. THE PROSECUTOR’S ROLE IN CHILD ABUSE AND NEGLECT CASES

Juvenile justice and delinquency should occupy a prominent role in a prosecutor’s office. Equally important is the prosecutor’s role in cases involving the abuse and neglect of children. The protection of those in our communities who are the most vulnerable and unable to protect themselves is of obvious concern. Further, the clear correlation between the abuse and neglect of children and their likelihood to engage in future criminal behavior⁹⁰ suggests the safety of our community, our primary goal, will be well-served by an aggressive approach to these problems.

In Michigan and Minnesota, the Prosecuting Attorney and County Attorney, respectively, have clearly defined roles in child

86. *Id.* at 15.

87. NAT’L DIST. ATTORNEYS ASS’N, *supra* note 23, § 92.7a.

88. *Id.* § 92.7b.

89. NAT’L DIST. ATTORNEYS ASS’N, *supra* note 26, at 14.

90. See FIGHT CRIME: INVEST IN KIDS, FROM AMERICA’S FRONT LINE AGAINST CRIME: A SCHOOL AND YOUTH VIOLENCE PREVENTION PLAN 3 (2003), <http://www.fightcrime.org/reports/SYVPP03.pdf> (“Studies show that being abused or neglected multiplies the risk that a child will grow up to be violent.”).

protection proceedings.⁹¹ Appearing in court to present evidence and advocate for appropriate disposition in cases involving child abuse or neglect is a requirement.⁹²

There are, however, good reasons that the prosecutor should assume a larger role than simply courtroom representation. Often the social service agencies charged with the investigation of child abuse are not adequately trained in either investigation or the standards of evidence necessary to successfully present cases in court. An experienced prosecutor can provide the training and guidance in these areas. The drafting of the petition with allegations of abuse or neglect should be done by the prosecutor because he or she is familiar with burden of proof, evidentiary standards, and legal sufficiency.

The prosecutor should also assume an active role beyond the factual adjudication or finding by the court that abuse or neglect has occurred. A review of dispositional recommendations by the social service agency and court worker should be done as a routine function. If necessary, the prosecutor should present to the court an independent recommendation. The policy of state agencies is often drawn by economic considerations, which may not coincide with the best interest of the child in an individual case. Remember, the prosecutor is the voice of the community.

Obviously, an aggressive role in child abuse and neglect cases requires a prosecutor or assistant prosecutor who is dedicated to his or her role in juvenile court. It takes time and experience to become familiar with all of the dispositional programs and alternatives and to tailor them to each individual case.

Prosecutors are in a unique position to discover instances of abuse or neglect as the focal point of adult and juvenile criminal cases. An in-depth examination of a child delinquency or incorrigibility may find that the behavior is occasioned by an

91. See MICH. CT. R. 5.914(c)(1) (providing that on request of the Michigan Department of Social Services or of an agent under contract with the Department, the prosecuting attorney must serve as a legal consultant to the Department of Social Services or agent under contract with the department at all stages of a child protective proceeding); MINN. STAT. § 260C.163, subd. 4 (2004) (“Except in adoption proceedings, the county attorney shall present evidence upon request of the court. In representing the agency, the county attorney shall also have the responsibility for advancing the public interest in the welfare of the child.”); see also MINN. R. JUV. PROT. P. 39.03.

92. See MICH. CT. R. 5.914(c)(1); MINN. STAT. § 260C.163, subd. 4; MINN. R. JUV. PROT. P. 39.03.

abusive home.⁹³ Domestic violence between adult partners may also involve the couple's children. Cases of criminal sexual abuse of a child should be examined to determine if an abuse/neglect petition is appropriate in addition to criminal charges.

Even if a state does not give its prosecutors jurisdiction in cases of abuse and neglect of children, prosecutors should approach cases involving a child with an eye toward making a referral to the appropriate agency. Also, if a jurisdiction does not permit prosecutorial involvement, prosecutors should consider lobbying for changes necessary to become involved, both for the protection of our children and ultimately of society as a whole.

VII. THE PROSECUTOR SHOULD BE INVOLVED IN COMMUNITY OUTREACH EFFORTS TO ADDRESS JUVENILE CRIME

Perhaps the most important role for a juvenile prosecutor today is one that does not occur in the courthouse. If we are to solve the juvenile crime crisis facing our society, education, prevention, and early intervention are the keys to success. NDAA's Resource Manual and Policy Positions on Juvenile Crime Issues takes the position that "[e]ducation and prevention go hand in hand with effective law enforcement and prosecution efforts, especially in the area of juvenile crime."⁹⁴ Prosecutors should become directly involved in these activities. However, police and prosecutors cannot solve the juvenile crime problem alone. It will take the united efforts of many different groups of people to solve these problems, including parents, youth, teachers, school administrators, faith communities, civic and business leaders, law enforcement officials, and community-based organizations.⁹⁵

Prosecutors can serve a valuable role in educating the public concerning juvenile justice issues by taking the opportunity to address these important matters in public speeches and presentations. Prosecutors can also serve a valuable role by participating in juvenile crime prevention programs within their communities. The NDAA has recognized the importance of this concept in its Resource Manual and Policy Positions on Juvenile Crime Issues, stating that "[e]fforts aimed at education, prevention

93. Katharine W. Scrivner, *The Dilemma of the Abused Delinquent*, 40 FAM. CT. REV. 135, 136-37 (2002) (discussing the potential link between abused children and the juvenile justice system).

94. NAT'L DIST. ATTORNEYS ASS'N, *supra* note 26, at 22.

95. *Id.* at 23.

and early intervention are a critical part of any community's war on crime. Young people at early ages must be taught the dangers of using illegal drugs and abusing alcohol. Youth must also learn to confront their problems in nonviolent ways."⁹⁶

As public leaders, prosecutors are in an ideal position to help coordinate prevention efforts by facilitating the creation of programs designed to help reduce juvenile crime and to promote health and safety. Innovative programs involving diversion for appropriate first-time or low-level juvenile offenders have been established by prosecutors throughout our nation,⁹⁷ as have a number of prosecutor-led truancy intervention programs.⁹⁸ Prosecutor-led education programs have also been developed, such as an innovative project entitled "Courtrooms to Classrooms," first implemented by the Denver District Attorney's Office, which involves a prosecutor who goes into schools to help elementary or middle school students understand how our criminal justice system works and to provide them with a positive role model.⁹⁹

The NDAA believes in the importance of supporting proven crime prevention initiatives, recognizing that programs proven to keep kids from becoming criminals in the first place are some of the most powerful weapons in law enforcement's arsenal against crime.¹⁰⁰ Fight Crime: Invest In Kids, an organization led by over 300 prosecutors, police chiefs, and crime survivors from throughout America, has been active in promoting and funding proven crime prevention initiatives, including programs aimed at providing early childhood care, preventing child abuse and

96. *Id.*

97. Many prosecutors' offices have established pre-charge or pre-trial diversion programs. For example, the Dakota County Attorney's Office in Hastings, Minnesota (Telephone: 651-438-4438; e-mail: attorney@co.dakota.mn.us) has programs for alcohol, marijuana, theft, and tobacco offenses. It also coordinates a Peer Court program for various crimes committed by youth.

98. Many prosecutors' offices have established truancy intervention programs including the Ramsey County Attorney's Office in St. Paul, Minnesota (Telephone: 651-266-3079; e-mail: attorney@co.ramsey.mn.us) and the Prosecuting Attorney's Office in Marquette, Michigan (Telephone: 906-225-8310).

99. This program was initiated in the Office of the District Attorney, 2nd Judicial District, Denver, Colorado (Telephone: 720-913-9000; e-mail: info@denverda.org). It was replicated in the Office of District Attorney, 10th Judicial District, Pueblo, Colorado (Telephone: 719-583-6030) and the Dakota County Attorney's Office in Hastings, Minnesota (Telephone: 651-438-4438; e-mail: attorney@co.dakota.mn.us).

100. See NAT'L DIST. ATTORNEYS ASS'N, *supra* note 26, at 23-24.

neglect, and ensuring that quality child care and after school activities are available for America's youth.¹⁰¹ The importance of these programs and their role in reducing criminal behavior is supported by scientific research. "In Ypsilanti, Michigan, the High/Scope Educational Research Foundation randomly admitted half the at-risk three- and four-year-old applicants to its quality preschool center and provided their parents with in-home coaching and parenting skills for an hour and half each week."¹⁰² "Twenty-two years after the High/Scope services ended, the children admitted to these programs were found to be *just one-fifth as likely* as kids denied the services to be chronic lawbreakers."¹⁰³ "In a similar study in Syracuse, [New York,] at-risk kids who were provided early childhood services and a high quality preschool program were found to be *only one-tenth as likely* as kids denied these services to be delinquent by age 16."¹⁰⁴ "Other research has shown that, even programs that serve only a limited number of kids have significantly reduced juvenile victimization during after school hours."¹⁰⁵ "Another study has shown that with intensive recruiting, after school programs have cut crime by as much as 75 percent in some high-crime neighborhoods."¹⁰⁶ "Another study concluded that participants in after-school programs are more likely to do well in school, to treat adults with respect and to resolve conflicts without violence."¹⁰⁷

101. See James C. Backstrom & Gary L. Walker, *A Balanced Approach to Juvenile Justice: The Work of the Juvenile Advisory Committee*, PROSECUTOR, July-Aug. 1998, at 36, 37; FIGHT CRIME: INVEST IN KIDS, *supra* note 90.

102. Backstrom & Walker, *supra* note 101, at 37.

103. *Id.*; see also LAWRENCE J. SCHWEINHART ET AL., SIGNIFICANT BENEFITS: THE HIGH/SCOPE PERRY PRESCHOOL STUDY THROUGH AGE 27 (1993); FIGHT CRIME: INVEST IN KIDS, *supra* note 90, at 2.

104. Backstrom & Walker, *supra* note 101, at 37; J. Ronald Lally et al., *The Syracuse University Family Development Research Program: Long Range Impact of an Early Intervention with Low-Income Children and Their Families*, in PARENT EDUCATION AS EARLY CHILDHOOD INTERVENTION: EMERGING DIRECTIONS IN THEORY, RESEARCH AND PRACTICE (D.R. Powell, ed., 1988).

105. Backstrom & Walker, *supra* note 101, at 38; see also FIGHT CRIME: INVEST IN KIDS, *supra* note 90, at 1-2 (discussing several studies that have found after school programs in several communities have reduced juvenile crime).

106. Backstrom & Walker, *supra* note 101, at 38; see also Marshall B. Jones & David R. Offord, *Reduction of Antisocial Behavior in Poor Children by Nonschool Skill Development*, 30 J. CHILD PSYCHOL. & PSYCHIATRY & ALLIED DISCIPLINES 737, 737-50 (1989) (noting decrease in charged criminal offenses and other antisocial behavior after skill development program for juveniles was implemented).

107. Backstrom & Walker, *supra* note 101, at 38; see also BETH M. MILLER, SCHOOL-AGE CHILD CARE PROJECT [now called the National Institute on Out-of-

Youth who are neglected or abused in their early years run a significantly greater risk of acting out violently when they become teenagers.¹⁰⁸ With almost three million American children reported as being abused or neglected in 1995,¹⁰⁹ we need to make sure that child protection agencies have sufficient resources to identify and treat abused and neglected children. Studies in this area have once again shown the importance of reducing violence and criminal behavior. The Prenatal and Early Infancy Project¹¹⁰ assigned half a group of at-risk families to receive visits by specially trained nurses who provided coaching, parenting skills, and other advice and support. The program was shown not only to *reduce child abuse within participating families by 80%* in the first two years, but also resulted in participating mothers receiving only one-third as many arrests, and their children being *only half as likely* to be delinquent than non-participating families.¹¹¹ A similar “Healthy Start” Program in Hawaii, which offered at-risk mothers preventive health care and home visits by para-professionals who coached them in parenting skills, child development, and offered family counseling,¹¹² showed that over a four-year period those who had not received such services were more than two and a half times as likely to have a confirmed instance of child abuse within their families.¹¹³

Truancy is one of the most important predictors of juvenile delinquency and is one of the common factors that runs through the background of almost all juveniles who find their way into court.¹¹⁴ Funding must be made available for effective truancy

School Time], OUT-OF-SCHOOL TIME: EFFECTS ON LEARNING IN THE PRIMARY GRADES (1995); Jill K. Posner & Deborah L. Vandell, *Low-Income Children's After-School Care: Are there Beneficial Effects of After-School Programs?*, 65 CHILD DEV. 440, 440-56 (1994).

108. See FIGHT CRIME: INVEST IN KIDS, *supra* note 90, at 3.

109. *Id.*

110. David Olds et al., *Long-term Effects of Home Visitation on Maternal Life Course and Child Abuse and Neglect: Fifteen-year Follow-up of a Randomized Trial*, 278 JAMA 637, 637-52 (1997); David Olds et al., *Long-term Effects of Nurse Home Visitation on Children's Criminal and Antisocial Behavior: 15-Year Follow-up of a Randomized Controlled Trial*, 280 JAMA 1238, 1238-44 (1998).

111. See FIGHT CRIME: INVEST IN KIDS, *supra* note 90, at 3 (summarizing results of studies cited in note 110, *supra*).

112. NAT'L INST. OF JUSTICE, U.S. DEP'T OF JUSTICE, HELPING TO PREVENT CHILD ABUSE—FUTURE CRIMINAL CONSEQUENCES: HAWAII HEALTHY START 6-8 (1995), available at <http://www.ncjrs.gov/pdffiles/hawaiihs.pdf>.

113. See *id.* at 9.

114. EILEEN M. GARRY, U.S. DEP'T OF JUSTICE, JUVENILE JUSTICE BULLETIN, TRUANCY: FIRST STEP TO A LIFETIME OF PROBLEMS 1 (1996).

intervention programs and the prosecutors of our nation need to work hand in hand with our school districts and social workers to ensure that children are in school and receiving the education that they need to become productive and law abiding citizens in this country.

The importance of funding alcohol and drug abuse programs aimed at youth cannot be ignored. Use of alcohol and drugs is often a precursor to crime and delinquency.¹¹⁵ We must continue to make it a priority to ensure that our youth remain alcohol and drug free.

We must also do all we can to identify troubled and disruptive children at an early age and provide these children and their parents with counseling and training that can help avoid future criminal behavior. It is a warning signal when elementary school children display disruptive behavior. Such children and their parents must be provided with appropriate counseling, social skills training, and other help to ensure their future success. Once again, this is an area where studies have already shown the importance of early intervention. A Montreal study showed that providing disruptive first and second grade boys with services like these *cut in half* the odds that they would be placed in special classes, rated highly disruptive by a teacher or by peers, or be required to repeat a grade in school.¹¹⁶ These are all signs reflecting the risk of future criminal behavior. Mentoring programs allowing youth access to positive adult role models are also extremely important so youth do not look to gang leaders for the support they need.

We must also continue to do everything we can as a society to promote positive assets in youth throughout America. There are far more good kids in this country who are positive role models in their communities than there are delinquents who are committing criminal offenses. We must mobilize these youth to promote their positive assets and enable them to become positive role models for other youth throughout the community. These youth can also serve as resources to help us identify problems and problem kids in our schools and in our communities.

It is important, however, to keep in mind that prevention must

115. ANN H. CROWE, U.S. DEP'T OF JUSTICE, DRUG IDENTIFICATION AND TESTING IN THE JUVENILE JUSTICE SYSTEM 4 (1998).

116. Richard E. Tremblay et al., *Can Disruptive Boys Be Helped to Become Competent?*, 54 PSYCHIATRY 148, 158 (1991).

not come at the expense of failing to invest in prisons and juvenile detention facilities needed to house serious, violent, and habitual offenders or at the expense of police, prosecutors, courts, and corrections departments in America not receiving the funding they need to carry out their primary responsibilities of investigating, convicting, adequately punishing, and monitoring juvenile criminal offenders. There is no substitute for getting dangerous criminals off the street and behind bars. However, the message of Fight Crime: Invest In Kids is a compelling one that we can ill afford to ignore. We must continue our efforts to reduce crime by investing in proven prevention and intervention initiatives, like educational childcare, mentoring programs, and after-school programs. Many law enforcement leaders in America believe such prevention investments are important. Balance between law enforcement and prevention efforts must exist for our criminal justice system to survive and adequately cope with the rising numbers of juvenile offenders who will be flooding its gates in the twenty-first century. Prosecutors and other law enforcement officials need to step beyond their traditional roles and become involved with these types of crime prevention programs. Efforts like these can pay many dividends in the long run by helping to reduce crime.

VIII. CONCLUSION

As the NDAA recently noted in its Resource Manual and Policy Positions on Juvenile Crime Issues, “prosecutors are in the unique position of acting as society’s voice in the juvenile justice system.”¹¹⁷ They are entrusted with ensuring that those who violate our laws are brought to justice and held accountable. To do so, adequate laws must exist to ensure that violent and repeat juvenile offenders are appropriately dealt with by the juvenile justice system. Such laws may provide for adult prosecution for serious, violent, and habitual offenders or for some form of blended sentencing law that provides adequate accountability and protection of the public. Prosecutors must also make sure never to underestimate the importance of dealing with low-level criminal behavior appropriately and aggressively in an effort to prevent the occurrence of more serious behavior. Very few youth are apprehended for acts of violence who have not had some prior contacts with police, schools, or social workers regarding non-

117. NAT’L DIST. ATTORNEYS ASS’N, *supra* note 26, at 28.

violent activities like alcohol abuse or truancy.¹¹⁸ Anti-social behavior must be addressed and appropriately dealt with from its onset.

To deal most efficiently with juvenile crime, prosecutors must also become involved in prevention and early intervention efforts in their communities. “A balanced approach to addressing [juvenile justice] is clearly warranted—one which emphasizes the enforcement, prosecution and detention of . . . juvenile offenders, to protect the public safety and ensure accountability, while at the same time emphasizing the importance of proven prevention and intervention initiatives to prevent these crimes before they occur.”¹¹⁹ Prevention and prosecution are not incompatible. To the contrary, both strategies must be pursued with equal vigor to help reduce juvenile crime in America.¹²⁰ Prosecutors must not only continue to be effective advocates in the courtroom, but must look beyond their traditional roles and become community leaders by establishing programs and participating in initiatives aimed at reducing juvenile crime before it begins.

118. *E.g.*, James W. Payne, *Our Children's Destiny*, TRIAL, Jan. 1999, at 83, 84 (“[F]ailure to correct the truancy . . . problem leads very predictably to more delinquent and sometimes violent behavior.”).

119. Backstrom & Walker, *supra* note 101, at 36.

120. *Id.* at 38.