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July 9, 2012

Senator Dave Nething
Judiciary Committee, Chair
P.O. Box 1059
Jamestown, ND 58402-1059

Re: Interim Judiciary Committee: Juvenile Court Jurisdiction Study
Extended Juvenile Court Jurisdiction

Dear Chairman Nething:

I am writing regarding my April 11, 2012, testimony before the Judiciary Committee pertaining to Extended Juvenile Court Jurisdiction. More specifically, it has been brought to my attention there has been some confusion regarding my response to Representative Koppelman's question on the automatic transfer to adult court. Therefore, I write this letter for purposes of clarification.

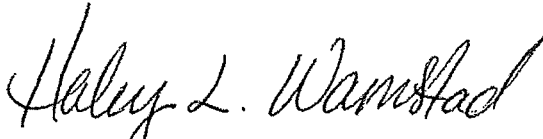
In my testimony, I stated that judges are violating the law on a regular basis. I did not intend to relay the message that the judges are snubbing their nose at the law, nor did I intend to relay that this is happening on a daily or weekly basis. The message I meant to convey was that many of us that work in the juvenile justice system make efforts to avoid the mandatory transfer of an offense if that is not the most appropriate resolution to a case. For example, an offense may be reduced to a lesser charge, it may be charged out under a different section of certain offenses, or it could be handled informally by juvenile court in order to avoid the mandatory transfer. These are options that are considered regularly in cases that qualify for mandatory transfer if a transfer is not the most fair or appropriate result. With that said, avoiding the mandatory transfer is not always a possibility.

It is my understanding that the mandatory transfers are intended for the most serious and violent offenses. The current transfer statute mandates the transfer of certain offenses, such as the gratuitous delivery of one pill of certain controlled substances. This is not one of the most serious offenses we see in juvenile court. Perhaps some courts are not even aware that this type of offense is one that qualifies under the mandatory transfer provision.

Primarily, the point I was trying to relay is if those that work within the juvenile justice system make efforts to avoid a provision of the law they believe is unfair and produces an inappropriate resolution of a case, perhaps the law should be changed. Under Extended Juvenile Court Jurisdiction, the court would be permitted to consider the circumstances of each case individually, rather than the hard-and-fast rule that our current statute provides.

I hope this letter serves as clarification to my testimony. This segment of my testimony was in response to a question and I did not have a chance to carefully select the best way to explain what I intended to relay. Therefore, I apologize for any confusion this may have caused. Please contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Haley L. Wamstad". The signature is written in dark ink and is positioned above the printed name and title.

Haley L. Wamstad
Assistant State's Attorney

Cc: The Honorable Mary M. Maring, North Dakota Supreme Court Justice (via email)
The Honorable William A. Herauf, Juvenile Policy Board, Chair (via email)
The Honorable Sonja Clapp, NECJD Presiding Judge (via email)