

***Juvenile Justice Matters* Transcript from 11/18/10**

Guest: Rep. Carolyn McCarthy

CFYJ: Welcome to Juvenile Justice Matters, produced by the Campaign for Youth Justice. I am Jessica Sandoval. We are here one Thursday a month at this time and have a great show lined up. If you want to call in and ask a question, please call 347-843-4360. I also have opened up our chat room for you to ask questions.

Before we get to our special guests we are joined by our very own Satinder Car who combs through thousands of news articles a month. Every show Satinder will give us an update as to what stories are hot across the country. Take it away Satinder.

-News update-

Thanks Satinder.

Now on to our special guest, United States Congresswoman Carolyn McCarthy. She is currently serving her 7th term representing Long Island's 4th Congressional District. First elected in 1996, the Congresswoman has served Long Island for over 12 years.

McCarthy is the first Congresswoman from Long Island and is included in Newsday's 100 Long Island Influential's, as well as Congressional Quarterly's 50 Most Effective Legislators.

Congresswoman McCarthy serves as a senior member of the Committee on Education and Labor, which works on such legislation as the Juvenile Justice and Delinquency Prevention Act or JJDP. Since 2007 the Congresswoman has been Chairwoman of the Subcommittee on Healthy Families and Communities and is also on the Financial Services Committee.

We applaud your leadership. Thank you for coming to our show.

CM: Thank you Jessica it is a pleasure being on the show and certainly on to educate your listeners about what we are trying to do for our young people that are incarcerated.

CFYJ: Can you tell us a little bit about what the Family Justice Act will do?

CM: Well the Family Justice Act...will strengthen family involvement with children in the JJ system. What it will do is provide competitive grant money to the states to create independent monitoring systems for the JJ facilities. There are many reasons why we introduced the bill but it really came down to, we had many hearings over the last several years on Juvenile Justice issues and the message

that we kept hearing very clearly is more family ties with these particular children, while they can be maintained well in the facilities, the better long term outcome they have. And I think that's important because obviously when a child or young person is put into one of these facilities, the whole idea is to rehabilitate them so they can come back into the community and be productive citizens.

CFYJ: That's wonderful. And so tell us a little bit why you decided to introduce something like this?

CM: Well again, through the hearings that we had, some of the stories, to be very honest with you, were horrifying. We had a young man who committed suicide in a JJ facility. The mother told the committee how completely helpless she felt, mainly because her son was in the facility and she had actually very little contact with him mainly because he was so far away. With that, you know, she felt very strongly that if she had been closer, that she could have been there to basically show family support and be with him as he was going through this time. And also to be his advocate for some of the medications that he was on. If there had been better monitoring, there was a good chance that he probably would not have taken his own life. We also know unfortunately –and this is the horrible part –that these young people are going through this, especially the most vulnerable in my opinion. We know from the DOJ report from January 2010, it indicated the sexual abuse involving officers with juveniles, as well as juveniles with juveniles in these facilities, and it's rampant. I mean it's rampant! So in my opinion, in many, many ways, we're sending these kids to hopefully help them to come back into our community and in my opinion, we're actually bringing these young people back into the community in worse shape than when we sent them there. So we need to have an independent system to better protect the children.

CFYJ: And who better than the families who are involved in their children's lives?

CM: You know, families and certainly advocates, but there has to be an independent monitoring system to protect these children.

CFYJ: And so tell us a little bit about what you hope the bill will accomplish.

CM: Well I mean personally, it's certainly my committee. One of our goals is to basically make sure we're going to be able to protect the children and the families that are involved in the JJ system. You know what it comes down to...who are going to be the advocates for them? And we need to make sure that the advocates are there. You know again, these are young people. These are people that are vulnerable to start with. And to be very honest with you with all the scientific research we have, we know some of these kids have made some bad decisions in their life. That being said, all the scientific information that we have shows that children, which actually means young adult, they sometimes do not make good decisions up to the year of 25 years old. That's just not how they're wired. So again, you know some people might disagree with that, but the

scientific information we've had over the years shows that. Sometimes they make bad decisions and don't understand what the consequences will be. But once we place them into the JJ facilities, that is where the help is supposed to be, and it is not.

CFYJ: So tell us a little bit what you think about the prospects for this family justice act in Congress?

CM: You know, I don't know if we're going to be able to pass it in this congress. We're going into a lame duck session, so it's going to be fairly difficult but, with that being said, certainly Mr. Platts (who is the ranking member now) will become the chairman in January and he's very interested in this particular subject. He's worked very closely with me and we will continue our work when we come back January in the 212th Congress. I'm confident that we can work through the system and get it going.

CFYJ: And for any family members of incarcerated youths out there, is there anything that you would like to tell them about the Family Justice Act, what it is and how they can be involved?

CM: Well, I think it is very important that, number one, they educate themselves about basically what we are trying to do. With that being said they can become involved. You know, a lot of people don't understand they can have a voice, being that this bill is coming through House and certainly coming through the Senate – they have to be advocates and, with that, that means they can call their local congressperson, they can call the senator of their particular state as we move this bill along and they basically have to put the pressure on them [people of Congress]. Members of Congress and the Senate, they need to hear from their constituents. Certainly I know that in my district I hear from my constituents all the time. To be honest with you, a lot of legislation that I introduce through my committee of Healthy Families and Communities come from talking to the people in my community. They need to be involved – don't wait for the other guy to do it. There are different organizations that certainly work with me on this legislation and they need to reach out to them to see how they become activists.

CFYJ: We know, as you mentioned, that this is a lame duck session and there is also legislation on the table to be reauthorized, which is JJDP A and it's pending in the Senate and Chairman Miller has yet to introduce a bill in the House – do you expect to see Congress pass this before adjourning this year?

CM: I honestly don't know whether it will be introduced this year with Chairman Miller but I do know for Chairman Miller and for me and many others on the full committee that it's an important issue for us. So, it will be something that we will work on coming into the new Congress and I think people need to understand that the Republicans have taken over next year and there'll probably be budget cuts and everything else like that. But that does not mean that many of us work

well together on issues that are important to them. This is happening all over the country as far as these children being incarcerated and it's also not mandatory so the states will have opportunities – there will be independent grants to get pilot programs and I think that's important for people to understand.

CFYJ: Is there anything that folks listening or people who are interested in moving these bills, particularly the JJDPA bill, can be doing?

CM: Well, Congress works slow unfortunately. A lot of bills that are not reauthorized continue to be reauthorized at the money so it's not like the program stops dead in its tracks. Obviously in the last couple of years we've had economic crisis, we've had certainly an awful lot of foreclosures and jobs being lost, so sometimes we have to look and see what's the most important thing we have to do, and on the education committee jobs were extremely important and that did take an awful lot of our time. With that being said, many of us that certainly fight through our sub-committees, that would be Healthy Family and Communities, we keep pushing it and we try to wear the chairmen down and get it going.

CFYJ: Absent any congressional action, are there things that the administration can do to move forward?

CM: Well, obviously we work with the administration because they can certainly put a push to it, and once the administration or the Office of Juvenile Justice and Juvenile Delinquency Prevention - you know, we don't have an administrator in that office yet, and we need to make sure that an administrator, once they're in charge of that office, they need to make the re-authorization of the JJDPA a priority. That makes our lives a lot easier. We push the administration, but right now the Senate needs to have a clearing so that somebody can be placed to take over that particular job.

CFYJ: And do you see that position being filled anytime in the near future? Or is that something that is also just on hold?

CM: We're hoping that it's going to be filled in the very near future. The president can actually appoint somebody when we're not in session and I think that's important. So, again, we'll continue to push the administration to make that appointment so that in January hopefully we'll have somebody in place that we can work with, to start going through the whole system to certainly encourage the President to get involved in this issue. Certainly, I think it's important – he understands the issue, he comes from the community where he was an activist and [this is] something that I believe will be important to him and his administration.

CFYJ: So you mentioned the hearings that you had on these issues not long ago and how influential it really is to have the people most affected come and tell their

stories while in fact pieces of legislation are being introduced. What is your personal take on trying youth as adults and housing them in adult facilities?

CM: Well, again, one of the things that I have certainly tried on my committee, on whatever subject it comes up - we bring witnesses that unfortunately have gone through the system, we bring young people who gone through the system and listen to their stories. It's one thing, in my opinion, very powerful to say that we had a woman, who was in the system, not doing well at all, [and] we were able to bring her into a facility that was closer to her home, where her family was and with that support she was able to turn her life around. When she got out she went to work and was doing very well and we think that those are the issues we should be looking at. You know, I know there is an attitude sometimes out there that if you're doing something wrong [you should] be punished. There's punishment and then there's something that goes way beyond what would be considered punishment but, also, very detrimental to a young person when the whole idea going into the system is to rehabilitate them so they can be productive citizens when they come home.

CFYJ: And you've mentioned that you hear a lot about stuff from your constituents – do you hear about juvenile justice issues much, through your office?

CM: I do. I mean I represent the suburban area, kids do get in trouble and with that, speaking for NY State, speaking for Long Island, most of the facilities are either out of state or way upstate. That immediately cuts family off. A lot of these families cannot afford to go upstate and visit and a majority can't travel outside the state to go visit their loves ones. You know, people have to understand some of these kids go into the system for like breaking a curfew or, to be very honest with you, very minor stuff. We had a republican judge that came and testified from Alabama, if I remember correctly, and he just said 'the system is not working.' And a lot of judges, unfortunately, are faced with do I send this child back into a community that might not be the best thing for them, or do I put them in these facilities to try and see if it works? Well, he [the judge from Alabama] is saying that it doesn't work. We need to make sure these facilities have the staff, and certainly have the services available to the children. To be very honest with you, a lot of these facilities that are supposed to be protecting these children need to have better training and, certainly, better access on how to deal with these children.

CFYJ: Are you thinking about other legislation to provide better protection or move kids closer to home, anything like that?

CM: Unfortunately right now with the economic crunch, it's difficult to build these particular facilities but that doesn't mean that we should give up. That is something that we could hopefully work with the state to be able to do something like that and in many cases, also, in my opinion, we should be trying to educate

judges also on what alternative areas are out there. We have out on Long Island and I know these schools, in particular, and throughout the country – you know, alternative schooling. A lot of times that's all it takes, to put a child into an alternative school, with small classes, good services, where they definitely turn around. I know a couple of kids that have actually been in alternative schools and they did very well. With that being said, when they went back to their other schools, they didn't like it because they weren't getting the care that they need and a lot of young children have possibly learning disabilities, possibly some have mental disabilities, but with that being said that doesn't mean that we shouldn't be giving them the help that they need to be productive citizens.

CFYJ: We get a lot of calls from around the country, as you can imagine, about these issues and we get a lot of calls about New York being one of only two states that automatically prosecute children as adults just because of their age, 16 or 17. Do you hear a lot about that issue or is there some traction in New York state to move in another direction, since many other states are definitely heading in that direction, of making the age 18?

CM: Well, you know, we have gone through a period, and again this estimation came from a conservative republican judge, that we went so far over crossing the line of looking at these people because they were 16 and 17 – as said before in this program, a lot of these children don't have the maturity to make the correct decisions. With that being said, we do know that when we send young people tried as adults into an adult incarceration, they come out a lot worse than whatever they went in. They're in an element that they can't handle, they become victims. For a long time, everybody just said that these kids are doing wrong [things], they should be punished. I'm not saying they shouldn't be punished, but you have to look at, number one, the crime, because as mentioned earlier some of these children are sent into an adult prison for minor offences, and that is not the place for them to be.

CFYJ: Especially is they're going in at the age of 16 and the law is that they have to be prosecuted in the adult court for regardless of what the crime is.

CM: See, that's where, in my opinion, you're also taking away why a judge is sitting there. If you put a mandatory sentence on someone, the hands of the judge are turned where you can possibly say that this is a child we can possibly work with, this is a child that shouldn't go into this facility. And I'll be very honest with you – if you talk to some of the correction guards that have these young people in their prisons, a lot of them will say that they should not be here. A lot of them have, like I said, learning disabilities, a lot of them have mental issues. They should not be in prison. This is not where they should be. And [keep in mind] you hear that from correction guards that are with these young people on a daily basis, who have to be isolated from the community – that is not helping anybody. And as they [the guards] say, they're going to end up turning out worse than when they came in.

CFYJ: And I imagine your experience is similar to ours when you hear from someone about these issues, which is that people want to believe that the kids are being punished to the extent of the law but what we end up finding a lot is that when we see these minor issues that they are being charged with, they're getting sentenced with an adult felony, conviction and then adult probation. Many of them are not seeing any facilities unless they're spending pre-trial in a jail, which we also know is as equally dangerous as a prison.

CM: Absolutely, and I think that, again, when you tie the hands of the judge that specializes in juvenile justice and it's a family court – they know how to handle this much better. You know, there are alternatives out there. But if you're saying to a judge that he has to do this – you know, right now New York state and some of the other states are looking at going back to what we call the Rockefeller laws in NY state, you know, trying to cut down on drug use – it turned the hands of the judges and we had our jails filled with people that were certainly very low level offenders. The whole idea originally was to get the top people who were selling the drugs and causing so much harm. But that didn't work out and it's unfortunately very difficult to overturn it because politicians don't want to take the stand on doing something that's right because, oh, I might be weak on handing out justice. Let me tell you something – I'm certainly not weak on when someone does a horrific crime, but I do know the difference between a horrific crime that needs to be punished fully versus a minor offense, which are still given the same term. And when we're talking about...listen, let's be realistic. We're not going to be able to save every single child but there are too many children that are in the system that should not be in the system.

CFYJ: I think that there are that there is just a lack of political will around these issues because it is easier to get elected on a tough on crime platform and [it's] not as easy as the smart on crime.

CM: I happen to believe very strongly that the majority of us – I believe I'm tough on crime, but you also have to look at what is the crime and what are we going to, whether it's a young person...you know, I've worked with young people that have unfortunately committed crimes, they have a felony against them, [but] they've turned their lives around, they've gone back to college, but once you have a felony conviction on you trying to get a job is almost improbable. I had a young man who was turned, went to nursing school, wanted to go up through the ladder and become a nurse's, a doctor's physician – he did that and he could not get a job. And he goes, what do I do? Now here is someone that did turn his life around completely and what I had suggested and what I tried to help him do was get a job and it will probably take many years to prove that he is a good person, but that's what we're facing.

CFYJ: And with the sever budget crisis that our states and everyone is in right now, how do you think that relates to our current population serving time in prison? You're saying with these low level offenders being incarcerated on these

harsh drug laws and the way that we prosecute kids – do you see any movement around getting folks out of these situations and these facilities to reduce the budget?

CM: It's going to be interesting because the majority of states across the country are looking at severe budget cuts. It'll be interesting for NY State as we have a new governor coming in who was a prosecutor and probably understands the situation. So, it'll be interesting – I can't predict what the state will do. Hopefully people will be a little more open as we look at change and hopefully, certainly something I try to do is work with state legislators. We can work together, certainly for the betterment of all our communities.

CFYJ: Well congresswoman McCarthy, we will really appreciate the time that you've given us today and again we applaud your leadership on these issues and your leadership in Congress and we know your time is valuable so we really appreciate you being with us today.

CM: Thank you and the last thing I said, one thing I'll remind your listeners – you have to keep the pressure up. You have to become an activist. I'm here in Congress because something terrible happened in my life and I decided to try and make a change and I became an activist and being an activist led me to Congress to meet those changes. We have it in us to make a change, one person can make a change, but if we all work together it'll make it a lot easier.

CFYJ: Thank you so much.

CM: Thank you so much Jessica, I appreciate it and we'll stay in touch.
CFYJ: Absolutely, can't wait to work with you more.

CM: Bye.

CFYJ: Thanks for joining us for another addition of Juvenile Justice Matters, a production of the Campaign for Youth Justice. Be sure to join us next month, we'll be here once again with another great show. If you'd like to join us on Facebook, please do so as well, and on Twitter. We are Campaign for Youth Justice on Facebook and on Twitter we are JusticeforYouth. Thank you again and if you have any comments or feedback for us please email us at jjmatters@cfyj.org.