



ESSAY

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## A Road Map for Juvenile Justice Reform

Our nation's juvenile justice systems are poised for a fundamental, urgently needed transformation—and not a moment too soon.

Among all of the policy areas affecting vulnerable children and families, juvenile justice has probably suffered the most glaring gaps between best practice and common practice, between what we know and what we most often do. Perhaps because it serves an unpopular and powerless segment of our society—behaviorally troubled, primarily poor, mostly minority teenagers—juvenile justice policy has been too long shaped by misinformation, hyperbole, and political prejudices.

The consequences have been both disturbing and costly: Our juvenile justice systems have become littered with poorly conceived strategies that often increase crime, endanger young people and damage their future prospects, waste billions of taxpayer dollars, and violate our deepest held principles about equal justice under the law.

These systems affect a wide swath of the U.S. youth population. Nationwide each year, police make 2.2 million juvenile arrests; 1.7 million cases are referred to juvenile courts; an estimated 400,000 youngsters cycle through juvenile detention centers; and nearly 100,000 youth

are confined in juvenile jails, prisons, boot camps, and other residential facilities on any given night.<sup>1</sup> Young people who penetrate the systems deeply—those who end up confined in locked detention centers and training schools—suffer some of the worst odds of long-term success of any youth cohort in our nation. Over their lifetime, they will achieve less educationally, work less and for lower wages, fail more frequently to form enduring families, experience more chronic health problems (including addiction), and suffer more imprisonment.<sup>2</sup>

That's the bad news. The good news is that over the past 20 years, a growing cadre of scholars, advocates, and hands-on juvenile justice practitioners has vastly expanded our understanding of delinquency, as well as system reform. They've compiled powerful new evidence on what works in responding to delinquency, documented the harm and waste resulting from ill-informed juvenile justice practices, devised and tested new intervention strategies, and begun putting this new knowledge of what works into widespread use. Promising reforms are now underway and expanding in many jurisdictions, and the foundation for deeper and more systemic change has been firmly established.

Having been intimately involved in this work, the Annie E. Casey Foundation is gratified to report that these combined efforts add up to a compelling road map for reform. There is now an increasingly clear route for moving juvenile justice away from counterproductive, dangerous, wasteful, but still commonplace, practices and toward a more effective, efficient, and just approach to addressing adolescent crime.

Given what we now know, and the terrible costs of retaining the status quo in juvenile justice, there no longer remains any reasonable excuse for inaction.

### A Noble Idea, Unrealized

One hundred twenty-three years after establishing the world's first representative democracy, the United States rang in another global revolution: the first court of law dedicated exclusively to children, founded in July 1899 by Cook County, Illinois, on Chicago's west side.

Until then, children were tried in criminal courts just like adults. In many parts of the country, children as young as 8 were imprisoned with adults and sentenced to hard labor. Along with a sister court in Denver, Cook County devised an entirely new system of justice based on the principle that children are inherently different from adults, less culpable for their acts, and more amenable to rehabilitation. Unlike adult criminal courts, accused youth would not be tried through a formal, open, and adversarial process. Rather, the new juvenile courts would operate as "a kind and just parent" to children, using closed and informal hearings to act in the best interests of the child.<sup>3</sup> By 1915, 46 states and the District of Columbia had established their own juvenile courts, and many foreign nations quickly created children's courts of their own.<sup>4</sup> Today, every state in the union, and virtually every nation on Earth, has a separate justice system for juveniles.

For young people, juvenile courts offered many advantages. They protected the privacy of young offenders and enabled them to enter adult life without the stain of a criminal record. The courts hired specially trained probation counselors, psychologists, and other staff to supervise and support young offenders. They also handled a substantial share of cases informally, without a court hearing.

From the very beginning, however, the implementation and practice of juvenile justice fell far short of its lofty ideals. The courts relied

heavily on "reformatories," later known as training schools, where conditions were often more severe and discipline far harsher than their rehabilitative mission implied. While most juvenile courts made probation the most common outcome of delinquency cases, the reality was that few jurisdictions hired enough probation officers or provided sufficient training or resources to deliver the intended individualized care in a meaningful way. Similarly, while the founding vision of the juvenile court revolved around a dedicated, specialized jurist, only half of the nation's juvenile judges in the 1960s had a college degree, nearly three in four devoted less than a quarter of their time to juvenile cases, and most allocated just 10 to 15 minutes to each juvenile hearing.<sup>5</sup> Statutes granted extraordinary discretion to these judges, but few legal protections to youth: no advance notice of charges, no rules of evidence, no right to counsel, no right to confront witnesses, and no right to a jury trial.

This discretion and informality, which were intended to encourage flexible and creative responses, actually ended up producing enormous disparities. Even controlling for the offenses committed, poor and minority youth have consistently received harsher treatment than more affluent white youth.<sup>6</sup> Moreover, many juvenile judges have used their discretion to apply heavy sanctions to youth accused of such acts as underage drinking, curfew violations, and truancy (i.e., status offenses) that would not have been illegal if committed by adults. In the mid-1970s, 40 percent of youth referred to the juvenile justice system nationwide, roughly half a million teens per year, were status offenders not accused of any crime.<sup>7</sup>

Partly in response to these practices, the U.S. Supreme Court issued a series of decisions in the 1960s and '70s granting youth more (but

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not all) of the legal protections available to adults. In 1974, Congress enacted the Juvenile Justice and Delinquency Prevention Act, sharply curtailing detention and incarceration for status offenders. New federal guidelines also pushed states to desist from holding juveniles in adult jails and to maintain “sight and sound” separation between juveniles and adult offenders at all times.

These overdue protections, however, soon collided with a shift in public policy toward punishment and deterrence and away from rehabilitation. During the 1980s, many states began requiring incarceration for serious youth crimes, and several expanded the number of youth who could be tried as adults. These trends accelerated rapidly in the 1990s, when youth violence (and public concern over it) spiked to unprecedented levels. Between 1984 and 1994, the number of murders committed by youthful offenders nearly tripled, and the overall rate of juvenile violent crime nearly doubled.<sup>8</sup> Combined with sensational media coverage and widely publicized (and ultimately inaccurate) predictions of a coming “tidal wave” of “juvenile superpredators,” the spike in serious delinquency sparked a public policy panic. State legislatures enacted “get-tough” juvenile policies at an unprecedented pace. Every state except Nebraska amended its juvenile code to expand the classes of accused youth who could be tried as adults.<sup>9</sup> To further combat the perception that juvenile courts might be too lenient, many states began requiring minimum periods of incarceration for specific crimes.

Trends in other youth-serving systems also had a profound effect on youth involvement in juvenile justice in the 1990s. Many school systems across the country adopted “zero tolerance” policies. Even when students’ behavior posed

minimal threats to public safety, the result was often a court referral for misbehavior previously handled within the schools. Resource shortages in the mental health and child welfare systems also served to turn many juvenile detention centers into default providers for youth with serious needs, even though the delinquency system lacked the funding and therapeutic environment needed for effective responses.

Today, youth advocates often decry the rush toward punitive policies in the 1990s as a fundamental break with history, a rejection of the very foundations of juvenile justice. However, a more careful reading reveals that the changes actually represented a continuation and acceleration of trends long apparent in juvenile courts and correctional systems: too many minors tried and punished as adults; too much reliance on incarceration, often in harsh or abusive conditions; pervasive disparities in the treatment of youth by race and ethnicity; disproportionate sanctions for minor and predictable misbehavior. All of these trends are deeply rooted in our juvenile justice history, and the punitive wave of the 1990s only exacerbated them.

### **A Compelling Critique**

Tragically, virtually all of these “get tough” practices violate what we know about youth development and behavior, and all are producing worse, rather than better, outcomes for youth, communities, and taxpayers. Together, they have helped perpetuate at least six commonplace deficiencies in the operations of our juvenile justice systems.

#### **1. Trends in juvenile justice practice blur or ignore the well-established differences between youth and adults.**

For the first 70 or 80 years of juvenile delinquency courts’ existence, their central premise—

or the aspiration at least—was that children need and deserve a form of justice that's different from that for adults. This principle was rooted primarily in assumptions about the nature of childhood and the meaning of justice. During the 1990s, a simplistic slogan helped shatter this long-standing consensus: "Adult time for adult crime." This refrain fueled a spate of new laws boosting the number of youth tried in adult courts and punished in adult corrections systems.

Ironically, this "Adult time for adult crime" mantra gained popularity just as new empirical evidence was revealing that it rested on false foundations and produced negative results.

Children and adolescents, researchers clarified, are not just smaller versions of adults. New brain imaging research revealed that "the brain systems that govern impulse control, planning, and thinking ahead are still developing well beyond age 18."<sup>10</sup> Behavioral studies confirmed that adolescents remain far less able to gauge risks and consequences, control impulses, handle stress, and resist peer pressure.<sup>11</sup> Finally, research revealed that perhaps the most important difference between adolescent and adult lawbreakers is that most youthful offenders will cease lawbreaking as part of the normal maturation process.<sup>12</sup>

In March 2005, the U.S. Supreme Court cited this new evidence in a groundbreaking ruling forbidding the imposition of capital punishment for any crime committed by a person under the age of 18. "Juveniles' susceptibility to immature and irresponsible behavior means their irresponsible conduct is not as morally reprehensible as that of an adult," the court declared in this *Roper v. Simmons* ruling. "The reality that juveniles still struggle to define their identity means it is less supportable to

conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character."<sup>13</sup>

While the Supreme Court outlawed the death penalty for juveniles, it did not ban life sentences without the possibility of parole, a disturbingly popular alternative. Worldwide, 2,388 prisoners are currently serving life sentences for crimes they committed before age 18; all but 7 are imprisoned in the United States.<sup>14</sup> Given the diminished culpability of youthful offenders and their greater potential for rehabilitation, these sentences seem almost as difficult to defend as the death penalty.<sup>15</sup>

Each year now, as many as 200,000 youth under age 18 are tried in adult criminal courts nationwide.<sup>16</sup> These underage defendants may reside in 1 of the 13 states that define the maximum age of the juvenile court's jurisdiction below 17; they may have their cases transferred from juvenile to adult court by judges or prosecutors; or they may be transferred to criminal court automatically, based on the severity of their charges. Twenty-nine states now transfer youth to criminal courts automatically for certain crimes.<sup>17</sup>

However, recent research on the impact of "criminalizing delinquency" finds that youth prosecuted and incarcerated in the adult justice system are actually more likely to re-offend—and commit violent crimes—than youth retained in the juvenile justice system. In November 2007, the U.S. Centers for Disease Control and Prevention (CDC) concluded: "Transfer of youth to the adult criminal justice system typically results in greater subsequent crime, including violent crime, among transferred youth; therefore, transferring juveniles to the adult system is counterproductive as a strategy for preventing or reducing violence." Equally

significant, the CDC study also found no evidence that the threat of transfer to adult court either deters youth from committing crimes or lowers offending rates.<sup>18</sup>

In addition, youth in adult jails and prisons are far more likely to commit suicide, be sexually assaulted, or suffer beatings.<sup>19</sup> And, while racial disparities persist at all stages of the juvenile justice process, they are especially severe in the transfer to adult court and corrections. Whereas African-American youth comprise 16 percent of the total youth population nationwide and 28 percent of all youth arrests, 58 percent of juveniles admitted to adult prisons nationwide are African American.<sup>20</sup>

Another group of youth increasingly subject to lifelong consequences for delinquent behavior are those involved in sex offenses. Enacted in 2006, the federal Adam Walsh Child Protection and Safety Act requires states to place youth as young as 14 on a sex offender registry if they are found guilty of specified sexual offenses. This law—and many similar state statutes—applies not only to predatory offenses, but also to those involving consensual sex, public exposure, or inappropriate touching. Placing youth on published registries compromises core premises of the juvenile court: that youth are less culpable and more amenable to treatment than adults and that they need and deserve confidentiality. Moreover, available evidence indicates that the vast majority of juveniles who commit a sexual offense never commit another.<sup>21</sup> Meanwhile, research on the impact of sex offender registries does not show that such registries reduce the incidence of sexual offending.<sup>22</sup>

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**2. Indiscriminate and wholesale incarceration of juveniles is proving expensive, abusive, and bad for public safety.**

In most states, the largest portion of the juvenile justice budget is spent on confining youth, most often in large correctional facilities, or in detention centers awaiting trial or pending placement. On any given day, nearly 100,000 young people nationwide are confined in juvenile institutions, residential “treatment” centers, or group homes by order of a juvenile court.<sup>23</sup>

Obviously, certain youth pose serious public safety risks and need to be confined. Many, however, do not: Just 24 percent of youth confined in 2003 were adjudicated for violent felonies, whereas more than 45 percent were guilty only of status offenses; probation violations; misdemeanors; or low-level felonies unrelated to violence, weapons, or drug trafficking.<sup>24</sup>

Research shows that reliance on these institutions neither effectively protects the public nor rehabilitates youth. In fact, recidivism studies routinely show that 50 to 80 percent of youth released from juvenile correctional facilities are rearrested within 2 to 3 years—even those who were not serious offenders prior to their commitment. Half or more of all released youth are later re-incarcerated in juvenile or adult correctional facilities.<sup>25</sup> Meanwhile, correctional confinement typically costs \$200 to \$300 per youth per day, far more than even the most intensive home- and community-based treatment models.

In addition to their ineffectiveness, juvenile correctional facilities have shown a persistent propensity toward shocking and sometimes pervasive abuses against youth. In California, reports surfaced in 2004 showing that violence was epidemic in state juvenile facilities. Some

youth were being isolated as much as 23 hours per day, while others were locked inside mesh cages in their classrooms.<sup>26</sup> In Texas, the state correctional agency remains in turmoil because of revelations about sexual abuses of youth by staff.<sup>27</sup> Nationwide, 13,000 cases of abuse were reported in juvenile institutions from 2004 to 2007.<sup>28</sup> In some cases, such abuses are the predictable result of shortsighted workforce policies—low wages, poor training, minimal supervision, no incentives—that contribute to high rates of turnover in very stressful jobs. But workforce issues are only part of the explanation. The disturbing frequency of abuses within youth correctional facilities across jurisdictions and over time begs the question whether these institutions are inherently prone toward abuse. The U.S. Department of Justice has filed suit to protest conditions of confinement at juvenile facilities in 11 states, and public interest lawyers have litigated conditions in many others.

Even when correctional facilities protect their wards from abuse, research shows that incarceration can seriously damage youth’s chances for future success. A successful transition from adolescence to adulthood requires youth to acquire education and skills, build a social network, and develop self-discipline and personal autonomy. Incarceration undermines young people’s opportunities to meet most of these challenges. According to a research network assembled by the John D. and Catherine T. MacArthur Foundation, “Only 12 percent of formerly incarcerated youth had a high school diploma or GED by young adulthood.... Only about 30 percent were in either school or a job one year after their release...and they are more likely to be divorced and to bear children outside of marriage.”<sup>29</sup> Because Hispanic and, particularly, African-American youth are severely

overrepresented in the correctional population, these life-altering outcomes clearly affect youth of color disproportionately.

In addition to the 69,000 youth held daily in correctional placements, another 26,000 youth per night are confined in juvenile detention centers awaiting adjudication hearings or pending placement in a corrections facility or residential program.<sup>30</sup> Less than one-third of these detainees are charged with serious violent offenses; two-thirds, however, are black and Hispanic. Being detained prior to adjudication increases the odds that a young person will be sentenced to a correctional facility. In the long run, detention limits young people's educational progress, jeopardizes their mental health, and lowers their future employment rate.<sup>31</sup>

### **3. Juvenile justice systems too often ignore the critical role of families in resolving delinquency.**

Because youth are so influenced by peers, rapidly expanding their personal autonomy and asserting their independence, it is easy to assume that parents and families no longer exert a powerful influence on adolescents. Nothing could be farther from the truth. An overwhelming body of research and experience shows that parents and families remain crucial and that effectively engaging and supporting parents is pivotal to successful youth development.

Unfortunately, most juvenile justice systems are more inclined to ignore, alienate, or blame family members than to enroll them as partners. In a recent three-state survey of parents with court-involved children, many reported feeling blamed or looked down on by the juvenile justice systems. Surveyed parents complained about being excluded from legal decisions made on their children's behalf; alienated from the process

by complex language and court procedures; frustrated by the failure of probation officers to reach out and keep them informed; and disappointed in the lack of support when youth re-integrate into the community following confinement.<sup>32</sup>

This failure to engage parents is self-defeating, given developmental psychologists' consistent findings that "caring, committed, and supportive parents... provide a mix of structure and freedom that facilitates adolescents' healthy psychosocial development and their transition to adulthood."<sup>33</sup> For example, parental or family involvement is critical for youth with mental health problems, to facilitate consistent participation in counseling and appropriate medication. In addition, parents can play crucial roles in introducing their children to the labor market, a key milestone in the transition to adulthood.

Since 1996, the Center for the Study and Prevention of Violence has examined research on more than 600 strategies for preventing and treating youth violence. Thus far, only 3 approaches aimed at already delinquent youth have been certified as "blueprint models," meaning that they've shown significant positive results in repeated scientific studies. All 3 interventions work intensively with parents and other family members, not just with youth themselves. Multisystemic Therapy and Functional Family Therapy both provide intensive short-term family therapy following strict research-driven protocols. Multidimensional Treatment Foster Care temporarily places troubled youth with specially trained foster families while counseling their parents.<sup>34</sup> All 3 models have dramatically lowered recidivism and future incarceration rates in repeated trials over 20 years. All 3 cost far less than incarceration and return several dollars in benefits for every dollar spent to deliver services.<sup>35</sup>

### **4. The increasing propensity to prosecute minor cases in the juvenile justice system harms youth, with no benefit to public safety.**

Research indicates that some level of delinquent behavior is a normal and predictable part of adolescence, but the vast majority of youth grow out of their delinquency without any assistance, intervention, or punishment. Why, then, have more youth been ensnared in the formal justice system in recent years?

From 1995 to 2004, the national juvenile arrest rate for serious property and violent crimes declined 45 percent, and the homicide arrest rate plummeted 70 percent.<sup>36</sup> Yet, in this same period, the numbers of youth adjudicated delinquent, placed into secure detention, and sentenced to probation all grew.<sup>37</sup> Clearly, our juvenile courts are prosecuting many youth for misconduct that was previously handled informally. For example, more than twice as many youth were adjudicated for disorderly conduct in 2004 than in 1995.<sup>38</sup>

One factor propelling this dramatic increase in minor court cases has been "zero tolerance" policies in our nation's schools.<sup>39</sup> Since these policies were implemented (and police officers were deployed at schools to enforce them), many courts have experienced substantial increases in delinquency cases originating in schools.

Increased reliance on juvenile courts to address relatively minor misbehavior is worrisome for three reasons. First, though most youth who enter the justice system for minor offenses are, at worst, initially sentenced to probation, they can easily wind up in a juvenile detention or corrections facility if they violate probation rules. Nationally, one of every nine youth in juvenile correctional centers in 2003 was committed for a technical (non-criminal) probation

violation.<sup>40</sup> Second, involvement in the justice system can cause lasting psychological harm, lowering young people's sense of competence and their aspirations for the future, and leading them to gravitate more toward deviant peers.<sup>41</sup> Third, once youth have a juvenile record, even for a minor offense, they are treated more harshly for future offenses, increasing the likelihood that they will spiral deeper into the juvenile corrections system.<sup>42</sup>

Like so many other strands of our nation's response to adolescent misbehavior, zero tolerance policies have affected students of color disproportionately. And, like so many other juvenile policies, the overwhelming evidence shows that such policies are counterproductive: After a comprehensive review, the American Psychological Association concluded in 2006 that zero tolerance policies are associated with more, not less, misbehavior; and lower, not higher, academic achievement.<sup>43</sup>

**5. Juvenile justice has too often become a dumping ground for youth who should be served by other public systems.**

Youth with mental health problems and learning disabilities, as well as those in foster care or with child welfare case histories, are increasingly being steered into the juvenile justice system, including its secure institutions. These youth face higher risks of delinquency related to their disability or disadvantage. For example, though estimates vary significantly, research suggests that court-involved teens are two to three times as likely to suffer mental health conditions as youth in the population at large.<sup>44</sup> Yet, the dramatic overrepresentation of high-need youth in the juvenile justice system also reflects serious shortcomings in other child-serving systems and

a troubling propensity of those systems to abandon youth to juvenile justice.

As one leading mental health expert recently noted, "During the 1990s, state after state experienced the collapse of public mental health services for children and adolescents.... The juvenile justice system soon became the primary referral for youths with mental health disorders."<sup>45</sup> Similarly, a disproportionate share of public school students referred to juvenile justice under zero tolerance policies are youth with educational disabilities (and related behavior problems), suggesting that schools too often rely on court interventions in responding to the behavior problems of students with special needs.<sup>46</sup>

Child welfare agencies often terminate services to adolescents in foster care who get arrested or adjudicated delinquent, leading these youth to suffer harsher outcomes than other court-involved teens. In New York City, a 1998 study found that following arrest, foster youth were more likely to be detained than other youth.<sup>47</sup> In Los Angeles, a 2007 study found that youth from the child welfare system are far more likely than their peers to be placed in residential facilities following a delinquency adjudication.<sup>48</sup>

The collective experience of girls provides a powerful case in point regarding the ways in which juvenile justice has become a default repository for low-risk, but high need, children. To an extraordinary extent, girls in juvenile justice are likely to be past victims of physical, sexual, and/or emotional abuse. Their family histories are often characterized by extreme stress and chaos. An alarming percentage suffer mental health conditions, ranging from depression to post-traumatic stress disorder (PTSD); and many use drugs or alcohol to escape these troubled realities. Girls are far more likely than boys to be referred to juvenile justice for such behaviors

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as running away or truancy, which, while risky and undesirable, pose primarily personal, rather than public safety, risks. During the 1990s, girls' admissions to secure detention rose 50 percent. Clearly, many courts are using detention to "protect" or provide services to these girls, even though detention centers were neither designed nor equipped to offer meaningful treatment.<sup>49</sup>

**6. System policies and practices have allowed unequal justice to persist.**

During adolescence, youth of all races and ethnicities become involved in violence, property crimes, and other delinquent behaviors, with only modest differences in the frequency and severity of their lawbreaking. Specifically, confidential youth surveys show that compared with white youth, African-American teens commit slightly more violent crime (36 percent versus 25 percent of boys commit at least one violent offense by age 17),<sup>50</sup> about the same amount of property crime, and less drug crime.<sup>51</sup> Yet African-American youth are arrested at dramatically higher rates than white youth for all types of crime and, once arrested, they are...

- more likely to be detained;
- more likely to be formally charged in juvenile court;
- more likely to be placed into a locked correctional facility (and less likely to receive probation), once adjudicated;
- more likely to be waived to adult court; and
- more likely to be incarcerated in an adult prison, once waived to adult court.<sup>52</sup>

Because they are treated more harshly at each of these stages, African-American teens face an immense cumulative disadvantage. Whereas African Americans comprise just 16 percent of the total juvenile population nationwide, 38 percent of youth in juvenile correctional institutions and 58 percent of youth sentenced to prison are African American.<sup>53</sup> Citing these data, a National Council on Crime and Delinquency study declared in 2007 that "while equal justice under the law is the foundation of our legal system, and is carved over the entrance to the U.S. Supreme Court, the juvenile justice system is anything but equal for all."<sup>54</sup>

Could these disproportionate outcomes really be just a function of higher offending rates by youth of color? Analyses over the past two decades have repeatedly discounted this explanation. For example, after reviewing more than 150 studies, one leading juvenile justice scholar found "incontrovertible" evidence that racial bias played a part in the overrepresentation of youth of color in the juvenile justice system. "The issue is no longer simply *whether* whites and youths of color are treated differently," she wrote. "Instead, the preeminent challenge for scholars is to explain *how* these differences come about."<sup>55</sup>

Likewise in the mental health, special education, and child welfare systems, youth of color fare worse than white youth. They are more likely than their white peers to be suspended or expelled, and less likely to receive mental health treatment. And, racial and ethnic disparities in child welfare caseloads mean that youth of color suffer disproportionately when these agencies fail to sustain services to their court-involved clients.

The evidence of disparate treatment of youth of color in juvenile justice raises a funda-

mental question: Would we be prosecuting more youth in adult courts, confining them in unconstitutional facilities, disregarding the potential power of families to redirect their children, and dumping them into court or detention supposedly to receive treatment if the youth in question were white and privileged? Conversely, how long would society tolerate continued adherence to ill-conceived policies and discredited practices if the majority of the juvenile justice caseload were not poor youth of color?

### A Road Map for Reform

Our nation's current approach to juvenile justice is costly, discriminatory, dangerous, and ineffective. Fortunately, alternative policies, practices, and programs have emerged that have the potential to fundamentally remake our juvenile justice systems and greatly improve the odds of success for troubled youth. Moreover, most of these alternatives have already been implemented effectively, providing a clear and compelling road map for reform.

#### Implement Developmentally

##### Appropriate Policies and Interventions

As we noted, virtually every state amended its laws during the 1990s to increase the number of youth transferred to criminal court and tried as adults. They did so based on the assumptions that trying more youth as adults would reduce crime and that juvenile courts were incapable of handling serious youth offenders. Today, we know that these assumptions were incorrect. Youth tried and punished as adults are more likely to recidivate, and laws to transfer more youth to adult courts and corrections do not lead to lower juvenile crime rates.

Until recently, however, this evidence had not been sufficient to counter the conventional wisdom that, politically speaking, revising these

punitive policies would be unpopular with voters and expose elected officials to charges of being soft on crime. Fortunately, that is beginning to change.

In 2005, the Illinois legislature repealed a provision of its laws that required transfer to the adult system of all youth accused of drug crimes in or around public schools or housing projects. The law had shifted hundreds of 15- and 16-year-olds into adult courts. After public hearings revealed that two-thirds of these youth were low-level offenders, and 97 percent were youth of color, the legislature voted unanimously to repeal the mandatory transfer requirement and allow juvenile court judges to decide when transfer is merited in individual cases.<sup>56</sup> Several other states, including Arizona, Delaware, and Virginia, have also enacted more limited transfer provisions (e.g., which offenses are excluded from juvenile court) during the past 2 years.<sup>57</sup>

In light of new evidence on brain and adolescent development showing that youth are still maturing as late as their early 20s, some states are considering legislation to raise the maximum age of juvenile court jurisdiction. Until this year, 3 states (Connecticut, New York, and North Carolina) treated all 16-year-old offenders as adults, while 10 others prosecute and incarcerate 17-year-olds similarly. In a major breakthrough, Connecticut raised the age of juvenile court jurisdiction to 17 in 2007, joining the 37 other states already at this age limit. Because of Connecticut's change, nearly 8,000 accused youthful offenders will now be tried in juvenile courts and, if found delinquent and confined, placed in juvenile, rather than adult, correctional programs.<sup>58</sup> Illinois and North Carolina are actively considering similar statutory changes.

At present, juveniles can be sentenced to die in prison (that is, serve life without parole) in 42 of 50 states. In 2006, Colorado changed its laws to preclude "life without possibility of parole" for juveniles. Now, several other states are considering similar reforms.

Looking forward, every state should embrace the evidence and sharply limit the number of youth transferred to adult courts. Like Illinois, states should reexamine automatic offense-based transfer provisions and either repeal them outright or at least eliminate those provisions that sweep many first-time or low-level offenders into the adult system. Following the logic applied by the U.S. Supreme Court to ban capital punishment for crimes committed before age 18, all states should consider banning life sentences without parole for crimes committed by juveniles. Finally, given the dire consequences of placing youth on sex offender registries and the lack of any crime prevention benefits, leaders at both the federal and state levels should either repeal rules requiring youth to be listed on permanent registries or—at the very least—limit these listing requirements to youth who've committed the most serious crimes of rape or violent sexual assault.

An effective justice system for youth requires more than reducing transfers to adult courts or raising the age of majority. It also demands more vigorous and comprehensive legal representation. As punishments meted out by juvenile courts have increased, the stakes for court-involved youth have gotten much higher. And, since adolescents do not have the same capacities as adults, many can't aid in their own defense or understand their rights as adults do. Finally, many youth in the delinquency court face legal or administrative issues beyond their delinquency cases. They may be in foster care, need special

**Most JDAI sites are now better able to identify which youth really pose significant risks, and they are focused on results—implementing policies and practices based on public safety outcomes, not just political rhetoric or programmatic hype.**

education advocacy, or be at risk of eviction from public housing because of an arrest.

Sadly, as the National Juvenile Defender Center has documented in recent reports, few jurisdictions provide adequate defense services for indigent youth in delinquency courts, much less the kind of holistic, sustained representation that these youth need.<sup>59</sup> At a minimum, states should increase funding and raise their standards for juvenile defender services. Optimally, states and localities should study and emulate the **Children and Family Justice Center** at Northwestern University Law School, the **Neighborhood Defender Service of Harlem**, or **Boston College Law School's Juvenile Rights Advocacy Project**. These programs offer innovative, comprehensive representation for justice-involved youth.

#### **Reduce Reliance on Secure Confinement**

More than 35 years ago, Massachusetts' youth corrections commissioner, Dr. Jerome Miller, grew convinced that large secure institutions were inherently abusive and unsafe, damaged the prospects of young wards, and failed miserably to improve public safety. Virtually overnight, Massachusetts released 1,200 confined youth to community supervision, treatment, and, in a few cases, alternative residential care. Subsequent evaluations revealed that this radical and sudden depopulation did not unleash the predicted juvenile crime wave. In fact, compared to other states, Massachusetts enjoyed equal or lower recidivism rates and significantly reduced public expenditures, years after its secure youth corrections facilities were shut down.<sup>60</sup>

Given their histories of abuse, high recidivism rates, poor youth development outcomes, and huge expense, continued heavy reliance on detention and corrections facilities makes

little objective sense. Only a minority of youth confined in juvenile facilities have offending histories that imply the need for locking them up. An analysis of more than 50,000 youth in 28 states during the 1990s, for example, found that just 14 percent had committed serious violent offenses.<sup>61</sup> More recently, a study of the District of Columbia youth corrections systems found that—prior to a major reform effort launched in 2005—just 17 percent of confined youth were serious violent offenders.<sup>62</sup> Most important, from Massachusetts and a host of other jurisdictions, we now have proof that detention and corrections populations can be reduced substantially without jeopardizing public safety.

The **Juvenile Detention Alternatives Initiative (JDAI)** has been the Casey Foundation's flagship juvenile justice reform initiative for 15 years. Today, JDAI is being implemented in half the states and the District of Columbia, in almost 100 local jurisdictions, making it the most widely replicated juvenile justice reform initiative in decades.

Many JDAI sites have dramatically reduced the average daily population in secure detention, in some cases by as much as two-thirds. Employing objective risk-screening instruments, non-secure alternatives-to-detention programs, expedited case processing, and other strategies, local JDAI sites ensure that only those youth who pose significant public safety risks are detained, and only for the time needed to adjudicate their cases.

Many JDAI sites have been able to redeploy taxpayer dollars from detention facility operations to more positive community-based interventions. In Pierce County (Tacoma), Washington, for example, county officials closed 50 beds in their secure facility and allowed the juvenile department to use all of those funds to finance alternatives-to-detention programs.

Detention reform in JDAI sites has had a ripple effect on participating jurisdictions' overall use of confinement: As detention use decreased, so did the numbers of youth committed to state correctional facilities or other out-of-home placements. For example, Cook County (Chicago), Illinois, reduced the number of youth committed to state confinement from more than 900 in 1996 to 400 in 2006, and it slashed the population in group homes and other residential treatment centers from a monthly average of 426 in 1996 to just 10 youth in 2007.

Most JDAI sites have improved their public safety results while reducing confinement. How? They are now better able to identify which youth really pose significant risks, and they are focused on results—implementing policies and practices based on public safety outcomes, not just political rhetoric or programmatic hype.

Recently, a handful of states have sharply reduced their populations in youth corrections, without any noticeable uptick in juvenile crime. California is the most noteworthy example. In 1995, the California Youth Authority (CYA) confined more than 10,000 juveniles in 11 highly secure facilities. When abusive conditions in these facilities were publicly exposed in 2004, many California counties began to cut back on state commitments, with no evidence of sacrifices in public safety. In 2007, with CYA still unable to comply with court-ordered reforms and with costs soaring, the governor and state legislature approved a “realignment” law that precludes state commitments for all but those convicted of the most serious and violent offenses. As a result, by 2010, California’s facilities will hold only about 1,500 youngsters, a reduction of 40 percent from 2007 levels and of more than 85 percent from the all-time high. The new law provides California counties with nearly \$100

million per year to support local programs for the youth who will no longer be committed to state institutions.<sup>63</sup>

In 2002, Louisiana’s juvenile corrections agency held approximately 1,600 youth in juvenile facilities that the U.S. Department of Justice declared were “unlawful” and “endanger the health and welfare of the juveniles.” An analysis by the Casey Strategic Consulting Group found that many incarcerated youth were low risk, that confinement rates varied widely across the state’s parishes, and that youth of color were disproportionately punished. Through a series of reforms, Louisiana reduced its incarcerated population to only 600 youth in 2006. Though the dislocations caused by Hurricanes Katrina and Rita make impact measurement complicated, there is no evidence that the decreased corrections population negatively affected Louisiana’s juvenile crime rate.

#### **Increase Reliance on Effective Community-Based Services**

A responsible reduction of reliance on confinement entails the creation of a continuum of community-based youth development services and supervision options for delinquent youth. Although all jurisdictions offer probation, it too often amounts to perfunctory supervision and few positive youth development opportunities. Most jurisdictions have some programming, like anger management classes or community service. However, few sites offer an integrated continuum of resources to ensure that youth are placed in programs that improve the odds that they will desist from delinquency and progress personally. Indeed, in most jurisdictions, so-called alternative programs often “widen the net” of social control, rather than responsibly divert youth from confinement.

During the past two decades, a variety of program models have emerged that effectively

expand system options beyond the traditional mainstays of training schools or probation supervision. Most notable are the **evidence-based programs: Multisystemic Therapy (MST), Functional Family Therapy (FFT), and Multi-dimensional Treatment Foster Care (MTFC)**. These models have consistently produced far better results, such as lower recidivism and improved school performance, than traditional juvenile justice interventions. They are gradually spreading through state and local mental health and juvenile justice systems and now serve an estimated 40,000 delinquent and otherwise troubled youth per year.<sup>64</sup> However, even in jurisdictions where such programs have been adopted, they often remain small-scale pilot projects in otherwise unreformed systems.

In addition to these evidence-based programs, an array of other non-residential alternative programs have been implemented over the past couple of decades. These include **wrap-around services** and intensive case management and supervision services, such as those conducted in many jurisdictions by **Youth Advocate Programs, Southwest Key, and North American Family Institute**. Unfortunately, because the lion’s share of juvenile justice funding remains committed to institutional care and traditional probation supervision, these programs typically operate at a modest scale, and they have not been subjected to rigorous evaluations.

Programs alone, however, are not enough. Appending even good programs to fundamentally unsound systems will not work. Alternative programs must be supported by smart decisions, timely case processing, accurate information systems, and quality supervision. An effective continuum of services must be designed strategically. Alternatives to detention, for example, should accomplish detention’s main purposes:

maximizing court appearance and minimizing pretrial rearrest rates. Alternatives-to-incarceration programs should focus on a broader range of goals: addressing mental health and substance abuse treatment needs; fostering academic progress; providing youth development opportunities; and, of course, maintaining public safety.

To divert youth from pretrial detention, JDAI sites have demonstrated that a simple continuum of home supervision, day or evening reporting centers, and some shelter beds or foster homes (for youth who can't return home) can make a big difference. When data analyses revealed that many detention beds were occupied by youth who were not complying with their probation orders, Cook County contracted with community organizations to establish a network of evening reporting centers to divert probation violators from detention. The centers are open when youth are most likely to get into trouble (from 3 pm to 9 pm) and are located in high-need neighborhoods where many court-involved youth reside. Cook County reports that about 9 out of 10 youth successfully complete their evening reporting center requirements.

Since launching Project Zero in 2003, the New York City Department of Probation has enrolled more than 1,700 court-involved youth in new alternatives-to-incarceration programs, and it has diverted thousands of misdemeanor offenders from formal prosecution in juvenile court. From 2004 to 2007, the number of incarcerated New York City youth declined 23 percent, and most youth in the new community supervision programs are remaining crime-free and avoiding subsequent placements. Project Zero has saved city taxpayers \$11 million.<sup>65</sup> New York City's Administration for Children and Families also launched a new Juvenile Justice Initiative in 2007 to steer

foster youth facing delinquency charges into evidence-based community programs, rather than correctional facilities. Preliminary reports indicate that fewer than 35 percent of the initiative's first 275 youth have been rearrested or violated probation.<sup>66</sup>

Because girls come to juvenile justice through different pathways and have needs different from boys, providing effective gender-specific services is an increasingly important challenge for community programming today. While still an evolving area of practice, some promising models have emerged. One of the earliest and now most experienced agencies, PACE Center for Girls, Inc., uses a strength-based approach and reports positive results, including reduced recidivism and improved school success, employment, and self-sufficiency. PACE believes that one secret to its success is "understanding the relationship between victimization and female juvenile crime, then creating a safe, nurturing environment for these girls."<sup>67</sup> PACE offers education, gender-specific life management skills, and support for strengthening intergenerational ties, plus 3 years of follow-up services.

San Francisco's Center for Young Women's Development (CYWD) is led entirely by young women and works extensively with detained and incarcerated girls. CYWD conducts weekly workshops in juvenile hall, provides case management and courtroom advocacy services to those with active cases, offers reentry seminars and employment opportunities, and provides health and wellness services as part of its overall healing environment. Since its founding, CYWD has served several thousand juvenile justice-involved girls in the Bay Area. Ninety-two percent of participants in CYWD's post-release support groups (known as Sister Circles) did not reenter the juvenile justice system.<sup>68</sup>

**A responsible reduction of reliance on confinement entails the creation of a continuum of community-based youth development services and supervision options for delinquent youth.**

**In some jurisdictions, family participation in juvenile justice decision making is being ramped up, creating opportunities for system personnel to better understand and take advantage of family strengths in case planning and intervention.**

Effective community-based programming is also crucial for youth returning home following a correctional placement. Indeed, this “aftercare” period is one of acute vulnerability, as youth are again exposed to the negative influences that initially led them astray. Yet, in most jurisdictions, meaningful transition support is scarce. Experience shows that even where offered, aftercare services seldom succeed unless they engage families and begin well before the young person exits the correctional facility.

One successful model, **Family Integrated Transitions (FIT)**, serves youth offenders with substance abuse and mental health problems in six Washington state counties. FIT combines the evidence-based, family-focused Multisystemic Therapy model with additional outreach and treatment support both for youth and their families. The program begins working with youth 2 months prior to release and continues for 4 months after release. A 2004 evaluation found that youth who participated in FIT were one-third less likely (41 percent versus 27 percent) to be reconvicted of a felony within 18 months of release than youth in a comparison group. The evaluation estimated that FIT saved taxpayers \$3.15 for every \$1.00 invested.<sup>69</sup>

#### **Ensure Safe, Healthy, Constructive Conditions of Confinement**

No matter how successful the efforts to reduce reliance on secure juvenile detention and corrections facilities or to realign juvenile justice systems, there will remain some youth, and some crimes, requiring some period of confinement. For those youth, and for the staff responsible for their custody and care, we have an obligation to ensure that conditions inside these facilities meet constitutional requirements. Moreover, they should be places where none of

us would fear for the safety and well-being of our own children, were they to be incarcerated.

Given the dismal record compiled by juvenile institutions over the past century, claims for their therapeutic value should always be viewed with skepticism. However, one youth corrections system stands out from the others—the **Missouri Division of Youth Services**. All of Missouri’s facilities are small, most with fewer than 40 beds, and feature “normalized” environments: no cells, no uniforms, no shackles or handcuffs. Youth workers are highly motivated and well trained; most have a college degree; and each youth is assigned a case manager who oversees the case from admission through discharge, ensuring continuity of care and increased accountability for youth outcomes. The network of regional facilities keeps youth close to their families and allows case managers to engage families from the moment of commitment, rather than waiting until shortly before discharge (as is the case in many states). A series of community-based programs, including day treatment and proctor homes, allow for gradual transitions from institutional care to home life.<sup>70</sup>

With this approach, about 70 percent of Missouri’s former wards avoid recommitment to any correctional setting 3 years after discharge, far better than most states, even though Missouri spends less per child on youth corrections than most others. Finally, unlike many states, Missouri’s facilities have not been the subject of litigation since the closure of its 650-bed training school more than 25 years ago.<sup>71</sup> Based on these results, the District of Columbia, Louisiana, and several other jurisdictions have begun implementing the “Missouri model.”

Local detention centers, which hold youth for short periods prior to adjudication, face different challenges. To improve these facili-

ties, Casey's JDAI sites have implemented a "self-assessment" approach that combines high standards, increased transparency, and broad stakeholder oversight to identify (or prevent) shortcomings in conditions of confinement.<sup>72</sup> This new, localized approach to monitoring and addressing conditions of confinement has yet to be carefully evaluated, but its potential seems self-evident: If a broader range of interested parties regularly oversee conditions, it is less likely that the circumstances in detention centers will become dangerous or unhealthy.

Another promising approach to improving conditions of confinement in juvenile institutions involves **Performance-based Standards (PbS)**. Developed by the Council of Juvenile Corrections Administrators (CJCA), PbS is now being implemented in 184 facilities in 28 states.<sup>73</sup> PbS is a management tool that provides youth corrections administrators with frequent feedback on key aspects of facility operations. It differs from previous approaches because it focuses on actual performance—what's going on in the facilities—rather than written policies or procedures. PbS tracks key indicators, like the use of restraints or isolation, to monitor what is happening to kids and staff behind the walls, and it gives facility administrators tools and encouragement to continually improve conditions and programming. In 2004, PbS won a prestigious Innovations in American Government Award from Harvard University's Kennedy School of Government.

### **Strengthen and Empower Families to Help Youth Succeed**

One of juvenile justice's most self-defeating shortcomings is its disconnection from the families of the youth it serves. The majority of juvenile justice interventions focus only

on the young person, ignoring family context. Systems have long operated as if a 10-minute office visit, twice a month, could influence a child's behavior more than family members' support and reinforcement.

Fortunately, this situation might be changing. A growing number of jurisdictions are implementing evidence-based programs (MST, FFT, and MTFC) that focus on the family context, seeking to modify youth behavior through changes in family environment and relationships.

In some jurisdictions, family participation in juvenile justice decision making is being ramped up, creating opportunities for system personnel to better understand and take advantage of family strengths in case planning and intervention. In Santa Cruz County, California, for example, the local probation agency is using a form of family conferencing, the **Placement Screening Committee**, to develop dispositional plans in its most serious cases. Families identify their (and their child's) strengths and issues and discuss victim impact and public safety concerns. Then, families receive lists of appropriate resources to develop a comprehensive plan for their children. Santa Cruz personnel report that family-driven dispositional plans are more comprehensive and more likely to be implemented than staff-driven plans. Between 1996 and 2005, Santa Cruz reduced state commitments and residential placements by 71 percent using this type of innovative family-focused planning.

Recently, Santa Cruz began hiring **Family Partners** to help families navigate the juvenile court and probation systems. Family Partners, all of whom have had children in the juvenile justice system, explain court and probation expectations and procedures, conduct outreach to community programs, and assist families participating in court conferences, among other activities.

In Louisiana, parents have organized themselves to influence that state's juvenile justice reform agenda. A nonprofit organization—**Families and Friends of Louisiana's Incarcerated Children (FFLIC)**—initiated as part of the campaign to close the notoriously dangerous Tallulah Youth Corrections Center, conducts outreach to families; investigates complaints about conditions of confinement; and, most important, serves as the collective voice of parents who otherwise are rarely heard by policymakers or system administrators. FFLIC members routinely testify before government bodies and participate in reform initiatives like JDAI. They also demonstrate; conduct petition campaigns; and generally agitate as needed to bring attention to abuses, injustice, or plain old poor practice.

### **Keep Youth Out of the System**

Far too many youth end up in the juvenile justice system inappropriately or unnecessarily, either because their needs are not addressed by public systems better positioned to serve them, or because they are prosecuted for relatively minor, common adolescent misbehaviors. What can be done to minimize these inappropriate referrals?

In Bernalillo County (Albuquerque), New Mexico, the juvenile detention center became the *de facto* service venue for youth with serious emotional and behavioral disorders because the county lacked treatment alternatives. The situation became so acute that half the youth in detention—including many low-level offenders who posed little threat to public safety—were receiving psychotropic medications. Detention director Thomas Swisstack mobilized local leaders, who convinced state officials to amend New Mexico's Medicaid plan and negotiated with a behavioral health managed care provider to establish an outpatient clinic—the **Children's**

**Community Mental Health Clinic**—where these youth could be served more appropriately. The clinic is open to all Medicaid-eligible children in the community; however, its greatest impact has been on court-involved youth. The mental health services helped Bernalillo reduce its detention population by 45 percent from 2000 to 2006. And the money saved by closing detention housing units previously devoted to mental health cases has been reallocated to sustain the clinic.

Though it remains uncommon, a number of localities have demonstrated the benefits of effective coordination between juvenile justice and child welfare agencies. Before the Vera Institute of Justice and the Administration for Children's Services launched **Project Confirm** in New York City, foster care youth were far more likely than other youth to be detained following arrest. By assigning staff to review new delinquency cases, Project Confirm identified foster care youth early in their detention and took immediate steps to find them new placements. As a result, among those accused of less serious offenses, the disparity in detention rates for foster care and other youth disappeared completely.<sup>74</sup> In both Tarrant (Fort Worth) and Bexar (San Antonio) counties, in Texas, a Child Protective Services liaison worker is stationed at the local probation office to coordinate services for youth currently in foster care, as well as those with histories of abuse and neglect. They expedite release from detention when no adult appears to take custody of a youth, and they work with court and probation staff to develop appropriate service plans for foster youth who might otherwise penetrate deeper into the justice system.<sup>75</sup>

To prevent youth with special education needs from being pushed out of schools as a result of behavioral problems, the Cook County

Circuit Court's Juvenile Probation and Court Services Department established an **Educational Advocacy Unit** to help parents receive appropriate individualized education plans for their court-involved children. The unit also monitors cases to ensure that schools are complying with the plans as mandated under the Individuals with Disabilities Education Act.

In five Washington state counties, a legal advocacy project called **TeamChild** is also reducing inappropriate referrals to juvenile justice. TeamChild staff document the mental health, special education, and other needs of youth at risk of delinquency referrals and help break down any barriers preventing them from accessing services. An early evaluation of TeamChild found that participants were 20 percent less likely than a control group to be arrested for a felony by age 25.<sup>76</sup>

Clayton County, Georgia, a JDAI site, employs an interagency planning process to reduce court involvement and pre-adjudication detention for youth with unmet needs. **F.A.S.T. Panels (Finding Alternatives for Safety & Treatment)** comprise juvenile court personnel, service providers, and other stakeholders, who meet each morning. Before detention hearings commence, they review the cases of youth appearing in court that day and determine the supervision, services, and supports needed to safely release youth from secure custody. Parents participate in these conferences, which helps reveal unmet needs and ensure that adults at home are actively monitoring their children's behavior. Release rates at initial detention hearings doubled once the F.A.S.T. Panels started, and Clayton County has reduced its average daily detention population by more than 50 percent.

Clayton County juvenile justice officials have also worked effectively with area schools

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to reduce delinquency referrals. Between 1995 and 2003, school-originated delinquency cases increased tenfold (from fewer than 100 to approximately 1,100) as a result of zero tolerance policies. Presiding Juvenile Court Judge Steven Teske presented data to school officials documenting this dramatic caseload growth and demonstrating how court-involved students were more likely to recidivate than those whose disciplinary problems were addressed informally. To help school officials respond to student misbehavior, the judge offered to place probation officers at their facilities and train school personnel in restorative justice interventions. In 2004, the juvenile court and the schools formally established the **School Referral Reduction Program**. School referrals to the delinquency court have decreased by 68 percent since then.

Finally, though status offenders are now far less likely to be prosecuted in juvenile courts, many jurisdictions continue to bring these cases to court and then detain or incarcerate youngsters who violate court orders. In Multnomah County, Oregon, for instance, law enforcement officers were bringing almost 1,400 legally non-detainable cases to the local detention center each year because they had no other place to take them. To remedy the problem, a local nonprofit youth-serving organization worked with the county Department of Community Justice and police to establish a **Juvenile Reception Center**. Here, caseworkers, rather than court or probation personnel, address these cases. At the Juvenile Reception Center, youth are reunited with their families and referred to appropriate services, generally without formal court intervention. The center's convenient downtown location enables police officers to quickly return to patrol duties, freeing them from transportation and supervision of misbehaving youth.

### **Reduce Racial Disparities**

Perhaps the most troubling characteristic of our nation's juvenile justice system is the shameful overrepresentation of youth of color. The problem is pervasive, and has often seemed intractable. Despite two decades of federally funded efforts to reduce "disproportionate minority confinement" and "disproportionate minority contact," most jurisdictions have made little progress beyond repeated documentation of the obvious.

However, through its participation in JDAI, Multnomah County, Oregon, became the first jurisdiction to produce substantial reductions in racial disparities within its juvenile justice system. When Multnomah began JDAI in the mid-1990s, youth of color were approximately 30 percent more likely than white youth to be detained following a delinquency arrest (42 percent versus 32 percent). By 2000, detention reforms and persistent leadership had reduced the odds of detention to 22 percent for *all* youth.<sup>77</sup>

Multnomah County's progress was not accidental. First, the site rigorously implemented a variety of data-driven reforms—such as objective risk screening of arrestees, expedited case processing, and structured responses to probation violations—to eliminate unnecessary or inappropriate use of detention. Next, by repeatedly reviewing system data, disaggregated by race and ethnicity, local leaders identified decision points where racial disparities were prominent and examined the underlying policies and practices that might contribute to them. When structural bias or the exercise of individual discretion placed youth of color at a disadvantage, they made changes, increased quality assurance, and introduced positive reinforcement to emphasize their commitment to racial equity. In addition, Multnomah officials report that determined leadership was critical

in breaking the status quo that perpetuated racial imbalances.<sup>78</sup>

In Santa Cruz County, California, another JDAI site, Latino youth stayed in detention considerably longer than their white counterparts at the project's outset. By examining case processing data, local officials determined that the absence of culturally appropriate dispositional programs for Latino youth was causing the delays.<sup>79</sup> Once probation officials had built partnerships with Latino organizations to provide relevant dispositional programming, lengths of stay began to equalize, and the average number of Latino youth in detention dropped from 34 in 1998 to 17 in 2007.<sup>80</sup>

Efforts to combat racial inequalities in juvenile justice got a significant boost in 2002 when longtime juvenile justice advocate and civil rights attorney James Bell established the **W. Haywood Burns Institute for Juvenile Justice Fairness and Equity**, to help jurisdictions eliminate racial disparities in juvenile justice. The Burns Institute has worked in 30 sites nationwide to help local leaders analyze data, determine underlying drivers of disparities, and identify concrete actions to increase cultural competencies and eliminate the structural causes of disparities.

In their efforts to reduce racial disparities through detention reform, JDAI and the Burns Institute have learned a key lesson: To eliminate the disproportionate representation of youth of color in juvenile justice requires disciplined and sustained focus from a broad cross section of leaders (including champions of racial justice and community participants), all committed to reviewing every facet of the juvenile justice process—and every proposed reform strategy—through the lens of racial equity. What does this mean? Implementing data-driven policies and programs, for example, requires statistical

analyses disaggregated by race and ethnicity. Objective screening instruments must be tested for unintended bias. Alternative programs should be geographically placed to enable participation by youth in segregated neighborhoods and operated by culturally competent organizations able to relate to distinct populations. Even conditions of confinement should be examined through this lens lest the staff, services, and physical environment of facilities remain alienating and unfamiliar to the youth in custody. For example, are there bilingual, bicultural staff members? Does the selection of food, personal hygiene products, reading materials, and program activities reflect the diverse backgrounds of all confined youth?

Local officials must also make specific changes to ensure that their systems are culturally attuned to the youth they serve. Our nation's population has grown increasingly diverse, but the workforce serving those youth has not changed similarly. Youth for whom English is not their family's primary language, for example, are disadvantaged when navigating a system that is not multilingual.<sup>81</sup> Santa Cruz County confronted this very problem when it began detention reform. Today, their probation workforce resembles its client population in race, ethnicity, and language.<sup>82</sup>

Similar efforts must be made to strengthen the legal representation of youth. Youth of color are most likely to be represented by understaffed, underpaid, and undertrained public defenders. Absent effective legal guardians, teenagers cannot exercise their rights, mount strong cases, or advocate effectively for alternatives to incarceration.

### Conclusion

After detailing the dire gaps between evidence and practice in our nation's juvenile justice sys-

tems, we have tried in the second half of this essay to spell out a series of reforms that could advance our nation's approach to juvenile justice. The case for each reform is compelling, but long lists can often be daunting, and their specifics sometimes mask the larger challenges that real change poses. Where to begin?

At the state and local levels, the crucial first ingredients are political will and leadership. Genuine progress requires real champions, as well as a broad commitment from multiple stakeholders and agencies. Otherwise, the narrow interests of individual bureaucracies and political partisanship are likely to prevent agreement on goals, strategies, and results.

Next, leaders must identify a starting point for their efforts. The reforms presented here would be difficult to implement en masse. In participating jurisdictions, our own JDAI has demonstrated the power of an "entry point" strategy: Focus on a particular system problem or issue, whose solution requires the adoption of principles, policies, and practices that can subsequently influence other components of the system. Indeed, one of JDAI's most promising developments has been the momentum it has generated for systemic changes well beyond detention reforms.

Third, change requires a strengthened focus on achieving results and on collecting and analyzing the data required to hold systems accountable for them. In too many jurisdictions, juvenile justice systems are not judged by the progress of their youth or the safety of communities. Funds and staff are provided even when youth recidivate at high rates, facilities remain unsafe, or children encounter racially disparate treatment. Many jurisdictions do not even bother to measure results. When they do, system officials may blame lousy outcomes on the kids,

**Though the policy, practice, and program reforms suggested here are ambitious and complex, they need not be costly. The real challenge in juvenile justice budgeting is not the size of the investments, but rather the quality.**

disowning responsibility for the policies and practices so often at the heart of system failures. A results focus can change this dynamic, but it often requires investments in information technology and the analytical expertise necessary to use data to inform program improvement and innovation.

Though the policy, practice, and program reforms suggested here are ambitious and complex, they need not be costly. The real challenge in juvenile justice budgeting is not the size of the investments, but rather the quality. For instance, by redeploying existing resources in favor of more cost-effective strategies that produce better results, many JDAI sites have introduced multiple detention reforms without raising their total budgets. Many, in fact, have saved substantial sums.

Success in juvenile justice reform also requires focused efforts to strengthen the juvenile justice workforce. Be they probation officers, detention counselors, or public defenders, juvenile justice workers assume huge responsibilities, often without sufficient training, adequate compensation, or appropriate supports. We cannot substantially improve outcomes for vulnerable children and families if we don't first take the steps needed to recruit, train, and retain a qualified, motivated workforce.

While the "action" in juvenile justice occurs largely at the state and local levels, the federal government can and should make a crucial contribution. Many states and localities lack the financial resources and technical know-how required to embrace needed reforms. They look to the federal government for guidance on how best to tackle juvenile justice challenges.

Since youth crime receded and the September 11th attacks transfixed the nation, the federal government's role in juvenile justice has

suffered from inattention and drift. Funding levels have dropped precipitously; many remaining resources have been allocated to pet projects, rather than innovative programs; and the output of meaningful new federally funded research has slowed to a trickle. State plans, regardless of logic or outcomes, often fit easily under the broad umbrella of federal funding rules.

Fortunately, the key federal law guiding juvenile justice policy—the Juvenile Justice and Delinquency Prevention Act (JJDP A)—is due to be reauthorized this year, offering a timely opportunity for political leaders to rethink and reinvigorate the federal government's role. As they draft the reauthorization, legislators should expand the federal government's efforts to disseminate evidence about, and encourage state implementation of, effective programs and practices.

Federal funding for juvenile justice should be substantially increased, and it should be targeted to support successful strategies and cost-effective programs. In addition, JJDP A should require meaningful outcome measurements for all programs financed with federal dollars; ban the use of federal funds to support models that have been proven ineffective; support state and local research and evaluation efforts; and encourage all states to measure recidivism of youth released from correctional facilities in a consistent manner. The federal government should also study the feasibility of a uniform data collection system to provide juvenile justice researchers and policymakers with information essential to good planning and practice.

Next, the federal government should promote aggressive efforts to reverse the persistent injustice of disproportionate treatment of minority youth and to reduce the alarming levels of abuse in correctional custody. The core mandate in JJDP A for states to "address" disproportionate

treatment should be strengthened and clarified, requiring states to analyze each stage of the juvenile court process and develop corrective action plans to reduce disparate outcomes. Federal legislation that currently inhibits litigation over conditions of confinement in juvenile institutions should also be changed. A strengthened federal juvenile justice act might require states to collect and report data on violent incidents inside youth corrections facilities, submit to outside monitoring, and adhere to performance-based standards.

Finally, Congress should reinforce its commitment to the original core protections of the JJDP A—deinstitutionalization of status offenders, separation of juveniles from adult offenders and adult facilities—and expand efforts to strengthen the juvenile justice workforce.

Whatever role the federal government plays in promoting reform, however, the ultimate responsibility lies with the state and local leaders who operate our nation's juvenile courts and corrections systems, along with their partnering community agencies and organizations. Only state and local leaders can seize the opportunities offered by our new knowledge about delinquency and its causes, our new insights into what works and doesn't work, and our new understanding of how to replicate model programs and accomplish major systems reforms. Only they can put this wealth of information to use and finally, more than a century after the founding of the juvenile court, realize the court's noble vision as a place where youth receive a measure of justice worthy of the name.

**Douglas W. Nelson, President  
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