Trends in State Courts

2014

Special Focus

Juvenile Justice and Elder Issues

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Trends in State Courts

2014

Special Focus on Juvenile Justice and Elder Issues

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This report is part of the National Center for State Courts' "Report on Trends in the State Courts" series. Opinions herein are those of the authors, not necessarily of the National Center for State Courts.

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The National Center for State Courts, Williamsburg, VA.

"Courts must address the needs of the young and the old. This year's edition of *Trends in State Courts* is focusing on what courts can do, and are doing, for juveniles and the elderly."

Preface

The promise of "justice for all" is never more important than when it comes to the most vulnerable members of society: juveniles and the elderly. All too often, courts encounter youth and seniors who have been physically abused, sexually assaulted, or financially exploited by once-trusted friends and family members or predatory strangers. Yet abused seniors and juveniles often slip past the justice system. In some cases, seniors fear retaliation, suffer from a weakened mental state, or are simply too embarrassed to speak up, and youth are often tried and punished like adults—with little understanding of the very real differences in adolescent development that can inform risk assessment and more appropriate sanctions.

Courts must address the needs of the young and the old. This year's edition of *Trends in State Courts* is focusing on what courts can do, and are doing, for juveniles and the elderly. Bobbe J. Bridge, the president and CEO of the Center for Children and Youth Justice in Seattle, begins by discussing the different "waves" of juvenile justice reform, leading up to the Models for Change Juvenile Justice Reform Initiative funded by the John D. and Catherine T. MacArthur Foundation. Other articles discuss:

- an initiative in Newton County, Georgia, for youth who appear in the child welfare and criminal justice systems;
- the importance of early appointment of counsel in juvenile cases;
- how Rapides Parish, Louisiana, is shifting juvenile offenders from courts to community-based resources for help;
- judicial leadership's role in addressing adolescent mental health issues; and
- racial and ethnic disparities in juvenile justice.

Brenda Uekert of the National Center for State Courts' Center for Elders and the Courts provides an overview about the "hidden nature" of elder abuse and how national organizations and courts are developing creative solutions to combat this problem. Other elder justice articles discuss:

- Contra Costa County, California's elder court;
- elder law task forces in Pennsylvania and Texas; and
- Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS), which improve adult guardianship practices.

Other articles in *Trends 2014* include improving jury service and aiding self-represented litigants via technology, procedural fairness, and the work of access to justice commissions in two states. The courts themselves participated in a new section that highlights key accomplishments in each state. Each state submitted information about a substantial program or initiative that improved operations and public service.

Each year, NCSC strives to improve the annual *Trends in State Courts* publication. I hope that you find this year's edition informative and useful.

Mary Campbell McQueen
President, National Center for State Courts

INTRODUCTION

Models for Change in Juvenile Justice Reform

Hon. Bobbe J. Bridge, Justice, Washington Supreme Court (Ret.), Founding President/CEO, Center for Children & Youth Justice, Seattle

There have been four waves of juvenile justice reform in the United States since the 19th century. The newest wave, which includes the Models for Change Juvenile Justice Reform Initiative, encourages courts to adopt innovate practices and develop partnerships to improve outcomes for youth and their families.

The United States' juvenile justice system began to take shape during the 19th century. In what is seen as the first of four waves of juvenile justice reform, the first juvenile detention facility opened in 1825, followed by the first juvenile court in 1899 (American Bar Association, 2007). Unlike the adult criminal justice system, the juvenile justice system provided individualized treatment and opportunities for the rehabilitation of young offenders.

Supreme Court decisions during the 1960s and 1970s marked the second wave of reform, which solidified the basic rights of juveniles, including their right to counsel.

A steep increase in violent juvenile crime during the mid-1990s launched the third wave of juvenile justice reform, eroding individualized treatment and limiting opportunities for offender rehabilitation. The juvenile and adult justice systems looked increasingly similar. Without sufficient data to analyze causes, let alone identify solutions, regressive, fear-driven "get-tough-on-juvenile-offenders" policies and practices flourished nationwide. Reform was based on often-conflicting anecdotes: High recidivism was "the result of a system that was soft, ineffective and out of step" or "the consequence of a system that had failed to deliver on promised treatment." Nationwide, more juveniles were sentenced in adult court, sanctions were harsher, and juveniles and adults were increasingly incarcerated in the same facilities.

We are now in what may be considered a fourth wave of juvenile justice reform. In this wave, the judiciary can play a significant role in implementing successful reform: introducing new policies and procedures grounded in research and proven to be effective. A poem, "The Calf Path" by Sam Walter Foss, tells of how a crooked path, made without thought by a young calf, became an official road followed by everyone for centuries. "For men are prone to go it blind/ Along the calf-paths of the mind," the poem relates. Judicial leadership is a critical factor in stepping back, considering

> "Unlike the adult criminal justice system, the juvenile justice system provided individualized treatment and opportunities for the rehabilitation of young offenders."

the path, and making it straighter. I hope these stories will inspire the reflection and the action necessary to improve our juvenile justice system and the lives of the youth we serve.

MacArthur Research Network on Adolescent Development and Juvenile Justice

In an effort to replace anecdote-influenced policy and practice with research-based, data-driven solutions, the John D. and Catherine T. MacArthur Foundation launched the MacArthur Research Network on Adolescent Development and Juvenile Justice in 1996. Driving the start of the fourth wave of juvenile justice reform, the network conducted research on teens' competence to stand trial (Grisso et al., 2003), on concepts of blameworthiness (Steinberg et al., 2009), and on the reasons why most youth age out of offending even without intervention (Mulvey et al., 2010). Bolstered by the ensuing developments in neuroscience, the MacArthur Research Network's findings demonstrated what many parents knew intuitively—that kids differ from adults significantly:

- in the way they recognize and respond to risks;
- in the way they control impulses;
- in the way they are influenced by their peers; and
- in their capacity for change.

From the network's research emerged a set of Core Principles characterizing a model juvenile justice system that responds to these differences.

- *Fundamental fairness*: All system participants, including youthful offenders, their victims, and their families, deserve bias-free treatment.
- *Recognition of juvenile-adult differences*: The system must take into account that juveniles are fundamentally and developmentally different from adults.
- *Recognition of individual differences*: Juvenile-justice decision makers must respond to individual differences in terms of young people's development, culture, gender, needs, and strengths.
- *Recognition of potential*: Young offenders have strengths and are capable of positive growth. Giving up on them is costly for society. Investing in them makes sense.
- *Safety*: Communities and individuals deserve to be and to feel safe.
- *Personal responsibility*: Young people must be encouraged to accept responsibility for their actions and their consequences.
- *Community responsibility*: Communities must safeguard the welfare of children and young people, support them when in need, and help them to grow into adults.
- *System responsibility*: The juvenile justice system is a vital part of society's collective exercise of its responsibility toward young people. It must do its job effectively.

Models for Change Website

Models for Change—Core States

Recent juvenile justice reform has taken place at the local, state, and national levels. One of the most significant reform efforts was started in 2004 by the MacArthur Foundation. Armed with the results of the network's research and a set of Core Principles, the MacArthur Foundation launched one of the largest and most comprehensive reform efforts: the Models for Change Juvenile Justice Reform Initiative. Jurisdictions were challenged to develop fair, effective, developmentally informed juvenile justice practices; to challenge practices that did not create real and positive outcomes for kids; to apply research to practice; and to replace fear with facts.

The foundation selected four core states to lead reform efforts because of their commitment to and support of the Core Principles and juvenile justice reform. The foundation encouraged innovation and anticipated diversity in solutions. Pennsylvania, Illinois, Louisiana, and, my state, Washington, composed the core states. The core states' efforts were guided by the foundation, informed by a team of experts, collectively referred to as the National Resource Bank, and directed by a lead grantee, whose responsibilities included developing an overall juvenile justice reform work plan identifying specific areas in need of change.

Each core state has a unique juvenile justice system driven by varying resources, population demographics, and political and statutory landscapes. A number of reform issues, known as Targeted Areas of Improvement and Strategic Opportunities for Technical Assistance, were adopted by the core states. All four core states included racial and ethnic fairness among their

targeted areas of reform. Each state selected additional reform areas from the list below, depending on their reform priorities.

- *Racial-ethnic fairness*: Youth of color are overrepresented at every point in the juvenile justice system (Models for Change, 2014b). Projects identified disparity and improved interactions between the system and youth of color.
- *Community-based alternatives*: Projects explored local alternatives to formal processing and incarceration.
- *Aftercare*: There are approximately 100,000 juveniles leaving institutions each year. Aftercare projects addressed post-release services, supervision, and supports that help committed youth transition safely and successfully back into the community (Models for Change, 2014a).
- *Mental health*: Estimates indicate more than two-thirds of youth in the juvenile justice system have a diagnosable mental health disorder (Skowyra and Cocozza, 2006). Mental health projects focused on collaborating to meet the needs of youth without unnecessary juvenile justice system involvement.
- *Indigent defense*: Projects expanded meaningful access to quality legal counsel for all youth.
- *Multisystem collaboration and coordination*: Projects improved the way that child-serving agencies work together.
- *Rightsizing jurisdiction*: Projects restored policies and jurisdictional boundaries that recognize the real developmental differences between youth and adults.

Models for Change—Action Networks

In addition to the core states, the MacArthur Foundation launched three Action Networks focused on a specific issue—mental health, racial-ethnic disparities, or indigent defense. For each Action Network, the four core states were joined by four additional states, expanding Models for Change participation to 16 states. The new states were California, Colorado, Connecticut, Florida, Kansas, Maryland, Massachusetts, New Jersey, North Carolina, Ohio, Texas, and Wisconsin.

While their individual methods varied, each Action Network sought to shape their own, and the nation's, responses to issues of juvenile justice. Each network shared practical information and expertise and created issue-oriented forums for exchanging ideas and providing peer-to-peer support.

While projects varied in each Action Network, all of the networks had four main objectives within Models for Change:

- to enhance progress and leadership in the existing Models for Change states and additional partner sites as added by providing them with the latest information and resources;
- to foster the development and exchange of ideas, leadership, and strategies among the Models for Change and partner sites;
- to develop and implement new solutions and strategies; and
- to disseminate the lessons learned from the Models for Change initiative across the country.

Outcomes

Nine years into the initiative, the foundation has generously invested close to $200 million in support of reform activities. Models for Change has developed an extensive network of committed partners and a long list of success stories, from local practice improvements to major reforms in state policy to tips to sustaining progress. A few of the core states' successes are highlighted below.

Juvenile Law Center

Pennsylvania: Juvenile Law Center

Local successes in Pennsylvania Models for Change projects are now being replicated in other counties and statewide. Grantees and partners reduced high detention rates in Berks County, rates that affected minorities disproportionately, by instituting a Detention Assessment Instrument and opening an Evening Reporting Center. Juvenile justice leaders in five additional counties are following suit. More than a third of Pennsylvania counties have adopted the MAYSI-2, a validated mental-health-screening tool, to flag youth with possible behavioral-health problems at probation intake, and all counties are now using the Youth Level of Service Inventory. Pennsylvania established an intercounty collaboration to improve educational, career, and technical-training opportunities in residential facilities and the reintegration of youth returning home. The collaboration was so successful that it has been adopted by the state Department of Public Welfare.

LOYOLA UNIVERSITY CHICAGO

Preparing people to lead extraordinary lives

Illinois: Loyola University of Chicago School of Law's Civitas ChildLaw Center

Illinois Models for Change grantees and partners successfully advanced legislation to raise the age of juvenile

court jurisdiction to 18, separated the Department of Juvenile Justice from the Department of Corrections, and cut admissions to Illinois Department of Juvenile Justice in half through Redeploy Illinois, a highly successful program that creates fiscal incentives for treating youth in community-based settings, and through legislation requiring courts to use the least-restrictive alternatives in sentencing youth. Illinois also rolled back transfer laws, which overwhelmingly affected youth of color; developed innovative alternatives to secure confinement of youth charged with "adolescent domestic battery"; and developed and strengthened sustainable leadership structures at the state and local level.

LSU Health New Orleans School of Public Health

Louisiana: Louisiana State University Health Sciences Center—School of Public Health

Louisiana Models for Change grantees and partners adopted the Structured Assessment of Violence Risk in Youth, a risk-and-needs-assessment tool, to help guide and inform objective decision making that accounts for young people's actual levels of risk and individual needs. All parishes have developed local Functional Family Therapy, an evidence-based treatment in which teams provide proven treatment alternatives to incarceration of parish youth. An innovative "data group" led by the University of New Orleans ensures that the work is structured and documented so that results can be tracked and assessed.

center for CHILDREN & YOUTH JUSTICE | Better systems. Better lives.

Washington: Center for Children & Youth Justice

Washington Models for Change grantees and partners developed multiple model truancy programs that successfully return youth to school. New legislation expands diversion strategies for youth with mental health needs and provides self-incrimination protections for juvenile-justice-involved youth completing behavioral-health screenings and assessments. Over one half of Washington's juveniles reside in counties where policies and practices are being implemented to better serve youth and families that are involved with multiple systems. With the adoption of new court rules, standards for quality indigent defense have been enacted; training for defense counsel has been enhanced and no juvenile may waive the right to counsel without first consulting an attorney. At the request of the Washington State Supreme Court, there is publically available state and county data, which indicate whether youth of color are overrepesented at key decision-making points in Washington's juvenile justice system.

Next Steps

True to the foundation's vision, Models for Change has enjoyed many successes and generated practical models for replication that address many of the most pressing needs of young people who become involved with the system. However, the work is not done. The articles in this edition of *Trends* share the stories of projects from around the country, which address unmet needs in the juvenile justice system. Many of these projects arise from the research and model programs developed through Models for Change.

The foundation remains committed to juvenile justice reform. Capitalizing on more than two decades of experience, the foundation recently launched the Resource Center Partnerships, which focus on four areas of juvenile justice where reform will be pursued: mental health, multi-system-involved youth, indigent defense, and status offenders. Because of the continued commitment of communities around the country, youth involved in the juvenile justice system will have a better chance for a successful future. ∞

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Dependency and Delinquency in SYNC

Jessica Heldman, Associate Executive Director, Robert F. Kennedy National Resource Center for Juvenile Justice, Robert F. Kennedy Children's Action Corps

Hon. Sheri Roberts, Presiding Judge, Newton County Juvenile Court

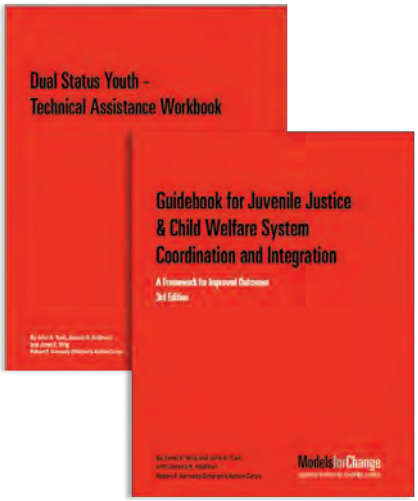
Youth who touch both the child welfare and juvenile justice systems, known as dual status youth, present complex, resource-intensive cases and tend to experience poor outcomes. A recent initiative demonstrates how courts can support efforts to integrate and coordinate youth-serving systems, helping to improve both system performance and youth outcomes.

Youth who come into contact with both the child welfare and juvenile justice systems are known as *dual status youth*. These youth tend to comprise a significant portion of local juvenile justice populations, but even where actual numbers are small, the fiscal and human toll of these cases on courts and youth-serving agencies can be substantial. Dual status youth are likely to present complex issues that challenge practitioners, demand extensive resources, and require non-traditional system responses. Furthermore, research shows that dual status youth experience particularly poor outcomes compared to youth without multisystem involvement. Reforms aimed at integrating and coordinating agency and court practices affecting dual status youth can help streamline processes, identify and target high-risk and high-need youth for intervention, and engage youth and families in planning and services more effectively. Positive system outcomes can lead to the more effective and efficient use of resources and better outcomes for families and youths.

A Framework for System Coordination and Integration

In 2012 a four-site demonstration project was launched, led by Robert F. Kennedy Children's Action Corps and jointly funded by the MacArthur Foundation and the Office of Juvenile Justice and Delinquency Prevention. This effort, built on a foundation of established and emerging research and more than a decade of field experience, used a framework detailed in the *Guidebook for Juvenile Justice and Child Welfare System Coordination and Integration: A Framework for Improved Outcomes,* third edition (Wiig and Tuell, 2013). This established framework supports each unique jurisdiction in identifying its most pressing issues regarding dual status youth and in crafting new multisystem responses. This initiative spurred the development of new resources, tools,

and approaches informed by the dedicated work of judges, courts, agencies, and communities in Santa Clara County, California; Outagamie County, Wisconsin; Hampden County, Massachusetts; and Newton County, Georgia. This project enhanced the existing framework and demonstrated that successful collaboration can produce a more efficient, cost-effective, and family-focused system more likely to meet the needs of deserving youth and families.



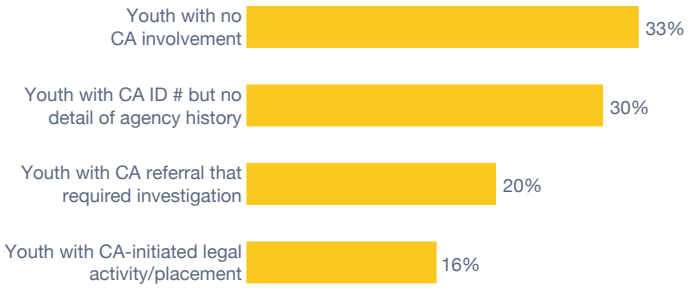
Where jurisdictions have succeeded in collaborative initiatives, strong judicial leadership often drives and sustains the effort. Local judges can leverage their positions to convene participants, lead the adoption of best or promising practices, and provide an example of self-reflection and commitment to change. Around the country, judges have motivated change specifically by 1) focusing on data and overcoming information-sharing barriers, 2) convening and leading multisystem teams to tackle reform, 3) leading discussion around vision and desired outcomes, and 4) identifying and initiating implementation of strategies for reform. These strategies were employed, with great success, in Newton County's project: Serving Youth in Newton County (SYNC).

Focus on Data and Information-Sharing Barriers

The initiative in Newton County, Georgia grew out of the observation that youth coming before the bench had multiple issues across many systems. It was essential at the outset to review the available data to determine if this view from the bench was anecdotal or based in reality. When initial data revealed that 56 percent of Newton County youth with new juvenile justice referrals had some involvement with child welfare, it became clear that this issue needed to be addressed.

In many jurisdictions, as in Newton County, data reveal a substantial number of dual status youth. This is not surprising given the increased risk of both juvenile delinquency and adult criminality among maltreated children (Widom and Maxfield, 2001). It follows that a significant number of delinquent youth have had involvement with child welfare agencies and dependency courts. For example, a recent study of 4,475 juvenile-justice-involved youth in King County, Washington found that two-thirds had some history with the county's child welfare system (Halemba and Siegel, 2011).

Delinquent Youth with History of Children's Administration (CA) Involvement, King County, Washington



Source: Halemba and Siegel, 2011

Additional research reveals that outcomes for dual status youth are particularly poor in multiple domains. For example, the King County study found that dual status youth had significantly higher rates of recidivism than other delinquent youth. Studies have shown that dual status youth are more likely to be detained and to spend more time in detention than youth without child welfare system involvement (Conger and Ross, 2001).

Newton County data revealed that dually involved youth had more continuances, more out-of-home placements, and more detentions for misdemeanor or status offenses. The county participants concluded that these outcomes were a result of juvenile justice and child welfare systems failing to join forces to look for the best and least restrictive outcomes. These observations, coupled with local data, supported the premise that unifying case management, coordinating service delivery, engaging families, and forming multisystem teams offered a promising strategy for families and for challenging economic times.

> "As Judges, we can often become insulated and protected by staff, our peers, attorneys, and the position. How do we know if we are truly doing good work if we don't look at the data and outcomes of our practice?"
>
> ~ Hon. Sheri Roberts

Obtaining access to this valuable multisystem data in Newton County required significant time and leadership by the court and child-welfare and juvenile-justice data, legal, and contract staff. This devoted cross-system team confronted legal, administrative, and cultural challenges in developing a data-sharing memorandum of understanding (MOU) and worked through numerous iterations before obtaining agency signatures and executing the court order required to release child welfare data. The complexity of ensuring access to necessary data is not unique to Newton County, and the local judge in any jurisdiction, in concert with agency staff, can lead the effort to address information and data-sharing barriers. Strategies outlined in the *Models for Change Information Sharing Tool Kit* (Wiig et al., 2008) supported the work in Newton County, helping to guide the development of information-sharing policy and practice.

Convening and Leading Multisystem Teams

Initiation of the change process in any jurisdiction requires identifying key leaders and constituents. Addressing the issues of dual status youth requires a variety of stakeholders, and leaders who can effectively guide and motivate the initiative. Convening such a group is often best accomplished with the help of a local judge. While it might look like an invitation, a request from a judge is really more; it is an acknowledgment that the recipient can and should be part of something important that most would rarely decline.

The local judge can be essential in leading multisystem teams charged with designing goals and strategies for reform. Therefore, it is necessary that the judge establishes relationships beyond his or her jurisdiction and remains current on research and best practice models via continuing education. This can be a challenge for any jurist who either is in a smaller jurisdiction or rotates between classes of court, but this effort is critical to ensuring that the community can create, adopt, and maintain quality outcomes for families. When judges work in partnership with other leaders empowered to make decisions, such as child welfare directors, probation directors, and court administrators, the strategies that emerge from the initiative have a greater likelihood of being adopted and institutionalized across systems, thereby increasing the potential for positive youth outcomes.

> "I have often said publicly that it is very nice to receive an invitation and that the recipient has the option to accept or regret; however, as the Judge, I have the power to convene."
>
> ~ Hon. Sheri Roberts

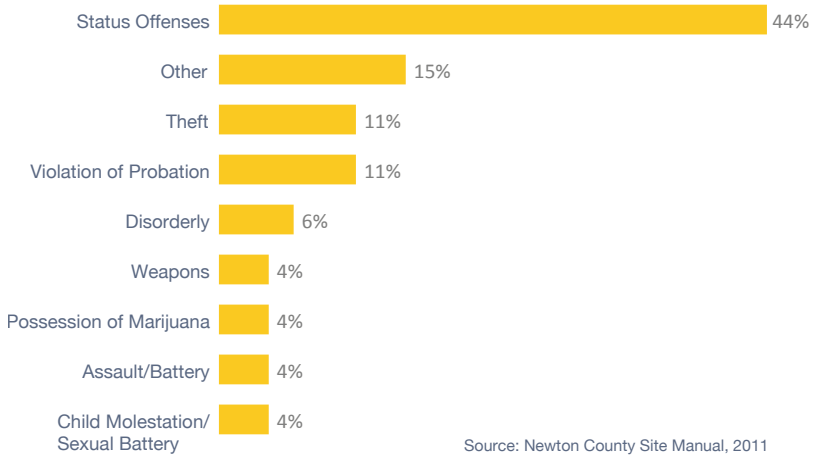
Vision and Desired Outcomes

The initial goal in Newton County was developing creative and effective strategies to provide unified services across multiple agencies, community providers, and the court. Within months of working with local and state representation across all disciplines, a broader goal emerged: ensuring that dual status youth were identified at the earliest possible time and provided the most necessary services from appropriate providers across the community and state.

Developing this shared sense of purpose is often a challenge. While Newton County had a history of collaborative work, there were still those who believed that a child found delinquent, regardless of trauma, family instability, or educational delays, was the problem of the juvenile justice system and not appropriate for child welfare services or support. Many jurisdictions undertaking reform struggle with similar assumptions and limitations despite a desire to collaborate. Moving beyond this struggle requires a concerted effort to get participants to align their thinking. Leaders, including the local judge, can facilitate discussion around common goals, barriers to overcome, and desirable outcomes to achieve through collaboration.

An early collaborative task is reaching agreement on the initiative's target population. Ensuring the availability of data about the dual status population is vital to this process. In Newton County, data revealed that truancy was the single most common offense among dual status youth during the time frame examined. Stakeholders also expressed concern about the number of referrals for child molestation/sexual battery, particularly in light of the young age of those charged. Although the number was small, it was higher than anticipated and shined a light on a population of concern

Newton County Dual Status Youth Offenses by Type, November 2012 - March 2013



to stakeholders. These findings helped the group come to consensus around the desire to include status offenders and those charged with sex offenses in the target population.

With much discussion, sometimes spirited debate, and the leadership of Judge Roberts, the group agreed upon a vision, mission, and purpose for the initiative, as well as the following desired outcomes:

- reduce juvenile justice involvement;
- reduce child welfare involvement;
- improve school outcomes;
- reduce detention; and
- increase youth competency and enhance connection to community.

Devising measures to evaluate success related to these outcomes contributes to the initiative's overall sustainability and accountability.

Identifying and Initiating Implementation of Strategies for Reform

Courts are uniquely positioned to drive practice reform for dual status youth (Siegel and Lord, 2004). Over more than a decade, research and field experiences have yielded a set of recommended practices believed to be critical to improved handling of these youth, including:

- routine identification of dual status youth;
- use of validated screening and assessment instruments (See AOC Briefing, 2001);
- identification of alternatives to formal processing and detention and the use of a structured process for considering diversion and early intervention;
- development of procedures for routine, ongoing contact between probation officers and child welfare workers over the life of each dual status case;
- establishment of coordinated court processes; and
- engagement of families in decision-making processes (Wiig and Tuell, 2013).

To identify the most appropriate practices for a specific jurisdiction, participants must first look at current practices and processes, including those of the court. One method for this is caseflow mapping. Mapping helps identify key decision points in each system, clarify staff responsibilities, and target priority areas for developing new or enhanced practices (see Tuell, Heldman, and Wiig, 2013). Mapping also educates participants across systems about how systems function. This is critical not only for identifying areas where reform is necessary, but for establishing a culture of shared understanding to help successfully implement integrated and coordinated processes.

> "I believe that if you work in child welfare [or] juvenile justice...that you come to the work with a belief that you make a difference and that you can help someone else find success. As a Judge, operating from that assumption, you only need to tap into that desire and drive that you share with your stakeholders." ~ Hon. Sheri Roberts

Newton County embraced the mapping process and designed the following reforms: 1) developing a process for routine identification of target-population youth; 2) adapting an established multisystem family meeting for use with the target population; 3) creating a policy for sharing assessment results while protecting the rights of families; 4) developing MOUs; and 5) developing a training plan.

Conclusion

With targeted reforms identified, Newton County continues its collaborative work as it implements new practices and processes. Challenges are certainly present, particularly as staff adjust to new expectations, and the need to engage additional stakeholders, such as law enforcement and the education system, becomes increasingly important. Nevertheless, the juvenile court in Newton County has demonstrated an unwavering commitment to this area of reform and approaches these and other challenges with strong leadership and the expectation that dual status reform is not simply another initiative, but a truly transformational endeavor for the systems and the families they serve. ☙

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The Importance of Early Appointment of Counsel in Juvenile Court

Hon. Kenneth J. King, Associate Justice, Middlesex County Juvenile Court, Massachusetts

Patricia Puritz, Executive Director, National Juvenile Defender Center

David A. Shapiro, Gault Fellow, National Juvenile Defender Center

Judges must ensure due process in juvenile court. They must ensure that children are presumed indigent for purposes of counsel, that they are appointed counsel as early as possible, and that the right to waive counsel remains theirs and can only occur following consultation with an attorney.

Children in conflict with the law are guaranteed constitutional rights that can only be protected if they are represented at every stage of delinquency proceedings. *In Re Gault*, 387 U.S. 1 (1967), gives youth the right to counsel, which is a bulwark of the right to due process. Courts must protect and give meaning to *Gault*. At a minimum, this requires that attorneys be appointed for children as early in the proceeding as possible; that where the appointment of counsel is not automatic, courts should presume that all children in delinquency matters are indigent; and that when a child considers waiving counsel, courts allow the waiver only after the child has consulted with qualified juvenile defense counsel and the court has determined that the child is fully aware of the vast implications of the decision to proceed without counsel.

> "Children in conflict with the law are guaranteed constitutional rights that can only be protected if they are represented at every stage of delinquency proceedings."

Counsel in delinquency court is more important than ever, as delinquency offenses no longer stay in juvenile court to be left behind when the child enters adulthood. The fact that a complaint has been brought may cause the child to be excluded from school, cause his or her family to lose housing or other public assistance, and impede the child's efforts at employment or higher education. Children charged as delinquents are far more likely to have a trauma history, a diagnosable mental illness, or undiagnosed and unmet learning needs than their uncharged peers (Ford et al., 2007), as well as prior experience in status offense or child welfare proceedings. These children especially need the guiding hand of counsel.

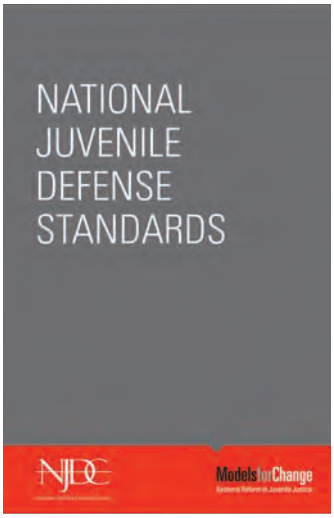
The Need for Early Appointment of Counsel

As in criminal court, young people in delinquency court are pitted against the government and its vast resources. The juvenile defender's job is to advocate zealously for the child, be the child's voice in the delinquency courtroom, and provide the child with the advice and counsel necessary to make good decisions. Unlike other stakeholders charged with doing what is perceived to be in the child's best interest, juvenile defenders are responsible for eliciting the youth's desired outcomes, counseling the child on the pros and cons of pursuing those objectives, and empowering the child to be engaged in the proceedings.

It takes time to build a relationship that will enable adequate and honest communication. Teenagers are often mistrusting of adults. Because many children charged as delinquents have abuse-and-neglect histories, they can be even more difficult to engage than their peers. Early appointment and a time-intensive commitment to develop the attorney-client relationship are needed to ensure that attorneys can execute their most basic duties. Attorneys who do not meet with their clients before the first hearing may not understand their clients' legal and nonlegal needs and are ill-equipped to properly advocate for them. Indeed, the failure of courts to appoint early counsel is one of the main impediments to competent, diligent, and zealous representation (National Juvenile Defender Center, 2012: 19).

Of course, the early appointment of counsel is also required to protect the rights of young people. Counsel appointed early is better positioned to file motions, conduct investigations, obtain discovery, and encourage the client to exercise other rights (such as the right to remain silent). Without early appointment of counsel, the right to counsel is as good as nonexistent.

In general, early appointment of counsel leads to better outcomes for youth. Counsel appointed in time for the planning stages of court diversion programs (where such programs occur before any court involvement) can help ensure the selection of the programs most appropriate for the strengths and needs of the particular youth, thus increasing the likelihood the child will succeed and stay out of court. To be most effective, the attorney initially appointed as the child's defender must follow the case to disposition and be available for post-adjudication hearings, including probation violation matters and related hearings, such as school-exclusion or special-education hearings.



What Courts Can Do to Ensure Early Appointment

In jurisdictions where attorneys are calendared weeks in advance, attorneys can be assigned delinquency cases when the case is first scheduled. In those courtrooms, the attorney should meet the client before the first appearance.

Courts must convey attorney information to children and their families as soon as the attorney is identified and, when possible, using multiple methods. Courts should also ensure that appointed counsel has sufficient time to consult with a new client before the first hearing and should grant requests for short recesses when counsel needs more time. While judges have a responsibility for managing their calendars effectively and ensuring that cases are processed judiciously, they also have a vital interest in ensuring that a child receives adequate, competent, and effective counsel.

The Problems of the Lack of Indigence Presumptions in Juvenile Court

Courts can ensure that all children have timely access to counsel by presuming indigence for all youth. Children, in general, are not financially independent. Therefore, in jurisdictions where an assessment of a child's indigence is required before counsel can be appointed, courts tend to use family income. This process can be fraught with delays and can create conflicts of interest between youth and their families. Many courts assess fees to conduct indigence determinations. In some jurisdictions, public-defender-eligible applicants are not even told that fee waivers are available. Parents and guardians worried about fees may tell their children that counsel is unnecessary—not because it is true, but because the initial out-of-pocket expense is burdensome to cash-strapped families. Parents who must miss work to attend each hearing may also encourage their child to do whatever possible to speed the process along—even if such advice conflicts with the child's constitutional right to counsel.

In many jurisdictions, where parents have not filled out the entire indigence affidavit, counsel is simply not appointed (Minn. Stat. Ann. § 611.17 [b][4]). In one instance, a mother and child filled out an affidavit. The child was still found ineligible for appointed counsel because the father had not also filled out the affidavit (see State v. D.V.S., 617 So.2d 1162 [Fla. Dist. Ct. App. 1993]). Even where young people and their families are willing and able to provide all requested information to prove indigence, in some jurisdictions the appointment of counsel can take days to process, thus postponing hearings for youth who try to exercise their right to counsel. This delay—or even the anticipation of the delay—may cause young people to forgo their right to counsel to speed up the process. In the worst case, the delay can mean that a child stays in detention while awaiting appointment of counsel; even where the child is not detained, the case often needs to be postponed to a later date when the indigence determination has be resolved. These practices are inexcusable.

> "Parents and guardians worried about fees may tell their children that counsel is unnecessary—not because it is true, but because the initial out-of-pocket expense is burdensome to cash-strapped families."

What Judges Should Do Regarding Indigence in Juvenile Court

Judges should advocate for court rules that presume indigence of all youth. If the jurisdiction refuses to allow for the presumption of indigence, judges should look for other ways to appoint provisional counsel until indigence can be determined. New Jersey and Washington statutorily authorize courts to appoint provisional counsel before a formal indigence assessment (N.J. Stat. Ann. § 2A:158A-14; Wash. Rev. Code § 10.101.020[4]). More jurisdictions should follow suit. Some jurisdictions have statutes or court rules that give judges the discretion to forgo the lengthy indigence-determination process and simply appoint counsel in the interests of justice. Should a formal and lengthier process later determine that a family is not indigent, the court can then recoup those costs from the family. Finally, initial indigence determinations should be made by court personnel

no later than the day of the child's first appearance. In cases where a parent or another family member is the complaining witness, appointment of counsel should be automatic.

The Problem of Juveniles Waiving Their Right to Counsel

Waiver of counsel before consultation is a nationwide problem in juvenile court. Courts should allow young people to waive their right to counsel only after the child has meaningfully consulted with a qualified juvenile-defense attorney. Adolescent-development research demonstrates that youth often have great difficulty understanding complex legal issues and abstract ideas and have difficulty weighing the long-term consequences of their decisions in the face of short-term desires or easy resolutions (see Brief for the American Psychiatric Association as Amici Curiae Supporting Respondent, *Roper v. Simmons*, 543 U.S. 551 [2004] [No. 03-633], 2004 WL 1636447). These cognitive challenges become more acute in high-stress environments, such as courtrooms (see Statement of Laurence Steinberg, Ph.D., United States Senate Judiciary Committee, June 11, 2007). Given the prevalence of mental illness and learning disabilities in youth charged as delinquents, these children are more likely to have great difficulty understanding the role and importance of counsel than youth generally.

When given access to a lawyer who can counsel them in the way *Gault* envisions, youth are better able to make informed decisions and be active participants in their cases (Steinberg et al., 2009). Consultation with a parent or guardian alone is rarely sufficient, given that even the most well-meaning of parents likely will not understand the myriad legal and practical consequences that can result without a qualified juvenile defender advocating for their child's rights.

What Judges Must Do Regarding Waiver of Counsel

At the very least, judges must be skeptical of any child's attempt to waive the right to counsel. Courts should not accept any waiver of counsel without prior consultation with defense counsel about the implications of that waiver and without conducting a detailed, case-specific colloquy with the child that elicits, in the child's own words, an understanding of the role of counsel generally and how counsel

may be helpful in the specific case. The colloquy must ensure that the waiver is knowing, intelligent, and voluntary. Well-documented research on child and adolescent development shows that what may be "knowing and intelligent" for an adult is quite different for a youth. Even where statutes or rules do not require prior consultation with a defense attorney, judges should use their discretion to appoint attorneys for the limited purpose of such a consultation. Courts should always ask specifically whether anyone has pressured the child into giving up the right to counsel or made promises to the child in exchange for giving up that right.

Finally, by their very nature, waivers made due to financial reasons are coercive and cannot be intelligent and voluntary. Even for non-indigent, low-income families, the pressure to waive counsel is substantial. Allowing finances to dictate the waiver of counsel creates massive inequality between wealthy and poor children to the detriment of a fair and just juvenile delinquency court.

Conclusion

The issues of the timing of the appointment of counsel, the determination of indigence, and waiver of counsel are interrelated, and each is essential for the effective administration of justice in delinquency court. To ensure due process in delinquency court, counsel must be appointed as early as possible. Because of various coercive pressures young people face, their rights, particularly to counsel, are often at risk. Juvenile courts must facilitate each child's exercise of those rights. The earlier counsel is appointed, the less likely it is that a juvenile will waive counsel. Where indigence is presumed, juveniles will be less likely to waive counsel. Judges must do their part to ensure that every child before them, regardless of income, has early access to counsel, and that waivers occur only after discussion with counsel—not as a product of coercive, third-party pressure. Juvenile court judges and practitioners need to appreciate the role of competent, zealous counsel as an indispensable aid to the administration of justice—not as something nettlesome to be dealt with only when there is no other choice. In a country where delinquency courts have largely shed their original rehabilitative purpose in favor of a more punitive approach, all three of these reforms are necessary to ensure the protection of the rights and well-being of young people in conflict with the law.

"To ensure due process in delinquency court, counsel must be appointed as early as possible."

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Keeping Kids Out of Court:
Rapides Parish's Response to Status Offenses

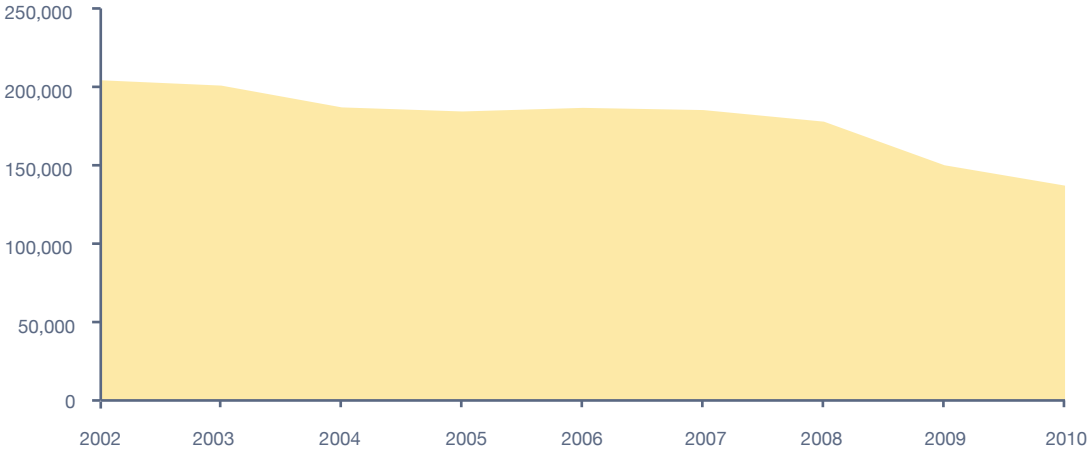
Alessandra Meyer, Senior Program Associate, Center on Youth Justice, Vera Institute of Justice

Hon. Patricia Koch, Criminal Court Judge, Ninth Judicial District Court, Rapides Parish, Louisiana

A new paradigm in local and state responses to youth alleged of status offenses is connecting families with services in their communities, instead of turning to courts. This approach is grounded in the understanding that, with guidance and support, families can resolve the problems that led them to seek help.

Increasingly, states and localities are developing and implementing strategies for safely and cost-effectively diverting youth from the juvenile justice system. Perhaps nowhere is this more necessary than in the response to, and treatment of, young people who are alleged to have committed status offenses—a range of behaviors, such as running away from home, skipping school, violating curfew, or flagrant disobedience, which are prohibited under law only because of an individual's status as a minor. Across the country, these youth, whose actions are problematic but certainly not criminal in nature, are frequently referred to juvenile court and subject to the same punitive interventions as those charged with serious crimes. In fact, according to the most recent national data, 137,000 status-offense cases were processed in court in 2010, and young people in more than 10,000 of those cases spent time in a detention facility. Although the number of status-offense cases processed in court has declined in recent years, an encouraging trend indeed, courts are still handling far too many.

Number of Status Offense Cases
Handled in Court, 2002-10



Source: C. Puzzanchera and S. Hockenberry, *Juvenile Court Statistics, 2010.* Pittsburgh, PA: National Center for Juvenile Justice, 2013, p. 66

> "The court was expected to assess the underlying circumstances that led to the status-offense behavior and match the family to services—something the court was not well-equipped to do."

Both research and practice demonstrate that courts, and juvenile justice systems at-large, are often inappropriate and ill-equipped to provide the services these youth often need, and that community-based approaches to status-offense behaviors are far better for families and communities. By implementing immediate and family-focused alternatives to court intervention, many states and localities nationwide have begun to reduce court caseloads, lower government costs, and provide meaningful and lasting support to children and families.

As momentum builds from these efforts, a new paradigm is emerging: connect families with services in their communities, instead of turning to courts. This shift in approach is grounded in the understanding that families can resolve the problems that led them to seek help; they just need some guidance and support.

In Rapides Parish, Louisiana, the Ninth Judicial District Court has worked diligently in recent years to shift their approach for serving youth alleged of status offenses (known as FINS, or Families in Need of Services) from the court to the community. With support from the John D. and Catherine T. MacArthur Foundation's Models for Change initiative and in collaboration with local stakeholders, the court developed a system to keep young people who have not committed criminal acts away from the courtroom, the justice system, detention, and longer-term placement, thereby preserving the unity and integrity of families and preventing future delinquency behavior from occurring.

In Louisiana, youth who commit status offenses follow two pathways: informal FINS outside the court and formal FINS inside the court. Children referred to both systems are evaluated and matched with services. Service plans issued through formal FINS are binding, whereas any services issued through informal FINS are strictly voluntary. Before recent reforms, the court's informal FINS program was frequently failing the parish's families. On average, it took two weeks—more than enough time for a minor crisis to escalate—for staff to contact a referred family. This delay could put youth at risk and make it much harder for families to resolve their issues. And when the informal system responses were unsuccessful, youth were often funneled straight into court. The court was expected to assess the underlying circumstances that led to the status-offense behavior and match the family to services—something the court was not well-equipped to do.

Determined to find a better way to serve these young people and their families and knowing that any meaningful change to the court's approach would have to be developed in conjunction with local stakeholders, Judge Patricia Koch leveraged her then-position as the president of Rapides' Children and Youth Planning Board (CYPB) to spearhead a reform effort. A collaborative group of local leaders from a cross-section of disciplines, including the court, education, and mental health, sought to ground their work in data and best practice. They conducted a thorough analysis of the FINS system, including a detailed mapping exercise to track various entry points and collect key data. They also examined nationally recognized models from other jurisdictions including Florida, Orange County (New York), and Connecticut.

After looking at the system's shortcomings in relation to national models, they easily identified two reform goals: 1) to limit informal and formal FINS referrals when not truly necessary and 2) to make service delivery to FINS-involved youth more efficient and targeted when services are needed. Ultimately, they wanted to do right by the parish's families and keep nondelinquent youth out of court and provide them with community-based services and support.

Following in the footsteps of others who have made this shift from the court to the community, the group developed an approach consistent with the five hallmarks of an effective status-offense system:

1. *Diversion from court.* The fundamental intent of the informal FINS process is to divert status-offending youth from the juvenile justice system, so they put mechanisms in place throughout the FINS process to actively steer them away from court and toward community-based services. First, only those cases that satisfy all eligibility criteria are accepted into the informal program. For example, a case referred by the school system may only be accepted if the school documents, using the school-exhaustion form, show that it has made two prior attempts at intervention. This and other measures, which did not require additional funding, ensure that referral sources exhaust all intervention efforts available to them before making a referral to the system. Second, for a case to be referred to formal FINS (or court), it must first go through the informal FINS process. And, even then, the informal FINS office may only refer cases to court that satisfy certain conditions (such as the youth has been gone from home for seven or more days and the guardians are requesting court intervention).

2. *An immediate response.* Beyond providing a timely response to all referrals, crisis-intervention services are offered to youth and families in critical emotional or mental distress. This rapid, community- and home-based service—something that may be necessary for some families trying to cope with status-offense behaviors—is available around the clock by mental health professionals and paraprofessional staff. Providing this immediate intervention to families in crisis helps to prevent the escalation of behaviors and family stress, which can unfortunately place a young person at risk for out-of-home placement, court involvement, and removal from school.

3. *A triage process.* Through careful screening and assessment, the informal FINS process identifies youth and family strengths, risks, and needs to triage cases and match families

> "The fundamental intent of the informal FINS is to divert status-offending youth from the juvenile justice system, so they put mechanisms in place throughout the FINS process to actively steer them away from court and toward community-based services."

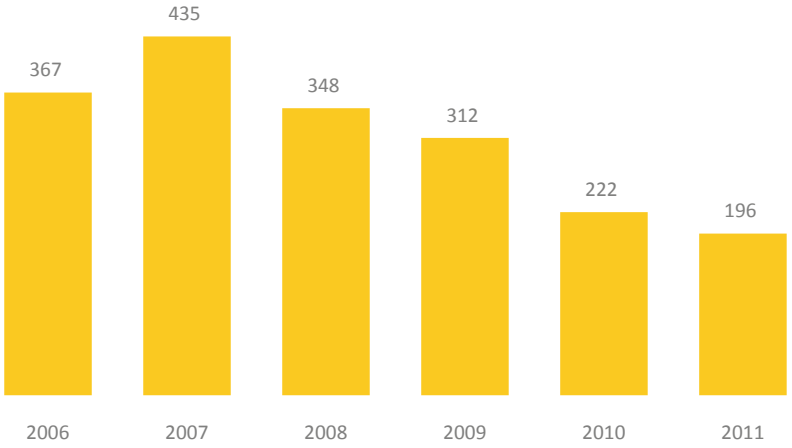
to services. In recognition that some families require only brief and minimal intervention to help navigate the issues at hand, whereas others need intensive and ongoing support and services to resolve problems, the intake process helps staff determine where a youth may fall and provide an appropriate level of services. Intake officers interview the young person and use the MAYSI-2, a screening instrument designed to identify self-destructive behaviors and mental health issues, to first identify which children are most in need of immediate care. They then use the information gathered through the intake process to provide services targeted to the youth's particular needs. For youth who are deemed low-need, staff work with them to develop a service plan without service referrals. For youth who are mid- or high-need, but have never gone through the FINS system, staff assist them in developing a service plan with referrals. And for those mid- or high-need youth who have already gone through the FINS system, a family team conference is convened to assist the family in service-plan development.

4. *Services that are accessible and effective.* The informal FINS department maintains a comprehensive and up-to-date inventory of local, community-based organizations providing different programs and services, many of which are evidence based. The programs and services in the directory are selected based on their quality and ability to provide timely responses to status-offending youth and their families. The areas of need they cover include alcohol and other drug use/abuse, adolescent behavior, mental and behavioral health, family functioning, educational and vocational issues, and health.

5. *Internal assessment.* The department's database and enhanced data-collecting, management, and reporting policies provide for the consistent collection and sharing of data. Internally, aggregate (or summary) information on the population served, referrals, screening/assessment, and service linkage is analyzed monthly and shared in monthly supervisory meetings. Externally, more-detailed case-level information is shared with the supreme court quarterly. This active and frequent review of data helps the informal FINS office make informed decisions about individual cases and work with local stakeholders to monitor, evaluate, and adjust practices as needed to ensure the system is providing appropriate and effective support to youth and families in need outside of the courtroom.

While Rapides Parish is new to this approach of shifting status-offending youth from the courtroom to the community, their reforms are already bearing fruit. From 2006 to 2011, the parish witnessed a 47 percent decrease (from 367 to 196) in informal FINS referrals. This decrease was largely propelled by a dramatic (79 percent) reduction in school referrals following the creation of a new school-exhaustion form, which was developed in close collaboration with the school system. In addition, the number of informal FINS referrals resulting in formal FINS petitions also dropped, decreasing by approximately 50 percent from 2006 to 2010, from 129 to 65 youth.

Rapides Parish: Informal FINS (Families in Need of Services) Referrals, 2006-11



Source: 9th Judicial District Court, Louisiana

These early successes are largely due to the communication and mutual accountability among the court and other key system stakeholders, like the school system, law enforcement, and service providers. Although Rapides' population has grown, the FINS process still operates with a more rural flair—stakeholders meet and collaborate regularly. By sharing and reviewing local FINS data regularly, the stakeholders have become more enlightened, involved, and committed to further reform. While there is still some ways to go, hopes remain high that the new process will eventually stop youth alleged of status offenses from reaching juvenile court altogether.

Judicial Leadership to Address Adolescent Mental Health Needs

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Hon. Linda Tucci Teodosio, Judge, Summit County Juvenile Court, Akron, Ohio

Large numbers of youth involved with the juvenile justice system have significant mental health and substance abuse issues. Many of these youth could be better served in community settings, and juvenile court judges can lead or support community efforts to develop improved policies and service-delivery strategies for these youth.

Youth in the juvenile justice system are three times more likely to experience mental health disorders than the general youth population (Shufelt and Cocozza, 2006; Merikangas et al., 2010). Nearly 70 percent of youth in the juvenile justice system have a diagnosable mental health disorder; over 60 percent of youth with a mental health disorder also have a substance use disorder; and almost 30 percent of justice-involved youth have disorders serious enough to require immediate attention (Shufelt and Cocozza, 2006). Trauma histories are the norm, especially among girls (Abram et al., 2004).

Judges who hear juvenile cases are likely not surprised by these statistics. Unfortunately, it is widely accepted that the juvenile justice system is the de facto mental health system for many youth. There is a growing sense that many of these youth could be safely and more appropriately treated with community-based services that address their mental health needs and keep them close to their families and schools—and out of trouble.

Juvenile court judges can wield extraordinary influence in a community. They ensure the appropriate administration of juvenile justice and often oversee juvenile probation and, sometimes, the juvenile detention facility. Judges can influence local policy, educate the public, and initiate collaborations with other service agencies, private businesses, and community organizations (Kurlychek, Torbet, and Bozynski, 1999). Judges can be especially helpful in improving a community's behavioral-health response to youth in the juvenile justice system.

Judicial Leadership at Work: Ohio
Ohio is a good example of how judicial leadership can influence mental health program development and service. In 2001, under the leadership of Judge Elinore Marsh Stormer, the Akron Municipal Court became the first Ohio court to develop a docket to address mentally ill adults charged with misdemeanors. The court demonstrated that such a docket, using client treatment and accountability, could improve the lives of mentally ill defendants and break their criminal-behavior cycle.

The Role of the Juvenile Court
What can judges do? For *individual clients*, they can start by asking the right questions:

- Has the youth received a mental health evaluation?
- Does the evaluation indicate a need for mental health treatment?
- Are there community mental health services that could treat the youth as an alternative to further processing within the justice system?
- Can local systems coordinate to manage the delivery of mental health services to youth?
- Are the services available to youth evidence based?
- If the seriousness of the offense prevents the youth from being treated in the community, are quality mental health services available in a residential placement?

> "Judges can be especially helpful in improving a community's behavioral-health response to youth in the juvenile justice system."

A judge's ability to influence change, however, is not restricted to individuals. Judges can also play a critical role in changing community programming and systems operation. For example, juvenile court judges can lead or support efforts to:

- involve a broad group of stakeholders (juvenile justice, behavioral health, child welfare, education, family members) in juvenile justice reform;
- institute mental health screening and evaluation at key points of juvenile justice contact and policies and procedures to ensure this information is used appropriately;
- create more mechanisms and opportunities for diverting youth from the juvenile justice system early and into community-based treatment;
- ensure that existing resources support community-based mental health treatment services for youth, aiming for developing and implementing evidence-based practices and services whenever possible;
- lobby for additional resources to build evidence-based, community-based treatment; and
- advocate for enhanced training so that all juvenile justice staff (probation, detention, court, facility) receive basic training on adolescent development and mental health disorders.

At the same time, other parts of the justice system were recognizing the importance of treatment for the mentally ill, as opposed to involvement in the criminal or juvenile justice systems. Crisis intervention team (CIT) training became widespread in Ohio, allowing police to intervene effectively to prevent the filing of criminal or juvenile complaints. These efforts were legitimized in 2001 under the leadership of Ohio Supreme Court Justice Evelyn Lundburg Stratton by the creation of the Supreme Court of Ohio Advisory Committee on Mental Illness and the Courts (ACMIC), which comprised mental health, law enforcement, and criminal justice professionals. ACMIC provided a platform for the statewide, cross-discipline exchange of information and practices on myriad issues presented by mentally ill individuals in the courts. This led to establishing numerous adult and juvenile mental health courts throughout Ohio.

Simultaneously, the Ohio Department of Youth Services (ODYS) and the Ohio legislature recognized the importance of community-based

services in meeting children's mental health needs. In response to a growing need for local alternatives for juvenile courts and overcrowded ODYS institutions, the Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minors (RECLAIM Ohio) initiative was created on July 1, 1993. It encouraged communities to provide programming by creating financial disincentives for committing youth to state correctional institutions when they can safely be treated in the community. In 2009 the state expanded efforts to encourage evidence-based practices or model programs in communities by instituting Targeted RECLAIM and Behavior Health Juvenile Justice (BHJJ) Initiative grants. Under the leadership of local judges throughout the state, communities used this funding to provide behavioral-health services. As a result, admissions to ODYS facilities have dropped. Key to the continued success of these initiatives is strategically reinvesting the savings realized from closing numerous state correctional institutions back to local communities and courts, allowing them the flexibility to meet their youth's needs.

SUMMIT COUNTY JUVENILE COURT
JUDGE LINDA TUCCI TEODOSIO

Turning lives around one child at a time.

The benefits of providing treatment as an alternative or addition to juvenile justice involvement can be realized much earlier than when a youth is on the brink of commitment to a state correctional facility. Judicial involvement and leadership can help a community examine *all* resources for developing innovative programming for youth and families.

Summit County Crossroads Program

In 1999 the Summit County Juvenile Court launched a drug court that addressed substance-abusing youth. In 2003 Judge Linda Tucci Teodosio convened local experts on mental health, substance abuse, and child welfare, as well as representatives from the schools, advocates, the medical community, the prosecutor's office, defense counsel, and local universities, to determine how the community could better address the mental health needs of court-involved youth. Recognizing the close relationship between substance use and mental illness, the community embraced the notion of working with dually diagnosed youth on a specialized docket.

The result was the Crossroads Probation program, making the Summit County Juvenile Court one of the first U.S. juvenile courts to specifically target youth with co-occurring mental health and substance use disorders. Key components of the program include:

- a multisystem advisory board for planning and implementation;
- clear eligibility criteria and terms of participation;
- standardized mental health and substance use screening and evaluation;
- family involvement requirements;
- access to a range of community-based treatment services; and
- community supervision by specially trained juvenile probation officers.

Approximately 70 youth, aged 12-17, are referred to the program each year, post-adjudication, and can have their admitting charge and any probation violations expunged if they successfully complete the program. This docket focuses on youth with more-severe mental disorders, including major depression, bipolar disorder, posttraumatic stress, and psychotic spectrum disorders with co-occurring substance use. Youth with a history of serious felonies or gang involvement are not eligible. Youth participate in Crossroads for approximately one year; their length of contact varies depending on their initial charge.

Summit County Juvenile Court Website

Youth undergo substance abuse and mental health screening and follow-up assessment. A network of community agencies delivers services to youth and their families. A significant number of youth participate in the Integrated Co-occurring Treatment model. Family members are required to participate in court processes and in developing a case plan.

Probation officers receive specialized training and meet with youth under their supervision up to three times per week. The court can sanction youth who fail to meet program expectations. Youth can successfully graduate from the program if they abstain from substance use for at least three months, have had no new charges, and have completed a

substance-abuse-focused intervention. They must comply with prescribed medication and be considered stabilized in their mental health treatment. They must also be involved in some pro-social activity (organized sports, volunteer activities). Youth must apply, by letter, to be released from probation when they consider these conditions to have been met.

Summit County Responder Program

In 2008 Ohio was selected for the John D. and Catherine T. MacArthur Foundation's Models for Change Mental Health Juvenile Justice Action Network, with Summit County as the local site to test innovations developed by the Action Network. The Action Network first chose to focus on "early diversion," i.e., creating new opportunities for diverting youth with mental health needs from the juvenile justice system into community-based care as early as possible.

Summit County schools were a logical place to start. Teachers and school support staff were in an ideal position to note unusual behavior, a change in behavior, or a lack of regular school attendance. Additionally, zero-tolerance policies in local districts often resulted in court referrals for behaviors that could best be handled not by judicial sanctions, but by counseling or psychiatric services. In many cases, court referral was the only option for addressing the behavior and connecting the student to mental health services.

Defining "Success"

To date, in 75 percent of the cases in Summit County, youth successfully completed the terms of the program and showed increased school attendance and improved behavior as reported by their teachers. For these youth, there are no official referrals to court, so they end up with no official record of juvenile justice system involvement. The Summit County Juvenile Court is working with Case Western Reserve University to conduct an evaluation of the Responder Program, and once that is complete, there will be additional outcome information available for participating youth.

Using start-up funding from the MacArthur Foundation, in conjunction with other states in the Action Network, the Summit County Juvenile Court collaborated with county partners, including the superintendent of the Akron City schools, to create the Responder Program. This school-based diversion initiative provides another option for addressing troubling behavior of youth that may be a symptom of an undiagnosed or untreated mental health disorder. Key components include:

- collaboration between the schools, the police (particularly school resource officers), the juvenile court, and community-based treatment providers;
- case managers who provide school-based intervention and case management services to youth;
- training for school staff; and
- parent support services.

The Responder Program initially targeted middle-school youth suspected of having mental health needs and whose behavior has brought them to the attention of school disciplinary staff. The program was quickly expanded to schools throughout Summit County. Mental health "responders," assigned to individual school buildings, help school personnel identify potential mental health needs in students and help link referred youth and their families to treatment and case management services.

The responders are case managers who work out of the Family Resource Center (FRC) at the juvenile court, which provides a wide array of services and support to families. Using a team approach that includes relevant school staff and any providers already working with the family, responders provide in-school intervention services and case management. They conduct mental health screens, arrange full assessments when needed, and work with families to develop service plans linked to community-based services, such as mental health care, substance abuse treatment, mentoring, and tutoring. School personnel receive training on how the program works, the types of behavior that might indicate an underlying mental health need, and how to make referrals to the program. The Responder Program also works with Mental Health America to provide parent peers who support families in the program.

Feedback from the schools, parents, and the juvenile court has been overwhelmingly positive. While a full evaluation of the program is planned for 2014, the program tracks each referred student, recording the reason for the referrals, the services received, indicators of progress, and changes in behavior. More than 75 percent of referred cases have been closed successfully. The Responder Program has expanded from 2 Akron middle schools in 2009 to 18 middle schools and

4 elementary schools throughout the county. The program is sustained with state and local funding, including Temporary Assistance for Needy Families funds from the Summit County Department of Job and Family Services and the juvenile court's RECLAIM grant.

Conclusion

Juvenile court judges can play a significant role in ensuring that communities respond appropriately to juveniles' behavioral-health needs. Judges can initiate, lead, or support efforts to improve policies and practices for youth in the juvenile justice system and use their office to hold children and youth accountable for their behavior and systems accountable for meeting their needs. Because judges have a front-row seat for viewing family struggles, they can motivate systems to collaborate to meet the needs of children served by the court, as well as those who would be better off without the negative, long-term consequences of court involvement. As conveners and facilitators, judges must be careful listeners and take advantage of the opportunity to learn from experts in their communities. Judges can use the information they receive to encourage the cross-system use of resources to serve the best interests of the child.

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Reducing Racial and Ethnic Disparities
in the Juvenile Justice System

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Youth of color are overrepresented in the juvenile justice system. Judges and other decision makers must work together to overcome this disparity.

Racial and ethnic disparities are one of the most pervasive and disturbing characteristics of our juvenile justice system. Youth of color are overrepresented at key decision points, including arrest, referral, detention, transfer to adult criminal court, and commitment to state custody. As the National Research Council (2013) noted in a comprehensive review of the literature, "Several recent careful reviews . . . have found that 'race matters' beyond the characteristics of an offense."

At the same time, many juvenile justice officials find it difficult to discuss racial bias. Avoidance, denial, and fear of accusations impede attempts at reform. Moreover, despite decades of efforts to study and address disparities, few jurisdictions have implemented reforms with measurable impacts on youth of color (National Research Council, 2013).

For all of these reasons, juvenile justice stakeholders, and particularly judges, should be aware of the scope of the problem, how it affects court proceedings, and effective remedial strategies.

> "Several recent careful reviews...have found that 'race matters' beyond the characteristics of an offense."

Defining the Issue

"Racial and ethnic disparities" (also known as "disproportionate minority contact," or DMC) include three separate but related issues (Soler, Shoenberg, and Schindler, 2009). First, there is *overrepresentation* of youth of color in the juvenile justice system. That is, the percentage of youth of color at a particular decision point in the juvenile justice system is higher than the percentage of youth in the general population or at a previous decision point in the system. Thus, the percentage of youth of color at arrest is usually higher than the percentage of youth of color in the general population,

and the percentage of youth of color in detention is often higher than the percentage of youth of color at arrest. The Relative Rate Index (RRI)—the indicator of disparities traditionally used by the federal Office of Juvenile Justice and Delinquency Prevention—measures overrepresentation.

A second aspect of the issue is *disparate treatment* of youth of color compared to white youth. This occurs when youth of color who are similarly situated to white youth are nevertheless treated more harshly. Research has shown that in many jurisdictions youth of color are more likely to be incarcerated, and to be incarcerated longer, than white youth, even when charged with the same offenses.

A third aspect is *unnecessary entry and movement deeper* into the juvenile justice system by youth of color. This occurs when youth of color are arrested when they could be diverted from the system, or when they are held in secure detention when they could be released to community-based alternative programs. Of course, white youth can also be subject to unnecessary entry and movement deeper into the system, but this problem affects youth of color disproportionately. System reform efforts aim to reduce *all three* types of disparities.

There are also specific issues involving Hispanic and Latino youth in the juvenile justice system (Villarruel and Walker, 2002):

- failure to capture ethnicity separately from race in data collection, which leads to undercounting Latino youth and other inaccuracies;
- lack of uniform definitions for "Latino" and "Hispanic";
- failure to provide adequate bilingual services, written materials, and translators for Latino youth and their families;
- failure to ensure the cultural responsiveness of services and programs;
- consideration of immigration status at arrest and detention, resulting in incarceration, deportation, and permanent separation of youth from families; and
- anti-gang laws that sweep broadly to involve youth who are not gang members.

To be successful, reform efforts need to address these issues as well.

Research on Implicit Bias in the Juvenile Justice System

At the individual level, reform efforts must recognize the implicit biases of key system decision makers. Implicit biases involve the use, unconsciously, of stereotypes. Such biases are common. For example, the public strongly associates crime with African-American males. Researchers at UCLA demonstrated the strength of this association (Gilliam and Iyengar, 2000). They showed test subjects three versions of an evening television newscast that included a story about an ATM robbery. In one version, the suspect's race was not indicated. In another version, there was a close-up picture of the suspect, a white man. In the third version, the same picture was shown but the man's skin was darkened technologically so that he appeared to be African-American.

After a period of time, test subjects were asked what they recalled about the newscast and the alleged perpetrator. Among test subjects shown the picture of the black suspect, 70 percent recalled seeing a black man. Where the test subjects were *not* shown a picture of the suspect, 60 percent recalled seeing a picture of the suspect, and 70 percent of those recalled seeing a *black* suspect. Even where test subjects were shown a picture of a white suspect, 10 percent nevertheless recalled seeing a picture of a black suspect.

> "...white youth can also be subject to unnecessary entry and movement deeper into the system, but this problem affects youth of color disproportionately."

The authors of the study explain that, as a result of local news coverage and other influences, Americans have a "frame" for stories about crime that includes a black person as the perpetrator. When the information provided confirms that frame, as in the newscast that showed the black suspect, a very high percentage of people remember the person's race. When a newscast leaves information about the suspect's race blank, the "frame" of public perceptions supplies the missing information, i.e., a black suspect. Even when people are given explicit information that the suspect is white, the "frame" leads a portion of people to recall that the suspect is black.

Racial and ethnic disparities in the juvenile justice system are often the result of implicit bias by key decision makers. In the pioneering study in the field, researchers in Washington State did structured-content analyses of juvenile pre-disposition reports prepared by probation officers, and they compared reports on white youth and black youth who were charged with similar crimes and had similar delinquency histories (Bridges and Steen, 1998). They found that reports on black youth were significantly more likely to include negative internal attributions (i.e., the

crime resulted from the youth's values and personality) than reports on white youth. In contrast, reports on white youth charged with the same offenses and with similar delinquency histories were more likely to include negative *external* attributions (i.e., the crime resulted from peer pressure or a bad environment) than reports on black youth. These distinctions had a critical influence on dispositions given to the youth: black youth were judged to have a higher risk of reoffending than white youth and were given longer or more restrictive dispositions.

Judges are not free of bias. In the leading study, researchers administered the Implicit Association Test (IAT) to 133 trial court judges from three jurisdictions in different parts of the country (Rachlinski et al., 2009). This computer-administered test elicits responses to associations between words ("white," "black," "bad," "good"), pictures of faces, and other stimuli, and measures the amount of time the test subject takes to make the associations. The IAT is considered the gold standard in identifying implicit bias. Researchers have published hundreds of academic studies using the IAT, and more than four and a half million people have taken the test.

Research has consistently shown a strong "white preference" among white subjects. This means, for example, that white participants more quickly associate stimuli such as faces of white individuals with positive words or concepts, and take more time to associate words like "black" and faces of African-Americans with positive words and concepts. Black test subjects have shown mixed results, with some showing a "white preference" and some showing a "black preference." In the second part of the study, the researchers gave the judges a series of vignettes or hypothetical cases to decide, then compared their race preference with their decisions. In some of the hypotheticals, the defendant's race was not presented, and in others it was explicit.

> "...when judges are aware of the need to monitor their responses for the influence of implicit racial biases, and are motivated to do so, they can compensate for those biases."

The researchers reported three conclusions. First, the IAT scores showed that judges, like everyone else, carry implicit biases concerning race. Second, the decisions in some of the hypothetical cases provided evidence that implicit biases can affect judges' judgments. Third, and most interesting, when judges are aware of the need to monitor their responses for the influence of implicit racial biases, and are motivated to do so, they can compensate for those biases. This occurred when some of the trial judges figured out the purpose of the exercise and became more careful about their responses. When that happened, they showed no racial bias in their decisions.

How Implicit Bias Can Affect the Juvenile Justice Process

Research suggests that many key decision makers in the juvenile justice system have implicit racial biases. This can affect the juvenile justice process in several ways. Judges are decision makers on the cases before them. Particularly in criminal and juvenile delinquency cases, judges must be aware that they likely have some implicit racial biases. In juvenile court, they particularly need to be watchful at key decision points, such as detention, violations of probation or other court orders, transfer to adult criminal court, and disposition (i.e., whether to commit the youth to state custody). Judges must ensure that their implicit biases do not affect their decisions. Research on trial judges indicates that such efforts may be very successful.

Judges are also managers of the courtroom and key participants in other aspects of the juvenile justice process. They need to be aware that other key decision-makers in the juvenile justice system also are likely to have implicit racial biases. Therefore, they must be watchful for bias at other points in the process, such as referrals to court by school administrators, arguments by prosecutors, presentations by defense attorneys, recommendations in mental health studies, and recommendations in pre-disposition reports. And, like judges, other key decision makers must be aware that they likely have some implicit racial biases and watchful that those biases do not affect their own decisions.

System Reforms to Reduce Racial and Ethnic Disparities in Juvenile Justice

Judges and others related to the courts should also be aware of successful efforts to reduce racial and ethnic disparities at the system level. The Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) has been working to reduce unnecessary secure detention, protect public safety, and reduce racial and ethnic disparities for the past 22 years. JDAI now includes some 250 sites in 39 states and the District of Columbia. Many JDAI sites have significantly reduced racial and ethnic disparities, particularly at the detention-decision point (see JDAI Help Desk at www.jdaihelpdesk.org).

The W. Haywood Burns Institute for Juvenile Justice Fairness and Equity in San Francisco has worked in more than 100 jurisdictions over the past ten years to reduce racial and ethnic disparities. The Burns Institute also provides training on reducing disparities to JDAI sites (see www.burnsinstitute.org).

The John D. and Catherine T. MacArthur Foundation's Models for Change juvenile justice reform initiative has made reducing racial and ethnic disparities one of its key goals over the past ten years. The MacArthur Foundation also supported a DMC Action Network, managed by the Center for Children's Law and Policy, which involved 17 jurisdictions in eight states (see www.modelsforchange.net).

All of these efforts use the same basic components in their approach:

- developing a collaborative of key stakeholders, including family members and community representatives, to govern the reform effort;
- identifying key decision points in the juvenile justice process where disparities occur;
- collecting and analyzing regularly data on youth at key decision points, the alternative-to-incarceration programs available to those youth, and the effectiveness of those programs;
- using objective screening and assessment instruments to determine which youth need to be detained and which can be safely supervised in the community;
- creating or enhancing alternative-to-detention programs in the community to meet the supervision needs of youth in custody;
- developing and implementing plans to reduce disparities that have measurable objectives; and
- monitoring and evaluating progress toward reduction of disparities regularly.

These strategies should be part of any effort to reduce racial and ethnic disparities affecting youth of color in the juvenile justice system. ☙

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Alabama Uses Appellate Mediation Program

The Supreme Court Committee on Appellate Mediation is a group of judges and lawyers who worked diligently to develop an appellate mediation program that can be used by the state's supreme court and court of appeals. This program provides a creative alternative to the appellate process that is more expeditious and less expensive for the citizens of Alabama.

Alaska Improves Magistrate System

Magistrates play a key role in serving remote areas of Alaska, and significant resources are devoted to their education and training. Chief Justice Dana Fabe implemented several changes in the magistrate system's structure. Magistrates are now *magistrate judges*, and all magistrate judges appointed after January 1, 2013, must be reappointed every four years following an evaluation by a panel of judicial officers. These changes are intended to enhance public confidence in the magistrate system.

Arizona Courts Adopt Evidence-Based Practices

Arizona reengineered adult and juvenile community supervision programs using evidence-based practices. Over the past five years, prison revocations have dropped by over 38 percent and felony convictions by persons on probation by 40 percent. In 2013 the number of juveniles committed to corrections dropped by 18 percent, and juveniles detained dropped 14 percent. The risk-assessment tool does not require an in-person interview with the defendant.

Arkansas Improves Public Understanding of Courts' Mission

Responding to a troubling lack of basic civics knowledge, the Supreme Court of Arkansas launched the Arkansas Courts and Community Initiative. ACCI is engaging all members of the public, from legislators to business leaders to civics clubs to students, to increase awareness about our system of government, with emphasis on the special role of state courts in administering and upholding the rule of law and our constitutional system.

California Increases Transparency with New Budget Process

The California Judicial Council adopted a new budget development and allocation process for trial courts based on workload. The funding methodology uses case weights and other parameters to determine court workload needs and then translates that to an allocation amount. It replaces the pro rata formula used since 1997 and, for the first time, shifts current baseline funding from some courts to others.

AR Supreme Court

Colorado Builds Leadership and Fairness Through Education

Colorado created the Colorado Judicial Executive Leadership Program, which focuses on strengthening individual leadership skills and engaging the workforce in planning efforts related to procedural fairness. In 2013 supreme court justices, 22 chief judges, the state court administrator, division directors, and 44 executive leaders throughout the state graduated from the institute. Colorado remains committed to building a culture of highly talented leaders through continuing education.

Connecticut Expands Pro Bono Legal Services

Changes in Connecticut's legal services practices allow attorneys to take on more pro bono cases without feeling overwhelmed. Authorized house counsel and retired attorneys can take part in pro bono programs under the supervision of a legal aid secretary, bar association, or Connecticut bar member. New rules also allow attorneys to file for limited appearances for specific court events and to file a Certificate of Completion terminating their client obligation after their limited appearance.

Delaware Makes Tech Purchases More Efficient

The Delaware Administrative Office of the Courts' Judicial Information Center (JIC) is working to improve the quality of various court systems statewide. The first project focused on the technology information helpdesk and looked at reducing the time to quote and purchase computers and software. By working with their hardware and software vendors, JIC dramatically reduced the average time frame from nine days to an hour. Additional projects are underway to improve efficiency.

Inset: DE Old State House

District of Columbia Courts Focus on Employee Engagement

The District of Columbia Courts are "Building a Great Place to Work" so employees are highly productive, fully engaged, and eager to provide excellent public service. The courts chartered teams focusing on communication, performance management, work-life balance, and "Working on Wellness," and internal surveys show improvment in these areas. Employee feedback informed division-level action plans, strategic human resources, cross-training, health and fitness programs, on-site child-care enhancements, a flex-place pilot program, and executive leadership outreach.

Florida's Foreclosure Initiative Reaps Significant Results

Culling from successful local strategies, the Florida judicial branch's *Foreclosure Backlog Reduction Plan for the State Courts System* recommended three solutions to improve the just and timely processing of foreclosure cases: more active judicial or quasi-judicial case management and adjudication, additional case management resources, and deployment of technology to help judges move cases forward. The trial courts are now resolving, on average, 20,000 backlogged foreclosure cases per month.

IN Law Library

Georgia Adopts Standards for Accountability Courts

Twenty years after the inception of drug courts in Georgia, the Judicial Council adopted operation and treatment standards for all accountability-court programs. When applied appropriately, standards ensure improvement and uniformity in the delivery of services to participants throughout the state's 159 counties. Researchers at the Administrative Office of the Courts are collecting data to measure program quality and inform needs for technical assistance. Certification and peer-review processes are underway.

Hawaii's Hope Program Expands Across the Country

The HOPE program (Hawaii's Opportunity Probation with Enforcement), which began in 2004, is now recognized internationally and nationally as a model that successfully deters crime and substance abuse through fairness, discipline, and compassion. More than 18 states across the country have used HOPE as a model. HOPE probation helps defendants succeed by reducing crime, substance abuse, and recidivism.

Idaho Courts Improving Response to "Silver Tsunami"

As Idaho's elder population grows by 147 percent in the coming years, its courts are protecting and empowering individuals under guardianship and conservatorship. Through judicial leadership, innovative policies, and partnership with stakeholders, the courts have established a public complaint process, procedures for finding missing guardians or conservators, post-appointment court monitoring of persons under guardianship and conservatorship, third-party review by court personnel of all conservatorship accountings, online training, and simpler standardized annual forms to collect information.

ME Penobscot Judicial Center

Illinois Makes Civil Justice More Accessible

The Illinois Supreme Court established the Civil Justice Division within the Administrative Office of the Illinois Courts. The Civil Justice Division's objective is to help the legal system efficiently deliver fair-and-accessible outcomes to all court users, particularly low-income, vulnerable individuals. This division is working to promulgate statewide standardized forms and provide language-access services and support across the state, among many other services.

Indiana Responds to the Needs of Incapacitated Adults

A new resource to serve the potentially growing number of aging and incapacitated adults in Indiana was established by the legislature in 2014 and staffed by the Indiana Supreme Court's Division of State Court Administration. More than $300,000 in grants were made to nine volunteer-based guardianship programs serving over 300 individuals. The supreme court also funded a unique online guardianship registry, providing public access on the status of guardianship cases throughout Indiana.

Iowa Establishes Business Specialty Court Pilot Project

The Iowa Supreme Court established a three-year pilot project for an Iowa Business Specialty Court for complex commercial cases with $200,000 or more in dispute. This separately managed docket within Iowa's unified court system will leverage judicial expertise and litigants' desires to tailor case management practices best suited for resolving substantial business disputes fairly and expeditiously.

Kansas Moving Toward e-Filing

Kansas is implementing a statewide e-filing system in several locations. By June 30, 2014, e-filing will be present in 11 of Kansas's 105 counties, and more than half of the state's nontraffic case filings will be eligible to use it. For appellate courts, the briefs and thousands of other pages of paper that can accompany an appeal are scheduled to be sent electronically from three urban counties: Sedgwick, Shawnee, and Johnson.

Kentucky Introduces e-Filing

The Administrative Office of the Kentucky Courts is implementing e-filing as part of its plan to update the court system's aging technology. e-Filing will be available in all 120 counties by the end of 2015. "This will transform the way Kentucky courts do business," said Chief Justice John D. Minton, Jr. "The cost savings will be substantial and the state's entire legal system will become more efficient when we process court cases electronically."

Louisiana Improves Court Governance

A group of Louisiana judges and court administrators, with assistance from the Louisiana Judicial College, is developing a series of seminars designed to inform the judiciary on issues related to court governance. The goal of the seminars, which will continue through 2014, is to teach judges and administrators how to blend court administration with judicial independence.

KY Supreme Court Entrance

Maine Speeds Up Criminal-Case Processing

The Unified Criminal Docket (UCD) pilot project creates a single efficient way of processing criminal actions and civil violations by allowing for early information sharing, quick access to appointed counsel for defendants unable to afford attorneys, and prompt judicial attention to resolving cases. UCD eliminates case transfers between district and superior courts, reduces the number of court appearances, and promotes public safety by reducing delay and providing a quick response to crime victims.

Maryland Increases Access-to-Justice Outreach

The Maryland Access to Justice Commission, working with the Office of Communications and Public Affairs, produced four videos to help self-represented litigants use the courts. These videos are available online at mdcourts.gov: *Tips for Your Day in Court, Service of Process, Defending a Small Claim,* and *Finding Legal Help*. Another video, *The Maryland Court System*, is used to educate high-school students about the state's courts. Assistance is also available via live chat sessions.

HI Supreme Court

The Great Hall of the John Adams Courthouse, MA Supreme Court

Massachusetts Courts Expand Use of Evidence-Based Practices

Massachusetts trial court judges and the probation department are using evidence-based practices to inform judicial decision making. A strategic plan to expand specialty courts using criteria and outcome data was developed with the state public- and mental-health departments. The legislature has funded expansion of the HOPE/MORR national pilot project to reduce recidivism. The project is showing good compliance data from Essex County, resulting from a model that calls for swift, certain, and measured sanctions.

Michigan Uses Grant Funds to Spur Court Innovation

Michigan provided grant funds to courts to support innovation in a diverse array of court services. Innovations include improving collections using social media; implementing a human-trafficking court; automating income-tax garnishment through e-filing and electronic service of writs; developing a smart-phone interface allowing attorneys and parties to electronically check in at court; testing methods for early appointment of counsel for indigent defendants to reduce jail overcrowding; and developing a court based on tribal peacemaking principles.

Minnesota Courts Going "Paperless"

The Minnesota Judicial Branch completed a pilot program launching its statewide transition from paper-based to electronic case records by the end of 2016. Electronic filing (e-filing) of family and civil cases is mandatory in pilot district courts; for many other case types, it is optional. District courts have been converting paper case documents into digital images that are stored in the branch's case management system. These images are viewable on public-access terminals in 44 courthouses.

Mississippi Mandates e-Filing

The Mississippi Supreme Court made electronic filing mandatory for briefs and motions on January 1, 2014, and will implement other e-filing capabilities in later phases. Mississippi Electronic Courts (MEC) is adapted from the e-filing system used by the federal courts. Mississippi is the only state to obtain permission to use the federal court system. E-filing is currently used in 22 Mississippi trial courts in 13 of the state's 82 counties.

Missouri Chief Justice "Goes Undercover" for Access and Fairness Surveys

Adorned in the same bright green "You Be the Judge" shirt as her fellow surveyors from the state AOC, Chief Justice Mary Russell went incognito to courts in Osage and St. Louis counties to conduct public access and fairness surveys. By using the National Center for State Courts' Access and Fairness *CourTools* survey, results can be compared across jurisdictions and other states. More survey sites are expected in the near future.

Montana Shares Case-Processing Info with Public

Montana began quarterly publication of case-processing measurements for the state's trial courts. This follows on the heels of the implementation and distribution of case-processing standards for the state supreme court. The projects are part of the Montana Judicial Branch's initiative to bring detailed case-processing information to citizens and improve understanding of the courts' workload and time standards.

Nebraska Develops Course for Guardians ad Litem

Through an SJI grant, Nebraska Judicial Branch Education built a six-hour Web course for attorneys interested in becoming guardians ad litem in juvenile court. Nebraska attorneys and judges provided input for a curriculum that was delivered to the National Council of Juvenile and Family Court Judges. This course requires attorneys to experience the progression of a case through juvenile court before being appointed to serve. Automatically scored exercises ensure attorneys have mastered the content.

Nevada Launches First Appellate Court Apps

The Nevada Supreme Court was the first state appellate court in the nation to launch Apple and Android mobile applications. The applications provide access to a variety of supreme court case documents, oral argument calendars, recordings, decisions, court rules, and self-help resources.

MS Supreme Court

NH Supreme Court

New Hampshire Call Center Saves Courts 1000s of "Work Days"

Centralization, specialization, and automation have improved customer service and saved New Hampshire court resources. For example, all telephone calls to New Hampshire trial courts (500,000 annually) are routed to a call center. Agents trained in trial court subject matter, telephone tools and techniques, and customer service can use the courts' case management system and respond to nearly 70 percent of calls, thus saving the trial courts 2,602 work days annually.

New Jersey Works to Improve Access to Justice

In October 2013, the New Jersey Judiciary became the first court system to administer a statewide survey to assess court users' perceptions about access and fairness. Based on NCSC's *CourTools* Access and Fairness Survey, the New Jersey survey sought feedback on everything from court safety to interpreting services. The judiciary's Access and Fairness Committee collected more than 16,000 responses to guide their efforts to improve court services for all users.

New Mexico Improves Case Management System

Odyssey, New Mexico's case management system, allows for increased efficiency and streamlined processes. This new system has been implemented in all state courts except the Bernalillo County Metropolitan Court, which will be fully converted to Odyssey in 2014, followed by the New Mexico Supreme Court and Court of Appeals. The system is frequently updated and will support the courts' long-term case management needs.

New York Confronts Human Trafficking

New York became the first state in the nation to implement a comprehensive response to human trafficking. Human-trafficking intervention courts now address 95 percent of the arrests for prostitution and prostitution-related offenses in the state. These courts are presided over by a specially trained judge who works with stakeholders to identify trafficked defendants and engage them with a full range of services to restore them to productive, law-abiding lives.

North Carolina Expands Language-Access Services

The North Carolina unified court system has expanded its language-access services for all foreign languages to limited-English-proficient (LEP) individuals in all child custody and support proceedings. Court interpreters will be provided at the state's expense. Child custody and child support trials have an immense effect on children and families and making language-access services more available will help mitigate negative impacts from these proceedings.

North Dakota Improves Decision Making on Youth Detention

North Dakota's statewide detention-screening tool helps reduce the disproportionate number of minority youth in pretrial detention. A two-year pilot project shows that the screening tool substantially reduced the number of children initially placed in detention and the number of days children were held. The court and the North Dakota Association of Counties produced a video about the legal and social concerns of youth detention, which is used to train law enforcement and juvenile court staff.

NY Court of Appeals Entrance

OH Supreme Court Bench Fascia

Ohio Adopts Rules Governing Visitation in Family Cases

Ohio is one of the first states to establish a standardized, statewide scheme governing parenting coordination. Rules 90 through 90.13 of the Rules of Superintendence for the Courts of Ohio (effective April 1, 2014) address the circumstances under which parenting coordination should be used; the role and qualifications of a parenting coordinator; responsibilities of the court when ordering parenting coordination; and requirements when domestic abuse or domestic violence is alleged, suspected, or present.

Oklahoma Improving Court Interpretation

The Oklahoma Supreme Court has appointed a new statewide board of examiners of certified courtroom interpreters to assist with adopting uniform rules and procedures for certifying and using language interpreters in the district courts. The court has also directed the Administrative Office of the Courts to increase public awareness of these services, expand the training available to judges and their staff, and expand the scope of language interpreter services through technology.

Oregon Provides Remote Interpreting Services

The State Court Administrator's Court Interpreter Services Unit uses remote audio/video interpreting (RI) technology to deliver language and ASL services to courtrooms in 33 of Oregon's 36 counties. In 2013 RI assistance served speakers of 178 different languages in 1,078 nontrial court proceedings. An online feedback system measured 97.4 percent user satisfaction and resolved 74 system/user issues. RI equipment was added to court public counters in two counties as part of a grant-funded pilot project.

Pennsylvania Measures Problem-Solving Court Performance

Pennsylvania launched a statewide case management system for problem solving-courts. This system generates "real-time" performance data using measures, developed by the National Center for State Courts (NCSC), for mental health courts and adult drug and DUI courts. These performance measures are part of the management information system and can be generated as reports by each individual court, as well as statewide. Pennsylvania will be working with NCSC to develop similar measures for veterans courts.

Rhode Island Automates Payment of Indigent-Defense Attorneys

The Supreme Court Judicial Technology Center's Indigent Defense Attorney Time Tracking System (IDATTS) handles payment requests from indigent-defense attorneys. IDATTS verifies specific business-rule requirements regarding indigent-defense payments, including attorney appointment to cases, fee schedules, payment request deadlines, attorney approval for specific defense panels, and case payment caps. Payment requests meeting the rules are automatically entered into an electronic file for processing. Any exceptions are held until resolved.

South Carolina Moves from Paper to Electronic Documents

The South Carolina appellate courts have started going paperless by using a new Web-based case management system, iPads, and other devices to allow court staff to work without paper documents. In addition to reading and annotating pdf documents and having instant access to e-mail and court Web sites, judges use iPads to circulate opinions for approval and filing. Work that came in 32-pound boxes is now transmitted to a 23-ounce iPad.

South Dakota Recruits Attorneys for Rural Counties

The South Dakota Legislature adopted a pilot program to recruit attorneys for rural areas. The program provides a financial incentive for attorneys to set up a practice in counties with a population of 10,000 or less, which accounts for 48 of the state's 66 counties. The attorney must practice in the rural county full-time for at least five years. The funding is a partnership between the state, the counties, and the state bar association.

Tennessee Uses Faith-Based Initiative for Pro Bono Services

The Tennessee Faith and Justice Alliance was developed by the Tennessee Supreme Court Access to Justice Commission to bring together people needing legal help with pro bono attorneys at their houses of worship. It is the first program of its kind to align legal needs at local churches with nearby resources. Plans call for expanding it to all faiths and geographic areas of the state.

WA Temple of Justice Foyer

Texas Works to Close School-to-Prison Pipeline
The Texas Judicial Council submitted proposals to modify the education, family, and penal code to help keep children who commit minor conduct offenses on school property out of the criminal court system. Almost all of the recommendations were compiled into one bill (SB 393) that passed with broad support through both houses and was signed into law by the governor. This law should decrease the flow of juveniles into the pipeline and reduce court caseloads.

Utah Mandates "e-Everything"
In 2013 Utah courts reached an important milestone in their transition to electronic operation with mandatory e-filing of all civil, domestic, probate, and citation cases for every general and limited jurisdiction court statewide. Mandatory e-filing will be extended to criminal, juvenile, and appellate cases during 2014. In addition to e-filing, Utah's definition of the e-record includes e-documents, e-payments, e-warrants, e-service and notice, and Judicial Workspace, an application tailored to the electronic needs of judges.

Vermont Works to Improve Customer and Employee Satisfaction
The Vermont Judiciary simultaneously conducted customer service and employee satisfaction surveys using NCSC *CourTools* performance measures. The court administrator is traveling to judiciary work sites around the state to discuss the results and to thank employees for the high scores received on the Access and Fairness survey. Employees brainstorm ideas to make the judiciary a better place to work. The sessions will be followed by implementation of ideas based on the employee feedback.

Virginia Rolls Out e-Filing System
The Virginia Judiciary e-Filing System (VJEFS) allows attorneys to file civil actions in circuit court electronically and is now live in 16 courts and continues to be rolled out statewide. VJEFS is a comprehensive automated system developed by the Office of the Executive Secretary to integrate with the circuit courts' existing, statewide Circuit Case Management, Case Imaging, and Financial Management systems, thereby improving efficiency. VJEFS won the 2013 Governor's Technology Award.

Washington Offers Limited-Legal-Practice Option
In response to the growing needs among litigants, the Washington Supreme Court approved the Limited License Legal Technician Rule in which trained non-attorneys can help court users with less-complex legal needs, such as filling out and filing the correct paperwork. This rule makes Washington the first state legal system in the nation to join other professions in offering limited-practice options, which open doors to professional help for people with unmet, simpler legal needs.

West Virginia Assesses Felons' Risks and Needs
In January 2013, the West Virginia Supreme Court directed each felon be given a risk-and-needs evaluation upon finding of guilt. To perform those evaluations, every probation officer was directed by the court to be certified in administering the Level of Service/Case Management Inventory (LS/CMI) test. A new electronic offender management system integrates the standardized presentence investigation reports with the LS/CMI results, creating a rich pool of data for determining the efficacy of offender programs.

Wisconsin Rolls out Evidence-Based Decision Making in Criminal Justice
Milwaukee and Eau Claire counties, with assistance from the National Institute of Corrections, made significant progress in building a system-wide framework (arrest through final disposition and discharge) that results in more collaborative, evidence-based decision making and practices. The initiative provides local criminal justice policymakers with the information, processes, and tools that will result in measurable reductions of pretrial misconduct and post-conviction reoffending. These practices are now being expanded to other jurisdictions around the state.

Wyoming Improves Citations via Technology
The Wyoming Supreme Court partnered with the Wyoming Highway Patrol in the creation of statewide eCitations. When combining this technology with the existing Wyoming ePay system, citations can be issued and then sent electronically to the court, and payment can be received in less than a 48-hour business cycle. The advent of eCitations also means only one justice agency is entering the data, accomplishing better efficiency and accuracy in government work.

WV Supreme Court of Appeals Entrance

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Using Technology to Improve Jury Service

Hon. Stuart Rabner, Chief Justice,
Supreme Court of New Jersey

Millions of people are summoned for jury service each year nationwide. The New Jersey Judiciary has used technology not only to summon jurors, but also to make it easier for them to serve.

We are fortunate to live in a society in which we have the right to be judged by our peers. Along with that right comes responsibility. We must all serve when called, or the jury system we value will not work.

For our system to function properly, millions of citizens across the nation are summoned for jury service every year. Jurors who perform this basic duty of citizenship deserve our gratitude and respect. They also deserve to be treated by the courts in a manner that makes jury service as convenient as possible.

With that aim in mind, the New Jersey Judiciary has developed and used technology in a variety of new ways to enhance the way we interact with more than one million citizens summoned for jury duty each year.

As a first step, we developed a proprietary automated jury management system that greatly improved the judiciary's ability to select and manage juries and provided uniform operations statewide. Next, we developed an online juror questionnaire. After a substantial percentage of potential jurors switched to the online response system, the judiciary developed a program that invites jurors to submit cell-phone numbers and receive text messages about their upcoming jury service. Most recently, in December 2013, we made available a new mobile app that allows jurors to get helpful, current information about jury service on their mobile devices, drawing on the judiciary's Web site, www.njcourts.com.

Jury Automated System

Each improvement has rested on previously developed technology, so that every step forward became a stepping-stone for the next project. The judiciary began using a jury automated system (JAS) in the late 1990s to manage all aspects of jury operations. JAS merges four lists: registered voters, licensed drivers and photo-ID holders, filers of state personal-income-tax returns, and applicants for homestead rebates for property tax relief. JAS is also used to select jurors randomly, download summons information from each county to print juror summonses, track juror attendance, analyze juror use, record panel selection, verify service, process juror payments, and manage other issues, such as failures to appear.

JAS allows for local management but provides central office efficiencies. Each jury manager controls the number of summonses to be generated each week, but the central office prints and mails summonses as well as checks to jurors once their service ends.

The judiciary also implemented a barcode system for juror identification. A barcode is now included on the single-page, pressure-sealed summons that jurors receive.

Jurors are instructed to retain the bottom of the summons, which includes their juror badge and barcode, and to bring it with them to the jury office. The juror badge is scanned when a juror arrives, and each juror must wear the badge at all times. Attendance is tracked daily by scanning each juror's badge. This barcode system has been adopted by other jurisdictions.

JAS eliminated considerable data entry and other clerical functions, and it allowed local jury managers to focus instead on managing jurors in their own counties. Managers had more time for day-to-day operations and problem solving, and they continued to work with the judiciary's central office staff to improve operations.

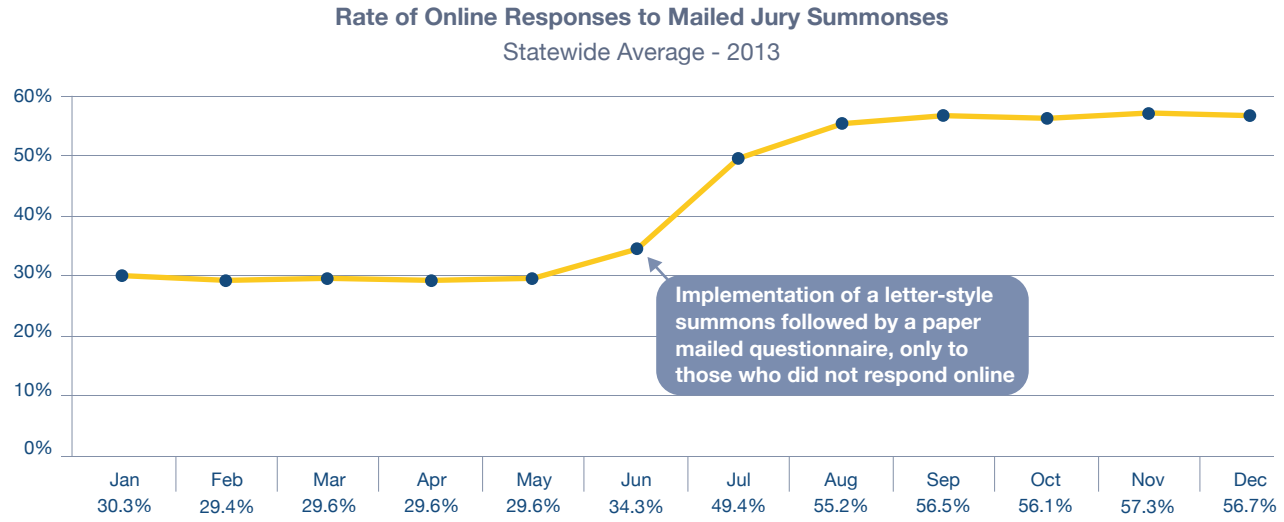
> "Each improvement has rested on previously developed technology, so that every step forward became a stepping-stone."

Jury Online System

A few years after the automated system was up and running, jury managers began receiving requests from jurors to interact with the courts online. As more people began to communicate and shop online, they looked for similar efficiencies in other areas, including jury service.

In response, in October 2010, the judiciary introduced an online response system that allows jurors to answer an initial summons by accessing a Web site and filling out a questionnaire. The judiciary modified the jury summons and explained how to access an easy-to-remember URL, njcourts.com/juror. As a result, anyone who receives a jury summons can complete the questionnaire online.

This jury online system (JOS) is fully integrated with JAS, so that the data jurors enter are automatically added to the statewide database. That eliminates even more data-entry work for court staff. Before JOS, staff members manually opened more than one million juror-qualification questionnaires each year, entered data for each juror, scanned barcodes, typed name and address changes, and processed disqualified jurors and people requesting postponements. After JOS, all of that work is done by jurors who complete their questionnaire online.

There are other benefits as well. New Jersey law requires the judiciary to retain completed paper questionnaires for three years. Electronic responses alleviate the need to store those records. Also, the traditional approach requires the judiciary to maintain a file-management system so that particular questionnaires can be retrieved when needed. With the online system, jurors can print a page that confirms whether they are qualified to serve. That has greatly cut down on phone calls to local jury management offices from jurors checking their status.

Because the benefits of the online system were so great, we decided to increase its use. In February 2011, we surveyed jurors about their use of the online system. Of particular interest were jurors who knew the system existed but chose not to use it. We were surprised to learn that 46 percent of those jurors did not use the online option because they preferred the convenience of completing the paper summons. As a result, we began a pilot program in one county and replaced the paper summons/questionnaire with a letter-style summons without the questionnaire.