

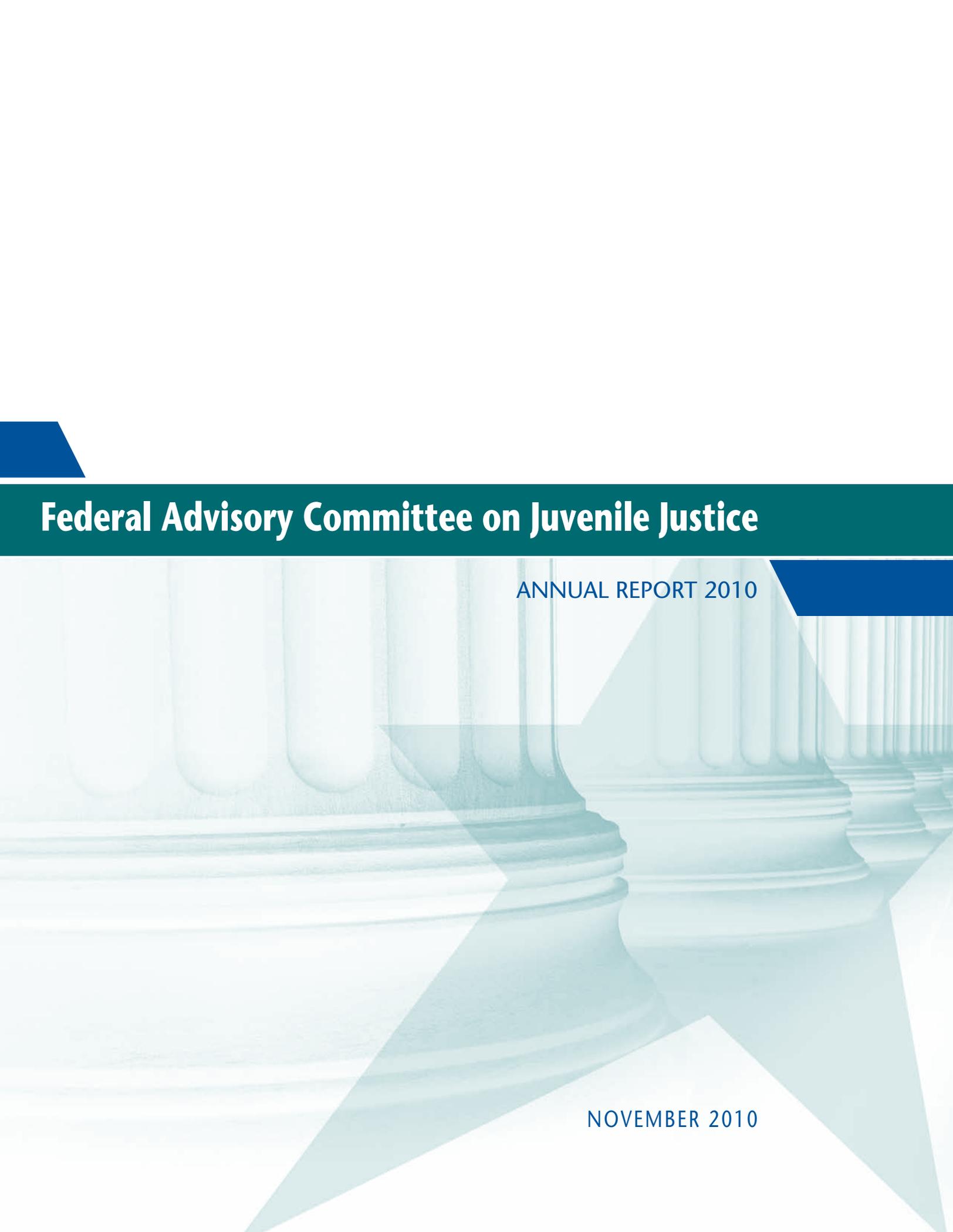


Federal Advisory Committee on Juvenile Justice

ANNUAL REPORT 2010



This report was written by the Federal Advisory Committee on Juvenile Justice (FACJJ). The opinions expressed in this publication are those of the FACJJ membership and do not necessarily reflect the official position or policies of the Office of Juvenile Justice and Delinquency Prevention and/or the U.S. Department of Justice.



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Foreword

The Federal Advisory Committee on Juvenile Justice (FACJJ) presents its 2010 Annual Report to our nation's leaders with the hope that it promotes thoughtful and effective leadership regarding juvenile justice. This Annual Report discusses important issues at key decision points across the juvenile justice system. We welcome this opportunity to take a walk with our readers through the system and discuss how to best address the needs of children who cross over between the juvenile justice and child protection systems, the school-to-prison pipeline, law enforcement and the legal system, diversion programs, transfer and waiver of juveniles to adult court, life without parole for juveniles, and community-based reentry programs for juvenile offenders. This report provides a panoramic view of our juvenile justice system with a focus on fair and equitable treatment for all.

Every young person deserves a fair and equitable system of justice. However, a fair and just system does not come easily. More importantly, it does not remain just unless it can adapt to the changing circumstances that exist in our nation today. A rapidly changing environment that includes economic downturn, greater diversity of culture and language, mental health needs, urban isolation, and much more requires a justice system that is able to respond effectively and efficiently. Unfortunately, from time to time our system has fallen victim to a lack of resources, bias, expediency for the sake of expediency, and resistance to change. National leadership also influences the direction and priorities of juvenile justice policies. As new leaders have taken the helm at the White House and at the U.S. Department of Justice, including the Office of Juvenile Justice and Delinquency Prevention, FACJJ embraces the opportunity to work more closely and more effectively with them on juvenile justice issues. FACJJ is proud to provide these leaders with some discussion, suggested direction, and recommendations to continue the fight for the most fair and equitable juvenile justice system in the world.

States and territories that participate in the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, are at the forefront in this effort to reform juvenile justice. The four core protections the states and territories are required to provide for juveniles in our nation's juvenile justice system are the cornerstone of a fair and equitable juvenile justice system. That is why it is critically important for Congress to reauthorize the JJDP Act promptly. As we did last year, FACJJ again urges Congress to take on this important task and reauthorize the JJDP Act.

With strong federal support and responsible guidance, states and territories can make smarter, more cost-effective decisions that will reduce juvenile delinquency, intervene to protect the public, and provide misguided and neglected youth with the life skills they need to grow into productive, law-abiding adults.

The juvenile justice experts and career professionals who constitute FACJJ represent each state and territory and possess a wealth of experience and knowledge. The recommendations in this *Annual Report* are the product of their collective wisdom. I am very excited to provide you this important report. We all look forward to working with you on behalf of our children.

Richard J. Gardell, Chair
Federal Advisory Committee on Juvenile Justice



Acknowledgments

The expertise and suggestions garnered from juvenile justice practitioners and authorities from across the country laid the foundation for this Annual Report. Their experience in working in the real world of juvenile justice led to the thoughtful discussions and recommendations in this report.

Thanks go to Annual Report Subcommittee (ARS) cochair Cecely Reardon, who did yeoman's work in guiding the drafting and finalizing of this report. Linda Hayes graciously agreed to step up at the last minute and expertly assisted Ms. Reardon as cochair. Federal Advisory Committee on Juvenile Justice (FACJJ) Chair Richard Gardell also provided substantial input and writing and participated in the many ARS conference calls to discuss the report. The many members of the ARS, listed on page 39, also contributed significantly to the report.

Special thanks also go to the FACJJ members who helped draft various chapters of the report and led the work groups' substantive review of the report at FACJJ's spring meeting. In addition to Ms. Hayes, Ms. Reardon, and Mr. Gardell, these members include James Anderson, Vicki Blankenship, Dave Chapman, Karen Chinn, Carlos Hendricks, Gini Highfield, Joy Mariska, Dick Morris, Kreig Pinkham, Ron Rossito, and Steve Teske. The ARS also thanks all members of FACJJ for the constructive comments and suggestions that resulted from the working group discussions.

The ARS would like to acknowledge the contributions of Melodee Hanes, Acting Deputy Administrator for Policy at the Office of Juvenile Justice and Delinquency Prevention (OJJDP), who worked very hard to facilitate a positive work environment and open communication, and Robin Delany-Shabazz, Designated Federal Official from OJJDP, who provided guidance and support to the process. Thanks also to Joyce Mosso, Francesca Stern, and Daryel Dunston for their help in arranging conference calls and handling the logistics of the FACJJ annual meetings.

We also must thank Kay McKinney, without whom there would be no report. To Kay we owe our deepest gratitude for her countless hours of writing, researching, and distilling of the voices and visions of FACJJ into one seamless document. Her patience and insight with this process cannot be overstated. Thank you Kay, for all that you do make our vision come to fruition, and as always, for doing it so well.



Summary of Recommendations

1. The Federal Advisory Committee on Juvenile Justice (FACJJ) recommends that the President and Congress provide funding to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to conduct comprehensive research on youth involved in the juvenile justice system who have a history of abuse and/or neglect and identify successful intervention programs to prevent children who have experienced abuse, neglect, or other trauma from entering the juvenile justice system.
2. FACJJ recommends that the President and Congress strengthen the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, the Adoption and Safe Families Act, and the Child Abuse Prevention and Treatment Act to require states to develop a collaborative system between child welfare and juvenile justice agencies to identify and develop resources and programs for crossover youth.
3. FACJJ recommends to the President and Congress that the No Child Left Behind (NCLB) Act be amended to encourage schools to seek alternatives when dealing with disruptive students other than referring them to the juvenile justice system.
4. FACJJ recommends that the President and Congress amend the NCLB Act and the Individuals with Disabilities Education Act (IDEA) to provide for Title I funding to develop alternatives to out-of-school suspensions, expulsions, and referrals to the juvenile court, including training for law enforcement and school administrators on best practices for handling school-related offenses.
5. FACJJ recommends that the President and Congress amend the NCLB Act and IDEA to mandate collaboration between schools, law enforcement, juvenile justice, prosecutors, and other relevant stakeholders to reduce the unnecessary referral of students to the juvenile justice system while simultaneously developing programs to improve retention, safety, and graduation rates.
6. FACJJ recommends that the President and Congress mandate that states must limit their zero-tolerance policies to the original intent of the 1994 Gun-Free Schools Act.
7. FACJJ recommends that the President and Congress strengthen disproportionate minority contact (DMC) efforts, initiatives, and programs to reduce and eliminate racial and ethnic disparities that adversely impact youth of color.
8. FACJJ wishes to reemphasize to the President and Congress the intent of two recommendations the advisory council made in its 2006 and 2007 annual reports regarding DMC. These recommendations are:
 - Create a new funding stream that would appropriate money to OJJDP to support accurate data collection, including the technology necessary

to collect data and to develop, evaluate, and replicate promising practices and evidence-based strategies that reduce DMC.

- Direct the OJJDP Administrator to develop a comprehensive training curriculum on best practices for addressing DMC for police, court, probation, and school personnel. In addition, Congress should direct OJJDP to fund a pilot project that would require cross-agency collaboration among state and local agencies addressing DMC in order to glean best practices.
9. FACJJ recommends that the President and Congress dedicate sustained funding to OJJDP for pretrial diversion programming to reduce crime, create more cost-effective juvenile justice systems, increase victim satisfaction with the justice system, and increase juvenile offender accountability.
 10. FACJJ recommends that the President and Congress encourage states to promote the development and implementation of parameters for diversion programming throughout the juvenile justice continuum based on promising and best-practice models.
 11. FACJJ recommends that the President and Congress strongly encourage states that have not set the age of adulthood to 18 at the time of the commission of a crime to do so and to provide financial incentives to do so.
 12. FACJJ recommends that the President and Congress provide funding for increased training for key decisionmakers in the transfer process.
 13. FACJJ recommends that the President should support and Congress should enact legislation mandating judicial or administrative review of the possibility of parole for any youth adjudicated or convicted of a federal offense committed before the offender's 18th birthday. The legislation should also require federal courts that have imposed such a sentence in the past to reassess such sentence and, where possible, substitute one that allows for the potential parole of the offender. Such legislation should also include language that strongly encourages and provides incentives for states to adopt similar legislation.
 14. FACJJ recommends that the President should support and Congress should enact legislation that amends Part D of the JJDP Act to require and to fund OJJDP to serve as a central depository for, and to analyze and disseminate data on youth tried and sentenced as adults, with a focus on youth sentenced to lengthy mandatory minimum sentences or to life without parole.
 15. FACJJ recommends that the President and Congress prioritize the importance of reentry in all areas of juvenile justice programming, including solicitation efforts, policy development, and program monitoring. Effective reentry planning should begin upon system entry and should directly involve youth, appropriate family members, positive peer supports, and an array of community assets (such as mentoring) to ensure that effective connections are in place upon a juvenile's exit from confinement.
 16. FACJJ recommends that the President and Congress provide funding for the OJJDP Administrator to create training and technical assistance content focused on the development of comprehensive reentry tools and approaches consistent with national models to ensure effective implementation and evaluation in state and local jurisdictions. Examples of national models include the Intensive Aftercare Program (discussed in chapter 5) and the Second Chance Act, which are designed to improve outcomes for adults and juveniles returning to communities from prisons and jails and

other secure institutions. The Act provides funding for programs that offer employment assistance, substance abuse treatment, housing, family programming, mentoring, victim support, and other services that can help reduce recidivism.

17. FACJJ recommends that the President and Congress strongly emphasize that states develop effective community-based reentry services that use a system-of-care model and provide funding and training specific to mental health and substance abuse services for youth and families.
18. FACJJ recommends that the President and Congress strongly encourage states to design, develop, and implement reentry approaches that ensure the successful transition of juvenile offenders in secure facilities and crossover youth to adulthood. Such approaches should address education, life skills, work readiness, and community integration.

Introduction

Every youth in this country is entitled to a juvenile justice system that is fair and equitable, and as a nation, we are entitled to a juvenile justice system that is effective at its mission. The Federal Advisory Committee on Juvenile Justice (FACJJ) believes that the mission of our juvenile justice system is to equitably promote rehabilitation and accountability of youth and ensure public safety. This can be accomplished by making smart choices about juvenile justice legislation and programs. Federal, state, and local legislation should be based on research findings about what is most effective in preventing and reducing juvenile crime and in making communities safer. Decisions should not be based in large part on responses to emotional public outcry or media-sensationalized offenses.

Making smart choices means providing the right sanctions and services to the right juveniles at the right time without regard to biases or prejudices based on race and ethnicity; cultural values; gender; physical, emotional, or mental disabilities; or socioeconomic status. Ideally, a fair and effective juvenile justice system is one that addresses the needs of youth in the system, their victims, families, and communities. It does not focus exclusively on offenders or victims.

With all levels of government struggling to remedy budget shortfalls, juvenile justice policymakers can help the nation economically achieve a fair and equitable juvenile justice system by supporting and funding programs that are evidence based and have been proven effective. Recognizing that budget cuts are a fiscal

reality, FACJJ believes that equity and effectiveness can be achieved if youth-serving agencies such as child welfare, social services, education, and juvenile justice coordinate their programs and services. This would save agencies and taxpayers money by eliminating costly duplication of services and should result in coordinated programs that more effectively address the multiple problems faced by many juveniles in our juvenile justice system. FACJJ believes the juvenile justice system should focus on rehabilitating the majority of juvenile offenders and reserve the most severe sanctions for the most serious and violent juvenile offenders.

With this said, tremendous inequities exist when it comes to dealing with children and juveniles, the child welfare system, the education system, and the juvenile

justice system. These inequities make it more difficult for the juvenile justice system to focus on rehabilitating the majority of juvenile offenders. The disparities in the juvenile justice system know no borders, crossing a broad continuum from law enforcement and arrest to the legal system's handling of juvenile offenders to the corrections system. Inequities exist as well in the availability of and access to community resources. A number of factors can contribute to the pervasive inequities in the juvenile justice system: gender, race and ethnicity, cultural diversity, poverty and other socioeconomic issues, substance abuse and mental health issues, and home and school environments.

Examples of the broad spectrum of inequities include the lack of gender-specific services for juvenile females; the lack of access to effective legal counsel for all youth; the lack of sufficient mental health and substance abuse resources, especially for juveniles whose families cannot afford services but who are not eligible for Medicaid; and the lack of services for juveniles living in dysfunctional families. Youth and families who live in remote rural areas of the country (referred to as “frontier”) also face serious inequities compared to youth who live in large population centers. Many studies have identified health disparities for rural communities, such as substance abuse among youth. Isolation and distances to the nearest rural towns make it difficult for juveniles in these areas to access services, such as drug and alcohol treatment, leaving them vulnerable to further risky behaviors.

One of the most prevalent, pervasive examples of inequity is the disproportionate number of minority youth who come into contact with the juvenile justice system. This number is not shrinking despite more than 20 years of effort to eradicate this disparity.

Research on disproportionate minority contact illustrates how the inequity often begins long before a youth enters the juvenile justice system. It can begin in early childhood when minority youth disproportionately enter the child welfare system, where they are put into foster care faster and stay there longer than other children. The inequity is further exacerbated in the education system, where minority children are more likely to be excluded from school and referred to the court by school officials or law enforcement. The disparity continues once minority youth enter the juvenile justice system, where they are treated differently by law enforcement and throughout the legal process.

The many inequities that exist across the board in communities and youth-serving agencies make it more difficult for the juvenile justice system to accomplish its ultimate goals of rehabilitating the majority of juvenile offenders and enhancing public safety. The first step in changing this is to convince stakeholders—from lawmakers to child welfare agencies to educators to law enforcement to attorneys and judges to corrections officials to community service providers—that many inequities exist. The second step is to take a holistic approach to reverse this trend.

The discussions and recommendations to the President and Congress in this report are intended to shine the spotlight on the inequities that impact the juvenile justice system and to provide the beginnings of a holistic roadmap to a fair and equitable juvenile justice system that holds juvenile offenders accountable, provides rehabilitation opportunities, and enhances public safety.

Crossover Youth

A discussion of inequities in the juvenile justice system cannot take place without first discussing the child welfare system, since youth in that system often cross over into the juvenile justice system. Because these young people are known to both the child welfare system and the juvenile justice system, they are often referred to as crossover youth. (Other terms, such as “dual-jurisdiction cases,” “dual jurisdiction,” “dually adjudicated youth,” and “cross-system cases,” are also used to describe these cases of crossover youth and underscore the various ways in which court and agency jurisdiction can exist for these children.)

The Problem

Youth in the child welfare system who are victims of abuse, neglect, or other maltreatment often end up in the juvenile justice system—a system that in many jurisdictions is not equipped to adequately address the history of abuse and neglect that may have led these youth to the juvenile justice system. Many of these youth may have been exposed to violence or other traumatic events, such as witnessing domestic or community violence. Youth exposed to traumatic events have an increased risk of becoming involved with both the child welfare and the juvenile justice systems, yet this exposure is often overlooked in the assessment and treatment of youth in the juvenile justice system (Ford et al., 2007).

A disproportionate number of crossover youth are minority youth, a fact that shows how inequity can surface long before a juvenile enters the juvenile justice system. In addition, a disproportionate number of crossover youth are females. Crossover youth frequently move back and forth between a child welfare system in which they are regarded as victims and a juvenile justice system that responds to them as offenders. Yet, in most jurisdictions there is little integration and coordination between the two systems. In many jurisdictions, it continues to be common practice for child welfare agencies to abruptly close the cases of children who become involved in the juvenile justice system.

The two systems seldom share data or resources and are often constricted by distinctly different federal and state laws and regulations. There is rarely a consistent advocate or authority figure for a youth who moves

from a child welfare system and its dependency court and case workers to the juvenile justice system and probation officers. This lack of continuity and coordination leaves families and youth confused, interrupts treatment planning and programming, and puts crossover youth at risk of further offending.

Many crossover youth also experience co-occurring mental health and drug and alcohol abuse problems, which are often left unscreened and untreated in both systems. They also frequently do poorly in school and end up being suspended or dropping out. Once in the juvenile justice system, these youth often continue to penetrate deeper into the system and, if these problems are not addressed, these youth are at significant risk of experiencing difficulty throughout their lives. A lack of access to reentry services once they age out of the child welfare system or are released from a juvenile facility also leave these youth unprepared for successful transition to adulthood.

Why Does This Matter?

Multiple research studies confirm a connection between child abuse and neglect and juvenile delinquency. A study from the National Institute of Justice found that abused and neglected children were 11 times more likely to be arrested for criminal behavior as a juvenile, 2.7 times more likely to be arrested for violent and criminal behavior as an adult, and 3.1 times more likely to be arrested for one of many forms of juvenile or adult violent crime (English, Widom, and Bradford, 2004). Youth in the child welfare system who are placed in out-of-home settings are also at greater risk of crossing over into the juvenile justice system. According to research, youth in out-of-home settings are twice as likely to commit delinquent acts as those receiving in-home services (Thornberry, 2008). Child welfare placements in group home settings, in particular, have been found to be predictive of future involvement in the juvenile justice system (Thornberry, 2008).

In another example of inequity, juvenile courts in some jurisdictions sometimes tend to treat youth who have been in the child welfare system more harshly than other youth. In these jurisdictions, these youth are more likely than noncrossover youth to be detained and placed in detention (Herz and Ryan, 2008). Crossover youth are also twice as likely as youth who have only been in the juvenile justice system to recidivate (Bilchik and Nash, 2008).

The disproportionate number of crossover minority youth is directly related to the disproportionate involvement of minority youth in the child welfare system. Data from the Annie E. Casey Foundation indicate that although children of color are not abused more often than other children, they are put into foster care faster, stay there longer, receive fewer services, and are permanently reunited with their families less often than Caucasian children (Annie E. Casey Foundation, 2005). The foundation also reports that African American and American Indian/Alaska Native children are about three times more likely than Caucasian children to be in the national child welfare system, and Latino children are overrepresented in foster care in selected cities and states.

African American youth in the child welfare system are also twice as likely to be arrested as similarly situated White youth in the child welfare system (Herz and Ryan, 2008). Female juveniles in the child welfare system also disproportionately enter the juvenile justice system. Research has found that 29 percent of female juveniles who have been physically assaulted report engaging in delinquent acts compared with 3 percent of female juveniles who have not been assaulted (Shaffer and Ruback, 2002).

What Can Be Done?

If we are to respond equitably and appropriately to the needs and actions of crossover youth, the child welfare and juvenile justice systems must integrate their

efforts despite the difficulties inherent in each system's structure and mandates. Youth-serving organizations, including the Child Welfare League of America (CWLA) and Georgetown University's Center for Juvenile Justice Reform (CJJR), echo the need for better coordination and integration to reduce maltreatment and delinquency. The National CASA Association recently devoted an entire newsletter to the critical need for collaboration and coordination among public agencies, attorneys, judges, and court appointed special advocates (CASA) when dealing with crossover youth.

There is much that family and juvenile courts can do to improve responses to crossover or dual-jurisdiction cases. Judges, in particular, are uniquely positioned to lead efforts to ensure that necessary policies and procedures are in place to address the complex needs of crossover youth and their families. Judicial leadership, or the lack thereof, can be the determining factor in whether the real or perceived barriers to interagency information sharing, treatment planning, and service delivery can be overcome.

Researchers have identified five promising court-related practices or areas in which family and juvenile court programs can work together to address some of the difficulties posed by crossover cases. These five areas include (Siegel and Lord, 2004):

- **Routine screening and assessment.** Routine screening of youth on intake by both dependency and juvenile courts would aid in identifying strengths and needs of these youth.
- **Case assignment.** Researchers recommend that court dockets and judges be dedicated to dual-jurisdiction cases and that attorneys and judges assigned to the cases be specially trained in dual jurisdiction.
- **Case flow management.** Effective case management should include joint prehearing conferences by all parties involved and combined dependency

and delinquency hearings, which will help ensure that different agencies coordinate their efforts.

- **Case planning and supervision.** Case managers should work with multidisciplinary teams of professionals trained in dual-jurisdiction matters who have the expertise and tools to develop action plans that meet the specific needs of and build on individual strengths of crossover youth.
- **Interagency collaboration.** Judges should take the lead in making sure that the child welfare and juvenile justice systems collaborate by contributing financially in providing needed treatment and services, possibly by pooling or sharing funding, implementing training programs, sharing information, and developing protocols for collaboration. Judges should also take the lead in pushing for legislative changes that require a high level of collaboration between systems.

CJJR, in partnership with Chapin Hall Center for Children at the University of Chicago, also has identified steps that could lead to better coordination efforts to address disparities and disproportionate representation in both the child welfare and juvenile justice systems. The key steps include (Chapin Hall Center for Children, 2008):

- Increasing data transparency by revamping data collection systems so that youth known to both systems of care can be accurately tracked.
- Reengineering structures and procedures so that both systems have similar approaches to reviewing and analyzing key decision points in their systems.
- Changing the organizational culture by providing training on the lack of equity in both systems.
- Mobilizing political leadership so that policymakers and agency leaders recognize that a holistic sustained approach is needed to reduce disproportionate minority contact and other disparities.

- Partnering to develop family and community resources that can be used across the two systems. These resources could include family strengthening programs, software to help locate relatives with whom a youth in either system could be placed instead of placing the youth in an out-of-home situation, and programs that provide respite services for families and providers responsible for youth in their care.

Examples

Several states and counties are working to help child welfare and juvenile justice agencies do a better job of sharing information and coordinating efforts to address the needs of crossover youth and develop programs to help these youth and protect public safety.

CWLA is working with Los Angeles County (CA) to improve information sharing and case planning, supervision, and management across multiple youth-serving agencies. The major components of the project include a new multisystem assessment process, which looks at a juvenile's strengths, treatment needs, and risks; a multidisciplinary team, which conducts assessments, develops case plans, and participates in case management; and an opportunity for California counties to create a dual-status jurisdiction for dependents and delinquent youth who are wards of the court. Major players in the county's dual-jurisdiction cases, including the chief probation officer, director of the social services agency, and presiding juvenile court judge, have all endorsed the project. The initiative has resulted in detailed joint assessments; the development of a database to track individual case characteristics and treatment needs; and the training of court staff, including judges, prosecutors and public defenders, and child advocates (Tuell, 2008).

State and local community agencies and organizations in King County, WA, are working with CWLA to integrate programs and services for youth and families served by the child welfare and juvenile justice systems.

The goal is to disrupt the path from childhood maltreatment to delinquency by increasing cooperation and coordination at both the administrative and service delivery levels of child welfare and juvenile justice systems and organizations. The initiative includes a strategic planning process that incorporates input from youth, families, and a broad range of youth-serving organizations and agencies.

A key component of the initiative is a strong leadership team composed of representatives from diverse disciplines from the county and state levels, including judges, probation agencies, educators, social services and juvenile justice agencies, and private providers and community organizations. These leaders have guided the development of a strategic plan, set priorities that address the unique needs of King County, and addressed data information-sharing issues, cross-system resource inventory and assessment issues, and legal and statutory issues.

Project leaders, noting a need to focus on the mental health needs of youth in the juvenile justice system, comprehensively examined this issue and produced a report that included recommendations for reform in this area. As a result, King County formed a new collaboration with the National Center for Mental Health and Juvenile Justice. The center is providing technical assistance and guidance as the county moves to implement the recommendations.

Pennsylvania is working to equitably address the unique needs of crossover youth through several initiatives. The state's Department of Public Welfare (DPW) released a groundbreaking bulletin in April, *Shared Case Responsibility Policy and Procedures*, to judges, chief juvenile probation officers, and county children and youth administrators via joint correspondence from the leadership of the DPW Office of Children, Youth and Families; the Juvenile Court Judges' Commission; the Pennsylvania Council of Chief Juvenile Probation Officers; and the Pennsylvania Children and Youth

Administrators. The bulletin provides a comprehensive framework for providing services in crossover cases and in the cases of noncrossover delinquency referrals where the child would benefit from services provided by the county child welfare agency.

As an outgrowth of Pennsylvania's Models for Change partnership with the MacArthur Foundation, more than 20 of the state's 67 county juvenile probation departments have begun using the Youth Level of Service/Case Management Inventory Risk/Needs Assessment during the intake process. This validated risk/needs assessment is proving to be especially helpful in crossover cases by helping to determine appropriate interventions and levels of supervision, establishing measurable case-specific goals, and allocating the necessary resources to achieve better and equitable outcomes for these youth and their families. The concepts in the bulletin discussed above are ensuring that child welfare services remain available in these cases and that formal juvenile delinquency proceedings are initiated only when absolutely necessary.

In 1997, the Juvenile Justice and Delinquency Prevention Committee of the Pennsylvania Commission on Crime and Delinquency (PCCD), noting the increasing number of girls with abuse and neglect histories in the state's juvenile justice system, made improving gender-specific services a priority. In 1999, PCCD awarded a grant to Alternative Rehabilitation Communities, Inc., a highly respected service provider in Pennsylvania's juvenile justice system, to develop and implement a posttraumatic stress disorder (PTSD) treatment curriculum for girls in residential placement. In 2003, the University of Pittsburgh evaluated the PTSD residential curriculum and the resulting group therapy program. Evaluation results were promising, despite small sample sizes. The evaluators made several recommendations, which the PCCD sought to implement through its Pennsylvania PTSD Project administered by the Westmoreland County Juvenile Probation Department. In 2008, Judge Arthur Grim, chairman of the Pennsylvania

Juvenile Court Judges' Commission, wrote to all of the state's juvenile court judges requesting their assistance in enhancing the services and treatment provided to girls by considering the following recommendations:

- Ensure that all girls are screened for PTSD upon admission to detention, shelter care, or residential placement.
- Encourage residential programs to provide treatment for PTSD by using the Pennsylvania PTSD residential treatment program whenever possible.
- When possible, ensure that treatment plans allow girls sufficient time to complete the PTSD residential treatment program prior to discharge from a facility.
- If a girl is released from residential placement prior to completion of the PTSD residential treatment program, ensure the development of an aftercare plan that includes a requirement for completing PTSD treatment with a qualified professional in the community.

In March 2009, as an outgrowth of the PTSD project, key stakeholders in Pennsylvania's juvenile justice system adopted a "Joint Position Statement on Juvenile Justice System Responsiveness to the Unique Needs of Girls." The guiding principles in this document are being used to guide decisionmakers at every stage of Pennsylvania's juvenile court process.

Recommendations

Based on the many concerns discussed in this chapter, FACJJ makes the following recommendations to the President and Congress regarding crossover youth:

1. **The Federal Advisory Committee on Juvenile Justice (FACJJ) recommends that the President and Congress provide funding to the Office of Juvenile Justice and Delinquency Prevention to conduct comprehensive research on youth involved in**

the juvenile justice system who have a history of abuse and/or neglect and identify successful intervention programs to prevent children who have experienced abuse, neglect, or other trauma from entering the juvenile justice system.

2. **FACJJ recommends that the President and Congress strengthen the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, the Adoption and Safe Families Act, and the Child Abuse Prevention and Treatment Act to require states to develop a collaborative system between child welfare and juvenile justice agencies to identify and develop resources and programs for crossover youth.**

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School-to-Prison Pipeline

While some youth come to the juvenile justice system through the child welfare system, others are referred by the education system, where disparities also exist. These referrals are often due to zero-tolerance policies and to a lack of programs to help at-risk students. Discipline problems handled in the past by school administrators and parents are now frequently dealt with by law enforcement officers. This change has resulted in criminalizing some behaviors, which is opening a school-to-prison pipeline for some at-risk youth.

The Problem

As federal education funding has become tied to academic outcomes, and as school systems across the country have implemented zero-tolerance or “three strikes and you’re out” policies, school discipline problems (even minor ones) are increasingly being handled by law enforcement rather than by schools. This approach has significantly increased suspensions, expulsions, and arrests of students for infractions customarily handled internally by school administrators. The 1994 Gun-Free Schools Act, passed in response to several high-profile school shootings across the country, gave birth to zero-tolerance policies. Many schools have enacted zero-tolerance policies that go far beyond the original intent of banning guns. News organizations across the country have reported on students being disciplined for bringing over-the-counter medicine (such as aspirin) or water pistols to school. In a recent case, a school district in Rhode Island banned a second grader’s homemade camouflage hat, which displayed

toy soldiers with tiny guns. The 8-year-old boy made the hat as part of a patriotic school project (Associated Press, 2010).

Zero-tolerance policies are not always enforced equitably. Minority youth are more adversely affected by these policies than other youth. For example, African American youth are six times more likely and Latino youth three times more likely to be suspended, expelled, and referred to court than White youth for the same infractions (Poe-Yamagata and Jones, 2000). Zero-tolerance policies also appear to inequitably affect students with disabilities and behavioral and emotional disorders. A report by the American Psychological Association Zero Tolerance Task Force found that these students seem to be suspended and expelled at rates that are disproportionate to their representation in the population (Skiba et al., 2006).

This tendency for some school systems to push disruptive and disabled students out in order to resolve disciplinary and perhaps academic issues increases the

risk of these students acting out with delinquent behaviors. The intended effect—to improve school safety—in reality may create more disruptive, delinquent youth, which in turn makes the school and community less safe. Moreover, the shift from in-school discipline to discipline through law enforcement often ends up criminalizing behaviors that were once handled by schools and parents and increases the risk that the punished youth will advance from the juvenile justice to the criminal justice system. Although well intentioned, zero-tolerance policies have created a school-to-prison pipeline for many suspended, expelled, or arrested students.

Why Does This Matter?

Keeping juveniles in school is one way to keep them out of trouble and out of the juvenile justice system. Yet zero-tolerance policies and school disciplinary problems handled by law enforcement agencies sometimes do just the opposite, often resulting in the imposition of severe punishments, including expulsion from school. The studies to date show that zero-tolerance strategies have not achieved the goals of safe and disciplined classrooms. On the contrary, some studies suggest that such strategies are harmful to students and may make schools and communities less safe (Wald and Losen, 2003).

The shift from in-school discipline to discipline through law enforcement may be attributed in part to the No Child Left Behind (NCLB) Act. Passed in 2001, the Act was intended to strengthen the accountability of schools receiving Title I funding by requiring states to implement accountability systems for schools and students. In theory, the idea of accountability and improved test scores is good. The reality turns out to be quite different.

Accountability is assessed through academic testing. Schools that meet adequate yearly progress benchmarks based on test results are eligible for academic

achievement awards, and school funding determinations are based on these test scores. The better the scores, the more funds available. One way for a school to improve its test scores is to push out low-performing students, who in many cases are high-risk students or students with disciplinary problems. Discipline and zero-tolerance policies can be used to reduce the number of low-performing students. At least one study found that schools impose harsher discipline on students with poor test scores than on those with high test scores (Figlio, 2006). The study shows that this “punishment gap” increased when standardized tests were being administered. Some schools may be using discipline to keep lower scoring students out of school on days when tests are being administered. Although schools should rightfully be concerned about disciplinary issues, they should not be required to meet academic benchmarks that are enhanced by the elimination of low-performing or at-risk youth.

Zero-tolerance policies also can result in the imposition of severe punishment sometimes levied without consideration of the factual circumstances. Many schools now employ school resource officers (SROs), who are police officers trained to work primarily with adults. Dealing with juvenile offenders is quite different from dealing with adult offenders, yet many SROs have had little or no training in dealing with youth and adolescents. These officers need to be provided with specialized training because they face different challenges related to the age and maturity of the students with whom they are dealing.

We know that out-of-school suspensions of elementary and middle school students and the arrest of students in general are future predictors of poor academic performance and failure to graduate (Mendez, 2003). School systems generally fail to ask the most important question involving the chronically disruptive student: Why is Johnny disruptive? Instead, school systems focus mostly on punishment. Some studies show that

students suspended from school do not receive assistance with academic, social, or emotional issues contributing to the disruptive incident. These studies specifically conclude that responses to student infractions handled solely through punishment are more likely not to succeed (Mendez, 2003).

Although many believe that zero-tolerance policies make schools safer and improve the learning environment, research contradicts this belief. We know from several studies that school systems that engage and hold on to their students serve to deter youth from delinquency. The U.S. Surgeon General's report on school violence released in 2001 found that engaging and keeping youth in school is one of only two protective factors to deter violence. Another study released the following year found that a student's involvement in school, or "school connectedness," is linked to reductions in substance abuse, violence, suicide attempts, pregnancy, and emotional distress (McNeely, Nonnemaker, and Blum, 2002). When we suspend, expel, and arrest youth for nonserious infractions, we increase the risk that the youth will become connected to antisocial associates and surrender the will to succeed.

What Can Be Done?

Schools are not equipped to address many of the issues underlying chronic disruptive behavior, especially since these behaviors often begin outside the school. We know that disruptive behaviors are generally linked to academic, social, or mental health problems. Many disruptive and/or delinquent students are or should be receiving special education services or have an Individualized Education Plan (IEP). A student with an IEP cannot be suspended as easily as a student in the mainstream classroom. This creates an interesting phenomenon in which these students are instead arrested, which bypasses the due process requirements of the Individuals with Disabilities Education Act (IDEA).

This may explain why schools tend to emphasize punishment over assessment and treatment. In reality, chronic disruptive behaviors require intensive interventions generally found in community agencies outside of the education system, such as social services and mental health agencies. These interventions often require parents and other family members to be involved. Schools do not have the time and resources to dedicate to issues in the home and require assistance from other entities specially equipped to address those unique problems of the child. It is important that schools work with families and community agencies to develop appropriate interventions for wraparound and other problem-solving interventions.

At the school level, research indicates that schools should develop alternative programs to suspension, expulsion, and court referral that are intensive and designed to meet the individual needs of the student. However, unless the schools can access funding to develop these intensive strategies, it will be difficult for them to do so on their own. Other strategies that can be used to change behavior include positive behavioral interventions and supports, peer mediation programs, conflict resolution programs, and other restorative justice models.

Some jurisdictions have developed multidisciplinary committees to serve as a single point of entry to assess youth at risk of unruly or delinquent conduct. These committees work with chronically disruptive students referred by the school system. The students are assessed by a team of mental health, social service, education, and other professionals. Based on the assessments, the committee develops intervention strategies tailored to the individual needs of each student and designed to reduce the disruptive behavior. Clayton County, GA, developed such a committee in 2004, and out-of-school rates significantly decreased while graduations rates increased. Such interventions are not possible without collaboration between the relevant child service agencies in the community.

As noted earlier, SROs need to be provided with specialized training to help them deal with juveniles. Without training and mechanisms or policies that allow SROs to use discretion in handling school offenses that may not normally result in arrests, officers tend to make arrests regardless of the low-level school offense. Clayton County, GA, is one example of what can happen when unchecked and untrained police are put into schools. The number of school offenses increased 1,200 percent when police were placed on campus. This number decreased 68 percent after a protocol and training were instituted. Consequently, the graduation rates increased 20 percent, weapons in school fell 70 percent, and overall felony juvenile crime in the community decreased by nearly 50 percent.

Research clearly shows a correlation between out-of-school suspension, expulsion, and court referrals and graduation rates. The overuse of suspensions and court referrals lowers graduation rates. Zero-tolerance approaches to school discipline involve racial and ethnic disparities that adversely impact youth of color. These issues make it clear that community leaders, educators, parents, law enforcement, and other stakeholders must work together to develop strategies to keep students in school and out of the juvenile justice system.

Example

Memphis (TN) City Schools (MCS) is implementing an innovative program to reduce the number of minority students referred to juvenile court for minor offenses. The School House Adjustment Program Enterprise (SHAPE) aims to keep minority youth out of the juvenile justice system and in school. The program is a collaborative effort between MCS, the Memphis Police Department, the Office of the Shelby County Mayor, the public defender's office, and Memphis and Shelby County Juvenile Court. The program began in October 2008 in 17 high schools and 1 middle school in Memphis.

The SHAPE students are at-risk youth who have extensive histories of getting into trouble at school and have experienced significant exposure to violence at home, in school, and in their neighborhoods. Students facing potential charges of simple assault with no serious injuries, disorderly conduct, or criminal trespass are eligible for the program. They must have no felony adjudications, convictions, or pending charges; no other misdemeanor charges within the past 12 months; and be willing to voluntarily participate in the program with parental permission.

Once accepted into SHAPE, each student meets with a site coordinator at the school to complete an agreement form and intake papers. The students attend afterschool sessions with their site coordinators for approximately 9 weeks and receive homework assistance, tutoring, mentoring, and social and life skills training. The site coordinator monitors each student's progress both in and out of the classroom and tracks in-school suspensions, out-of-school suspensions, and absences. The site coordinator also contacts the juvenile court to see if the student has had any further contact with the court. After successfully completing the program, a student avoids contact with the juvenile court for the charge that initiated the referral into the program.

The University of Memphis is conducting a process and outcome evaluation of the program. After 1 year of full implementation of the SHAPE program, there were 290 fewer transports to juvenile court from the targeted schools, a 29.4-percent decrease (Pitts and Branch, 2009). The academic performance of SHAPE participants decreased slightly but likely far less than it would have if the student had been sent to juvenile court. Evaluators also found that behavioral problems at school remained but did not worsen.

Recommendations

The Federal Advisory Committee on Juvenile Justice (FACJJ) makes the following recommendations to the

President and Congress to address the problem of the school-to-prison pipeline:

3. **FACJJ recommends to the President and Congress that the No Child Left Behind (NCLB) Act be amended to encourage schools to seek alternatives when dealing with disruptive students other than referring them to the juvenile justice system.**
4. **FACJJ recommends that the President and Congress amend the NCLB Act and the Individuals with Disabilities Education Act (IDEA) to provide for Title I funding to develop alternatives to out-of-school suspensions, expulsions, and referrals to the juvenile court, including training for law enforcement and school administrators on best practices for handling school-related offenses.**
5. **FACJJ recommends that the President and Congress amend the NCLB Act and IDEA to mandate collaboration between schools, law enforcement, juvenile justice, prosecutors, and other relevant stakeholders to reduce the unnecessary referral of students to the juvenile justice system while simultaneously developing programs to improve retention, safety, and graduation rates.**
6. **FACJJ recommends that the President and Congress mandate that states must limit their zero-tolerance policies to the original intent of the 1994 Gun-Free Schools Act.**
7. **FACJJ recommends that the President and Congress strengthen disproportionate minority contact efforts, initiatives, and programs to reduce and eliminate racial and ethnic disparities that adversely impact youth of color.**

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CHAPTER 4

Law Enforcement and the Legal System

Although inequities exist across the child welfare, education, and juvenile justice spectrums, racial and ethnic inequities are often most noticeable in law enforcement and the legal system, from the point of arrest to sentencing. These inequities surface in law enforcement responses, in diversion programming, in cases of juvenile transfer and waiver, and in sentences of life without parole. All contribute to disproportionate minority contact (DMC).

Law Enforcement

A juvenile's first contact with the juvenile justice system usually begins with law enforcement. Once a juvenile is apprehended or suspected of violating the law, it is the police officer who makes the initial decision about whether to handle the case within the law enforcement agency, refer it to another agency such as child welfare, send the case to the juvenile court system, or divert the case out of the system, often into an alternative program.

The Problem

A disproportionate number of youth who are arrested are minority youth, often beginning a cycle of disproportionality that continues through the juvenile justice continuum. The latest juvenile arrest data from the U.S. Department of Justice confirm this disproportionality at the time of arrest (Puzzanchera, 2009):

- Of all the juveniles arrested for violent crimes in 2008 (the latest year for which data are available), 52 percent were African American, 1 percent were

Asian, 1 percent were American Indian, and 47 percent were Caucasian. During this same period, African American youth made up only 16 percent of the U.S. juvenile population ages 10–17, Asian/Pacific Islanders made up 5 percent, and American Indians made up 1 percent. Caucasian youth accounted for 78 percent of the juvenile population (most juveniles of Hispanic ethnicity are included in the Caucasian racial category).

- When broken down by arrest rate (the number of arrests per 100,000 juveniles in the racial group), the data show that the Violent Crime Index arrest rate for African American juveniles was about 5 times the rate for Caucasian juveniles, 6 times the rate for American Indian juveniles, and 13 times the rate for Asian juveniles.
- Numerous national and state studies confirm that minority youth are involved with the juvenile justice system in disproportionate numbers. Multiple studies referenced in a report from the W. Haywood Burns Institute show that African American youth

are arrested, charged, and incarcerated more often than Caucasian youth for similar conduct and are disproportionately represented at all decisionmaking points in the juvenile justice system; this disadvantage increases as these youth penetrate deeper into the system (Bell and Ridolfi, 2008).

- Individual state and specific geographic area findings support the Burns Institute report. When reviewing states' assessments of the current status of DMC, a survey showed that 32 of 44 states found evidence of ethnic or racial differences in juvenile justice system decisionmaking that were unaccounted for by differential criminal activity (Bell and Ridolfi, 2008). When Anne Arundel County, MD, compared the arrest rate of Caucasian youth to that of African American youth from 2005 to 2008, the county found that African American youth were more than three times more likely to be arrested than their Caucasian counterparts. Although African American youth represent, on average, 19 percent of the total youth population of the county, they represented 44 percent of those being arrested (Bell and Ridolfi, 2008).

Why Does This Matter?

DMC is a complex and multifaceted problem that reaches across all spectrums of the juvenile justice system. However, because disparate treatment of minority juveniles often begins at arrest, even though this cannot be explained by focusing on the individual crime, it is critical that law enforcement agencies collaborate with the juvenile justice system to address DMC.

The disproportionate number of minority youth in the juvenile justice system adversely affects communities and families of color as well as the youth themselves. Once arrested, youth of color are more likely to receive out-of-home placements, disproportionate convictions, and incarceration for their offenses. These sanctions have ongoing collateral consequences that lead to

decreased wage earnings and lower job security for the youth, which in turn reduces the economy of their communities (Balfanz et al., 2003).

These collateral consequences often begin with a juvenile's education or, more precisely, lack of education. One researcher found that while most incarcerated ninth graders returned to school after they were released, two-thirds to three-fourths withdrew or dropped out of school within a year of reenrolling. After 4 years, less than 15 percent of these incarcerated ninth graders had completed their secondary education (Balfanz et al., 2003). A U.S. Department of Education study found that 43 percent of youth receiving remedial education services in a juvenile detention facility did not return to school after their release and another 16 percent subsequently enrolled in school but dropped out after only 5 months (LeBlanc and Ratnofsky, 1991).

Incarceration also negatively impacts future employment. A study by the National Bureau of Economic Research found that when juveniles ages 16 to 25 were incarcerated, it reduced work time over the next decade by 25 to 30 percent (Freeman, 1991). When studying juveniles ages 14 to 24, Princeton University researchers found that youth who spent some time incarcerated in a youth facility experienced 3 weeks less work a year (5 weeks less for African American youth) than youth who had no history of incarceration (Western and Beckett, 1999).

A lack of education and employment limit a person's ability to positively contribute to society, which can negatively impact public safety in the long term.

What Can Be Done?

Although DMC and other inequities must be addressed at all levels of the juvenile justice system, law enforcement officers have a distinct perspective that should be incorporated into the DMC conversation. As first responders, these officers are in a unique position to assist in addressing DMC. Juvenile justice policymakers

and practitioners should take advantage of this perspective by inviting law enforcement agencies to join them in discussing strategies and solutions for reducing DMC across the juvenile justice system.

Police often must make rapid decisions based on limited informational cues. Readily observable characteristics such as race, gender, and demeanor are some of the cues that initially shape officers' assessments when responding to calls to investigate or arrest suspects. These decisions may inadvertently contribute to the level of DMC in the juvenile justice system.

Police exercise a wider range of discretion when dealing with juveniles who have committed less serious offenses. Increased discretion can augment opportunities for subconscious and biased decisionmaking. Researchers who examined statistics from the FBI's National Incident-Based Reporting System found no direct evidence that an offender's race contributes to a police decision to make an arrest. They did find, however, an indirect bias in that non-White juveniles are more likely to be arrested when the victim is White than when the victim is non-White (Pope and Snyder, 2003).

Police in some communities may concentrate patrols in low-income neighborhoods. Urban communities, consisting primarily of people of color, report that police unjustly target their male residents as potential suspects (Short and Sharp, 2005). Additional information is needed to more fully understand the complex causes of DMC at the police contact, arrest, and court referral stages.

A study from 2005 concluded that although racial disparities may be due in part to real differences in youth's backgrounds and circumstances and to varying access to resources, research suggests that these disparities also result from racial stereotyping in filtering and processing information (Bishop, 2005). The impact of these biases does not necessarily reflect intentional racism; rather it reflects a lack of understanding of the

cultural experiences and influences affecting juveniles' reactions at the point of contact.

The first step in rectifying this is to understand that there is a problem of disparate impact. Since law enforcement officers are the first contact with the juvenile justice system for most youth, the juvenile justice system should collaborate with law enforcement policymakers and officers and make them aware of the data regarding racial disparity in their communities. Interventions that have achieved measurable results in reducing racial and ethnic disparities in the juvenile justice system include using data and focusing on juvenile justice decisionmaking and policy mandates that disparately affect youth of color in the system.

As communities and jurisdictions create multiple DMC-reduction interventions and enhance existing interventions, it is important that they develop coordinated training plans that incorporate data and focus on policy mandates and factors other than crime that may contribute to law enforcement decisions to arrest a juvenile. To be effective, efforts to reduce DMC must involve a broad base of stakeholders and include cultural diversity and communication training in order to heighten awareness of DMC.

The "training the trainer" model creates organizational capacity to focus on addressing racial stereotypes and racial bias in agency decisionmaking (Hoyt et al., 2001). It is important to train all relevant staff, including the police, members of the judiciary, public defenders, juvenile detention center staff, state attorney's office staff, juvenile probation officers, and court services workers.

The Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) has found that educating the police (particularly community policing officers) about detention reform and DMC-reduction efforts helps divert some youth of color from involvement with the juvenile justice system. Another DMC-reduction tactic is

to increase the number of staff of color in juvenile justice agencies. One additional benefit of this approach is ensuring that agencies have an appropriate number of bilingual staff to serve youth clients and to assist in easing a youth's transition back to families and communities (Hoyt et al., 2001).

Examples

Several law enforcement agencies and areas have developed innovative approaches to reducing DMC:

Philadelphia. In 2003, the Philadelphia Working Group, an organization formed and sponsored by the DMC Subcommittee of the Pennsylvania Commission on Crime and Delinquency, began working with DMC groups in four other cities in the state to develop new approaches to reduce arrests of minority youth and improve officer safety. The groups held forums with law enforcement officers and minority youth so they could talk candidly about their troubled relationship and problems in the street. The forums were held primarily at universities and high schools and in large conference settings.

The forums led to the development of the *Law Enforcement Youth Curriculum*, a 1-day training curriculum for both new and experienced law enforcement officers at the Philadelphia Police Academy. The curriculum was offered for the first time in March 2009 (105 recruits) and again 3 months later (160 recruits), and will be used in the future to train school and transit police officers. Minority youth are included and play an active role in the training. The curriculum incorporates the open dialog of the forum process with training on adolescent development and youth culture and includes role play exercises with real-life scenarios that explore ways to interact more effectively with youth. The working group prepared an instructional DVD that provides insight into how the forum process works.

The curriculum was developed with the assistance of officers from the Philadelphia Police Department,

housing authority police, school district police, Pennsylvania State Police, transit police, and the sheriff's office. Deputy District Attorney George Mosee chaired the curriculum committee, which was actively supported by all of the law enforcement organizations and representatives from the public defender's office, a university, a church, and several juvenile justice organizations. Professional curriculum developers who had worked with the International Association of Chiefs of Police and the U.S. Department of Justice assisted in developing the curriculum. The Pennsylvania DMC subcommittee and the MacArthur Foundation provided funding for the curriculum.

Sacramento. The Corrections Standards Authority (CSA) formed a partnership with the Sacramento Police Department and began a pilot project to provide a 20-week DMC training program to all department officers. The program began in March 2009 and was an outgrowth of a comprehensive study of traffic stops done in 2000 by the Sacramento Police Department to address perceptions of racial profiling. The resulting data were analyzed by several independent consultants, and one consulting firm was selected to analyze the vehicle stop data and report on the existence or absence of disparities between ethnic groups. A final report identified a disparity in the number of minority motorists who were stopped when compared to their representation in the traffic population.

As a result, the department adopted recommendations that included policy revision, continued data collection, refresher training for officers on vehicle stop data collection, expansion of the existing training curriculum, and community outreach. Specifically, the training curriculum requires that officers discuss among themselves and with their trainers the decisions they would make in specific situations that might involve race or ethnicity. The curriculum identifies and examines situations that officers face when focusing on these issues. The training also includes the history of justice disparity, data review, implicit bias, policy and practice

that eliminate disparity, and exercises to trigger a better understanding of the types of activities officers can undertake to mitigate race/ethnicity biases. The training is at the forefront of identifying and resolving problematic disparity issues at the contact decision point and may be initiated in additional jurisdictions upon assessment of this pilot.

CSA is also partnering with the education system on a program to reduce DMC. The project provides regional trainings for agency representatives who work with school attendance review boards. The training brings together law enforcement, school personnel, and other stakeholders to talk about reducing DMC, and generates additional ideas for exploring and eliminating racial and ethnic disparities found in school suspensions, expulsions, and academic underachievement.

St. Paul. The St. Paul (MN) Police Department (SPPD) is working to achieve cultural and behavioral change among street-level officers by providing training that focuses on increased trust and increased understanding among diverse cultures and communities. The training strives to help police officers become more aware of their own and others' cultural assumptions. One of the unique aspects of the training is the opportunity for police officers to train alongside corporate and community leaders. Engaging these entities in the training provides an opportunity to develop deeper understandings and better connections between police and the community.

Because diversity training usually had historically fallen on the shoulders of women and other minorities, SPPD targeted the initial training at Caucasian male officers in order to engage them more fully and to allow them to feel as if they were part of the solution. Female and minority officers participated in the second phase of the training. Initial findings indicate that the program's approach is promising, and Caucasian police officers appreciate the opportunity to share their assumptions and experiences.

Recommendation

The complexity and seriousness of DMC lead the Federal Advisory Committee on Juvenile Justice (FACJJ) to make the following recommendation to the President and Congress:

8. FACJJ wishes to reemphasize to the President and Congress the intent of two recommendations the advisory council made in its 2006 and 2007 annual reports regarding DMC. These recommendations are:

- **Create a new funding stream that would appropriate money to OJJDP to support accurate data collection, including the technology necessary to collect data and to develop, evaluate, and replicate promising practices and evidence-based strategies that reduce DMC.**
- **Direct the OJJDP Administrator to develop a comprehensive training curriculum on best practices for addressing DMC for police, court, probation, and school personnel. In addition, Congress should direct OJJDP to fund a pilot project that would require cross-agency collaboration among state and local agencies addressing DMC in order to glean best practices.**

Diversion Programs

Diversion programs divert juveniles who have committed certain offenses from the formal juvenile court process to a variety of alternative programs that may include teen courts, victim restitution and restoration programs, and mediation programs. Diversion programs often are used with first-time offenders or those who have committed nonviolent or petty offenses. Juvenile cases are diverted from formal court processing by any number of juvenile justice professionals at differing stages of system involvement, depending on the state and even county of arrest. These juvenile justice

professionals include law enforcement officers, prosecutors, intake officers, and judges. Diversion programs benefit society and delinquent youth and their families by dealing early and quickly with delinquent behavior, easing the overcrowding of secure detention facilities, and reducing the workload and costs of police departments and court systems.

The Problem

The long-term negative systemic impact of involvement in the juvenile justice system on youth, families, and communities has been strongly documented in high recidivism rates, high dropout rates, entrance into the prison system, and overburdening costs to taxpayers. Between 1985 and 2007, the total delinquency caseload increased by 44 percent; however, during that same period, the number of delinquency cases formally handled by juvenile courts increased 75 percent (Puzzanchera, Adams, and Sickmund, 2010). Formal court processing takes place when the juvenile court is petitioned to hold either an adjudicatory hearing or a waiver hearing to determine whether a juvenile's case should be transferred to criminal court. Many of the cases formally handled by juvenile courts could be diverted from formal processing, which would result in more efficient use of precious financial and programmatic resources and more positive effects on youth. Diverting juvenile offenders to diversion programs, which develop offender accountability, could keep less serious juvenile offenders from moving deeper into the juvenile justice system, increase victim satisfaction with the system, and allow the courts to save the most severe—and costly—sanctions for the most serious offenders.

Although a number of states and communities have implemented and evaluated diversion programs in their jurisdictions, there is a limited amount of comprehensive information and research about diversion programming. For example, in a recent publication from OJJDP, diversion or any other alternative to formal processing is not categorized under informal processing of delinquent cases (Sickmund, 2009). Without delineating

diversion activities from other informal processes, it is difficult to accurately determine the impact that diversion has on the disposition of delinquent cases.

Why Does This Matter?

From a financial perspective, diversion programs are cost effective. A study conducted by the Washington State Institute of Public Policy in 1997 showed the average cost per juvenile on probation at that time was \$1,928, while the cost for a youth on diversion was \$547, a 72-percent decrease in cost (Washington State Institute of Public Policy, 1997). To put this in perspective in relation to today's costs, according to the Consumer Price Index, these figures equate to a 2009 cost per youth on probation of \$2,565 and a cost per youth on diversion of \$728, which maintains a 72-percent decrease in costs. Expanding diversion programming to juvenile courts across the nation would create tremendous savings and allow reallocation of funds toward more effective programming.

In terms of public safety, recidivism is the key indicator—more crime equals less public safety. Recidivism among delinquent youth, in general, hovers at roughly 50 percent. However, recidivism for youth completing diversion programs is close to 12 percent (Kixmiller, 1997; Multnomah County Department of Community Justice, 2003). For diverted youth, less exposure to the juvenile court system decreases the likelihood of recidivism by reducing association with delinquent peers, reducing the stigma associated with court involvement, and creating less disruption to pro-social activities.

Diverting youth from more expensive formal court processing with greater recidivism rates to less expensive diversion with lesser recidivism rates improves system-wide efficiency. For a fraction of the cost of formal processing and better outcomes, diversion programs can vastly improve the formal system's capacity and quality and allow more targeted interventions toward more serious delinquents.

Diversion programs encourage positive youth development. According to a white paper prepared by the National Center for Juvenile Justice, juvenile offenders need to participate in activities that build accountability (Bender, King, and Torbet, 2006). Diversion programs are structured to accomplish this task. Research by the Nebraska Cooperative Extension concluded that diversion programs (Russell and Wood, 1998):

- Are more effective for handling first-time offenders and reducing costs.
- Increase youth and parent communication and understanding.
- Produce positive behavior and relationship changes among participants.

Diversion programs provide more timely interventions than the formal court process, which may be overburdened with cases. A central tenet of juvenile justice is accountability. Diversion programs develop accountability by including aspects of restoration of the victim and community. Activities such as meaningful community service work, victim-offender mediation, and apologies to the victim restore the victim and community and instill accountability in delinquents. Analyses performed using restorative justice studies have consistently shown positive impacts to victims, communities, and delinquents (Latimer, Dowden, and Muise, 2001; Nugent et al., 2001).

Just as in other aspects of juvenile justice, inequities exist both in the availability of and access to diversion programs. For example, research has shown a lack of diversion opportunities for minority youth. African American youth represented 17 percent of the population in 2005, yet they accounted for a third of all delinquency cases nationwide. African American youth were referred to juvenile court, rather than to diversion programs, at a rate 140 percent greater than the rate of White youth (Sickmund, 2009). Also, female juvenile

offenders are often sent to detention because of a lack of community-based alternatives for females (Zahn et al., 2010). Diversion programs can also help reduce DMC by reducing the overrepresentation of minority youth in formal delinquent processes.

What Can Be Done?

We need a unified direction across the nation for diversion programs. There is much diversity in the types of programs included under the diversion umbrella. We need a common definition of diversion and the types of programs that meet the definition. The definition should include a commonly accepted set of eligibility criteria, and include needs and risk assessment instruments, screening and assessment, uniform guidelines, and a standardized protocol. Standards established by organizations such as the National Association of Pre-Trial Services Agencies and the Nebraska Crime Commission should be incorporated into universally accepted standards. These standards should identify who is responsible for administering diversion programming and how access would be given fairly and equitably to include a wider range of delinquent offenders. These standards should encourage collaboration among all stakeholders in the system.

Juveniles in diversion programs should have access to the same services as cases formally handled by the juvenile court. These services should include assessment and treatment for co-occurring mental health and drug and alcohol programs, education programs, family counseling, and positive youth development. Diversion programs should be developed in collaboration with community, faith-based, and nonprofit organizations and foundations. These groups should work together to provide funding to encourage the development of more diversion programs.

Examples

The Juvenile Justice Project at Campbell Law School in Raleigh, NC, is a model for diversion programming.

The project diverts delinquent youth from prosecution. Referrals are sent by a juvenile court intake officer prior to referring a case to the prosecutor. The core of the program is restorative justice that relies on face-to-face mediation to create a resolution, repair the wrong committed, and build accountability in offenders. Once resolutions are completed, the juvenile court determines whether to close the case. Results showed recidivism rates for mediated cases between 16 and 20 percent. By comparison, recidivism rates for nonmediated cases are 36 to 40 percent (Kerrigan, 2008).

The Bethlehem (PA) Police Family Group Conferencing Project, rated as an effective model program by OJJDP, uses family group conferencing to divert youth from formal processing. A police liaison officer uses arrest records to identify youth who are appropriate for the program. Each participant is assigned to a police officer who coordinates the conferences. Conferencing involves a scripted protocol that develops solutions documented in an agreement signed by the offender, the victim, their supporters, and the arresting officer. Evaluation results on recidivism showed that violent offenders receiving conferencing were significantly less likely to reoffend in 12 months compared to other violent offenders. Also, juveniles who declined to participate had higher rates of arrest than those who participated in the program (Office of Juvenile Justice and Delinquency Prevention, 2009).

The Indianapolis (IN) Restorative Justice Project targets youth residing in urban areas and has also been rated an effective model program by OJJDP. Youth determined to be eligible for the project are referred to a coordinator who arranges a conference between the victim, offender, and supporters for both, including family members, community members, teachers, coaches, or other key figures in the juvenile's life. Conferences provide opportunities for everyone to speak and develop a plan. The plan is written into an agreement that outlines recommendations made by participants. Results showed 90 percent of victims

reported satisfaction with the process, youth participating in the conferences were significantly less likely to recidivate after 6 months, and there was a 29-percent reduction in rearrest rates for youth who participated in the conferences (Office of Juvenile Justice and Delinquency Prevention, 2009).

A juvenile diversion program in Kootenai County, a rural area in Idaho, has operated for more than 28 years with a recidivism rate slightly higher than 10 percent. The diversion process can happen at any point along the juvenile justice continuum, up to and including court referral of cases in abeyance. However, most referrals are made by prosecutors. Juvenile cases are screened by a team and then referred to the diversion program if appropriate. Caseworkers develop and supervise contractual agreements to instill accountability, community protections, and competency development. Because of a lack of community resources, diversion caseworkers are trained to provide classes in parenting, substance abuse, gender-specific issues, self-esteem, mediation, and other topics. These classes help reinforce accountability at all levels while helping to address the needs of both victims and offenders and their families. Juveniles participating in the program realize a sense of community when they provide community service work in the areas where they live. Because of the need for supervision, each juvenile participating in the diversion program has weekly contact with a caseworker who monitors the juvenile's progress and contract completion. Youth who fail to complete the terms of their contracts are referred back to the prosecutor for court actions.

Recommendations

Recognizing the positive benefits diversion programs have for juveniles, communities, and juvenile justice systems, FACJJ makes the following recommendations to the President and Congress:

9. **FACJJ recommends that the President and Congress dedicate sustained funding to OJJDP for**

pretrial diversion programming to reduce crime, create more cost-effective juvenile justice systems, increase victim satisfaction with the justice system, and increase juvenile offender accountability.

10. FACJJ recommends that the President and Congress encourage states to promote the development and implementation of parameters for diversion programming throughout the juvenile justice continuum based on promising and best-practice models.*

Juvenile Transfer and Waiver Laws

Once a juvenile has been referred to juvenile court, his or her case may be diverted from the formal justice system to other agencies, handled formally through the juvenile court, or transferred or waived to criminal court for processing. As with other components of the juvenile justice system, the use of transfer and waiver may be another factor that contributes to DMC.

The Problem

In response to significant growth in juvenile arrest rates for violent offenses during the 1980s and early 1990s, state laws allowing the transfer of juveniles to adult court for trial were broadened to facilitate the transfer of juveniles charged with a wide spectrum of offenses (Hindelang Criminal Justice Research Center, 1999). Predictions of continued growth in violent juvenile crime proved to be inaccurate, however. Arrest rates for juveniles actually declined during the mid- and late 1990s (Butts and Travis, 2002).

Citing considerations such as these, recent reports by respected juvenile justice organizations emphasize the need to reform state transfer laws (Coalition for Juvenile Justice, 2005; Block and Duvall, 2009). In retrospect, the measures enacted to facilitate transfers may have

been unnecessary. There is reason to believe that they may even be counterproductive when it comes to reducing juvenile crime and protecting public safety. In fact, they may increase recidivism rather than decrease it (Fagan, Kupchik, and Liberman, 2003). There is also inequity in the use of transfer and waiver laws, with a disproportionate number of cases involving minority youth being transferred or waived to the adult criminal system. In addition, tens of thousands of cases have been transferred to an adult system that is poorly equipped to meet the rehabilitative and developmental needs of juveniles.

Why Does This Matter?

Childhood on Trial: The Failure of Trying & Sentencing Youth in Adult Criminal Court is a national survey of law, policy, and research on juvenile transfer prepared by the Coalition for Juvenile Justice (CJJ). First released in 2005, the survey summarizes the history of juvenile transfer laws and policies and strongly urges their reform. The report concludes that current practices result in the unnecessary and counterproductive transfer of tens of thousands of juvenile cases to adult court each year.

A more recent report, *Don't Throw Away the Key: Re-evaluating Adult Time for Adult Crime in Virginia* (Block and Duvall, 2009), released by JustChildren, is intended to expose the flaws of the existing transfer system in Virginia and advocates for specific reforms to address them. The report is a broad survey of research and analyses (both national and in Virginia) conducted by academicians and policymakers in the field of juvenile justice. This report advocates for many of the same reforms urged in the CJJ report.

The number of minority youth being transferred to adult court for trial may also be a contributing factor to DMC. A national study found that 82 percent of

* The Center for the Study and Prevention of Violence at the University of Colorado designates best practices or model programs as those that have been proven to deter youth violence with a strong research design, have sustained positive effect, and have been replicated in multiple sites. The Center defines promising programs as those that have been proven to effectively deter youth violence with a strong research design.

cases filed in adult courts involved minority youth; in 9 out of 10 jurisdictions studied, minority youth were overrepresented in waiver cases, including a county in Alabama where minority youth represented 30 percent of the population and 80 percent of the transfers (Juzkiewicz, n.d.). A study that examined Illinois' mandatory law of transferring young drug offenders to adult court found that minority youth are far more affected by the law than White youth. The study found that 99 percent of the youth transferred to adult court in Cook County (Chicago) for drug crimes in 1999 and 2000 were African American or Latino (Ziedenberg, 2001).

Juvenile transfer laws in the United States use three basic procedures: statutory exclusions from juvenile court jurisdiction on the basis of the age of the offender or the offense that is charged; direct election by the prosecutor to file for transfer based on the offense that is charged; and judicial waiver of juvenile court jurisdiction after individualized consideration of a broad array of offense, offender, and other criteria.

Statutory exclusion laws exist in 29 states (Griffin, 2003). In 13 states, juveniles are transferred simply because the legal age of majority is younger than age 18. In some states, juveniles as young as age 16 are deemed to be adults (Bozynski and Szymanski, 2004). In other states, this method is characterized by the exclusion from juvenile court of youth who are charged with offenses that are designated by statute. The number and severity of the excluded offenses vary widely from state to state.

Using data from 1999, CJJ reports that more than 250,000 juvenile cases are transferred to adult criminal court each year in the United States. The overwhelming majority of these cases, nearly 220,000, are the result of statutory exclusion laws (Coalition for Juvenile Justice, 2005). In these cases juveniles are transferred without any individualized scrutiny of the offense, the offender, or the needs of the community.

The direct-file method is used in 15 states (Snyder and Sickmund, 1999). This method, authorized by statute for certain offenses, affords the prosecution broad discretion to determine which cases to transfer. The local prosecutor simply gives notice and files for transfer of the case. This model accounts for the second largest group of juvenile transfers. CJJ reports that approximately 27,000 juveniles were transferred in 1999 by this method at the sole discretion of the local prosecutor.

The third procedure involves a judicial waiver of juvenile court jurisdiction. This method accounts for the smallest number of transfer cases annually. Approximately 8,500 cases were judicially waived to adult court in 2007 (Adams and Addie, 2010). Judicial waiver is characterized by the opportunity for a full adjudication of the transfer issue on its merits, with the ultimate decision being left to the court's discretion.

Commentators and researchers have found there is reason to believe that the prevalence of transfers in recent times has produced unintended, even counterproductive consequences for juveniles and for the communities in which they live. For example, studies have found that the majority of juveniles who have been transferred to the adult system committed nonviolent property and drug-related crimes rather than violent offenses (Coalition for Juvenile Justice, 2005). It has also been found that few juveniles who have been transferred to the adult system actually serve sentences in adult prisons. They are more likely to receive a jail sentence or to be placed directly on adult probation. It is fair to ask whether the juvenile—or the community—is better served by a system that is designed to supervise adults or by a juvenile system that is specially tailored to meet the rehabilitative and developmental needs of a young person.

What Can Be Done?

Several components of existing transfer laws (including reverse-waiver and blended-sentencing laws) can help

prevent transfers or ameliorate their negative consequences if they are adopted and effectively used in an increased number of states.

In 25 states, reverse-waiver procedures enable the remand of a case to juvenile court upon finding that the case was unlawfully or improvidently transferred (Griffin, 2003). The adoption of reverse-waiver provisions in states without such statutes provides a means to minimize the number of transferred cases while increasing the frequency with which juveniles are sentenced to juvenile facilities or to probation that incorporates age-appropriate services.

Blended sentencing provisions are found in 32 states (Griffin, 2003). Blended sentencing laws allow courts to impose juvenile and/or criminal sanctions on juveniles adjudicated or convicted of certain serious, violent offenses. The CJJ report concluded that the results of blended sentencing laws are little studied and little understood. Although blended sentencing provisions may not be without controversy in that they may actually increase the number of transfers by waiver, such statutes provide a means to enable continued supervision after a juvenile reaches the state's usual age of majority. Blended sentencing laws also provide a means by which the sentencing court has alternatives to adult sanctions in cases in which an exclusively juvenile disposition may be unwise.

With the goal of reducing the number of juveniles inappropriately transferred to adult court, CJJ and JustChildren make a number of recommendations in their reports. The first three of these recommendations have the greatest potential to decrease the number of juveniles who are transferred each year to adult court for trial:

- Redefine the age of adulthood in states in which the age is younger than 18.
- Eliminate or narrow the scope of automatic transfer provisions.

- Eliminate or narrow the scope of direct-file provisions.
- Adopt written policies to assist the exercise of discretion in transfer decisionmaking.
- Use objective risk and need assessment tools in transfer decisionmaking.
- Increase training for decisionmakers involved in the transfer process.
- Implement reverse waiver in states where it does not exist.
- In appropriate cases, allow juveniles previously convicted as adults to regain their juvenile status.

Policymakers and practitioners need more data about juvenile transfer and waiver laws. The National Center for Juvenile Justice (NCJJ) is currently preparing a bulletin (to be released later in 2010) that will expand on previous transfer documents by NCJJ and incorporate new findings. The bulletin will examine the history of transfer laws and practice, analyze national data sources for transfer, and look at individual state transfer data.

Recommendations

FACJJ makes the following recommendations to the President and Congress regarding the use of transfer and waiver laws:

- 11. FACJJ recommends that the President and Congress strongly encourage states that have not set the age of adulthood to 18 at the time of the commission of a crime to do so and to provide financial incentives to do so.**
- 12. FACJJ recommends that the President and Congress provide funding for increased training for key decisionmakers in the transfer process.**

Life Without Parole

Juvenile offenders whose cases have been waived or transferred to criminal court can be sentenced to mandatory minimum periods of confinement or to life without parole in the adult system if convicted of their crimes. Nearly all states have laws allowing juveniles to receive life sentences.

The Problem

Currently, more than 2,500 individuals in the United States are serving sentences of life without parole (LWOP) for crimes committed when they were younger than age 18 (Equal Justice Initiative, 2008; Human Rights Watch, 2009). Thousands more young people are serving lengthy mandatory minimum sentences, either as a result of transfer (sometimes mandatory) to the adult system or other “tough on crime” laws adopted in the 1990s during a spike in the juvenile crime rate, which has since disappeared.

There is no central system for collecting and sharing data about these young people or about the circumstances under which their crimes were committed (Human Rights Watch, 2005). Research indicates that more than half (59 percent) of those serving LWOP sentences were first-time offenders who had neither a prior adult criminal record nor a juvenile delinquency adjudication (Human Rights Watch, 2008). More than 100 juveniles are serving these sentences for nonhomicide offenses and 26 percent were found guilty of felony murder, meaning that they were not directly responsible for the homicide (Human Rights Watch, 2008; Equal Justice Initiative, 2008). The U.S. Supreme Court recently held in *Graham v. Florida* that it was unconstitutional to sentence juveniles to life without parole for nonhomicide offenses.

As in other areas of the juvenile justice system, minority youth are disproportionately represented among those serving LWOP sentences: more than 60 percent of all youth serving these sentences are African American, and

100 percent of those serving LWOP sentences for non-homicide offenses are minority youth (Human Rights Watch, 2008). Significant racial disparities in LWOP sentencing continue to be evident when comparing the outcomes for White and African American youth who are arrested for murder (Human Rights Watch, 2008).

There is inadequate understanding of the circumstances under which these young offenders are involved in criminal activity, how adult transfer or other sentencing provisions are involved, or why minorities are persistently overrepresented among those given these harsh sentences. Much more data and in-depth analysis are needed about youth tried in criminal courts, including their age, race, the crimes they are charged with committing, the sentences they receive, and how these sentences compare to adults charged with comparable offenses. Until this information is available, policymakers and practitioners will be limited in their ability to make informed decisions about these issues.

Why Does This Matter?

Frequently, LWOP and other similarly harsh sentences reflect ill-considered and hasty changes in state laws made in response to rising juvenile crime rates in the late 1980s and early 1990s. Serious juvenile crime has, in fact, been declining: the juvenile arrest rate for violent crimes in 2006 was 73 percent below its 1993 peak (Snyder, 2008), and the violent crime rate among juveniles declined nearly 2 percent between 2007 and 2008 (Federal Bureau of Investigation, 2008). Despite these declines, the proportion of juveniles receiving life sentences has been increasing. According to a 2005 report by Human Rights Watch, while the number of juveniles convicted of murder dropped 55 percent between 1990 and 2000, the percentage of youth receiving sentences of life in prison without parole increased 216 percent (Human Rights Watch, 2005, 2008). Even more troubling, in 11 of 17 years between 1985 and 2001, youth convicted of murder in the United States were more likely than adult murder offenders to be

sentenced to life without parole (Human Rights Watch, 2005, 2008).

Although young people must be held accountable and punished for their criminal activity, adolescents are also developmentally different from adults and therefore uniquely amenable to treatment and rehabilitation. Current research about adolescent development has confirmed significant differences in maturity levels between adults and juveniles—differences that are reflected in both adolescent behavior and biological differences in the juvenile brain (American Medical Association and the American Academy of Child and Adolescent Psychiatry, 2009). Adolescents display heightened sensitivity to immediate rewards and are less able to control their impulses or to regulate their own emotional responses, further impeding their decisionmaking skills (American Medical Association and the American Academy of Child and Adolescent Psychiatry, 2009). Research on the brain conducted in the past decade has provided extensive evidence that the part of the brain (the prefrontal cortex) that figures heavily in response inhibition, emotional regulation, decisionmaking, and evaluation of consequences does not mature until early adulthood (American Medical Association and the American Academy of Child and Adolescent Psychiatry, 2009). In fact, the portions of the brain that motivate risky and reward-based behavior (including the amygdala, which generates the “fight or flight” response) develop faster and prior to those that regulate behavior and are accompanied by a corresponding increase in the presence of reward/risk-seeking neurotransmitters (dopamine) and lack of inhibitory neurotransmitters (serotonin) that further compromise adolescents’ decisionmaking processes (American Medical Association and the American Academy of Child and Adolescent Psychiatry, 2009). This scientifically grounded understanding of adolescent development and its implications for adolescent culpability and rehabilitation have been recognized by the Supreme Court in *Roper v. Simmons* and in its recent

decision in *Graham v. Florida* mentioned earlier (American Medical Association and the American Academy of Child and Adolescent Psychiatry, 2009).

Perhaps because it is understood that adolescents are developmentally and biologically distinct from adults, sentences of life without parole for a juvenile are almost unheard of in the rest of the world. There are currently no juveniles serving life without parole in any country besides the United States (De La Vega and Leighton, 2008). Indeed, the United States’ use of LWOP for juveniles is a violation of or raises concerns under at least three international treaties to which the United States is a party (Human Rights Watch, 2008; De La Vega and Leighton, 2008).

In light of our understanding of adolescent brain development and adolescents’ particular capacity for positive development and rehabilitation, as well as our changing understanding of the nature and scope of youth crime, continuing the use of life sentences without the possibility of parole for juveniles is neither appropriate nor sensible. Although youth can, and must, be held accountable for crimes, they must also be given the opportunity to demonstrate, where appropriate, that they have been successfully treated and rehabilitated.

Recommendations

Because of the serious impact that sentences of life without parole have for juvenile offenders, FACJJ makes the following recommendations to the President and Congress:

13. **FACJJ recommends that the President should support and Congress should enact legislation mandating judicial or administrative review of the possibility of parole for any youth adjudicated or convicted of a federal offense committed before the offender’s 18th birthday. The legislation should also require federal courts that have imposed such a sentence in the past to reassess such**

sentence and, where possible, substitute one that allows for the potential parole of the offender. Such legislation should also include language that strongly encourages and provides incentives for states to adopt similar legislation.

14. FACJJ recommends that the President should support and Congress should enact legislation that amends Part D of the Juvenile Justice and Delinquency Prevention Act to require and to fund OJJDP to serve as a central depository for, and to analyze and disseminate data on youth tried and sentenced as adults, with a focus on youth sentenced to lengthy mandatory minimum sentences or to life without parole.

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CHAPTER 5



Community-Based Reentry Programs

A juvenile offender who is released from a facility after adjudication or conviction or a youth who ages out of the foster care system faces reentry into his or her family and community. These youth often experience serious difficulty transitioning into adulthood. Community-based aftercare or reentry programs are sometimes made available to help these youth and their families adjust, and to help prevent further delinquency.

The Problem

An estimated 100,000 juvenile offenders are released annually from secure correctional institutions, including juvenile facilities, jails, and adult prisons (Barton, 2006). Many juveniles leaving these facilities have multiple risk factors, are struggling with co-occurring mental health and alcohol and drug issues, and have difficulty succeeding in school. Findings from the first Survey of Youth in Residential Placement, conducted in 2003, indicate these problems often are not sufficiently addressed in residential facilities. Specifically, researchers found shortcomings in mental health, substance abuse, health care, and education services provided to juveniles held in residential facilities (Sedlak and McPherson, 2010). In addition, juveniles in many facilities may be exposed to violence and trauma that leave them even more troubled when they are released from custody (Steinberg, Chung, and Little, 2004).

These problems are likely to be further compounded when these juveniles are sent back, unprepared, to the surroundings that may have contributed to their

delinquent or violent acts in the first place: communities that have high rates of crime and poverty, poor-performing schools, and a lack of community health and social services. Crossover youth are especially vulnerable to future difficulties because they often come from abusive or neglectful families. To successfully join their families and communities, these juveniles need aftercare services that can help them develop the skills and protective factors they need to resist further risky and delinquent behavior and, ultimately, to avoid returning to custody.

Despite this need, many state and local juvenile justice and child welfare systems do not focus on or provide aftercare or reentry programs for juvenile offenders. Much of the current work in juvenile justice is focused on the front-end issue of confinement, not on the back end of reentry. The result is that little is known about the effective reentry of juveniles. Statistical information and research on juvenile reentry are scarce. Although research on reentry has been conducted, much of it does not take into account the significant developmental

differences between juveniles and adults and their respective roles in their families and communities (Sullivan, 2004).

The increase in the number of juvenile offenders sent to secure correctional placements over the past decade also has resulted in a confinement population of juveniles with diverse characteristics and needs. Understanding this diversity is challenging and requires myriad and individualized planning to address these differing characteristics. For example, some confined juveniles show a propensity toward criminal behavior while others are caught in a downward spiral of disadvantage in which earlier failure cuts off opportunities for future success (Sullivan, 2004). Obviously, a one-size-fits-all program will not meet the needs of these two distinctly different types of juvenile offenders. Yet, both will need guidance and supervision when reentering their communities. There is a good chance that neither will receive the help and structure they need.

Why Does This Matter?

The ultimate goal of the juvenile justice system is to promote accountability and rehabilitation of juvenile offenders and to ensure public safety. Juveniles who are released from institutional facilities have a greater chance of succeeding and are less likely to recidivate if they have access to quality reentry and aftercare services. Juvenile offenders who learn to thrive in a noninstitutional setting will ultimately spend less time in confinement, reducing overall costs to the juvenile justice system and to taxpayers.

Reentry can be difficult. Youth who are leaving a juvenile correctional setting or other secure facility experience a double transition. In addition to changing environments, from a secure setting to a community setting, these juveniles also face physical, cognitive, emotional, and social changes. Understanding this double transition is critical to developing effective reentry/

aftercare programs that acknowledge and address the holistic reintegration needs of juveniles leaving secure settings (Altshuler and Brash, 2004).

Youth aging out of the child welfare system face many of these same challenges and have to cope with other challenges as well. Many do not have strong social or family networks to help them successfully transition to independence and adulthood. They may have experienced educational difficulties that contribute to a lack of job training. Past abuse or neglect may make it difficult for them to form the supports necessary to overcome these issues.

Ideally, reentry efforts should begin before a juvenile is released from a facility, community-based residential program, or the child welfare system. However, correctional institutions typically focus on the offender and provide little or no direct involvement with the offender's social network (e.g., family, friends, other peers, informal supports) and other potential community-based resources and supports. Focusing on offender change while offering little access to the social networks offenders must rely on in the community is a contradiction between the goals of juvenile confinement and the goals of successful community reintegration.

One example of this contradiction is the conflicting signals sent to confined juveniles about their education. Juveniles released from a secure facility are often caught between expectations that they attend school and the reality of barriers posed by the structure of educational institutions (Sullivan, 2004). Juveniles who are arrested, ordered to appear in court, and confined to a facility are under continuous pressure to be enrolled in school in some way and are also required to keep court appointments as they move from placement to placement. Each time a juvenile is transferred to a new setting, he or she faces both academic and social difficulties. The process of confinement and reentry can lead to accumulated educational disadvantages and

demonstrates a lack of consideration to the developmental stages of adolescents.

Substance abuse also poses a significant obstacle to successful reentry. Studies have placed the prevalence rate for substance abuse among incarcerated juveniles at about 50 percent. Among adolescents detained for criminal offending in 2000, 56 percent of male juveniles and 40 percent of female juveniles tested positive for drug use (National Institute on Drug Abuse, 2006). In 2002, the substance use disorder rate among adolescents ages 12 to 17 who had ever been in jail or detention was 23.8 percent—almost triple the 8-percent rate among youth in that same age range who had never been jailed or detained. This prevalence rate, combined with research that shows that juvenile offenders who continue their substance abuse are more likely to continue their offending careers as well, make it abundantly clear that substance abuse treatment is needed, both in secure facilities and in aftercare programs (Chassin, 2008). However, a national survey of program directors providing treatment for juvenile offenders found that only 26 percent of secure institutions and 25 percent of community-based programs included aftercare services (Chassin, 2008). Further analysis of this same survey found that only 51 percent of substance-abusing juveniles in residential facilities and 31 percent in jails were referred to a community-based treatment program after they were released. Data from the juvenile division of the Illinois Department of Corrections also illustrate that juvenile facilities are not meeting the treatment needs of juveniles in their custody. Of all the juveniles who had a substance use disorder and thus needed treatment in the Illinois system, only 48 percent reported ever having been treated (Chassin, 2008).

Although research supports the notion that aftercare services can provide and manage substance abuse disorders, these programs are a missing component of most reentry efforts. This lack points to the need for policies that support the integration, continuity, and financing of substance abuse treatment and aftercare

services for juvenile offenders both during and after their justice system involvement (Chassin, 2008).

What Can Be Done?

Effective juvenile offender reentry programs must address seven primary areas of reentry: family and living arrangements, peer groups, mental and physical health, education, vocational training and employment, substance abuse, and leisure interests. To effectively address the enormity of these seven areas, practitioners have to maintain bridges between institutional and community corrections, coordinate services, and employ wraparound case management. Doing so will help to increase coordination and decrease redundant and often contradictory messages. Effective aftercare programs should focus on minimizing risk factors and developing protective factors (Altshuler and Brash, 2004).

Juvenile reentry programs too often focus on the deficits within an offender or in the offender's life situation and fail to capitalize on strengths. These programs assign a passive role to the offender and almost no role to the community outside of correctional human service agencies, thus missing an opportunity to engage the offender in actively reconstructing his or her life and to involve the community in meaningfully accepting the returning ex-offender (Maruna and LeBel, 2003). Discussions about juvenile reentry need to shift from focusing solely on controlling the behavior of or meeting the needs of juvenile offenders to ones in which the juvenile offender demonstrates a commitment to fully participate in his or her reentry plan—a plan that uses the juvenile's strengths to shore up areas of deficit. Individuals are most likely to change when they engage in the process as partners and contribute to identification of strategies and goals. A wraparound program, initially developed by the mental health system, is an effective way to involve juveniles, their families, and communities in reentry efforts. These programs provide a coordinated system of community-based care and

resources for families and juveniles who have multiple issues and include strength-based individualized holistic treatment plans and goals.

The system of care program supported by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA) is designed to meet the needs and challenges of youth with serious mental health issues. The program recognizes the importance of family, school, and community and strives to promote the potential of each youth in the program. Youth referred to systems of care from courts or correctional systems have fewer behavioral and emotional problems after 18 months in a system of care (Center for Mental Health Services, 2006).

Systems of care also save taxpayers money when compared to traditional mental health services. According to SAMHSA systems of care save public health systems \$2,776.85 per child in inpatient costs over the course of a year, and save juvenile justice systems \$784.16 per child in the same timeframe (Substance Abuse and Mental Health Services Administration, 2006).

It is important to involve families in reentry programs; doing so is an effective strategy for combating recidivism. Research results from an education program for families of incarcerated serious juvenile offenders found that a large majority of delinquents participating in the program improved in following rules at home, communicating with parents, and attending school. Another study concluded that reentry programs that recognize juveniles as part of a larger family structure and include families in the reentry process produce more and longer lasting change in juveniles than treatment programs that do not include families (Gerstein and Pittman, 1983). The study also suggests that the ideal model for juvenile reentry programs includes a family education process that begins at pretrial hearings and continues through postrelease.

The Center for Juvenile Justice Reform and the Jim Casey Youth Opportunities Initiative recently released recommendations for supporting youth in the child welfare and juvenile justice systems as they transition to adulthood. Their recommendations include promoting policies and practices that address family relationships and permanency, allowing youth to help formulate case plans that include adulthood goals, and developing policies and practices that help youth develop skills and competencies necessary to succeed in adulthood (Altschuler et al., 2009).

Examples

The best juvenile reentry programs are based on the Intensive Aftercare Program (IAP) model (Altschuler and Armstrong, 1994). Key elements of the IAP model include:

- Case management services to develop and monitor case plans and coordinate services in the community.
- A network of community services to support juveniles released from institutions.
- Community-based services “backed in” to the residential facility before a juvenile is released. For example, the case manager meets with the juvenile, conducts assessments, develops release plans, and arranges for relevant community-based service providers to visit the juvenile before his or her release.
- A step-down process in which a juvenile first moves into a transition phase, gradually experiences more community interaction during the last week of incarceration, advances to closely supervised release, and finally experiences a decrease in the intensity of supervision.
- A system of graduated sanctions to help shape and control the juvenile’s behavior during aftercare.

This model is the result of more than 10 years of effort by researchers to develop the theory and coordinate the implementation of a number of pilot sites across the United States. Two programs that are based on the IAP model have demonstrated success in working with juveniles transitioning from secure confinement.

The first example is Aftercare for the Incarcerated through Mentoring (AIM), a juvenile reentry program based in Indiana. AIM incorporates the principles of the IAP model and focuses specifically on connecting incarcerated youth with adult mentors. AIM seeks to steer the youth toward productive and successful futures by fostering healthy positive relationships with effective role models. AIM has been carefully evaluated, with results pointing to dramatic differences in the likelihood of reincarceration—4 years after their release, youth participating in AIM were 63 percent less likely to have returned to a correctional facility than those who did not participate in the program. In addition, the following outcomes have been documented for the program (Jarjoura, 2009):

- AIM participants experience fewer arrests and convictions than nonparticipants. Even when they have been rearrested, AIM participants are less likely to be incarcerated as a result. AIM participants also take longer to experience the first arrest after their release from incarceration.
- The lower likelihood of recidivism is maintained over the longer term (up to 7 years in some of the evaluations of the program), which is noteworthy given that mentors are involved primarily in the first year after release from incarceration. Mentoring appears to equip these youth for longer term success.
- Participation in AIM was found to be most effective for high-risk youth, for those having completed a comprehensive treatment program while incarcerated, and for those under supervision after their

release from incarceration (i.e., on probation or parole).

- The cost for one youth to participate in AIM for 1 year is less than \$2,000. The projected savings to the state for every 100 youth that participate in AIM is more than \$1 million.

AIM has served incarcerated youth throughout Indiana since 1996 and more recently has been replicated in Little Rock, AR, and Phoenix, AZ.

A second example based on the IAP model is the Boys & Girls Clubs of America's (BGCA's) Targeted Re-Entry Program. This is a unique partnership that involves the operation of a Boys & Girls Club within a correctional setting. Staff from BGCA continue to work with the youth after their release. BGCA, through collaborations with juvenile justice agencies and community-based service providers, strive to develop comprehensive reentry programs. A 4-year evaluation of four Targeted Re-Entry Program sites points to a number of key lessons about juvenile reentry programming (Barton, Jarjoura, and Rosay, 2008):

- Boys & Girls Clubs offer a promising approach to improving reentry services to juvenile offenders since the philosophy of this organization is consistent with the recent emphasis on strengths-based programming. Some important implementation strategies include training case managers thoroughly in the strengths perspective; incorporating a strengths discovery perspective into the assessment process in addition to focusing on criminogenic risks and needs; having the transition team identify strengths available to youth in the community and include as members more nonprofessional, community support persons; and building more explicitly on the strengths of juveniles, families, and their communities during transition planning (Barton, 2006).

- Implementation of effective juvenile reentry programs is complex and challenging. To successfully implement an IAP-based program, there must be an organized and engaged set of stakeholders who understand the model and are committed to the outcomes. The collaborations that must be assembled must withstand change that occurs when elected officials are replaced and when there is staff turnover on the front lines where youth are being served.
- Results indicated that when youth were able to complete high school or earn a General Equivalency Diploma, and when they were productively engaged in work or school in the 12 months after their release, recidivism was low. The relationships between the youth and the workers in the Boys & Girls Clubs were instrumental in keeping the youth connected to the programs so that they could find work or enroll in educational or training programs.

Recommendations

Because reentry efforts are so critical to helping juveniles returning from secure settings and youth leaving the child welfare system, the Federal Advisory Committee on Juvenile Justice (FACJJ) makes the following recommendations to the President and Congress:

15. FACJJ recommends that the President and Congress prioritize the importance of reentry in all areas of juvenile justice programming, including solicitation efforts, policy development, and program monitoring. Effective reentry planning should begin upon system entry and should directly involve youth, appropriate family members, positive peer supports, and an array of community assets (such as mentoring) to ensure that effective connections are in place upon a juvenile's exit from confinement.
16. FACJJ recommends that the President and Congress provide funding for the OJJDP Administrator to use to create training and technical assistance content focused on the development of comprehensive reentry tools and approaches consistent with national models to ensure effective implementation and evaluation in state and local jurisdictions. Examples of national models include the Intensive Aftercare Program (discussed above) and the Second Chance Act, which are designed to improve outcomes for adults and juveniles returning to communities from prisons and jails and other secure institutions. The Act provides funding for programs that offer employment assistance, substance abuse treatment, housing, family programming, mentoring, victim support, and other services that can help reduce recidivism.
17. FACJJ recommends that the President and Congress strongly emphasize that states develop effective community-based reentry services that use a system-of-care model and provide funding and training specific to mental health and substance abuse services for youth and families.
18. FACJJ recommends that the President and Congress strongly encourage states to design, develop, and implement reentry approaches that ensure the successful transition of juvenile offenders in secure facilities and crossover youth to adulthood. Such approaches should address education, life skills, work readiness, and community integration.

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