

Reform the Nation's Juvenile Justice System

FEDERAL POLICY RECOMMENDATIONS

Restore the capacity of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to serve as a national incubator and catalyst for improving juvenile justice policies and practices.

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Focus the energy and resources of OJJDP and other federal agencies on crucial and pervasive shortcomings in juvenile justice practice.

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Improve the juvenile justice workforce.

Across the nation, juvenile courts and corrections systems are littered with poorly conceived strategies that increase crime, endanger young people and damage their future prospects, waste billions of taxpayer dollars, and violate our deepest held principles about equal justice under the law. These problematic practices persist even as scholars, advocates, and hands-on juvenile justice practitioners have vastly expanded our understanding of what works (and doesn't work) in combating delinquency over the past 20 years, as well as how to undertake effective system reform.

Indeed, among all of the policy areas affecting vulnerable children and families, juvenile justice probably suffers the most glaring gaps between best practice and common practice, between what we know works and what our public systems most often do on our behalf. The most urgent need is to reduce our wasteful, counterproductive overreliance on incarceration and detention, and instead to redirect resources into proven strategies that cost less, enhance public safety, and increase the success of youth who come in contact with the juvenile courts. Reducing racial disparities and combating abuse in juvenile facilities also require immediate attention.

While juvenile justice is largely a state and local responsibility, the federal government can and should make a crucial contribution. Often, states and localities lack the financial resources and technical know-how to reform their juvenile programs and practices, and they have long looked to Washington for guidance. Indeed, since the Juvenile Justice and Delinquency Prevention Act (JJDPA) was passed in 1974, Washington has often played a vital role in setting minimum standards, conducting and disseminating research on best practices, and providing funding to help states and localities improve their juvenile systems. Unfortunately, in recent years the federal government's role in juvenile justice has suffered due to inattention and drift.

With the landmark JJDPA up for reauthorization in 2009, the Obama administration has an unparalleled opportunity to use the resources and influence of the federal government to jumpstart a long-overdue renaissance in our nation's approach to adolescent crime.

Recommendation:

Restore the capacity of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to serve as a national incubator and catalyst for improving juvenile justice policies and practices.

Since 2000, total federal juvenile justice funding declined by nearly 60 percent, and the budget for OJJDP's core research and dissemination efforts was slashed 90 percent from \$6.8 million to just \$700,000. Meanwhile, despite evidence of widespread rights violations in juvenile justice, the federal government has done little in recent years to expand or intensify its efforts to protect the safety and well-being of court-involved youth.

To reverse this troubling trend and restore OJJDP's leadership, the reauthorized Juvenile Justice and Delinquency Prevention Act should:

- *Restore OJJDP's budget for nationally sponsored research, demonstration, and public information efforts to its 2002 level or higher.* Added funding will allow OJJDP to expand production of timely research and replenish its in-house staff expertise. However, administrators must reverse recent practice and award grants based on scientific merit as judged by career OJJDP staff and objective peer reviewers.
- *Restore OJJDP support to state and local juvenile justice efforts to 2002 levels or higher, but tie funding to proven and cost-effective strategies and require outcome evaluations for all federal investments.* OJJDP should require outcome measurements for all federally financed programs and ban the use of federal funds to support models that have been proven ineffective.
- *Use OJJDP's funding and influence to encourage or require state and local tracking of key juvenile justice indicators, and establish a uniform measure of recidivism for youth released from correctional facilities.*
- *Study the feasibility of a uniform juvenile justice data collection system to provide researchers and policymakers with information essential to good planning and practice, and to promote data-driven and evidence-based policymaking in juvenile justice.*

Recommendation:

Focus the energy and resources of OJJDP and other federal agencies on crucial and pervasive shortcomings in juvenile justice practice.

As the Casey Foundation documented in its *2008 KIDS COUNT Data Book* essay, “A Roadmap for Juvenile Justice Reform,” our nation’s juvenile justice systems are plagued by several pervasive weaknesses – areas where policy and practice often diverge dramatically from our knowledge of what works. In the coming years, federal efforts should be specifically targeted to help states address these priority concerns.

PRIORITY FOCUS #1: Combat overreliance on training school incarceration and pre-trial detention. Juvenile justice systems routinely detain and incarcerate youth who pose little or no danger to public safety, despite research that community supervision and non-residential, evidence-based programs are more effective and vastly more cost-efficient. Nationwide, in both pre-trial detention centers (analogous to adult jails) and youth correctional facilities (analogous to prison), less than one-fourth of confined youth have been involved in violent felonies. Many have committed only misdemeanors or status offenses. To help states reduce reliance on confinement, OJJDP should:

- *Fund and encourage states to replicate intensive and evidence-based non-residential alternatives to incarceration for lower-risk youth.*
- *Help states transition away from the failed model of incarcerating youth in large, congregate care training schools, where recidivism is uniformly high, and instead adopt the “Missouri model” with a regionalized network of small facilities offering positive youth development and behavioral treatments. Through this approach, 70 percent of youth released from Missouri juvenile facilities avoid recommitment to any correctional setting three years after discharge—far better than most states, even though its costs are low compared with other states.*
- *Support comprehensive reform efforts at the crucial front end of the juvenile system, the detention phase, following the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI) model. JDAI is now being replicated in 100 jurisdictions nationwide, and many sites have sharply reduced confined populations without harming public safety. JDAI model sites in Albuquerque, Chicago, Portland (OR), and Santa Cruz have lowered their daily detention populations by 38 to 75 percent without any uptick in youth offending.*

PRIORITY FOCUS #2: Take aggressive steps to reduce racial disparities in juvenile justice. Perhaps the most troubling characteristic of our nation's juvenile justice system is the shameful and persistent overrepresentation of minority youth. The research is now clear that youth of color are treated more harshly than white youth at every stage of the juvenile process, even when they present the same histories and are accused of the same crimes. In 1988, Congress amended the JJDPA to make addressing racial and ethnic disparities a "core requirement," but it offered little guidance and few consequences for inaction. Consequently, few jurisdictions have made progress in reducing disproportionate treatment. To remedy this pervasive injustice, the core mandate in JJDPA should be strengthened, and states should be required to analyze each stage of the juvenile court process for racial equity, and to develop corrective action plans to reduce disparate outcomes.

PRIORITY FOCUS #3: Combat abuse and protect the safety of youth confined in juvenile facilities. Conditions of confinement within juvenile detention and corrections facilities are deeply problematic. Violence and abuse are rampant in many facilities, as are the excessive use of isolation and dangerous or overly harsh disciplinary techniques such as four-point restraints, strip searches, and pepper sprays. Juvenile systems in California, Texas, and several other states have been plunged into scandal in recent years by revelations of endemic abuse, and the Associated Press recently reported that 13,000 cases of abuse were reported in juvenile institutions nationwide from 2004 to 2007. To better protect confined youth, the federal government should: establish a mandatory reporting system for all unusual incidents, injuries, and deaths in secure facilities; develop guidelines on the proper use of seclusion and restraints in juvenile facilities; require states to develop and implement plans to ensure the safety and prevent abuse of confined youth; expand funding for the U.S. Justice Department office responsible for investigating conditions of confinement; and repeal federal legislation that inhibits private litigation over conditions of confinement for juveniles.

PRIORITY FOCUS #4: Limit the number of youth tried in adult courts. Brain studies and social science research now show conclusively that adolescents are less mature than adults (and therefore less culpable for their crimes), and more likely to desist from crime and respond to rehabilitation. Studies consistently find that young people prosecuted and punished in the adult justice system are more likely to re-offend than similar youth retained in the juvenile system. Nonetheless, an estimated 200,000 youthful offenders are tried in adult courts every year, many of whom are punished in adult prisons or probation/parole systems. Some live in states that define the age of juvenile jurisdiction at 16 or 17, rather than 18, and many others are transferred to adult courts through ill-considered transfer and waiver laws passed in the 1990s. To inhibit these counterproductive practices, Congress should repeal federal laws that encourage

the transfer of juveniles to adult courts and corrections for specified crimes. OJJDP should provide funding and encouragement for state efforts to reverse rules that result in large numbers of transfers to adult court, and encourage all states to set the age of majority at 18. Also, just as the U.S. Supreme Court has banned the death sentence for crimes committed before age 18, OJJDP should encourage states to prohibit life sentences without parole for crimes committed by underage offenders.

PRIORITY FOCUS #5: Conduct research and support demonstration projects to address other pervasive weaknesses in juvenile justice systems. Specifically, OJJDP should support, evaluate, and disseminate results of initiatives for overcoming:

- *Inattention to the parents and families of court-involved youth.* Despite evidence that families continue to play crucial roles in the success or failure of court-involved youth, juvenile courts, probation agencies, and correctional systems seldom engage parents/families in making decisions or designing individualized interventions.
- *Overzealous prosecution of minor crimes.* Juvenile justice systems have shown an increasing propensity to prosecute minor cases in the juvenile justice system – often as the result of ill-conceived “zero tolerance” policies. Formally prosecuting routine misbehavior – rather than *diverting non-dangerous youth from court* and serving them informally – harms youth, with no benefit to public safety.
- *Dumping of special-needs youth better served by other systems.* Juvenile courts and corrections systems have become a dumping ground for youth with mental health problems, abuse and neglect histories, and learning disabilities who should be served by public systems with specialized expertise in addressing these problems.
- *Inadequate access to counsel.* In a series of recent reports, the American Bar Association and the National Juvenile Defender Center have documented severe weaknesses in the legal representation offered to low-income youth involved in juvenile court. Under a revised JJDP, states should be required to provide prompt access to qualified counsel for all youth in the juvenile justice system, and they should receive funding and assistance to help improve their juvenile indigent defense systems.

PRIORITY FOCUS #6: Strengthen JJDP core requirements aimed at:

- *Preventing the confinement of status offenders.* Before Congress enacted JJDP, juvenile courts locked up nearly 200,000 young people every night for non-criminal behavior like running away from home, skipping school, and underage drinking. After JJDP made federal funding contingent on deinstitutionalizing these status offenders, the number of confined status offenders dwindled to 10,000. In recent years, however, many jurisdictions have been exploiting a loophole that allows confinement of status offenders who violate a court order. This Valid Court Order loophole should be closed.
- *Keeping youthful offenders and adult offenders separate.* For more than 30 years, JJDP's "jail removal" and "sight and sound separation" requirements have kept juvenile offenders out of adult jails – or, if jail is the only available option, in separate units away from adult offenders. However, this protection was not extended to youth tried or punished as adults. JJDP's rules should be revised to allow states flexibility to serve youth convicted as adults in juvenile facilities.

Recommendation:

Improve the juvenile justice workforce.

In any effort to address the problematic practices described above and to adopt promising reforms, a key variable will be the talent, training, and dedication of the workers involved. Therefore, as recommended by former OJJDP Director Shay Bilchik, OJJDP should provide assistance to states in recruiting, training, and retaining juvenile justice workers, including support for:

- *Partnerships between state agencies and universities* that offer a career track for college students into the juvenile justice field (as is done in child welfare); and
- *Internship experience and tuition subsidies* for college students who commit to working for a juvenile justice agency within the state for a minimum number of years.

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A special policy issue of our newsletter, *Casey Connects*, and a series of issue briefs with our recommendations for reducing poverty, rebuilding child welfare, reforming juvenile justice, and improving data collection on children and families can be found on the Annie E. Casey Foundation's website: www.aecf.org.

The Annie E. Casey Foundation is a private charitable organization dedicated to helping build better futures for disadvantaged children in the United States. It was established in 1948 by Jim Casey, one of the founders of UPS, and his siblings, who named the Foundation in honor of their mother. The primary mission of the Foundation is to foster public policies, human-service reforms, and community supports that more effectively meet the needs of today's vulnerable children and families. In pursuit of this goal, the Foundation makes grants that help states, cities, and neighborhoods fashion more innovative, cost-effective responses to these needs.