Trends in State Courts 2014

Special Focus

Juvenile Justice and Elder Issues

INTRODUCTION

Models for Change in Juvenile Justice Reform

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

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

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

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

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

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

MacArthur Research Network on Adolescent Development and Juvenile Justice

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

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

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

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

Models for Change—Core States

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

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

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

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

### Models for Change—Action Networks

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

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

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

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

### Outcomes

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

#### Pennsylvania: Juvenile Law Center

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

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

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

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

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

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

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


Call for Article Submissions

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Submissions for the 2015 edition are now being accepted. Please email abstracts of no more than 500 words by October 15, 2014 to Deborah Smith at dsmith@ncsc.org. Abstracts received after this date are welcome and will be considered for later editions.

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