

New Data on Sanctions and Services Supports the Use of Non-Institutional Alternatives

Mar 9, 2010, LaWanda Johnson

Does placing youth who commit offenses in expensive, out-of-home placements improve their chances of not reoffending? New preliminary data from the *Pathways to Desistance* study reported by the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice suggests that, compared with probation, the answer may be “no” –even for youth who commit serious and sometimes violent offenses.

The data found that institutional placement – which includes both correctional and residential treatment facilities - appears to have no advantage over community-based services in addressing delinquency. For youth involved in ‘low-level’ offending, institutional placement raised their level of future offending by a statistically significant amount. The study also found that most youth with serious felony offenses ceased to re-offend after their contact with the system, regardless of the intervention.

“We see a lot of variability in these [youth], which means there are a lot of places for successful interventions and a lot of places where we can promote positive changes,” said University of Pittsburgh Professor Ed Mulvey, the Principal Investigator of the study. “But as long as we continue to create policies that say once a kid commits a certain kind of crime that they are on the road to adult criminality, that’s just a bad assumption from the start.”

The Pathways to Desistance study is a multi-site collaborative project which followed 1,354 juvenile offenders for seven years after their conviction. The research is the most intense look to date at the results of sanctions and services provided to youth who have committed serious offenses. Dr. Mulvey believes it can be used to dispel the commonly held beliefs that these youth are destined for a life of serious criminal offending.

“This study underscores the importance of taking into account individual and developmental differences—that adolescents change, they grow out of these behaviors that got them into trouble, and can turn their lives around. Youths who have committed serious offenses are not all the same, and not all headed for the same life of adult crime,” said Laurie Garduque, Director of Juvenile Justice for the MacArthur Foundation’s Program on Human and Community Development.

State advocates say the research supports many of their current reform efforts, and believe the study will help juvenile justice leaders steer systems struggling with conditions in juvenile institutions and help policymakers better manage dwindling public safety budgets towards better, more effective choices.

“We have been too heavy-handed with our use of out-of-home, institutional placements for youth,” stated Sarah Bryer, director of the National Juvenile Justice Network. “These findings support discontinuing the use of these types of placements in most cases, and provide political coverage to legislators who want to solve budget problems and help kids. They can be ‘tough on crime’ by supporting community-based alternatives.”

Reducing out of home placements: saving money and reducing re-offending in Illinois

States participating in the Models for Change Initiative have prioritized “right-sizing” their juvenile justice systems with innovative practices that have led to thousands of youth being diverted from out-of-home and institutional placements. This has had significant cost-saving benefits, and has contributed to reductions in recidivism.

Since 2005, Illinois has been decreasing the number of youth committed to its state facilities by providing fiscal incentives that encourage communities to treat and rehabilitate their youth in community-based settings. Through Redeploy Illinois, a program supported by Models for Change grantees, Illinois youth who have

committed serious offenses - that would have otherwise landed them in one of the state's juvenile facilities— have been diverted to programs in their home communities where they receive help, guidance and supervision. After years of being a successful pilot program, legislation enacted in January 2010 made it a permanent program and permitted all of the state's 102 counties to apply for Redeploy Illinois services.

Tailoring interventions: assessment helps direct expensive interventions where most appropriate

In line with one of the *Pathways* report's key findings – that there is no “typical” justice-involved youth -- other Models for Change states have been adopting risk/needs assessment tools to help determine the risk level and criminogenic needs of youth who offend. One such tool, the Structured Assessment of Violence Risk in Youth (SAVRY), is being used by probation officers and court officials in Louisiana to guide out-of-home placement decisions in hopes that use of these placements are restricted to those at highest risk for serious re-offending. According to Dr. Gina Vincent, co-director of the National Youth Screening and Assessment Project, tools like the SAVRY are needed to decrease subjectivity and increase the likelihood of successful community supervision and service delivery. She is conducting a study which examines if probation officers and court official are using SAVRY to its full advantage in Louisiana and to determine if this leads to lower placement and recidivism rates. She is conducting the same study in Pennsylvania using a similar tool, the Youth Level of Service/Case Management Inventory (YLS/CMI).

“The SAVRY and YLS/CMI are not just risk assessment tools; the tools help probation officers to make objective decisions based on the research that we know about youthful re-offending. It is the quintessential example of translating research into practice,” says Dr. Vincent. “Research indicates that human judgment is not a good indicator of who is really at-risk of serious re-offending. This tool enhances one's ability to tell who's most likely to reoffend, who will need the most intensive level of intervention, and which types of services are most likely to decrease one's chances of re-offending.”

***Pathways* research highlights need for more innovation**

Several states and jurisdictions have already begun rethinking how they handle juvenile offenders, including New York City, which recently announced plans to merge the city's Department of Juvenile Justice into its child welfare agency in hopes of having a more therapeutic approach toward delinquency that will send fewer youth to institutional placements. Campaign for Youth Justice executive director, Liz Ryan, believes more states should follow suit.

“Why are states continuing to invest millions in a strategy that simply doesn't work?” said Ryan. “This study underscores the reasons why these large juvenile correctional institutions should be closed. It's an abysmal failure, it's a poor investment and it's a waste of taxpayers' dollars. Furthermore, it harms kids. States can and should do better.”

Funded in part by the John D. and Catherine T. MacArthur Foundation, the *Pathways* study, which includes more than 24,000 interviews, covers a wide range of topics including psychological development, mental health, behavior, attitudes, family and community context, and relationship. The study has produced several briefs on serious adolescent offenders intended to provide policymakers and practitioners with analyses to help in the development of a more rational, effective and developmentally appropriate juvenile justice system. For more information on *Pathways to Desistance*, please write to the project coordinator, Carol Schubert, at schubertca@upmc.edu.

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Most Justice-Involved Youth Affected by Traumatic Childhood Experiences

As many as 9 in 10 youth in justice system have experienced a traumatic event, yet few such youth are identified as traumatized, and fewer receive appropriate treatment or placement

Washington DC - The Justice Policy Institute (JPI) released a brief today examining the relationship between childhood trauma and justice system involvement for youth. According to [Healing Invisible Wounds: Why Investing in Trauma-Informed Care for Children Makes Sense](#), of the more than 93,000 children that are currently incarcerated in the United States, between 75 and 93 percent have experienced at least one traumatic experience, including sexual abuse, war, community violence, neglect and maltreatment. Research points to long term effects of childhood trauma, including emotional problems and negative impacts on youth brain development. The brief notes that while holding youth who engage in delinquent behavior accountable is important, it is critical that trauma exposure be considered in placement decisions, as youth who receive treatment in the community have better outcomes than those placed in correctional facilities.

“Incarcerated youth already face significant challenges, but youth who have experienced trauma are even more acutely affected,” said author Erica Adams, M.D. “Addressing a child’s trauma through the public health system before that child becomes involved with the justice system is critical to promoting the well-being of the child, the family and ultimately, the community.”

Researchers found that youth who suffer trauma are more likely to develop life-long psychiatric conditions, including personality disorders, conduct disorder, ADHD, depression, anxiety, substance abuse disorders and posttraumatic stress disorder (PTSD). Traumatized youth can experience developmental delays, decreased cognitive abilities, learning disabilities and even lower IQ levels, with school problems including school dropout and expulsion rates at nearly three times that of their peers who had not experienced trauma.

“We simply cannot afford to ignore the evidence and prevalence of the long-term effects of untreated childhood trauma,” says Tracy Velázquez, executive director of the Justice Policy Institute. “If we are to have strong healthy communities, then we must start with these children whose unseen and untreated wounds hinder their ability to become healthy, productive adults.”

Velázquez will be sharing the findings of *Healing Invisible Wounds* next week at the National Juvenile Justice Network’s eighth annual forum in New Orleans, Louisiana.

As detailed in the research brief, currently the justice system does not meet the needs of traumatized youth and may increase trauma through its use of incarceration. Thousands of youth are incarcerated each year, and few are screened for trauma-related symptoms or provided

trauma-informed care. In one study, 84 percent of agencies reported either no or extremely limited information provided on the youth's trauma history, and 33 percent of the agencies reported not training staff to assess for trauma at all. Although 60 percent of states surveyed report using universal or selective trauma screenings, the scope is often limited, and fewer than 20 percent of states provide evidence-based or otherwise standardized assessment tools. According to Adams, this may be because trauma often resembles delinquent behavior.

“Although it may be difficult initially to identify the role trauma has played, the most effective and appropriate response to traumatized youth, in or out of the system, is one of treatment and support,” says Adams. “Yet, once these children enter the justice system, quality, evidence-based, trauma-informed treatments and interventions are currently almost non-existent.”

Experts advocating for system reforms that address the unique needs of trauma-affected children say that long-term strategies to treat rather than incarcerate are needed to curb the cycle of justice system involvement at its source, and that these programs should be supported at federal and state levels.

Based largely on the collaborative work of researchers, clinicians and members of the National Child Traumatic Stress Network (NCTSN), JPI makes the following recommendations for child-serving systems, law enforcement, judges and entire judicial systems to better recognize and treat trauma in children. The following policies outline steps towards a trauma-informed system.

- Improve reporting of and screening for trauma exposure. The justice system and law enforcement must emphasize assisting people who experience trauma, as well as supporting people who do report incidents of violence, abuse or neglect, regardless of willingness to prosecute.
- Improve assessment of trauma exposure. There should be an investigation into the child's current environment beyond basic safety assurance, which is important for both diagnosis and treatment of trauma-related dysfunction by a professional trained in both general psychiatric assessment and child traumatic stress assessment.
- Provide targeted prevention and early intervention programs. Counseling and other early interventions should be provided for all people who have experienced trauma and should be instituted relatively soon following the initial incident.
- Ensure children who have experienced trauma receive services and treatment. Youth and families that have experienced trauma should be referred to practitioners or agencies that provide evidence-based, trauma-informed treatment. Youth should not have to enter the justice system to access these and other mental health services.
- Avoid further trauma within the justice system. At all stages of processing, care should be taken to not further traumatize youth entering child-serving systems, most of whom have previous traumatic experiences or concurrent mental illness.

- Consider trauma exposure when deciding sentencing and placement. Judges should receive training on the impact of trauma on youth and appropriate, evidence-based responses. It is critical for judges to understand the role of trauma exposure on youth, particularly if the traumatic exposure may have contributed to an offense.
- Invest in prevention and trauma-informed programs. Although many states are currently grappling with record budget deficits, cutting prevention and trauma-informed programs may result in more costs down the road. The direct and indirect costs associated with child maltreatment make it among the most costly public health problems in the United States.

To read the full brief click the link [Healing Invisible Wounds: Why Investing in Trauma-Informed Care for Children Makes Sense](#). For additional information, please contact LaWanda Johnson at (202) 558-7974 x308 or ljohnson@justicepolicy.org. For more on JPI's research, please visit our website at www.justicepolicy.org.

The Justice Policy Institute (JPI) is a Washington, D.C.-based organization dedicated to reducing society's use of incarceration and promoting just and effective social policies.

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Innovative Network Enacting Juvenile Indigent Defense Systemic Change, One State at a Time

Dec 1, 2009, LaWanda Johnson

In 1967, the U.S. Supreme Court held in *In re Gault*, that all children have due process rights, most notably a constitutional right to be represented by counsel in delinquency court proceedings. Disturbingly, numerous reports have revealed serious gaps indigent youth face in accessing competent legal services. Created to combat these inequities, the Juvenile Indigent Defense Action Network (JIDAN), as a part of Models for Change, is strategically tackling the entrenched systemic issues that impede diligent, competent representation for youth facing charges in delinquency courts.

The Foundation's JIDAN initiative has the distinction of being the first nationally recognized juvenile justice reform effort to focus solely on juvenile indigent defense. According to Patricia Puritz, executive director of the National Juvenile Defender Center and facilitator of the Network, this peer-to-peer network fosters a collaborative, innovative learning environment that provides targeted strategies to help states improve juvenile indigent defense policy and practice.

"JIDAN has provided a unique opportunity to focus on improving and enhancing juvenile indigent defense systems and is contributing boldly to a growing body of jurisprudence in the area of juvenile law," says Puritz. "The brilliance of JIDAN is that it allows for enhancements in both the practice and policy arenas, allowing state multidisciplinary teams to tackle systemic reform from the ground up and the top down." It's critical to advance these systems because "A highly vulnerable group of children is without adequate access to skilled attorneys who can help them exercise their due process rights. We all know that, far too often, these children are left to fend for themselves, and emerge from court proceedings dazed, confused and oblivious to the collateral consequences that will literally follow them for a lifetime," noted Puritz.

The JIDAN teams selected to become part of the Network, though led by juvenile defenders, are comprised of a variety of justice system stakeholders. Partnerships were formed to foster previously uncharted collaborations and the pollination of ideas, innovations and reform measures. These strategic alliances provide access to areas, decision makers and grass tops constituencies previously unavailable, maximizing the potential of the Network's reach, scope and ability to enact systemic reform.

The work of JIDAN unfolds in two major areas: access to counsel generally and the development of statewide juvenile defender resource centers. Taken together, the discrete activities that flow from these two broad areas of work are designed to provide skills training, promulgate best practice standards, establish defender hotlines, develop briefing papers and training materials on cutting-edge topics, and launch pilot projects that will address excessive waiver of counsel and the alarming lack of post-dispositional representation.

JIDAN stakeholders are devising inventive ways to provide training, leadership and support to front-line attorneys at the center of indigent defense in their states. Below are some highlights of their efforts.

Creating standards for excellence

After the release of a 2007 report highlighting "Florida's high rates of waiver of counsel, lack of zealous defense advocacy, chaotic courtrooms and inadequate defense resources," Florida juvenile justice stakeholders, brought together by the Juvenile Justice Center at Barry University's Dwayne O. Andreas School of Law in Orlando, sought to address these issues by providing Florida-specific guidelines of practice for juvenile defenders. These guidelines, compiled from several years of research from other states and the American Bar Association, provide a blueprint for the representation of youth in Florida's juvenile justice system. JIDAN team member and director of the Juvenile Justice Center, Carrie Lee, said these guidelines provide much-needed support for juvenile defenders in the state of Florida.

"Many times, the juvenile defenders are just given a file and thrown into court without the training that they

need to provide quality representation,” said Lee. “These guidelines provide a roadmap for what should be happening at each stage of the proceedings. It literally goes through each step, including conflicts of interest and the ethics around representing children.” Lee added that creating these standards has been one way to improve the quality of representation for youth through JIDAN.

In the Miami-Dade area, Marie Osborne, a Florida JIDAN team member and the juvenile division chief in the public defender’s office, is running a pilot project that uses the guidelines as a training tool for new defense attorneys. If they catch on, Lee believes soon they will be able to take the standards statewide.

“We are awaiting approval from a number of stakeholder organizations including the Florida Bar,” said Lee. To increase the likelihood of appropriate implementation, the guidelines have the built-in incentives of training, performance evaluation, promotions and bonuses. The Juvenile Justice Center believes these new policies and procedures will help dramatically improve juvenile defense practices in the state.

Using technology to help juvenile defenders

Expanding access to training and support services for attorneys representing youth in the juvenile justice system is just one of the targeted areas of improvement for the California JIDAN team. Using the Pacific Juvenile Defender Center (PJDC) in San Francisco as its nucleus, the California JIDAN team created a web-based resource center for juvenile defenders throughout the state. According to Corene Kendrick, staff attorney at the Youth Law Center in San Francisco and JIDAN team member, California has the largest number of youth involved with the juvenile justice system.

“California is such a large and diverse state that juvenile defenders were operating primarily alone, without any assistance, mentoring or access to resources or trainings,” said Kendrick. “The new website will provide them access information and resources that will improve the quality of the representation they providing their clients.”

Launched this past November, in addition to training and trial support for juvenile defense attorneys, the website provides California and Hawaii specific materials, offers a members-only listserv and is staffed by a committee to address news and resource development, litigation support and capacity-building needs.

“The website provides a resource bank with model briefs and motions, articles and other useful tools and information for juvenile defenders,” said Kendrick. “Having model motions and examples of briefs that other public defenders have used successfully on behalf of their clients means they don’t have to re-invent the wheel with each case. The resource bank offers a wide variety of topics areas that will assist in their client representation.”

Kendrick says the goal is to help juvenile defense counsel and advocates in parts of the defense community that have been traditionally underserved. “We have identified attorneys who represent youth in all 58 counties,” said Kendrick. “In addition to the utilizing the website, we are designing traveling trainings focusing primarily on the rural and remote areas in the state.” California’s cross-state collaborative team was a natural fit for the JIDAN Network.

A coordinated state system for assisting defenders

According to Youth Advocacy Project (YAP) Director and MA JIDAN team leader, Josh Dohan, for many years juvenile defense was considered a ‘lesser practice.’ “Practitioners operated under the assumption children were in no danger of a child facing serious time, so why bother investing in zealous representation. As a result, training, support, leadership and oversight for the juvenile defense bar have always lagged behind,” said Dohan.

Fast forward to 2009, with increased collateral consequences for youth – and electronic data harvesting that erodes confidentiality – the difference between a juvenile delinquent and an adult criminal record has deteriorated. In addition, in Massachusetts, transfers to adult prison from juvenile court can occur for youth as young as 14.

“So, as it turns out, this lesser practice is far more complicated than representing adults,” noted Dohan. “And the consequences are dramatic because for these kids entering the juvenile justice system might be the last, best hope of offering effective intervention.”

The Committee for Public Counsel Services (CPCS), which oversees the provision of legal representation to indigent persons in criminal and civil court, is improving juvenile representation with the formation of the Youth Advocacy Department (YAD). YAD serves as a statewide resource center that provides leadership, training and support to the entire Massachusetts juvenile defense bar. YAD supports direct services to ensure that every child – regardless of their family’s income – has access to zealous legal representation, essential community-based services, and a quality education. According to Dohan, this means juvenile defenders have to be competent not just in the legal system, but in mastering the child welfare and school systems, and understanding mental health issues, families and the youth themselves who, after all, are just kids.

“We are making sure young people are treated fairly, both legally and in terms of being connected to the resources, opportunities and services they need to experience healthy development,” said Dohan. “In turn, this helps them from ending up chronically court-involved their entire lives which, besides being a human tragedy, really tears down communities and families, and costs taxpayers millions of dollars.”

With the help of JIDAN, YAD has created the Juvenile Defense Advisory Council (JDAC) to provide oversight and direction to juvenile attorneys from every county in Massachusetts. “Juvenile indigent defense is an area of practice that has been traditionally neglected,” Dohan concluded. “Fortunately, the MacArthur Foundation, through JIDAN, has recognized that it’s really time to put some resources into elevating juvenile defense to a specialty that competently represents our youth when they come before the court.”

Juvenile Indigent Action Network: Making a difference

Much exciting and comprehensive work is being done in all eight network states. JIDAN is dedicated to creating a juvenile indigent defense system model that ensures top-notch legal defense for youth throughout the juvenile court process that can be implemented nationwide. The strategic innovations in development will ensure that youth have early and timely access to competent, well-trained, and well-resourced counsel and increase the capacity of juvenile defenders to provide comprehensive and thorough legal representation to the youth they serve.

Through the generosity of the MacArthur Foundation, JIDAN is creating and promoting the change needed to strengthen and enhance juvenile indigent defense systems, policy and practice and improve access to and quality of counsel for youth nationwide. To learn more about the Juvenile Indigent Defense Action Network, visit www.modelsforchange.net.