2008

KIDS COUNT essay

summary

THE ANNIE E. CASEY FOUNDATION

A ROAD MAP

FOR JUVENILE JUSTICE REFORM

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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. For more information, visit the Foundation's website at www.aecf.org.

In the opening essay of its 2008 *KIDS COUNT Data Book,* the Annie E. Casey Foundation focuses on juvenile justice reform. President and CEO Douglas W. Nelson notes that our nation's current approach to juvenile justice is costly, discriminatory, dangerous, and ineffective. Fortunately, alternative policies, practices, and programs have emerged that have the potential to transform our juvenile justice systems and greatly improve the odds of success for troubled youth. Moreover, most of these alternatives have already been implemented effectively, providing a clear and compelling road map for reform. • This Summary presents the six key challenges raised in the essay and points toward proven solutions and system reforms that would improve outcomes for youth, families, taxpayers, and communities. For more information on the Casey Foundation and KIDS COUNT and to obtain a copy of the full essay with source references, please visit www.aecf.org.

Our nation's juvenile justice systems are poised for a fundamental, urgently needed transformation—and not a moment too soon.

Among all of the policy areas affecting vulnerable children and families, juvenile justice has probably suffered the most glaring gaps between best practice and common practice, between what we know and what we most often do. Perhaps because it serves an unpopular and powerless segment of our society—behaviorally troubled, primarily poor, mostly minority teenagers—juvenile justice policy has been too long shaped by misinformation, hyperbole, and political prejudices.

These systems affect a wide swath of the U.S. youth population. Nationwide each year, police make 2.2 million juvenile arrests; 1.7 million cases are referred to juvenile courts; an estimated 400,000 youngsters cycle through juvenile detention centers; and nearly 100,000 youth are confined in juvenile facilities on any given night. Young people who end up confined in locked detention centers suffer some of the worst odds of long-term success of any youth cohort in our nation.

That's the bad news. The good news is that over the past 20 years, scholars, advocates, and juvenile justice practitioners have compiled powerful new evidence on what works in responding to delinquency. Promising reforms are now underway and expanding in many jurisdictions, and the groundwork for deeper and more systemic change has been firmly established.

Having been intimately involved in this work, the Annie E. Casey Foundation is gratified to report that these combined efforts add up to a compelling road map for reform. There is now an increasingly clear route for moving juvenile justice away from counterproductive, dangerous, wasteful practices and toward more cost-effective, efficient, and just approaches to addressing the six pervasive deficiencies that face our nation's juvenile justice systems today.

1

CHALLENGE: Trends in juvenile justice blur or ignore the well-established differences between youth and adults.

KEY FACTS

- Behavioral research has proven that children and adolescents are far less able than adults to gauge risks and consequences, control impulses, handle stress, and resist peer pressure.

- Longitudinal studies show that most youthful offenders will cease lawbreaking as part of the normal maturation process.

- According to several recent studies, youth tried in adult courts and punished in the adult corrections system go on to commit more subsequent crime—and more violent crime—than youth tried and punished in the juvenile system for equivalent offenses. Studies also show that "adult time for adult crime" laws neither deter youth from crime nor lower youth offending rates.

- Nonetheless, roughly 200,000 youth under age 18 are tried in adult courts every year.

- During the 1990s, every state except Nebraska changed its laws to expand the number of youth tried in adult courts.

PROMISING SOLUTIONS: Implementing Developmentally Appropriate Policies

- **Connecticut** increased the age of juvenile court jurisdiction from 15 to 17 in 2007. This will allow 8,000 more youth per year to receive juvenile court services and avoid a criminal record. Several other states have launched campaigns to pass similar legislation.

- In 2005, **Illinois** voted unanimously to repeal an "adult time for adult crime" law that required youth accused of drug crimes in or around public schools or housing projects to be transferred to the adult system. The legislature did so after public hearings revealed that two-thirds of youth touched by the law were low-level offenders, and 97 percent were youth of color.

- Given the limited capacity of many youth to understand and recognize the consequences of court proceedings, states and localities should strengthen the quality of representation for justice-involved youth. Specifically, they should study and emulate the **Children and Family Justice Center at Northwestern University Law School,** the **Neighborhood Defender Service of Harlem,** or **Boston College Law School's Juvenile Rights Advocacy Project**—all of which offer innovative, comprehensive youth representation.

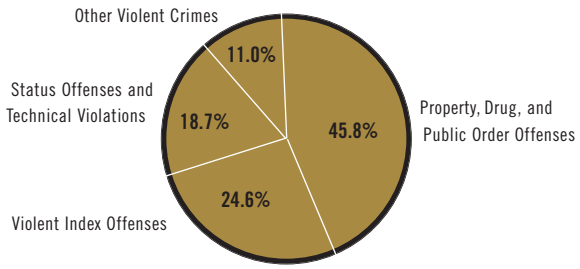
2

CHALLENGE: Indiscriminate and wholesale incarceration of juveniles is proving expensive, abusive, and bad for public safety.

KEY FACTS

- According to the most recent data, just 24 percent of incarcerated youth nationwide are guilty of violent felonies; 45 percent are guilty only of probation violations; misdemeanors; or low-level charges unrelated to violence, weapons, or drug trafficking.

PROFILE OF U.S. YOUTH CONFINED IN JUVENILE CORRECTIONAL FACILITIES



Source: Sickmund, Melissa, T.J. Sladky, and Wei Kang, 2008, "Census of Juveniles in Residential Placement Databook," available at www.ojjdp.ncjrs.gov/ojstatbb/cjrp (accessed 6/3/08).

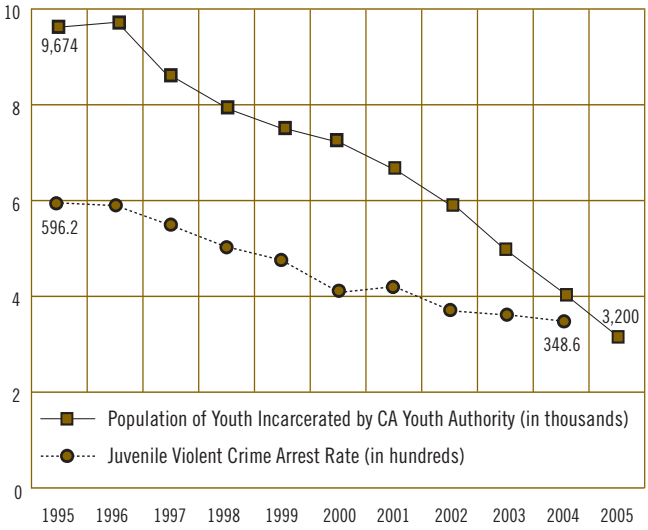
- Recidivism studies show that 50 percent to 80 percent of youth released from juvenile correctional facilities are rearrested within two to three years—even those who were not serious offenders prior to their commitment.

- Correctional confinement typically costs $200 to $300 per youth per day, far more than intensive home- and community-based treatment models that often show superior results in terms of recidivism.

- According to the Associated Press, 13,000 cases of abuse were reported in juvenile institutions nationwide from 2004 to 2007.

- The U.S. Justice Department has filed suit to protest conditions at juvenile facilities in 11 states, and public interest lawyers have litigated conditions in many others.

CALIFORNIA: LOWER YOUTH INCARCERATION *AND* LESS YOUTH VIOLENCE



Source: Males, M., D. MacAllair and M.D. Corcoran, July 2006, *Testing Incapacitation Theory: Youth Crime and Incarceration in California,* Center on Juvenile and Criminal Justice, available at www.cjcj.org/pdf/testing_incapacitation.pdf (accessed 6/3/08).

PROMISING SOLUTIONS: Reducing Reliance on Secure Confinement

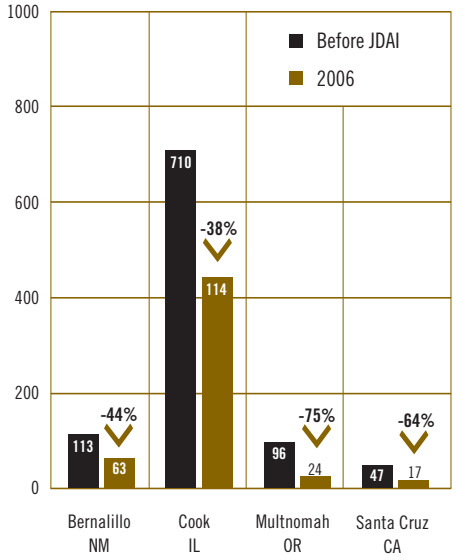
- **Missouri's** juvenile correctional facility demonstrates that there are better ways to address incarceration. This state has not been the subject of litigation regarding conditions of confinement for more than 25 years. About 70 percent of Missouri's former wards avoid recommitment to any correctional setting three years after discharge, far better than most states, even though its costs are low compared with other states.

- **California** has dramatically reduced the number of youth in state correctional facilities from about 10,000 in the mid-1990s to 2,500 in 2007. Furthermore, the state is on track to decrease this population to 1,500 youth by 2010. In this period, California's youth crime rates did not increase—either in absolute terms or relative to other states.

- In **New York City**, the Probation Department's **Project Zero** has enrolled more than 1,700 court-involved youth in new alternatives-to-incarceration programs since 2003. From 2004 to 2007, the number of incarcerated New York City youth declined 23 percent. Most youth in the new community supervision programs are remaining crime-free and avoiding subsequent placements, and city taxpayers have saved $11 million.

- Casey's **Juvenile Detention Alternatives Initiative** (JDAI) has not only reduced the use of secure pre-trial detention; it has also had a ripple effect on participating jurisdictions' overall use of confinement. For example, Cook County (Chicago), Illinois, reduced the number of youth committed to state confinement from more than 900 in 1996 to 400 in 2006, and it slashed the population in group homes and other residential treatment centers from a monthly average of 426 youth in 1996 to just 10 in 2007.

JUVENILE DETENTION ALTERNATIVES INITIATIVE MODEL SITES REDUCED AVERAGE DAILY POPULATIONS IN THEIR DETENTION FACILITIES



Source: *JDAI Model Site Reports*, 2006.

- Girls have needs different from boys in the system, and providing effective gender-specific services is an increasingly important challenge. One promising model is **PACE Center for Girls, Inc.,** a strength-based approach that stresses "understanding the relationship between victimization and female juvenile crime, then creating a safe, nurturing environment for these girls." Another is San Francisco's **Center for Young Women's Development,** which is led entirely by young women and works extensively with detained and incarcerated girls.

- Effective community-based programming is also crucial for youth returning home following a correctional placement. One successful model, **Family Integrated Transitions** (FIT), which serves youth offenders with substance abuse and mental health problems in six **Washington** state counties, has significantly reduced recidivism among participating youth.

3

CHALLENGE: Juvenile justice systems too often ignore the critical role of families in resolving delinquency.

KEY FACTS

- Of more than 600 models for preventing or treating youth violence reviewed by the Center for the Study and Prevention of Violence since 1996, only three aimed at reversing the behavior of already delinquent youth have shown significant, positive results in repeated scientific trials. All three work intensively with parents and other family members, not just with youth themselves.
  - Two of the three "blueprint models" provide intensive family therapy following strict research-driven protocols, and the other temporarily places youth with specially trained foster families while counseling their parents.
  - All three blueprint models have dramatically lowered recidivism and future incarceration of treated youth in repeated trials.
  - All three cost far less than incarceration, and all three return several dollars in benefits for every dollar spent delivering services.

- In a recent three-state survey of parents with court-involved children, many reported feeling blamed or looked down on by the juvenile justice systems. Specifically, surveyed parents complained about being excluded from legal decisions made on their children's behalf; alienated from the process by complex language and court procedures; frustrated by the failure of probation officers to reach out and keep them informed; and disappointed in the lack of support when youth reintegrate into the community following confinement.

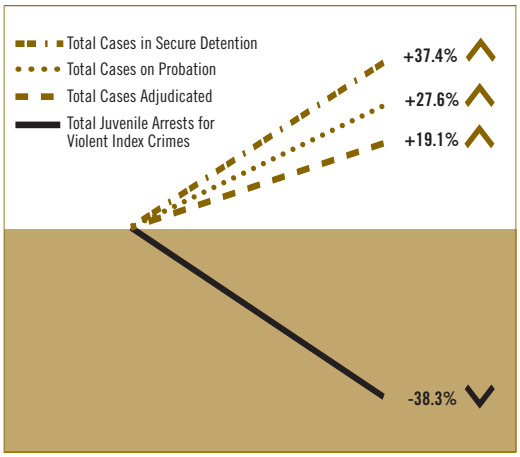
PROMISING SOLUTIONS: Strengthening and Empowering Families

- Nationwide, including both delinquent and non-delinquent teens, roughly 40,000 behaviorally troubled young people per year now participate in the family-focused blueprint model treatment programs.

- In Santa Cruz County, **California**, a JDAI site, the local probation agency is using family conferences to develop correctional disposition plans in its most serious cases. Probation leaders report that family-driven plans are more comprehensive and more likely to be implemented than staff-driven plans. Recently, Santa Cruz also began hiring **Family Partners** to help families navigate the juvenile court and probation systems. These family engagement strategies have helped Santa Cruz reduce state commitments and residential placements by 71 percent in recent years.

- In **Louisiana**, parents have organized a nonprofit organization—**Families and Friends of Louisiana's Incarcerated Children**—as part of the campaign to close the notoriously dangerous Tallulah Youth Corrections Center. The organization's members conduct outreach to families, investigate complaints about conditions of confinement, and serve as the collective voice of parents who otherwise are rarely heard by policymakers or system administrators.

DIVERGING TRENDS (1995–2004): SERIOUS CRIME DECLINES WHILE DETENTION, PROBATION, AND ADJUDICATION RISE



Note: Violent index crimes include criminal homicide, violent sexual assault, robbery, and aggravated assault.

Sources: Arrest data: Office of Juvenile Justice and Delinquency Prevention, Statistical Briefing Book, available at http://ojjdp.ncjrs.org/ojstatbb/ezaucr/asp/ucr_display.asp (accessed 6/3/08); Juvenile court data: Puzzanchera, C., and W. Kang, 2007, "Juvenile Court Statistics Databook," available at www.ojjdp.ncjrs.gov/ojstatbb/jcsdb (accessed 6/3/08).

4

CHALLENGE: The increasing propensity to prosecute minor cases in the juvenile justice system harms youth, with no benefit to public safety.

KEY FACTS

- From 1995 to 2004, the national juvenile arrest rate for serious property and violent crimes declined 45 percent, and the homicide arrest rate plummeted 70 percent. In this same period, the numbers of youth adjudicated delinquent, placed into secure detention, and sentenced to probation all grew nationwide. For instance, more than twice as many youth were adjudicated for disorderly conduct in 2004 than in 1995.

- Many youth prosecuted for minor crimes are sentenced to probation. However, they can easily end up in a detention or corrections facility if they violate probation rules. One of every nine youth in corrections facilities nationwide is committed for a technical (non-criminal) violation of probation rules.
- Since the widespread adoption of "zero tolerance" policies in our nation's schools, many juvenile courts have experienced substantial increases in delinquency case referrals from schools—including many for fistfights and other commonplace misbehaviors that were once handled within those schools.

PROMISING SOLUTIONS: Increasing Reliance on Effective Community-Based Services

- In Clayton County, **Georgia**, a JDAI site, school-originated delinquency cases increased tenfold (from fewer than 100 to approximately 1,100) from 1995 to 2003, as a result of zero tolerance policies. After the presiding juvenile court judge documented this alarming growth for school officials, in 2004, the county developed a **School Referral Reduction Program**. Since then, school referrals to Clayton County's delinquency court have decreased by more than 68 percent from record highs.

- In Multnomah County, **Oregon**, another JDAI site, law enforcement officers were bringing almost 1,400 low-level offenders to the local detention center per year in the 1990s simply because they had no other place to take them. To remedy the problem, the county established a **Juvenile Reception Center**. Caseworkers, rather than court or probation personnel, speak with the youth, reunite them with their families, and refer them to appropriate services—sparing youth the trauma of locked detention and allowing police officers to quickly return to patrol duties.

5

CHALLENGE: Juvenile justice has too often become a dumping ground for youth who should be served by other public systems.

KEY FACTS

- Over the past 20 years, juvenile justice has become the primary referral for youth with mental health disorders in many states, due to the collapse of public mental health services for children and adolescents. In just 30 large counties nationwide, 9,000 adolescents entered the juvenile justice system in 2001, referred by their own parents for the sole purpose of securing mental health treatment.

- Child welfare agencies often terminate services to adolescents in foster care who get arrested or adjudicated delinquent, leading these youth to suffer harsher outcomes than other court-involved teens. For example, in New York City, a 1998 study found that following arrest, foster youth were more likely to be detained than other youth.

- A disproportionate share of public school students referred to juvenile justice under zero tolerance policies are youth with educational disabilities, suggesting that schools too often rely on court interventions when responding to the behavior problems of students with special needs.

PROMISING SOLUTIONS: Keeping Youth Out of the System

- In the late 1990s, half the youth in detention in Bernalillo County (Albuquerque), **New Mexico**—including many low-level offenders who posed little threat to public safety—required psychotropic medications for serious emotional and behavioral disorders. In response, local leaders established the outpatient **Children's Community Mental Health Clinic** to serve these youth more appropriately. The clinic helped Bernalillo cut its detention population by 45 percent from 2000 to 2006, and the money saved by these detention population reductions has been reallocated to sustain the clinic.

- In five **Washington** state counties, a legal advocacy project called **TeamChild** is reducing inappropriate referrals to juvenile justice. TeamChild staff document the mental health, special education, and other needs of youth at risk of delinquency referrals and help break down any barriers preventing them from accessing services. An early evaluation of TeamChild found that participants were 20 percent less likely than a control group to be arrested for a felony by age 25.

• Studies in the late 1990s found that foster care youth in **New York City** were far more likely than other youth to be detained following arrest. To remedy this inequity, the Vera Institute of Justice and the Administration for Children's Services launched **Project Confirm**, to identify and seek alternative placements for foster care youth entering detention. Among those accused of less serious offenses, the project has eliminated the disparity in detention rates for foster care and other youth.

6

CHALLENGE: System policies and practices have allowed unequal justice to persist.

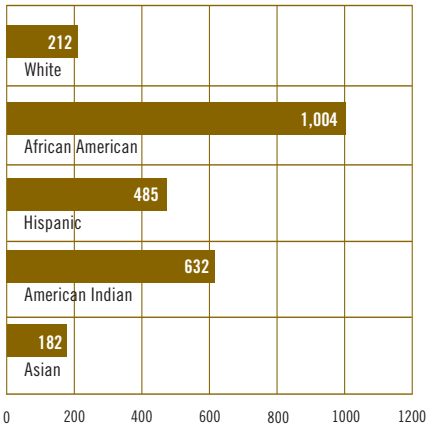
KEY FACTS

• Surveys show that compared with white youth, African-American teens commit slightly more violent crime, about the same amount of property crime, and less drug crime. Yet African-American youth are arrested at dramatically higher rates than white youth for all types of crime.

• Whereas African Americans comprise just 16 percent of the total juvenile population nationwide, 38 percent of youth in juvenile correctional institutions and 58 percent of youth sentenced to prison are African American.

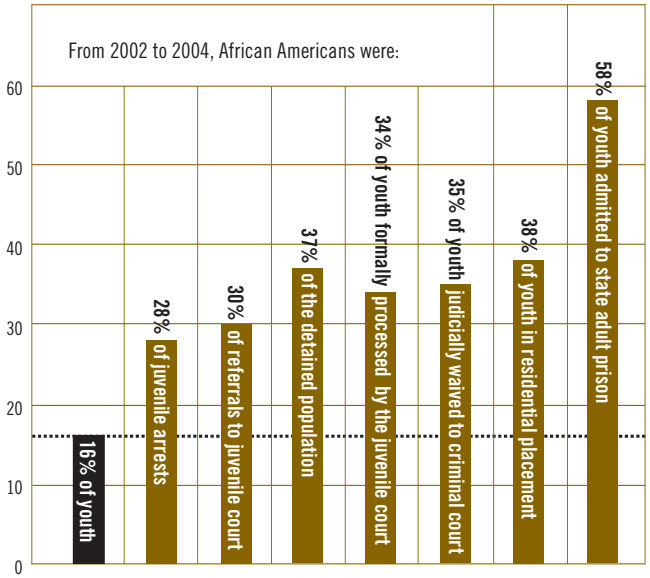
• Once arrested, African-American youth are
  – more likely to be detained than white youth;
  – more likely to be formally charged in juvenile court;
  – more likely to be placed into a locked correctional facility (and less likely to receive probation), once adjudicated;
  – more likely to be waived to adult court; and
  – more likely to be incarcerated in an adult prison, once waived to adult court.

U.S. JUVENILE CUSTODY RATES BY RACE
(per 100,000 youth)



Source: Sickmund, Melissa, 2004, *Juveniles in Corrections,* Office of Juvenile Justice and Delinquency Prevention, available at www.ncjrs.gov/html/ojjdp/202885/page10.html (accessed 6/4/08).

FOR AFRICAN-AMERICAN YOUTH, AN IMMENSE CUMULATIVE DISADVANTAGE



Source: National Council on Crime and Delinquency, January 2007, *And Justice for Some: Differential Treatment of Youth of Color in the Justice System,* available at www.nccd-crc.org/nccd/pubs/2007jan_justice_for_some.pdf (accessed 4/9/08).

- After reviewing more than 150 studies, one leading juvenile justice scholar found "incontrovertible" evidence of racial bias in the juvenile justice system. "The issue is no longer simply *whether* whites and youths of color are treated differently," she wrote. "Instead, the preeminent challenge for scholars is to explain *how* these differences come about."

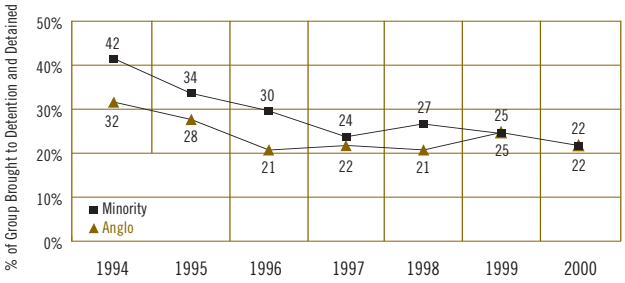
PROMISING SOLUTIONS: Reducing Racial Disparities

- Before Multnomah County, **Oregon**, entered JDAI, youth of color were about 30 percent more likely than white youth to be detained after arrest. By reviewing every decision point for underlying biases, increasing diversity among juvenile justice staff, and promoting new practices that equalized treatment, Multnomah completely eliminated this gap by 2000.

- In Santa Cruz County, **California**, at the outset of JDAI involvement, Latino youth assigned to detention were spending many more days behind bars than were white youth—mostly because the jurisdiction lacked culturally appropriate programming. Once the local Probation Department teamed with community-based organizations to develop new alternatives, lengths of stay began to equalize. Disparities are being addressed, and today, the average number of Latino youth each night is just half the 1998 figure.

- Efforts to combat racial inequalities in juvenile justice got a significant boost in 2002 when longtime juvenile justice advocate and civil rights attorney James Bell established the **W. Haywood Burns Institute for Juvenile Justice Fairness and Equity**, to help jurisdictions eliminate racial disparities in juvenile justice.

MULTNOMAH COUNTY, OREGON:
ELIMINATING DISPARITY IN THE PERCENTAGE OF YOUTH PLACED IN SECURE DETENTION



Source: Multnomah County Department of Community Justice, Scott Keir, PhD., Research & Evaluation Unit, May 2001.

The case for reform is compelling, but where to begin? At the state and local levels, the crucial first ingredients are political will and leadership. As the Casey Foundation has learned from JDAI, local leaders must identify an "entry point" for their efforts. Focus on a particular system problem, and the adopted reforms will subsequently influence other components of the system. Change also requires a strengthened focus on collecting and analyzing the data required to hold systems accountable for achieving real results.

Though the reforms suggested here are ambitious and complex, they need not be costly. By redeploying existing resources in favor of more efficient, effective strategies, many JDAI sites have implemented reforms without increasing budgets—often achieving savings. Success in juvenile justice reform also requires strengthening efforts to recruit, train, and retain a qualified, motivated workforce.

Additionally, the federal government can and should make a crucial contribution. In recent years, the federal government's role in juvenile justice has suffered from inattention, and funding levels have dropped precipitously. Fortunately, the key federal law guiding juvenile justice policy—the Juvenile Justice and Delinquency Prevention Act—is due to be reauthorized this year.

Congress should substantially increase funding targeted to successful strategies, require meaningful outcome measurements for all federally funded programs, support state and local research and evaluation, and study the feasibility of a uniform data collection system to improve planning and practice. The government should also promote aggressive efforts to reverse the persistent injustice of disproportionate treatment of minority youth and to reduce the alarming levels of abuse in correctional custody.

Finally, Congress should reinforce its support for both the deinstitutionalization of status offenders and the separation of juveniles from adult offenders, and it should expand efforts to strengthen the juvenile justice workforce.

Whatever role the federal government plays in promoting reform, however, the ultimate responsibility lies with the state and local leaders who operate our nation's juvenile courts and corrections systems. Only state and local leaders can seize the opportunities offered by our new knowledge about delinquency and its causes, our new insights into what works and doesn't work, and our new understanding of how to replicate model programs and accomplish major systems reforms. Only they can put this wealth of information to use and finally, more than a century after the founding of the juvenile court, realize the court's noble vision as a place where youth receive a measure of justice worthy of the name.

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