JUVENILE & FAMILY JUSTICE

SPRING 2012

TODAY

A PUBLICATION OF THE NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

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A Look Back and a Way Forward: Creating an Environment that Promotes Positive Outcomes for Youth
By Laura Maiello

Cause For Concern: Juveniles And Crimes Of Animal Cruelty
By Sherry Ramsey, Esq.

Building the Evidence in Juvenile Justice Systems to Improve Service Delivery and Produce Better Youth Outcomes
By Jennifer Loeffler-Cobia, MS

MAKING SENSE OF INCENTIVES AND SANCTIONS

Working with the Substance Abusing Youth
By Susan A. Yeres, Ed.D. and Frances C. Gurnell, M.Ed.

PRESIDENT'S MESSAGE

As I write this letter for the National Council of Juvenile and Family Court Judges' TODAY magazine, I find myself approximately half way thru my tenure as President of the Council. What an amazing experience and whirlwind it has been. I have had many wonderful experiences in the past few months, only a few of which are highlighted below.

These past few months have seen the decision by U.S. Attorney General Eric Holder to appoint a task force geared toward addressing children who are exposed to violence. This was done as part of his "Defending Childhood Initiative." I had the honor to address the task force's first hearing during a day-long presentation in Baltimore. We as a group should be excited by this task force's efforts to bring together experts from different fields to look at, and find ways to address, the issues of childhood exposure to violence.

This past fall also saw the launch of our Third Annual Maurice B. Cohill, Jr., Young Investigator Award. The purpose of this high school scholarship is to recognize the younger generation's ideas for solving problems surrounding child welfare and juvenile justice issues. This year, the NCJFCJ was honored to recognize Maria De Jesus Campos, from Houston. I never cease to be amazed at the unique and creative ideas put forward by our younger generation with respect to the issues we, as a national organization, are dedicated to addressing.

I am excited to see what lies ahead for the NCJFCJ, and what more we can to do improve the lives of children and families.

Fall of 2011, saw the publication of a new study by the National Center for Juvenile Justice (NCJJ, the NCJFCJ's research division), which looked at the prevalence of child welfare involvement among delinquent youth. The results of the study emphasized the need by all jurisdictions to implement multi-system responses to youths and their families. The continuing research by NCJJ, combined with a recommended study in each jurisdiction to ensure a better picture of the needs of each jurisdiction's multisystem-involved youth, will hopefully result in better cross-system practice as well as a reduction in disproportionate contact.

The NCJFCJ has also proclaimed June to be National Reunification Month. It gives all jurisdictions an opportunity to focus on families who have overcome difficulties to reunify, encourage parents and families to work toward reunification, and recognize the roles we all play in helping families throughout the reunification process.

Lastly, at our Juvenile and Family Law conference, the Board of Trustees passed a resolution observing World Elder Abuse Awareness Day, June 15, 2012. I am especially proud of our willingness to step up and bring public awareness to the need for enhanced identification and reporting methods of abuse. The NCJFCJ is desirous of serving as a catalyst to promote issue-based education and long-term prevention campaigns and trainings. Our Board of Trustees resolved to urge all professionals to enhance the awareness of elder abuse and its impact on individuals in family law, child welfare, juvenile justice, mental health, and domestic violence systems.

These are only a few of the remarkable works done by the NCJFCJ since July 2011 and I am incredibly proud to have had the opportunity to lead the council this past year. These accomplishments have only been possible through the dedication of our members, their tireless committee work, and their enthusiasm and commitment to our families. I am excited to see what lies ahead for the NCJFCJ, and what more we can to do improve the lives of children and families.

Best regards,

Judge Patricia M. Martin
Chicago, Illinois

Maria de Jesus Campos received the 2011 Cohill Young Investigator Award from NCJFCJ Past President Judge R. Michael Key during NCJFCJ's General Membership Meeting on July 23, 2011.

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The AAML Child Custody Evaluation Standards: Bridging Two Worlds

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NOTES FROM THE CEO

I am pleased to take this opportunity to introduce the National Council of Juvenile and Family Court Judges' new Chief Operating Officer, Lorne Malkiewich. Lorne was born in Niagara Falls, Ontario, and his family lived briefly in the Buffalo area before moving to Caldwell, New Jersey, when he was 9 years old. As a young man growing up in New Jersey in the '70s, he was required by New Jersey law to become a Bruce Springsteen fan, an affliction that appears to continue to this day.

After high school, he headed west to attend the University of Notre Dame. Like other "Domers," Lorne is quick to mention his years at Notre Dame, where he got his BA in Philosophy with an English concentrate. He was there during the "Montana" years (when he mentioned this I admit I was confused—saying, "I thought Notre Dame was in Indiana"). Lorne then proceeded to tell me about the championship season that is not to be mentioned in the Lone Star State, when the Irish somehow squeaked by Earl Campbell and Texas Longhorns in the Cotton Bowl (a 38-10 nail-biter). After suffering through two straight record-setting winters in South Bend, Indiana, he decided to go someplace warm for law school, taking him further west, all the way to Sacramento, California, and McGeorge School of Law.

While at McGeorge, Lorne worked on a summer project reviewing Nevada legislation, meeting the then-Legislative Counsel and his future boss, Frank Daykin. Lorne graduated from McGeorge in 1981 and in July, took the California bar (which he passed). The very next month, Lorne began what would turn into a 30-year career working for Nevada's Legislative Counsel Bureau (LCB), the central nonpartisan staff of the Nevada Legislature. He passed the Nevada bar in 1982 and worked his first in a long line of regular sessions of the Nevada Legislature in 1983.

I know when you have the opportunity to meet Lorne you will discover he lives out his favorite quotation: "be kind, for everyone you meet is fighting a hard battle."

Nevada has biennial sessions, so a person who works, as Lorne did, for the Legislature for 30 years has a tendency to define his life in terms of the relevant session. Lorne married his wife, Mary Jo, during the 1985 session. His son, Ryan, was born during the 1987 session. After the 1987 session, he was appointed Legislative Counsel, the head of the Legal Division of the LCB, at the ripe old age of 30. His daughter, Jill, was born during the 1989 session.

Following the 1993 session, Lorne was promoted to Director of the LCB, a position he held for 18 years before leaving to accept the position as our Chief Operating Officer. In addition to all things Notre Dame (don't even get him started on the Notre Dame fencing team or this year's women's soccer recruits), he is a big sports fan, cheering for the eclectic mix of the Cincinnati Reds, the New York Jets, the Chicago Bulls, and the Montreal Canadiens. He likes to read, generally the type of fiction writers who would be guest stars on the television show Castle, Baldacci, Connelly, etc., as well as fantasy writers such as George R.R. Martin and J.R.R. Tolkien – I guess when you work for the Legislature you get more than enough reality.

People who know Lorne mention the same characteristics, always calm, even in the face of turmoil, with a good sense of humor (both of which are necessary to survive 30 years in the Legislature, I'm sure). I'm thrilled he has joined our wonderful organization. I know when you have the opportunity to meet Lorne you will discover he lives out his favorite quotation: "be kind, for everyone you meet is fighting a hard battle."

Mari Kay Bickett, J.D.
Chief Executive Officer

Lorne Malkiewich, New Chief Operating Officer of NCJFCJ

NCJFCJ 2012 CALENDAR

June 11-15	Child Abuse and Neglect Institute	Reno, Nev.
June 21-23	Continuing Judicial Skills in Domestic Violence Cases Program	Chicago, Ill.
July 9-11	Judicial Institute on Adolescent Relationship Abuse	Phoenix, Ariz.
July 15-18	NCJFCJ 75th Annual Conference	New Orleans, La.
Aug. 12-15	Enhancing Judicial Skills in Elder Abuse Cases Workshop	Minnetonka, MN
Oct. 21-24	Enhancing Judicial Skills in Domestic Violence Cases Workshop	Phoenix, AZ

For more information on NCJFCJ's programs, please visit www.ncjfcj.org and click on "educational opportunities" or call 775-784-6012.

NCJFCJ staff met with advocates and lawyers from Southeast Asia on February 17.

NCJFCJ Hosts International Visitors

The NCJFCJ hosted three separate groups of visitors in the first few months of 2012. These visitors were invited to the United States under the auspices of the Department of State's International Visitor Leadership Program.

A group of advocates and lawyers from South & Central Asia visited on Friday, February 17. Their program was arranged with the goals of:

- Familiarizing participants with the principles of judicial independence, the federal court system, and the structure of state and municipal courts;
- Underscoring the judiciary's role in preserving and strengthening democratic concepts such as government accountability and individual rights;
- Developing understanding of current trends in the administration of courts in the U.S.;
- Discussing court and case management, advanced legal education, the criminal justice system, and law enforcement in the U.S.;
- Examining alternative mediation processes aimed at reducing court caseloads and costs.

On March 5th, NCJFCJ hosted the Multi-Regional Delegation of Women in Justice. This visit was arranged by World Learning Visitor Exchange Program with the following goals:

- To promote an appreciation for the rule of law and fair, transparent, accessible and independent judiciaries around the world;
- To recognize the global problem of violence against women and women's lack of access to justice;
- To create professional linkages among women in the legal field working to promote international cooperation in strengthening women's access to justice.

Then on April 18, staff met with a group of international visitors to discuss children in the U.S. justice system. This was the largest group yet, consisting of a multi-country delegation of 24 visitors. The goals of this visit were:

- To explore the U.S. judicial system with special emphasis on the legal structures in place to protect children;
- To examine the juvenile justice system in the United States and best practices in treatment and rehabilitation tailored to the needs of juvenile offenders and their families;
- To discuss international cooperation to combat trafficking in children, child exploitation;
- To resolve cross-border child custody disputes;
- To discuss the Hague Convention on International Child Abduction.

AT THE COUNCIL

NEW EMPLOYEE

NCJFCJ welcomes the following new employees: **Eryn Branch**, *Policy Analyst III, Family Violence Department;* **Lorne Malkiewich**, *Chief Operating Officer;* **Sharmaine McLaren,** *Director of Development*; **Lauren Vessels**, *Research Assistant, National Center for Juvenile Justice;* **Amanda Widup**, *Policy Analyst III, Family Violence Department*

TODAY magazine is going paperless!

In order to address rising publication costs and maintain our level of service to our members without raising our dues, the NCJFCJ is changing the format of Juvenile and Family Justice TODAY. After this issue, the magazine will be published online twice a year. The next issue will be emailed to all members and available on our website in September.

Register Today for NCJFCJ's 75th Annual Conference!

Join us in New Orleans, Louisiana for our 75th Annual Conference, which will feature a wide range of juvenile and family law topics including child abuse and neglect, trauma, custody and visitation, judicial leadership, juvenile justice, domestic violence, drug courts, and substance abuse. The conference will focus on the theme Tomorrow's Courts Today: Back to the Future in the Big Easy offering sessions with an emphasis on looking at the use of technology and the future of the court system.

Please visit www.NCJFCJ.org and find the "Calendar" under "Educational Opportunities" to register online. This conference is judicially-focused and open to all those interested in the improvement of juvenile and family justice. Early Bird Deadline: June 15 - Member: $550, Non-member: $650 (After June 15: $575/$695).

Judge Gordon Martin (Ret.) Writes Book About His Work

Gordon Martin, a former member of the NCJFCJ Board of Trustees, now retired from the Massachusetts judiciary, has written *Count Them One by One: Black Mississippians Fighting for the Right to Vote* about his work as a Trial Attorney in the Justice Department's Civil Rights Division during the Kennedy Administration.

In supporting its nomination for the Silver Gavel Award of the American Bar Association, Professor John Dittmer termed *Count Them*:

"a masterful combination of historical memoir and scholarly research."

Decades later, Martin went back to Hattiesburg, Mississippi, to interview the courageous men and women who risked their livelihoods and lives. … Noting that registrar Lynd rejected the applications of five teachers (with) masters degrees, Martin brings the stories of these educators … to life. Huck Dunagin, the white shop foreman who encouraged black workers in his plant to register, is a character right out of Studs Terkel. …

The Voting Rights Act of 1965 … had its origins three years earlier in Hattiesburg. … As participant, observer, and, later historian, Gordon Martin lays out this story in all its complexity. His book deserves all the accolades it is receiving.

Forrest County Youth Court Judge Mike McPhail helped Judge Martin locate his witnesses.

Judge Payne Honored

Casey Excellence for Children Awards recognized Judge James W. Payne in January for making a difference in the lives of vulnerable children and families across America. Judge Payne, director of the Indiana Department of Child Services, was among the winners of the annual award.

The foundation gives the awards to recognize outstanding individuals who have demonstrated distinguished work, exceptional leadership, and relentless dedication in improving the child welfare system.

Director Payne received the Excellence in Leadership award. The award recognizes a current child welfare commissioner or director who has demonstrated excellence in leading a child welfare agency toward improved outcomes for children and families.

Prior to being appointed in 2004, he served 20 years as the Juvenile Court Judge in Marion County, Indiana. Judge Payne was featured in "For Their Own Good," a Dateline NBC and MSNBC documentary addressing child abuse and neglect cases in the Marion County Juvenile Court. This involved allowing cameras to record the hearings and events of abuse and neglect cases, and explaining to the public the efforts provided by courts and the system to protect children, preserve families, and provide permanency.

"James Payne carries the banner for countless others across the nation who are doing extraordinary work on behalf of those involved in the foster care system," said Shelia Evans-Tranumn, chair of the Board of Trustees of Casey Family Programs. "He shares our goal to have every child grow up in a healthy, safe, and permanent family, and within a supportive community."

Casey Family Programs is the nation's largest operating foundation focused entirely on foster care and improving the child welfare system. Founded in 1966, we work to provide and improve - and ultimately prevent the need for - foster care in the United States. As champions for change, we are committed to our 2020 Strategy for America's Children, a goal to safely reduce the number of children in foster care and improve the lives of those who remain in care.

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IN MEMORIAM

Judge George Bacon Rasin, Jr.

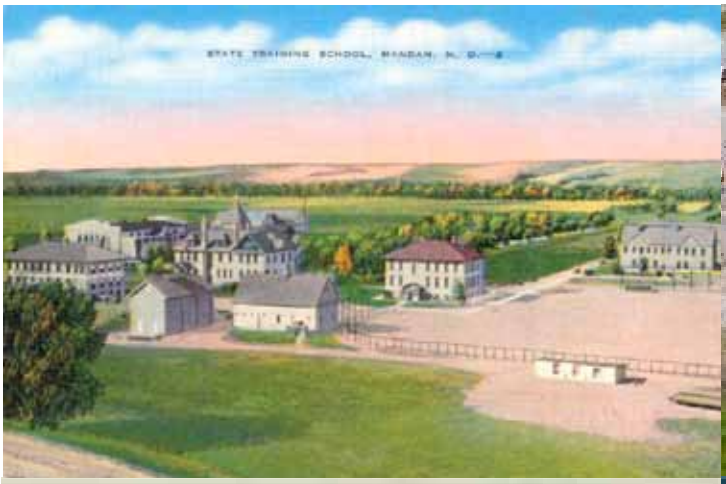
Past NCJFCJ member Judge George Bacon Rasin, Jr. of Maryland passed away December 23, 2011 at the age of 94.

A native of Worton, Md., he was a former Kent County Circuit Court judge who led a movement to modernize juvenile justice in Maryland. In 1937, he graduated from Washington College and went on to earn his law degree from the University of Maryland School of Law.

According to a biography supplied by his family to the Baltimore Sun, he began his law practice in Baltimore in 1945 and returned to Kent County in 1946. In June 1950, he joined the U.S. foreign aid program and was a security officer in Paris. He resumed his law practice in Chestertown in 1952 and was elected state's attorney for Kent County in November 1954. In 1956, he was appointed to serve as Kent County's state senator. In 1958, he was elected to the same post.

Judge Rasin held many national juvenile justice posts and was a member of NCJFCJ serving on the executive committee.

In addition to his daughter, survivors include six grandchildren. His wife of 43 years, the former Eleanor Brown, died in 1991. A son, George Bacon Rasin III, died in 1998.



JUVENILE JUSTICE - A LOOK BACK AND A WAY FORWARD:

Creating an Environment that Promotes Positive Outcomes for Youth

By Laura Maiello

"Juvenile Court judges must make critical decisions about the cases that come before them on a daily basis, including orders to detain or commit youth to secure confinement in the interest of public safety and/or rehabilitation. These facilities, repositories for the care and custody of the youth they serve, have evolved over the years in response to the prevailing attitudes toward juvenile delinquency and the perceived role of those responsible for addressing it. The dictionary defines philosophy as "the most basic beliefs, concepts and attitudes of an individual or group" and mission as "a specific task to which a person or group is charged." This article takes an historical look at the evolution of youth corrections and the impact of philosophical mission on a facility's operation and architecture, from early times to today.

Undoubtedly, the least restrictive interventions provide the most effective outcomes for youth, and juvenile justice research has demonstrated the ineffectiveness of incarceration versus diversion and community-based alternatives. When incarceration is used, it's becoming increasingly apparent that a normative environment and a nurturing approach promote positive youth attitudes that support successful reentry.

But this hasn't always been the case. In Colonial times, the law didn't draw much distinction between children and adults. Emphasis was on criminal culpability, irrespective of the age of the offender. Youth who came into contact with the law were often imprisoned in adult jails. Not only were these facilities ill-equipped to handle youth and respond to their specific needs, children were placed there along with men, women, medically and mentally unhealthy offenders - with little regard for the influences and abuses that could result from such exposure.

REFUGE AND REFORM

In the early 1800s, reformers became concerned about the overcrowded conditions in the jails and the corruption youth experienced when confined with adults. But this interest was also directly influenced by a changing society. The transition from a colonial agriculture to industrialism, coupled with explosive immigration in the early 19th century, brought an influx of newcomers to Northeast cities (New York in particular), many of whom were foreign born, of foreign patronage, poor and/or homeless. Prominent citizens expressed growing concern over these so-called "perishing and dangerous classes," especially children of the poor, whose parents were deemed unfit because their children were seen wandering the streets unsupervised and engaging in a variety of activities in attempts at survival. Poor and immigrant children, their lifestyles, and their social status soon became closely associated with crime, and thus emerged the notion of

"juvenile delinquency." With it came the emergence of philanthropic associations whose mission was focused on providing "wayward youth" with asylum from their harsh lifestyles, and with the social controls perceived as lacking in their own environment.

One of the most notable was the Society for the Reformation of Juvenile Delinquents. Founded in New York City in the 1820s and first called the Society for the Prevention of Pauperism, the organization was comprised primarily of wealthy businessmen and other prominent citizens who helped to establish, through legislation, the New York House of Refuge. The original House of Refuge, a former Army barracks near Madison Square in New York City, was authorized "to receive and take…all children as shall be convicted of criminal offenses… or committed as vagrants if the court deems that they are proper objects." The prevailing conception about these children and the philosophical mission of the House of Refuge is readily apparent in the following description from the Society:

"The design of the proposed institution is, to furnish, in the first place, an asylum, in which boys under a certain age, who become subject to the notice of our police either as vagrants or homeless, or charged with petty crimes, may be received, judiciously classed according to their degree of depravity or innocence, put to work at such employments as will tend to encourage industry and ingenuity, taught reading, writing, and arithmetic, and most carefully instructed in the nature of their moral and religious obligations while at the same time, they are subjected to a course of treatment, that will afford a prompt and energetic corrective of their vicious propensities, and hold out every possible inducement to reformation and good conduct."

In reality, the building was anything but a refuge. The facility, and the many that followed in rapid succession, were unyielding institutions where strict control and discipline were employed. Prompt, unquestioned obedience was expected, reinforced by uniform dress, the silent system, solitary confinement, and the use of corporal punishment. Not limited to children who had committed crimes, residents also included orphans, the poor, and the "stubborn child" who was deemed incorrigible or wayward. By 1840s there were 53 such facilities across the country, each averaging about 200 youth. Some, like the New York House of Refuge, housed over 1,000 youth. Massachusetts opened the first state-operated Reform School for Boys in 1847, followed by one for girls in 1856. Many states followed suit and the formal Juvenile correctional system was born.

State Agricultural and Industrial School, Monroe Co., NY

COUNTRY LIVING

The transition to Youth Training Schools began in the mid-19th century. Built mainly in response to reports of brutality, deplorable conditions, and the overcrowding that plagued the Houses of Refuge and Reform, training schools placed greater emphasis on schooling and job skills, and employed the concepts of congregate living and work.

Another key concept of State Training Schools, or Industrial Schools as they were often referred to, was their location outside of the city viewed as a source of temptation and opportunity for wrong doing. In contrast, rural settings provided a simpler environment devoid of negative distractions. The availability of land allowed for a campus setting, often with separate buildings for school, administration, and living quarters. This description of the Lyman School for Boys is representative of the model: "Students lived in so-called cottages. These were large brick buildings providing shelter for about one-hundred boys in each. The top floor comprised a dormitory and the lower floors, the living space. A cottage master and usually a cottage matron ruled each cottage. This husband and wife team lived in a cottage apartment and was on duty twenty-four hours a day. The idea was to emulate the environment of a family."

In some respects, this transition ushered in the congregate model of concentrating large numbers of juvenile offenders in one location, state administered and geographically remote from the youth's home - a model that still pervades juvenile incarceration today, albeit with advances in treatment and programming, and without the resident "house parents" of old.

The creation of the first Juvenile Court in Cook County, Illinois in 1899 marked a significant philosophical shift in juvenile law, and as such in the philosophical mission of the courts and youth corrections. The British doctrine of parens partiae supported the right of the court to intervene and provide protection of children who were not receiving adequate supervision or care at home.

A JUVENILE COURT EMERGES – AND MATURES

The creation of the first Juvenile Court in Cook County, Illinois in 1899 marked a significant philosophical shift in juvenile law, and as such in the philosophical mission of the courts and youth corrections. The British doctrine of parens partiae supported the right of the court to intervene and provide protection of children who were not receiving adequate supervision or care at home. All youth under the age of eighteen, with few exceptions, were now adjudicated by the juvenile court and the focus shifted from offense to offender. As such, the philosophical mission of the juvenile court shifted from punishment and reform to rehabilitation and benevolent supervision. This new rehabilitative mission provided the juvenile court with greater flexibility in addressing each case – including determining when the youth was sufficiently rehabilitated and ready for discharge.

For the next half-century or so, juvenile justice and juvenile facilities didn't change much. However, by the mid-20th century, concern was growing over the ineffectiveness of the system, particularly the loose manner in which cases were adjudicated and the indefinite lengths of stay for many confined youth. Remedies came in the form of several landmark cases. In 1966, the Supreme Court issued a decision in Kent v. United States, in which the majority opinion stated, "there may be grounds for concern that the child receives the worst of both worlds [in juvenile courts]: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children." The following year,

in re Gault decreed that juveniles had nearly same rights to due process as adults. This was seen as a way of guaranteeing that underage offenders weren't unfairly processed or punished. Protections such as formal hearings; notification of charges for juveniles facing confinement; the right to an attorney; and establishment of proof beyond a reasonable doubt corrected the legal shortcomings of the informal juvenile court. However, these measures also formalized the juvenile courts and made them more like criminal courts. In his dissenting opinion in Gault, Justice Potter Stewart suggested that the decision might turn the focus away from "correct[ing] a condition" and towards an adversarial system where the objective was conviction and punishment.

THE PENDULUM SWINGS

At the same time, the juvenile correctional system was increasingly viewed as ineffectual, and in the 1970s, experts strove for "deinstitutionalization" and a gentler approach. Massachusetts, the first to open a state-operated juvenile facility, was also the first to replace its large state training schools with smaller facilities and community-based services. The "Massachusetts Experiment" helped open the door to reform and several states followed suit by deinstitutionalizing their juvenile correctional systems. The Federal Juvenile Justice Act of 1974 reinforced the new emphasis on community-based alternatives. The act also made provision for the separation of "status offenders"—those whose actions would not be unlawful if committed by an adult—from juvenile delinquents, and youthful offenders from adult offenders.

However, juvenile crime rose in the 1980s into mid-1990 and the public perceived that the system was too lenient. Many states passed punitive laws, including mandatory sentences and automatic waivers to adult court for certain crimes. The get tough sentiment of the period caused changes to be implemented to the juvenile justice system that made it increasingly similar to the adult criminal justice system. The late 1990s saw growing concern over highly publicized and violent juvenile crime. A series of school shootings and other horrendous offenses caused the public to fear a new breed of "juvenile super-predators," defined by the OJJDP as "juveniles for whom violence was a way of life - new delinquents unlike youth of past generations." Although OJJDP and criminal justice scholars alike have since reported that the threat of juvenile violence and delinquency was grossly exaggerated in the 1990s, the sentiments of the time resulted in significant changes to our approach to juvenile crime and corrections. The shift that Justice Stewart had predicted in 1967 with the implementation of formal trials for youth, was soon reflected the view that juvenile offenders were not youth in need of rehabilitation, but young dangerous criminals to be contained and punished. Interestingly, the juvenile codes rewritten by many states containing punitive objectives also maintained wording reflective of the more traditional rehabilitative mission of the courts; and a 2001 survey found that 80 percent of adults thought that rehabilitation should be the goal of juvenile correctional facilities.

Nonetheless, the momentum gained during the deinstitutionalization movement was replaced with a renewed reliance on secure detention and incarceration. And with the change in philosophical mission, these facilities often mirrored their adult counterparts in terms of scale and physical attributes. Unfortunately, the outcomes have been equally as grim, with many states reporting recidivism rates well over 50 percent - some as high as 75-80 percent.

WHAT NOW?

The 21st century has brought a renewed approach to juvenile justice – one that is informed by evidence-based research and practices. Much has been learned about what works with youthful offenders, and programmatic interventions have been developed around these metrics. The OJJDP Models Program Guide includes a database of over 200 evidence-based programs, covering the entire continuum of youth services from prevention through sanctions to reentry. The most effective approaches are comprehensive, community-based models that integrate a continuum of options, services, graduated sanctions, and aftercare programs.

From the facility perspective, there is an increasing recognition that large prison-like institutions are not conducive to the philosophical mission of promoting successful outcomes through evidence-based practices. The "Missouri Model" of juvenile correction continues to gain popularity. The Missouri Model—versions of which are now in use in several states—employs smaller, treatment-oriented facilities that are more like group homes than prisons. Where it has been tried, the system has reduced recidivism, escapes, suicides, and violent incidents—and has apparently led to higher rates of permanent rehabilitation.

From the facility perspective, there is an increasing recognition that large prison-like institutions are not conducive to the philosophical mission of promoting successful outcomes through evidence-based practices.

Several factors come together to make the Missouri Model effective, and many documents are available that explain how the system works, and why. Hallmarks include the use of small, non-institutional facilities, preferably located near the offender's home, with family and community involvement and a focus on treatment. Historically, juvenile facilities emphasized compliance - the new model emphasizes change. This is accomplished in a non-threatening, non-punitive environment that takes a proactive, therapeutic approach to supervision, employing trained development specialists rather than untrained custodians, and encouraging an ethic of group interdependence, in which the juvenile takes responsibility for his own actions while at the same time helping others. Typically, the youth sleep in dormitory-style units. Fights are rare, and members of a unit are taught to "circle up" and talk the problem down before it escalates. As a result, in the state of Missouri, fewer than eight percent of youths in the new juvenile system return to these facilities once discharged, and fewer than eight percent go to adult prison. One-third of the youths earn a high school diploma or GED inside these facilities, and 50 percent go back to school on the outside, according to Missouri Division of Youth Services officials.

"The recidivism data have been pretty consistent for the past 10 to 15 years", says Mark Seward, director of the Missouri Youth Services Institute in Jefferson City. "Between seven and eight percent will return in the year following discharge. In other systems, that percentage ranges from 30 to 70. Suicide is rampant in some states; our system hasn't had one in 40 years. Sexual predation is a huge problem in many facilities; here it's an issue that comes up every few years rather than every few days. If someone tries to slip drugs in, the other kids will tell him, 'Get rid of it, or you'll get us all in trouble.'"

THE BUILDING AS A THERAPEUTIC TOOL

Implementing this kind of an approach requires a different kind of facility. Unlike large institutions that house upwards of 50 youth in one living unit, smaller living units of 12 beds or so allow for positive, proactive supervision and a high staff to resident ratio that encourages mentoring relationships and an "eyes on", "ears on" and "hearts on" approach. A residential, homelike environment is non-threatening and provides a sense of personal space, important elements considering that many youth entering the juvenile justice system come with trauma histories including exposure to violence and abuse by authority figures.

Sheila Mitchell, chief probation officer for Santa Clara County (Calif.) insists that it's not necessary to have the proper physical plant entirely in place before incorporating these concepts. "We're going through a major reconstruction now; we didn't have the funds for it before," Mitchell reports. "We had to start with makeshift units, but we wanted to get the program going. You don't need a new plant to initiate change. It's a matter of making the commitment to go the distance." The existing facility's single, open-plan dorm with 84 beds was divided into seven smaller living units of 12 boys each. With the help of Steward's methods, violence and harassment became non-issues, even with members of rival gangs bunking side-by-side, as often happened.

Cambiar (to change) New Mexico also began to transition from large, centralized institutions to a series of smaller, community-based facilities modeled after Missouri. The pilot initiative began with a transformation of a stark, jail-like housing unit into a residential-like cottage. Initial assessments by the Children, Youth and Families Department found that the new environment, coupled with the appropriate staff training, resulted in fewer incidents, more program participation, and improved test scores for students.

ENVIRONMENT CUES BEHAVIOR

"Lots of states today still place kids in cells, in a spare, sterile, correctional environment with clanking doors and so on", explains Seward. "Those kids will act like inmates. Here, instead of being looked up to because you can beat other people up, you're looked up to if you're a leader."

Ken Ricci, founder of Ricci Greene Associates, an architecture firm specializing in juvenile justice planning and design, agrees. "Environment cues behavior," he says. "We try to provide environments in which there's an expectation of normal behavior. You may be in detention or residential placement but we still want to give you sunlight, views, a normal noise level, fairly constant temperatures year-round. We want direct supervision and no bars, because if you cage someone up like an animal, he'll behave like an animal."

Tim Decker, director of the Missouri Division of Youth Services concurs that the ideal youth facility is "non-correctional in nature," with no bars, cells, or mechanical security devices. Some of Missouri's 32 youth facilities are new, Decker says, and some were converted from other uses, but all provide for separate residential units for smaller groups. "We try not to buy into the traditional adult correctional mentality when we design our programs," Decker explains. "You have to think of what you would want the facility to be like, if your child were the next one in the door. You'd want him to be treated for his problem, but with basic human dignity; you'd want him to be grounded in a belief that he'll succeed, that he can turn his life around. You want to create environments that are structured but humane, and enforce positive growth and development."

"The foremost principle of this approach is to keep the kids in small groups," Steward concurs. "Then you make the facility friendlier, with less metal, some color on the walls, rugs, places for group meetings. With just those small changes, you'll feel a difference. And then, the kids understand that the staff is there to help, rather than just sitting there with a can of mace."

"The building is a tool for achieving the client's goals", adds Ricci. "You have to have a vision, and the vision will drive the operation—and the operation drives the design considerations. We strongly believe that the building's architecture can – and should – promote the programmatic mission of the facility - built around the concept of human dignity for residents and staff alike. Facility staff has told us that they used to go home with a headache every night," he remarks. "In one of these new facilities, they don't. These facilities are smarter, greener, and kinder—not noisy or dangerous or dehumanizing."

This is accomplished by what is called normative design. Sunlight and views of the outside lift the spirits and reduce heart rate and blood pressure. Small living units with durable furniture of a more residential type, rather than tables bolted to the floor, powerful acoustical panels, and cheerful colors provide a normative, non-institutional environment. The scale and character of the building is welcoming, to support important community linkages and family involvement within the facility during the youth's stay. In secure facilities, the building provides the secure perimeter, eliminating the need for fencing or razor ribbon, which also makes the facility a "good neighbor" aesthetically to the surrounding community.

These design concepts are applicable to juvenile detention facilities as well as where the short term nature and legal status of the population makes programming challenging. The Union County Juvenile Detention Center in New Jersey is a secure detention facility that transcends stereotypes. Described as 'optimism that belies the building type,' the facility is colorful, flooded with sunlight, and offers a variety of spaces for programs, services, recreation and sanctuary. "This is a beautiful building that provides kids in trouble with a secure, safe, comfortable and positive place to overcome their problems," says Frank Guzzo, Director of Human Services, "if it wasn't a correctional facility, it would make a great school."

The facility provides numerous opportunities for positive youth development through school, counseling, family involvement, recreational programs, and volunteer contact – activities that were all but impossible to achieve in the small, outmoded, and dismal original facility located atop a parking garage. In stark contrast, the new detention center dedicates almost 40 percent of the building to programming and service delivery: multiple classrooms, counseling offices and group rooms, plenty of indoor and outdoor recreation areas, and varied, ample spaces for family visits and volunteer involvement. "Today," says Guzzo, "incarceration is secondary. It's programs, programs, programs; you've got a captive audience that will eventually return to the community".

BUILDING "EFFECTIVENESS"

A recent issue of the facility's volunteer newsletter highlights an impressive blend of special and weekly programs including outdoor movies, talent shows, International Night, cultural groups, religious programs, arts, yoga, book club, and the facility garden. These restorative activities promote responsibility, accountability, self-respect, and positive youth development. This facility recently won an international award for "building effectiveness." But one youth resident summed it up best by saying, "your services made me realize that I was damaging my community when I could be contributing better to it... you help us find guidance in our ways... I really want to get out and help others in bad predicaments... thank you." Now that's an effective facility!

ABOUT THE AUTHOR:

Laura Maiello is an Associate Principal with Ricci Green Associates. She has assisted many jurisdictions in juvenile justice system planning and facility design, promoting the concepts of positive youth development and normative design - including the award winning Union County Juvenile Detention Center in New Jersey.

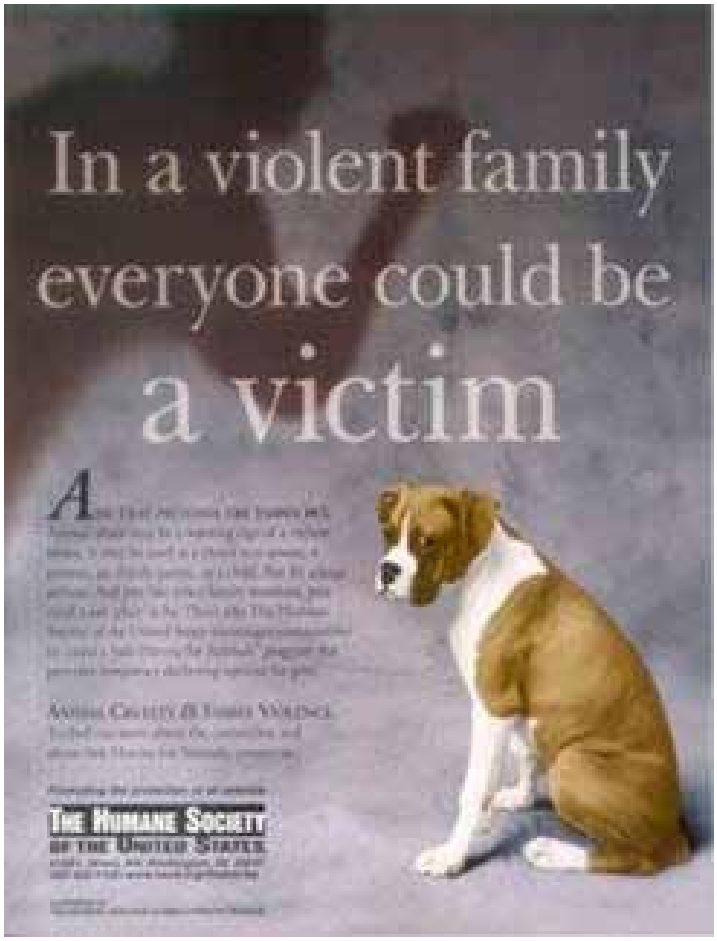
CAUSE FOR CONCERN:

Juveniles and Crimes of Animal Cruelty

By Sherry Ramsey, Esq.

With all the important issues facing juvenile justice professionals, concern over animal cruelty is not usually near the top of the list. But perhaps it should be. Considering the implications of ignoring these recognized signs of future violence, treating animal cruelty crimes seriously could be an important decision of consequence. Studies by the FBI and others have raised red flags to these serious implications - which not only help identify the juveniles at risk of committing future violence but also juveniles who have been victimized. For an example of the latter, one study found that animals are abused in 88 percent of the families in which children have been abused. [See E. DeViney, J. Dickert, & R. Lockwood, *The Care of Pets within Child Abusing Families*, International Journal for the Study of Animal Problems, 4(4):321-329 (1983)].

The Humane Society of the United States illustrates this point with a poster showing a dog cowering in a corner with the shadow of an angry man hovering in the foreground. The caption reads, "In a violent family, everyone can be a victim."



JUVENILE STATISTICS

Because animal cruelty crimes are not monitored systematically, there are only estimates as to the prevalence of these crimes involving juveniles. Further, juveniles charged with animal cruelty crimes are often permitted into pre-trial intervention or continuance type programs, which can ultimately erase these early indicators. Likewise, in cases where animal cruelty is the primary crime, plea deals may allow for the cruelty charge to be dismissed and for the juvenile to plead to a more appealing charge. [In this author's experience, often the defense will agree to almost any plea instead of animal cruelty in both adult and juvenile cases - probably due to the societal perception of animal abusers]. Accordingly, cases often end up with a plea to a collateral charge such as criminal mischief, again losing the record of abuse. Still, the existing statistics and studies on both juveniles and adults are compelling:

- Animal abusers are five times more likely to commit violent crimes against people.
- Animal abusers are four times more likely to commit property crimes.
- Animal abusers are three times more likely to have drug or disorderly conduct offenses.

[See: http://www.mspca.org/programs/cruelty-prevention/animal-cruelty-information/cruelty-to-animals-and-other-crimes.pdf. See also: A. Arluke, J. Levin, C. Luke, and F. Ascione, *The Relationship of Animal Abuse to Violence and Other Forms of Antisocial Behavior*, Journal of Interpersonal Violence, 14(9):963-975 (1999)].

Another study confirmed that one of the factors associated with persistence in aggressive and anti-social behavior is aggression toward people and animals in childhood. [Rolf Loeber, *The Pittsburgh Study*, Annual Conference on Criminal Justice Research and Evaluation, Department of Justice, Washington, D.C. (2004)]. Accordingly, a recognition of the high incidence of animal abuse in the history of many of the most violent juvenile offenders is worthy of consideration. As former FBI Supervisory Special Agent Alan C. Brantley is quoted as saying, "It has long been accepted among professionals who must assess dangerous populations that the best predictor of future behavior is past behavior. Violence against animals is violence, and when it is present, it is synonymous with a history of violence." (Remarks of Alan C. Brantley before a Congressional Briefing on May 13, 1998 at the U.S. House of Representatives, available at http://commdocs.house.gov/committees/judiciary/hju63862.000/hju63862_0f.htm).

Even outside of the realm of animal cruelty, it is recognized that unless provided with some kind of intervention, a juvenile with a history of violent behavior is likely to repeat that behavior. [D. Elliot, S. Huizinga, & B. Moise, Self-reported Violent Offending: A Descriptive Analysis of Juvenile Violent Offenders and their Offending Careers, Journal of Interpersonal Violence, 4:472-514 (1986)].

Given that children are more behaviorally malleable than adults, could early intervention stop this cycle of violence? Can juveniles be taught to appreciate the consequences of violence toward both animals and humans? These are questions that some professionals have concluded in the affirmative. [See Jacqueline Stenson, Destined as a Psychopath? Experts Seek Clues, MSNBC.com (Apr. 20, 2009), http://www.msnbc.msn.com/id/30267075/ns/health-mental_health/t/destin - .T3IlOO24LzI]. A 1994 report released by the National Research Council states that early intervention in juvenile crimes is more likely to reduce adult crime than

criminal sanctions applied later in life. [See Frank Ascione & Phil Arkow, *Child Abuse, Domestic Violence, and Animal Abuse: Linking the Circles of Compassion for Prevention and Intervention*, 336 (Purdue University Press, 1999)]. Accordingly, animal abuse by juveniles should be recognized as a serious threat of future violence and therefore, handled as a serious crime. Failure to recognize and appropriately deal with these crimes could result in missed opportunities to prevent future violent offenses.

PAST EXAMPLES

The Serial Killer Files concludes that animal torture is not a stage but rather a rehearsal for future murderous acts on humans. [Harold Schechter, *The Serial Killer Files: The Who, What, Where, How, and Why of the World's Most Terrifying Murderers*, 36-37 (1 ed., Ballantine Books 2003)]. The reasons why may be as simple as a desensitizing of pain and suffering in the abuser, or perhaps a normalization of violence in the juvenile's daily life. No matter what the reason, ignoring these crimes could be dangerous to the juvenile, animals, and the community at large.

"One of the most dangerous things that can happen to a child is to kill or torture an animal and get away with it."
- Anthropologist Margaret Mead

Examples are abundant but worthy of note given the notorious cases on record. Jeffery Dahmer, one of the most horrific serial killers admitted that he often tortured animals as a child.

"I found a dog and cut it open just to see what the insides looked like, and for some reason I thought it would be a fun prank to stick the head on a stake and set it out in the woods." Id.

Many other serial killers, including Ted Bundy and David Berkowitz, also tortured animals as juveniles. [M. Muscari, *Juvenile Animal Abuse: Practice and Policy Implications for PNPs, Journal of Pediatric Health Care*, 18(1): 15-21 (2004)]. Albert Desalvo, "the Boston Strangler," trapped animals in crates and shot them with a bow and arrow. Carroll Cole, the serial killer known as the "Barfly Strangler," used to choke the family dog unconscious [Phil Chalmers, *Inside the Mind of a Teen Killer*, 140 (Thomas Nelson 2009)]. A marked example is represented in the case of 16-year-old Luke Woodham, who first killed his mother, then shot and killed two students, wounding seven others in a 1997 Pearl, Mississippi school. Woodham recorded in his diary the brutal killing of his dog Sparkle five months prior to the shooting. Unfortunately no one reported the cruelty crime to the authorities [Community Policing Dispatch, Domestic Violence and Animal Abuse: *A Multidisciplinary Approach in Illinois,* (Community Oriented Policing Service/U.S. Dept. of Justice, Wash., D.C.), Vol. 3, Issue 3, March 2010, http://cops.usdoj.gov/html/dispatch/March_2010/domestic_violence.htm].

"I made my first kill today. It was a loved one…I'll never forget the howl she made. It sounded almost human…I'll never forget the sound of her bones breaking under my might. I hit her so hard I knocked the fur off her neck…It was true beauty." (Chalmers, supra at 131.)

It is interesting and important to note that Woodham references this crime as his "first kill." He does not say his first animal killing, which suggests he may not distinguish killing his dog from the humans he will kill a mere five months later. This entry provides further direction toward the conclusion that one violent crime may lead to another. Likewise, it begs the question of whether the latter could have been prevented had the first crime been seriously addressed.

Of the nine school shootings between 1996 and 1999, approximately half of the shooters had known histories of animal cruelty [S. Verlinden, M. Herson, and J. Thomas, *Risk Factors in School Shootings, Clinical Psychology Review*, 29(1): 3-56 (2000) at 44]. This statistic alone is enough to draw serious concern. In fact, one of the earliest recognized school shootings in 1978, was perpetrated by 16-year-old Brenda Spencer in San Diego, CA. Spencer opened fire in an elementary school, killing two and wounding nine. Spencer was also a known animal abuser in the neighborhood and in fact, when asked why she committed the crime, compared the school shootings to killing animals (Chalmers, supra at 10, 11). On May 21, 1998, Kip Kinkel opened fire in a high school, killing two students and injuring eight others. He also killed both of his parents. Kinkel had often bragged to peers about torturing animals and neighborhood children reported that Kip beheaded cats and once blew up a cow with explosives (Chuck Green, *Torturing Animals Bodes* Ill, Denver Post, May 24, 1998, at B-01). Likewise, in probably the most well-known school shooting at Columbine High School in 1999, Eric Harris and Dylan Klebold were also alleged to have engaged in animal mutilation prior to the school murders (Community Policing Dispatch, supra).

The examples of juveniles starting out with animal abuse and moving on to humans are too numerous to mention here but several books and articles have detailed them. While this connection is by no means a new idea – for example, a series of four printed engravings published by English artist William Hogarth in 1751 aptly demonstrated how a boy who began abusing animals grew into a violent adult eventually executed for murder - it remains a subject worthy of serious consideration.

HOW DID THIS HAPPEN?

Why didn't we see it coming? With juveniles, answers often lie in past behavior. Recognizing and responding to the warning signs of animal abuse is one way we might prevent future violence, not only against animals, who are worthy of protection in their own right, but to our society as well.

NACC certification is now available in 31 jurisdictions, and currently there are 439 NACC Certified Child Welfare Law Specialists, including seven judges. Approximately 200 attorneys will be eligible to sit for the 2012 certification exam. The Children's Bureau continues to support the program as part of its general effort to promote safety, permanence, and well-being for the nation's foster care population. In July 2008, the NCJFCJ Board of Trustees unanimously endorsed child welfare law specialization. In addition to the NCJFCJ, child welfare law specialization has gained the support of the ABA Center on Children and the Law, the Conference of Chief Justices, and the Conference of State Court Administrators.

Attorneys receive the CWLS credential by demonstrating a proficiency in child welfare law through a comprehensive application process and by passing a child welfare law competency exam. Lawyers certified in child welfare law must be knowledgeable in relevant state and federal laws; understand principles from child development and psychology regarding individual and family dynamics; recognize the professional responsibility and ethical issues that arise out of the children's status; and be proficient in interviewing and counseling child clients.

Child welfare law is an increasingly complex and sophisticated area of practice requiring special training and expertise. Child welfare law specialization recognizes attorneys who have achieved an increased level of proficiency and promotes child welfare law as a specialized practice of law.

For more information on the NACC and child welfare law attorney certification, visit the NACC Web site at www.NACCchildlaw.org, e-mail advocate@NACCchildlaw.org, or call toll-free at 888-828-NACC.

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Making Sense of Incentives and Sanctions in working with the Substance-Abusing Youth

ANSWERS TO FREQUENTLY ASKED QUESTIONS

By Susan A. Yeres, Ed.D. and Frances C. Gurnell, M.Ed.

From its founding, the juvenile court's mission was to correct *and rehabilitate* children who had violated the law, to protect the community from their delinquent behavior, and to strengthen the family. As a part of the community's response to juvenile offenders, the juvenile drug court offered an innovative, integrated approach that reflected the community's norms, values, resources, and unique needs. This integrated approach generated new issues and demanded new roles for the judge and all those involved with the drug court program. However, despite these innovations, the program's basic concepts remained consistent with the principles of traditional juvenile court practice. For this reason, juvenile courts found that these programs could operate successfully within the existing framework of ethical, legal, and professional standards.

Although use of incentives and sanctions has been a part of juvenile drug court programs since their inception, they struggle to find meaningful and affordable incentives as well as develop a balanced approach that is not over-weighted with punishment. Professionals who attempt to combine sanctions with incentives often encounter a number of challenges.

This article poses and answers some of the questions frequently asked by members of the juvenile drug court team - judges, treatment providers, probation staff, policy makers, program administrators, and others who work with substance abusing youth involved in the juvenile justice system. The answers draw upon a large and well-established body of research on behavior modification (including contingency management) that can shed light on how best to support behavior change in this specific population. We also offer lessons learned through JDC practice over the course of two decades.

1. Are there examples of incentives and sanctions that work with youth in the juvenile drug court?

Yes, there are such examples, here are a few.

INCENTIVES				SANCTIONS
Lunch with judge or JDC member	Rocket docket – early on docket and out	Achievement board	Meal with family	Earlier curfew
Candy bar	Gift certificates for food	Certificates of achievement	Event tickets (movies, sports)	Take driver's license
Sports equipment	Music or art supplies	Music or art lessons	Outing with family -bowling	Increase drug tests
Book or magazine	Applause	Gift card	Later curfew	Increase times reporting to case manage
Driving privileges	Wall of fame	A phone call from the judge to parent	Sports lessons	Taking away electronic devices

Here we have offered four times more incentives than sanctions – the research tells us that we need to keep the 4:1 ratio in mind when looking at how we respond to behavior as incentives are far more powerful in changing behavior than sanctions.

2. Why give youth rewards for things they should be doing anyway?

Getting off drugs is very difficult for adolescents because the drugs make them feel good. They experience such things as: being accepted, leaving troubles behind, relieving depression, having fun, getting extra energy, having something to do, and feeling no pain. We have to develop incentives that are more rewarding than the good feelings they get from the drugs.

The primary job of a young person in juvenile drug court is to stop using drugs – this is hard work. Hard work should be rewarded. We won't reward him forever, but we need to start rewarding him for being clean so that he can get himself off of the drugs. In the long run, we are working towards having the young person develop behaviors that bring their own rewards (such as diplomas, jobs, socially acceptable fun activities.)

Incentives work. The preliminary analyses of a 2004 study have shown that by incorporating rewards into a drug court program, **it's possible to double the rates at which offenders make timely progress towards graduation** — even for the most serious offenders.[1]

In fact, punishment alone may be the *least* effective way to change behavior. If used excessively or inappropriately, punishment can provoke anger, fear, escape, avoidance, or helplessness — responses likely to undermine a youth's motivation to change.[2] A better approach is to *combine* sanctions with incentives in a coordinated plan for reducing substance abuse and increasing pro-social behavior.

Extended curfew to a later hour is a type of incentive known as "negative reinforcement." Decreasing the intensity of a punishment or sanction as a reward for good behavior increases the probability that the desired behavior will be repeated. Other examples of negative reinforcement include reduction in community service hours and fewer visits with the probation officer.

3. Where do we get the money for incentives?

Fortunately, to be effective, incentives don't have to be elaborate or expensive. Something as low cost as a candy bar has been shown to make a significant difference.

Some of the most powerful reinforcers — recognition, approval, praise, and negative reinforcement — cost nothing at all. Donations can help lower costs. Sports teams and businesses are often open to providing free tickets or certificates. Books of coupons or tickets are sometimes available at a discounted price. Scholarships for music, art, and other enrichment classes can be sought from service organizations. Talk with parents to identify the incentives and rewards already being given at home.

If you can obtain even a few high-value items or services ($15-$20), you can maximize their impact by using a "fishbowl" — a technique devised to replicate the positive results of vouchers without the costly investment. In this approach to incentives, rather than receiving a reward directly, the youth instead gets a chance to draw a slip of paper from a fishbowl. As Dr. Nancy Petry describes it:

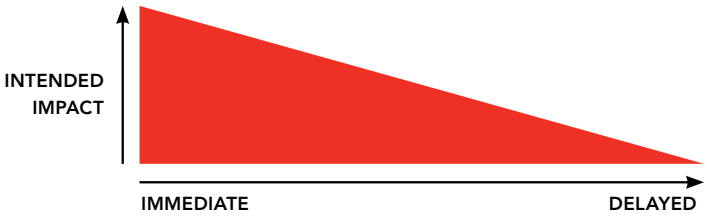
> I didn't have a lot of money to work with, so I came up with the prize system. Rather than earning vouchers, every time patients provide a drug-free urine sample, they earn a chance to draw a slip of paper from a bowl. Half of the time they draw from the bowl, they don't win anything at all; the slip says, "Good job. Try Again." About half the time, they get a small prize worth about a dollar, like their choice of a gift certificate to the donut shop or some costume jewelry. A few slips say "large prize," and those are worth about $20—like watches, Walkman devices, and sweatshirts.[3]

Researcher and medical director of a recovery treatment center, Michael Bohn adapted Nancy Petry's fishbowl incentive program for his work with adolescents. He was attracted by the economic practicality of the approach and its potential to appeal to younger, more impulsive substance abusers.

Ultimately, the best and most long-lasting incentives are those that come from the youth's everyday environment as a consequence of their own efforts — a paycheck from a job, a diploma, or feeling better physically as a result of living without drugs. Because these "natural" reinforcers are the byproduct of successful treatment, they add no extra program costs.

4. Does it matter how long you wait to respond to the behavior?

Yes, it matters a lot. Studies have shown that the effectiveness of a sanction or incentive declines dramatically as the length of time between the behavior and the response increases.[4] During the delay, other behaviors will intervene, and the sanction or incentive may become associated with those rather than the behavior you were trying to target. So the longer you wait to administer the sanction or incentive, the less likely it is to have the intended impact. The rule of thumb is the sooner the better.



However, in the real world, applying this rule can be complicated. Say it's Friday afternoon, and a youth in juvenile drug court tests positive on a drug test. But the youth isn't scheduled for another court appearance for two weeks. What do you do?

In theory, you should respond immediately. But in order for you to do this, there need to be agreements ahead of time among all those working with the youth that specify what incentives and sanctions would be appropriate, how they will be administered, what latitude they have in selecting and implementing them, and where any needed resources will come from. Putting these agreements in place takes planning. Carrying them out requires good training and supervision, as well as ongoing communication and trust among juvenile justice and treatment providers.

Even when those working with youth have the authority and resources to issue incentives and sanctions, their response may not always be immediate. This finding points to a need for staff, teachers, and families to be trained both in the importance of responding quickly and in the communication skills that would help them address non-compliant behavior.

Finally, because you can't reward or sanction behavior that you don't know about, responding swiftly depends also on a reliable system for monitoring youth behavior through frequent contacts, family and teacher involvement in reporting, good rapport between supervisor and youth, and accurate drug-testing.

5. Since families are critical to a youth's success, how do we get them involved?

Unlike adults, youth are usually dependent on and involved with family members who powerfully influence their choices. By building alliances with families, recognizing their strengths, and helping them address possible barriers to change in their children's lives, the juvenile drug court team increases the likelihood of youth success in the program. At the same time, by empowering families to help shape their children's behavior, the team lays a foundation for ongoing support of positive behaviors and accountability that are crucial for youth during and after they graduate from the program.[5]

Parents often consider their adolescent's substance use as problematic but they may not have the skills to effectively change their adolescent's behavior. In addition, families have other life challenges draining their energy and resources. They might have jobs that won't allow time off or limited transportation resources.

Many parents need support services and accommodations to participate in the juvenile drug court program. Work with families to overcome the barriers that get in the way of their full participation in the program.

Parents need immediate and early incentives to get involved. Consider providing child care, organizing car pools, sponsoring parent support group. Schedule hearings at times when parents are able to attend and offer parents classes in critical skills (E.g., money management, setting boundaries, anger management.)

Several courts have instituted use of the fishbowl for parents to reinforce attendance at court hearings and training. Prizes might include discount coupons to family restaurants, gift cards for gas and groceries, and tickets for family activities.

Once we have families at the hearing and in a support group, the court needs to integrate them as partners in the process of behavior change. In treatment and in the court, the team can work with families to determine how to integrate them into the program. Work with parents to list the privileges that are already being given at home and determine how to use them to reward appropriate behavior.

Parents often underestimate the value of their time as an incentive or reward. Activities such as cooking a meal together, going for a walk, going to the park, fishing, watching a movie on TV, are all low cost and have clear payoffs for the short and long term. Engage both the youth and the parent in a discussion about what privileges are important.

6. Should we tell youth at the beginning of supervision about all the possible incentives and sanctions they could be given?

Yes. Each possible type of incentive and sanction — and the accomplishment or infraction that will cause you to impose it — needs to be spelled out clearly right from the start. Without this mutual understanding, there will be no foundation for certainty and consistency. And if youth experience incentives and sanctions as coming from "out of the blue," they may lose a sense of connection between their own actions and your responses, resulting in feelings of victimization and helplessness.[6] Knowing ahead of time what will happen in response to their actions (or in-actions) puts them in control and fosters a sense of responsibility for the outcome of their relationship with the criminal justice system.

One way to clarify expectations is to involve the youth in completing a standardized written "behavioral contract" that lists mutually determined goals for the youth, what they will do to accomplish each goal, what behavior will be considered "non-compliant," and the incentives or sanctions that will follow each accomplishment or act of non-compliance (see example on page 17). It is important that the behaviors named are measurable and verifiable beyond self-report. An individual cannot learn to behave as expected if the demands placed upon them are excessive, or if they lack the skills and/or resources required to respond appropriately.[7] Therefore the contract should also identify the support services that can be made available to address challenges and promote success. Notice that incentives and sanctions include natural consequences.*

A PARTIAL EXAMPLE OF A "BEHAVIORAL CONTRACT"					
GOAL	BEHAVIORS/TASKS	INCENTIVES	NON-COMPLIANCE	SANCTION	SUPPORT SERVICES
Improve school grades	Attend school daily Complete all assignments	Praise Recognition New pen School recognition certificate Grades improve*	Failure to attend school/classes Failure to complete assignments	Limit free time Failing/poor grade* Writing assignment	Tutoring Health assessment Eye exam

Both the supervisor and the youth need to sign the contract. Consider involving teachers and parents in this process as well. This will engage them in the behavior change process and give them practice with a tool that can be used well beyond the youth's participation in the juvenile drug court (JDC) program. Periodically it should be reviewed so that if the youth's life circumstances have changed, you can adjust the incentives and sanctions to make certain they're still appropriate.

7. How can we be fair and consistent while individualizing our response to each youth?

It may sound contradictory to say that the JDC should tailor incentives and sanctions to individual youth and at the same time be fair and consistent with *all* youth. But in practice, these principles are fully compatible — and may even complement one another.

Behavioral contracting supports both fairness and consistency. It would be hard for youth to see responses as unfair when they are engaged in determining target behaviors and most appropriate responses.

As discussed earlier, the same incentive or sanction could have very different impacts on youth in differing life circumstances. So treating everyone in exactly the same way doesn't guarantee fairness. By tailoring incentives and sanctions within a predetermined range, you can make certain that your response to a particular type of behavior will have approximately the same impact on each person you supervise. In effect, you're making incentives and sanctions *more* fair.

Individualizing Sanctions to Maintain Fairness: An Example

Jeremiah and Thomas violated the terms of their probation in exactly the same way: both missed two consecutive appointments. In both cases, the JDC team responded by raising the level of supervision, but in different ways. Jeremiah was given a curfew that began right after school, requiring him to stay home in the afternoons and evenings. Thomas was working an after-school job as part of his treatment plan; he was required to report to his probation officer daily and stay home on weekends. For Thomas, requiring after-school curfew would have caused him to lose his job. By tailoring the sanction to the individual, the team maintained fairness.

Often, when youth complain that a sanction is unfair, what they really want is to have their view of the situation taken seriously. This doesn't mean that you have to agree with them. You simply need to listen and acknowledge their point of view.[8]

Finally, keep in mind that the *way* you communicate a sanction also makes a difference in how it will be perceived. A large body of research on the interaction style of professionals finds a difference in the impact of confrontive vs. supportive approaches.

8. Why do our responses to youth behavior sometimes have a different effect than what we intended?

A girl turns in a clean urine sample for the third week in a row. You congratulate her and hand her two free movie passes. As she takes them, she averts her gaze and says nothing. The next week she misses her appointment. Another youth is sanctioned with weekend detention after failing his third drug test in a row. He shrugs his shoulders and smirks. You can see it doesn't really matter to him. Sometimes, despite your best efforts, a reward or sanction seems to backfire, leaving you puzzled about what could have gone wrong.

There are a number of reasons why incentives and sanctions fail to give you the results you expect. Individuals vary greatly in terms of the types of goods and services that will serve as reinforcers. For example, a specific reinforcer (e.g., pizza or movie theatre passes) that serves as an effective incentive for one client may not be reinforcing for another.[9] Or the reinforcer might simply be too small to overcome the rewards the youth is getting from their use of alcohol and other drugs.

Caution is indicated when considering use of punishment contingencies without careful planning, as these may inadvertently increase undesirable behaviors such as treatment dropout or negatively impact therapeutic relationships. The perception of *unfairness* can have especially serious consequences. Some researchers theorize that it contributes to a stance of *defiance* so that instead of refraining from the sanctioned behavior, the youth will purposely repeat it — an outcome exactly opposite of what was intended.[10]

There are many reasons that a youth's *perception* of an incentive or sanction might differ from what you assumed it would be. In some cases, the youth simply may not be able to take advantage of a reward. For example, if the girl described above has no money for the bus that would get her to the theater, the free movie passes you've given her will be useless. If she interprets your giving them to her as a sign that you fail to understand her living situation— they may undermine her motivation to show up for appointments with you.

9. Should we start out giving a strong sanction to get the youth's attention, or should we build up to that?

It is common for the juvenile drug court team to believe that you get a young person's attention at the beginning by sending them to detention. They conclude that this response not only communicates their seriousness, it also keeps the young person away from the drugs that got them in trouble. This can't be further from the truth…

Studies have shown that the use of detention does not significantly deter criminal behavior and may in fact increase reoffending.[11] In addition the high cost of detention reduces the juvenile drug court's cost effectiveness.

A sanction so strong that it is perceived to be harsh or humiliating could trigger defiance, retaliation, or a sense of helplessness that would undermine the youth's motivation to change.[12]

Graduated sanctions, which invoke less punitive responses for early and less serious noncompliance and increasingly severe sanctions

for more serious or continuing problems, can be an effective tool in conjunction with drug testing. Developing a contract with the youth and family establishes the expected response to both compliant and noncompliant behavior.

The initial sanction needs to be strong enough to at least create some discomfort and communicate that program infractions will be noticed and responded to, but not so strong that there is no room to increase the intensity. It is critical to keep in mind that, like incentives, sanctions need to be meaningful to the individual youth. One juvenile drug court practitioner explains how using the removal of technology has proven effective. [13]

> ***"Taking electronic devices – their X Box, iPhone, or PlayStation gets a greater response than detention. It's a much quicker way to get the youth to ask 'What do I need to do (differently)?'"***
>
> – Joe Thomas, drug court practitioner and technical assistance provider.

At the same time, sanctions need to gradually increase in intensity, but not so slowly that a youth might become habituated—that is, gradually accommodate to the incremental changes so that even a strong sanction, once reached, would have little impact.[14]

An example of appropriate intensity

After a youth misses a drug test in phase 1 of the program, the drug-court team discusses what sanction would be appropriate. They agree that a sanction of detention would be too strong. On the other hand, a verbal threat of "Next time there will be a consequence" would be too weak. Eventually they decide to increase the frequency of drug testing and also to increase the level of supervision by requiring more frequent reporting. This response meets the criterion of "appropriate intensity": It will get the youth's attention and ensure a consequence — but without provoking defiance or undermining the youth's motivation to change.

In general, the intensity of a sanction or incentive should always be proportional to the conduct being recognized and to the expectations for the youth at that particular stage in the program. As in the example in the box, at the beginning the focus needs to be on getting the youth to comply with basic daily expectations—attending treatment sessions and showing up for drug testing.

10. Is it ever OK to give a "second chance" by withholding a sanction?

Probably not. Even though it might seem humane to overlook an infraction — particularly if it's a relatively minor mistake — giving second chances by not imposing an expected sanction might actually do more harm than good.

When you overlook a noncompliant behavior, you're choosing *not* to respond to a particular occurrence of that behavior. Responding intermittently, especially early in the program, can create a situation in which the youth will risk repeating the noncompliant behavior on the chance that there will be no consequence. So we can expect that a person who is sanctioned for using drugs one time but not the next time will be less likely to refrain from drug use in the future than another person who is sanctioned for every infraction.[15]

Second chances also raise issues of fairness. If other youth observe as you fail to follow through on a planned sanction (or if they hear about your decision second-hand), it will create the appearance that you're "playing favorites" and also lead them to expect that you'll overlook infractions on their part as well.

At the same time, because the decision to give a second chance is in the hands of the juvenile drug court team, it takes control away from the youth by creating a disconnect between his or her actions and the consequences of those actions. This disconnect can contribute to a sense of helplessness that will make it harder for the youth to take responsibility for making life changes. In short, your well-meaning attempt to do a favor can actually keep a youth under supervision longer.

If you find yourself frequently tempted to give second chances — either with a particular youth, or in general — it could be a signal that something is amiss with your program of sanctions. For example, if your initial sanctions are so harsh that they seem to be undermining youth motivation, that could account for your impulse to set them aside. In this situation, it would be better to revise the sanction schedule to make it one that you feel comfortable applying consistently, rather than to continually adjust it by giving second chances.

11. What do you do if a youth exhibits both desirable and undesirable behaviors during the same period of time? Do you give both an incentive and a sanction?

Although there is little research that directly addresses this question, we do know this: During the process of behavior change, it is critical to respond to every occurrence of the "target" behavior (the behavior you're trying to eliminate or increase). Youth who receive sanctions on a continuous schedule have significantly lower re-arrest rates than those who are sanctioned intermittently. Similarly, positive reinforcement brings about more rapid behavior change when given every time the target behavior occurs.[16]

Even when a youth presents a major accomplishment, an infraction during the same time period should not be ignored. For example, if after six months in the program and a month of sobriety, a youth passed the GED exam but also had a dirty urinalysis (UA), you would certainly reward the achievement. But to maintain consistency, you would also have to respond to the dirty UA. Similarly, when you have to sanction a glaring infraction, it's still important to acknowledge any small but positive steps the youth might have taken toward a goal. For example, if a youth were caught adulterating a urine sample, but had also established a regular pattern of attendance at treatment over

the previous two weeks, it would be important to acknowledge the progress while also sanctioning the infraction.

Whether you focus more on the infraction or on the achievement—and how strongly you respond to each—depends on how far the youth has progressed in your program. Early in the program, you want to focus more on what behavioral psychologists call "proximal" behaviors. These are short-term goals that program participants can be expected to engage in fairly rapidly and that are necessary for future improvement to occur—for example, attending treatment. Over time, the focus should shift to "distal" behaviors. Distal behaviors take longer to accomplish, but they are the ultimate goal for program participants (for example, abstinence from drugs and crime).[17]

12. What happens after a youth leaves our program - will the new behavior stick?

As the participant progresses through the program phases, we see them less often and rely more heavily on natural consequences. We also expect more over time. In fact, once the target behavior is ingrained, positive reinforcement should be delivered on an intermittent basis to maintain the shaped behavior. In juvenile drug court, this actually works quite well in practice. Initially, we see the participant frequently to deliver frequent responses for participant compliance — and we say good job for attending treatment and testing negative for drug use—you get praise and a prize. As the participant continues to meet behavioral expectations, we lengthen the review interval and reinforce the participant for attending multiple treatment sessions and consistently testing negative.

Natural consequences are likely to be far more effective than the incentives and sanctions that you administer. Research on the use of "informal social controls" shows that family, peers, and community have a more direct impact on youth behavior than "formal social controls" such as law enforcement or supervision — in part because youth respond more positively to the needs and desires of family, friends, and other community supports than they do to the demands of authorities.[18] All this points to the importance of helping youth reintegrate back into the community by building supportive relationships and networks.

You can begin to lay the groundwork for the transition to natural reinforcers at the very beginning of supervision by assessing the youth's life situation, helping them set realistic goals, and then designing a tailored system of responses that will help them reach those goals.

Engaging family members in the initial process of assessment, goal setting, and tailoring a program of incentives and sanctions is key to the youth's continued success following graduation.

Ultimately, the effectiveness of a program of incentives and sanctions depends on the quality of the program as a whole.

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Over the course of the last twelve years the writers have worked with and conducted workshops for hundreds of professionals on the topic of behavior change for participants in the juvenile drug court. Their ideas and concerns are reflected in both the questions and the answers of this work.

Michelle Smith conducted an exhaustive literature search on the use of contingency management with substance abusing adolescents, contributing information from valuable new publications on the topic.

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Susan A. Yeres, Ed.D. is a curriculum designer and strategic planner who works with juvenile justice systems to improve outcomes for youth. She has been working with juvenile drug courts for over a decade on their development and program enhancements.

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You can begin to lay the groundwork for the transition to natural reinforcers at the very beginning of supervision by assessing the youth's life situation, helping them set realistic goals, and then designing a tailored system of responses that will help them reach those goals.

The AAML Child Custody Evaluation Standards: Bridging Two Worlds

By Sacha M. Coupet, Ph.D., JD

The American Academy of Matrimonial Lawyers (AAML) established an interdisciplinary committee to develop standards for the courts, parties, counsel, and mental health professionals for the preparation of uniform child custody evaluations. Noting the significance of child custody evaluations to the judicial decision-making process in a number of domestic relations cases, the Child Custody Evaluations Standards committee brought together experienced legal and mental health professionals with the aim of developing uniform standards that might inform both the legal consumers and mental health producers of child custody evaluations of optimal standards of training, communication with parties, and data gathering, among other issues pertinent to the conduct of quality custody evaluations.

Members of the committee began the process well versed about the significance of child custody evaluations to judicial decision-making regarding initial custody decisions, but also to those domestic relations cases where settlement is achieved prior to a final judicial decision as well as cases in which changes to a custodial arrangement are proposed. With an understanding that parental conflict has been shown to predict maladjustment among children whose parents have separated or divorced, quality child custody evaluations were seen as critical to minimizing parental conflict and thus, ultimately serving the best interests of children.[1] Indeed, "[q]ualitative and quantitative research conducted over the past thirty years demonstrates that highly conflicted custody cases are detrimental to the development of children, resulting in perpetual emotional turmoil, depression, lower levels of financial support, and a higher risk of mental illness, substance abuse, educational failure, and parental alienation. The level and intensity of parental conflict is now thought to be the most dominant factor in a child's post divorce adjustment and the single best predictor of a poor outcome."[2] It was the hope of the committee that the development of uniform standards aimed at generating comprehensive, quality and neutral child custody evaluations would reduce incidents of interparental discord, which research reveals is pervasively and consistently detrimental for children and believed to have a broad negative impact on virtually every dimension of a child's long-term wellbeing.[3]

THE AAML CHILD CUSTODY EVALUATION STANDARDS

A. KEY PROVISIONS

The AAML standards begin with a notation about their purpose, which is, in part, to guide custody evaluators, attorneys and the court in the performance of their duties. Like he AFCC standards, the AAML standards are designed to promote good practice, provide information to those who utilize the services of custody evaluators, and to increase confidence in the work done by custody evaluators. The AAML standards make clear at the outset that they are not mandatory, yet are more than merely aspirational. Rather than use the word "strive" which is reflected in the APA guidelines, the AAML, like the AFCC standards, utilizes "shall" in reference to attributes of education, training, competency, and the substance of the evaluation itself. Of course, unless and until the AAML standards are incorporated into law, included in the rules of a court system, or adopted by a licensing board or similar regulatory authority, it is acknowledged that they

do not have the force of law. That said, the AAML standards are intended to guide the practice of custody evaluators who are advised and expected to conform their conduct to these standards. In addition they are intended to educate the legal consumers who utilize the services of evaluators about best practices and minimal thresholds of competency.

1. Training, Education, and Competency Issues

Issues regarding training, education and competency of child custody evaluators were particularly challenging in light of the wide range of professionals who have conducted custody evaluations to date, particularly non-mental health professionals, including guardian ad litem. The committee found itself wrestling with the dilemma of "fitting the person to the process or the process to the person," as one member so aptly framed it. On one hand, the committee could approach the task of developing minimal standards of training and education based on a profile of a particular professional engaged in child custody evaluations, most likely a licensed psychologist, or it could establish the minimal standards of practice for all evaluators and see what level of education and training appeared to fit the process defined as ideal or model.

The committee chose to use the latter and recommends in its standards that custody evaluators possess a minimum of a master's degree in a mental health field or a juris doctorate that includes formal education and training in the legal, social, familial, and cultural issues involved in custody and parenting time. In fitting the process to the person, the standards were developed in light of best practices and aimed principally at establishing an ideal process, such that the person conducting the evaluation has a clear framework within which to conduct an ideal or model evaluation.

Still, however, the problem of developing standards that are reflective of the reality of practice remains. Adoption of the AAML standards does mean that some non-mental health professionals who, for a variety of reasons in certain parts of the country, presently conduct custody evaluations will fail to meet our established minimal standard of practice unless they also possess extensive knowledge and training in areas of mental health, including, among other areas, psychopathology, psychological assessment and psychological research and evaluation. In addition to an education component, the committee felt strongly that experience conducting evaluations was necessary to demonstrate competence.

In what reflects the most rigorous experience recommendation of any published guideline or standard, the AAML standards establish an expectation of evaluators of no less than three years of experience conducting custody evaluations and no fewer than 20 custody evaluations. In the absence of this minimal experience, evaluators are expected to seek ongoing supervision from an experienced custody evaluator prior to offering to perform or accepting appointments to conduct evaluations.

2. Communication with Litigants, Attorneys, and Courts

With respect to communication with parties, the AAML standards establish an expectation that evaluators will communicate in writing to all recipients of their services including policies, procedures, scope of services, time frame of services, and fees. Moreover, evaluators are expected to take steps to ensure that parties from whom information is sought know and understand the potential uses of the information they are providing. The committee felt it was critical for this informed consent to extend not only to the parties themselves, but to the collateral contacts that are often utilized in custody evaluations. Lastly, the committee strongly discouraged ex parte communication about a case currently before the court, except in extraordinary circumstances.

3. Data Gathering

The committee believed that the process of data gathering commenced with a clear understanding of the scope of the evaluation. That said, the committee recommended that the scope of the evaluation be outlined in a court order or in a signed stipulation by the parties and their counsel. It is hoped that clarity at the very beginning of the process helps to avoid later misunderstandings about the role and purpose of the evaluation.

Evaluators are expected to be accurate, objective, fair, balanced and independent in gathering their data, with an expectation that they are prepared to defend their decisions regarding the precise methodology employed. Evaluators are, moreover, expected to use multiple data gathering methods, as well as a balanced process, in order to increase accuracy and objectivity, and eliminate possible bias from influencing the evaluation. The committee felt it was axiomatic that evaluators use empirically-based methods and procedures of data collection, including an assessment of each parent, all adults who perform a caretaking role and/or live in the residence with the children, and each child who is the subject of the evaluation.

With insight gleaned from the many years of experience of the two psychologists who participated in drafting the standards, the committee addressed the issue of third-party observations by establishing an expectation that third parties should not be present during any portion of a custody evaluation, except under unusual or necessary circumstances.

Indeed, "[q]ualitative and quantitative research conducted over the past thirty years demonstrates that highly conflicted custody cases are detrimental to the development of children, resulting in perpetual emotional turmoil, depression, lower levels of financial support, and a higher risk of mental illness, substance abuse, educational failure, and parental alienation.

4. Collateral Source Information

The committee strongly believed that collateral source information was critical to a thorough custody evaluation and usually essential in corroborating participant information. Collateral sources were regarded as both the written sources and people with information relevant to the custody evaluation. Custody evaluators are expected to disclose all collateral sources whether or not the information obtained was utilized by the evaluator in formulating his or her opinion.

5. Formal Assessment Instruments

The committee was cognizant of the significance of formal assessment instruments in the evaluation process, yet cautious of the need to limit their selection and use to evaluators with sufficient training and experience and only for the purpose for which the instruments have been validated. Although the committee generally agreed that formal assessment instruments added tremendously to the quality and thoroughness of evaluations—a belief supported by some of the leading texts on child custody evaluations—it was decided that the use of formal assessment instruments would best be left to the discretion of the custody evaluator. Custody evaluators who do utilize formal assessment instruments are expected to articulate the bases for selecting the specific instruments used. Moreover, they should be aware of the criteria employed by courts in their jurisdiction regarding issues pertaining to admissibility and weight of such data.

6. Role Conflict and Multiple Relationship Issues

With respect to multiple relationships, the committee understood and appreciated the fact that many professionals involved in utilizing and conducting child custody evaluations might have multiple relationships

that may give rise to the appearance of bias or conflict. The committee recommended, therefore, that multiple relationships are to be avoided and that evaluators are to maintain reasonable professional boundaries, a balanced approach, and objectivity. With an understanding that at times professional and social relationships may exist with any party or participant to the evaluation, evaluators are expected to disclose any such relationships.

7. Presentation of Findings and Opinions and Interpretation of Data

Lastly among the key provisions of the AAML standards, the committee reiterated the importance of evaluators striving to be accurate, objective, fair, balanced, and independent in their work, and presenting data in both written reports and court testimony in an unbiased manner. Evaluators are strongly encouraged to utilize and make reference to pertinent peer-reviewed and published research in the preparation of their reports. In addition, all opinions expressed by custody evaluators are expected to be supported by reliable and valid principles and methods related to child custody evaluation. Evaluators are to avoid offering opinions that do not directly follow from the court order or are otherwise not relevant to the purpose of the evaluation. As it did when addressing issues pertaining to minimal education and training, the committee confronted the reality of practice when drafting these sections, recognizing that access to and understanding of peer-reviewed and published research will be beyond the scope of custody evaluators who are not qualified mental health professionals.

B. CHILD CUSTODY TRENDS

The committee worked tirelessly to stay abreast of current events in child custody, emerging trends, new scholarship and research, as well as newly released guidelines and standards both addressing child custody evaluations directly as well as psychological evaluations that may have an impact on child custody litigation. These current events were regarded as having a potentially profound impact on the drafting of the AAML standards. One particular challenge that was confronted early on and throughout the drafting of the standards concerned the use of the term "custody." Acknowledging that this term is rapidly becoming replaced with terms such as "parental responsibility" or "parenting time," the committee went back and forth about which term was most apt, finally settling on the more widely accepted term "custody." It is hoped that even in jurisdictions where the term "custody" has been replaced with one of the above terms, that the standards will still find wide acceptance.

The AAML Child Custody Evaluation Standards committee is extremely proud of its final product and believes strongly that it will profoundly impact the practice of child custody litigation. It is the committee's hope that, by establishing uniformity and high quality, these standards will serve to bridge the gap between mental health professionals who conduct evaluations for the purpose of legal decision-making and legal consumers of child custody evaluations. Moreover, we hope that the standards will become a meaningful tool to reduce parental discord in child custody disputes, thereby benefitting all parties involved in custody litigation.

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Building the Evidence in Juvenile Justice Systems to Improve Service Delivery and Produce Better Outcomes

By Jennifer Loeffler-Cobia, MS

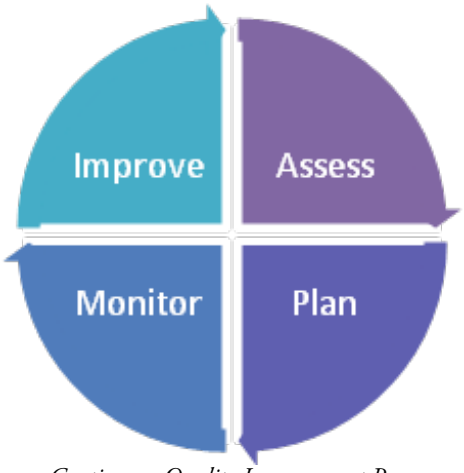
Part two of a special three-part series from the National Center for Juvenile Justice, the research division of the NCJFCJ

"Build it and they will come" may have worked in the movies, but in real life, many factors influence the adoption and implementation of evidence-based practices. For such practices to be implemented in juvenile justice systems, there must be continual evidence to support their use. Understanding and utilizing this evidence to enhance the delivery of services that produce positive youth outcomes is the cornerstone to Continuous Quality Improvement (CQI). To build a solid, evidence-based system, the juvenile justice system must be made aware of the purpose of the approach, have the readiness and capacity to change, have resources to support the change for implementation, and practices must be developed that encourage and enable the system to change their current procedures to incorporate CQI into daily work practices. CQI is neither implemented in a vacuum nor does it exist in isolation in just one program or service. Instead, components of CQI are expected to interact with the characteristics of the system to result in an organizational culture where connecting the dots between accountability and improvement results in more cost-effective and evidence-based practices as well as better outcomes for youth, victims, and the community. This article is the second of a three part series on how juvenile justice systems can use CQI to improve their evidence-based practices effectiveness and produce high quality outcomes for youth. This installment will focus on how juvenile justice systems can first assess their readiness to implement evidence-based practices and become better prepared for the change process.

CONTINUOUS QUALITY IMPROVEMENT

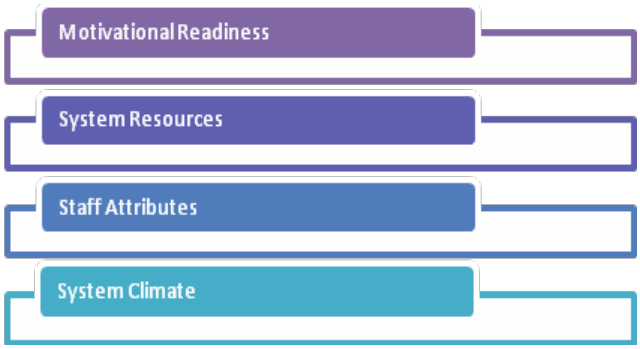
Incorporating CQI into juvenile justice systems is essential as systems embark on bridging the gap between accountability and improvement. The CQI process employs four steps that help systems function more effectively and overall bridge this gap:

1)Assessing, 2) Planning, 3) Monitoring, and 4) Making Improvements based on the evidence generated from the information and data collected.



Continuous Quality Improvement Process

Implementing these steps provides opportunities to clearly identify the system's readiness to adopt and implement evidence-based practices, monitor expected youth outcomes, and provide guidance for where to make improvements to practices when outcomes are not met. This allows juvenile justice systems to create a culture of learning where staff at all levels feel confident and encouraged to use the evidence from their work as a routine way of doing business. Once fully implemented, adopting a CQI culture can create an environment where staff are provided opportunities to build their skills, resources are allocated to support evidence-based practices, and leaders are not fearful to look objectively at all available information on how the system is, or is not, performing.



Factors that Influence Evidence-Based Practices Implementation

ASSESSING JUVENILE JUSTICE SYSTEM'S READINESS TO ADOPT AND IMPLEMENT EVIDENCE-BASED PRACTICES

Innovative leaders of juvenile justice systems who are willing to take the risk of implementing new evidence-based practices may not start with a clear understanding if their system is ready to implement the necessary practices with enough reliability to produce the expected outcomes.[1] There are system factors that influence adoption and implementation that must be assessed in order to understand and respond to the system's areas of need. It is imperative for juvenile justice leaders to assess the systems readiness in terms of Motivational Readiness, System Resources, Staff Attributes, and System Climate before evidence-based practices are adopted and implemented.[2] This will allow juvenile justice systems to be proactive in building a plan for achieving desired change and get the full picture of where the system is now, where staff skills can be enhanced, and where more support is needed; overall developing a roadmap for producing better youth outcomes (see page 25).

THE PROCESS OF CHANGE

Why would juvenile justice systems want to stay the way they are, especially when it's not working, rather than go through the change process? The problem is not about the change, or the outcome of changing, it is that individuals within the system do not know how the end results will affect them, which can create fear and apprehension for trying something new. At the beginning of the change process they have no way to know: if the results of assessing will negatively impact them; if their beliefs, values, and needs will be served; if they will like the new better than the old; if their comfortable work systems will shift; how the new evidence-based environment will feel to work in; if the new structures will serve their needs; and how much will they be asked to change their own practices day to day.

What to Assess?

MOTIVATIONAL READINESS

For system change to happen there needs to be a perceived need for improvement. In this area of accountability and improvement juvenile justice systems face the growing need to demonstrate improved practices and measureable youth outcomes. This need allows for a greater motivation to change and influences the implementation of evidence-based practices. Unless this motivation is activated, staff within the system are unlikely to participate meaningfully in change efforts. And, sustaining the adoption of these practices over time can also be in jeopardy. Assessing the following helps the system understand how to motivate staff toward change:

- **Program Need for Improvement:** Reflections about the systems evidence-based practice implementation strengths and weaknesses.
- **Pressure for Change:** Internal (e.g. leadership) and external (e.g. funding) sources in which pressure is made to make certain decisions and take action.

SYSTEM RESOURCES

In addition to the need for improvement that envelops juvenile justice systems, the facilities, staff patterns, training, and equipment conditions also help determine system readiness to adopt evidence-based practices. In some instances, system change might be highly desirable but unlikely due to staff workloads, daily practice, and finite resources. Five areas to assess are:

- **Office Space:** Adequacy of office and physical space available.
- **Staffing:** Number and quality of staff members available to implement evidence-based practices.
- **Training Resources:** Content and financial support for staff training and development.
- **Computer Access:** Adequacy and use of computers.
- **E-communications:** Use of e-mail and the Internet for professional communications, networking, and information access.

STAFF ATTRIBUTES

Examining staff attributes provides insight to how staff in a system view their individual assets and how they contribute to the success of the system and to youth outcomes. There are four key areas to assess:

- **Growth:** How staff value and perceive opportunities for professional growth.
- **Efficacy:** Staff confidence in their own evidence-based practice skills.
- **Influence:** Willingness and ability of staff to influence coworkers toward change.
- **Adaptability:** Ability of staff to adapt to a changing environment.

ORGANIZATIONAL CLIMATE

The last area to assess is the overall climate in terms of the mission and goals of the juvenile justice system, how staff work together through team work and communication, and openness of the system. There are six key areas to assess:

- **Mission:** Staff awareness of agency mission and management emphasis on goal.
- **Cohesion:** Team work, trust and cooperation.
- **Autonomy:** Latitude staff are allowed in working with their clients.
- **Communication:** Leadership receptivity to suggestions from staff and the adequacy of information feedback loops to keep everyone informed.
- Stress: Perceived strain, stress, and work overload.
- **Change:** Leadership interest and efforts in keeping up with change.

Sources: Lehman, W., Greener, J.M., Simpson D. (2002). Assessing Organizational Readiness for Change and Loeffler-Cobia, J., Ameen, C. (2010). Evidence Based Practice Skills Assessment

Juvenile justice systems that have assessed the factors that influence readiness to adopt and implement evidence-based practices are better prepared to enter the next stages of CQI (planning, monitoring, and making improvements) and alleviate the anxiety surrounding the uncertainty that change can bring. There are action steps that are typically involved to help move change forward and provide staff with the resources and support needed to successfully implement evidence-based practices. These steps are Training, Adoption, Implementation, and Practice (See below).

SUPPORTING THE PROCESS OF CHANGE

When juvenile justice systems commit to CQI and understand that change is inevitable and improvement in youth outcomes (not punishment for poor performance) is the goal, they can more readily commit to changing the way the system does its business. It is easier to keep the "status quo" even if youth outcomes are not being reached. But, leaders who take the "road less traveled" and assess the factors that influence adoption and implementation of evidence-based practices are key to helping prepare their juvenile justices system for change and building a roadmap that uses evidence to plan, monitor and continuously improve programs and services. Although it takes an investment in time and a willingness to take on the risk of innovation, juvenile justice leaders who support the process for change will produce a staff culture that requires quality and values improvements to practices that are based on evidence, are more cost-effective, and ultimately produce more meaningful and measureable outcomes for youth, victims and the community.

For more information about Continuous Quality Improvement and/or how to assess readiness to implement evidence-based practices within Juvenile Justice please contact the author at www.ncjj.org.

ABOUT THE AUTHOR:

Jennifer Loeffler-Cobia, MS, Research Associate, National Center for Juvenile Justice.

END NOTES

[1]Panzano and Roth. *The Decision to Adopt Evidence-Based and Other Innovated Mental Health Practices: Risky Business.*

[2]Lehman, W., Greener, J.M., Simpson D. (2002). *Assessing Organizational Readiness for Change.*

MOVING CHANGE FORWARD ACTION STEPS

Step 1 Training: Provide training opportunities that address the need areas identified in the assessment process. As staff are better trained and equipped with the right resources they are more confident and efficient in implementing evidence-based practices.

Step 2 Adoption: A two-step activity involving decision-making and action-taking. Decision-making usually requires support from leadership, both at the formal and informal levels. Evidence-based practices being considered should possess overall quality and utility necessary for applications in "real world" settings.

Step 3 Implementation: Implement learned skills and incorporate new resources that address motivation, staff attributes, and climate to determine long-range implementation.

Step 4 Practice: Evidence-based practices that successfully pass through these stages successfully become a part of standard business practice and presumably bring improvements in within juvenile justice systems.

Source: Simpson, D., Lehman, W., Flynn P. (2011). Texas Christian University Organizational Readiness for Change.

Developing Statutes for Competence to Stand Trial in Juvenile Delinquency Proceedings: A Guide for Lawmakers

A Recently Released Resource from the John D. and Catherine T. MacArthur Foundation's Models for Change Initiative & the National Youth Screening and Assessment Project

By Kimberly Larson, JD, Ph.D. and Judge Thomas R. Lipps (Ret.)

JUVENILE COMPETENCE TO STAND TRIAL: THE NEED FOR STATUTORY GUIDANCE

During the past 10 years, research on juveniles' capacities to participate in their defense has underscored the need for special care in applying competence to stand trial (CST) to juveniles. The application of CST to juvenile cases raises special questions and issues that are not addressed in current adult CST statutes. Thus, merely applying adult criminal procedures for competence in juvenile proceedings does not address the unique needs of adolescents or the juvenile courts, creating ambiguity and controversy.

While juveniles have been entitled to be competent in delinquency proceedings since the Supreme Court's pronouncement in in re Gault, it was not until the 1990s that this issue was raised in juvenile proceedings with any frequency. As the issue was raised more often, states have begun to realize the necessity of juvenile-specific legislation in this area.

Currently, states around the country are working toward the creation of developmentally appropriate laws to help protect juveniles' due process rights. In the past decade, at least 15 states have developed new juvenile competence to stand trial (JCST) statutes. Nevertheless, most states have not yet created statutory guidance for the application of competence to stand trial in juvenile proceedings.

To assist states in the development of such legislation, as part of the John D. and Catherine T. MacArthur Foundation Models for Change initiative, the National Youth Screening and Assessment Project (NYSAP) recently released *Developing Statutes for Competence to Stand Trial in Juvenile Delinquency Proceedings: A Guide for Lawmakers.*

PURPOSE OF THE JUVENILE COMPETENCE TO STAND TRIAL LEGISLATIVE GUIDE

Written to be accessible to legislators, their staff, judges, attorneys, and clinicians, this new guide will assist policymakers interested in creating JCST legislation in their states by saving them time in "locating" key issues and concepts. After providing background information on issues such as the basics of competence to stand trial, the history of the application of competence to stand trial in juvenile proceedings, and juvenile development, the guide outlines the sixteen main issues that policymakers must consider in the creation of JCST laws, as well as outlining the pros and cons for each possible solution regarding these issues. When the research literature or clinical knowledge support it, this guide also provides recommendations for the resolution of each of these issues.

CONTENTS OF THE GUIDE

The Guide is divided into four "modules." Each module outlines essential components for consideration in that domain when drafting JCST statutes. The four modules are:

1. **Definitions of Competence to Stand Trial**: Addresses the underlying reasons for a finding of incompetence, how these might differ for juveniles, the relationship between developmental immaturity and incompetence, and the degree of ability required to be considered competent in juvenile proceedings.
2. **Procedural Issues:** Addresses when attorneys and judges should consider raising the issue of incompetence with juveniles and the potential burdens/standards of proof and related presumptions that might be employed in the juvenile competence setting.
3. **Competence Evaluations by Mental Health Examiners:** Addresses the appointment of counsel at the time of juveniles' evaluation, protection against self-incrimination, where the evaluation should take place, considerations regarding time limits for the evaluation, and appropriate content for evaluations and reports regarding juveniles' competence to stand trial.
4. **Remediation and Legal Disposition of Incompetent Juveniles:** Addresses the current state of our knowledge and research regarding remediation services, the length of time that should be allowed to attempt to remediation juveniles' competence-related abilities, dispositions in cases which juveniles are incompetent and cannot be remediated, and provision of services in the event that incompetence cannot be remediated.

This guide provides a comprehensive look at juveniles' competence to stand trial. It will be of use not only to those considering drafting legislation in this area or currently creating juvenile competence to stand trial laws in their state, but also to judges who are addressing the issue of competence within their courts. It will also be of use to attorneys and mental health professionals who wish to learn more about the application of competence to juveniles.

Those interested in reading more about this juvenile competence legislative guide or downloading the full document can do so through the John D. and Catherine T. MacArthur Foundation's Models for Change initiative Website at http://modelsforchange.net/publications/330.

ABOUT THE AUTHORS:

Kimberly Larson, JD, Ph.D. is an Assistant Professor of Psychiatry at the University of Massachusetts Medical School where she is part of the John D. and Catherine T. MacArthur Foundation's Models for Change Initiative, the National Youth Screening and Assessment Project (NYSAP), and the UMass Law and Psychiatry Program.

Judge Thomas R. Lipps (Ret.) is the former long-term Cincinnati, Ohio Juvenile Court Judge and a former member of the Board of Trustees of the NCJFCJ.

OJJDP data collections demonstrate some effectiveness in efforts to deinstitutionalize status offenders

By Benjamin Adams, Research Associate, National Center for Juvenile Justice

CORE REQUIREMENTS OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT ADDRESS CUSTODY ISSUES

The Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, most recently amended in 2002, established four custody-related requirements:

- Deinstitutionalization of status offenders;
- Separation of juveniles from adults in secure facilities;
- Removal of juveniles from adult jails and lockups; and
- Reduction of disproportionate minority contact.

States must agree to comply with each requirement to receive Formula Grants funds under the JJDP Act's provisions. Noncompliance with core requirements results in the loss of at least 20% of the state's annual Formula Grants Program allocation per requirement.

WITH FEW EXCEPTIONS, THE FEDERAL DSO REQUIREMENT PROHIBITS SECURE DETENTION OR CONFINEMENT FOR STATUS OFFENDERS

The "deinstitutionalization of status offenders" (DSO) requirement specifies that "juveniles… charged with or who have committed status offenses (that would not be criminal if committed by an adult) or alien juveniles in custody, or such nonoffenders as dependent, neglected, or abused children, shall not be placed in secure detention or correctional facilities…" This requirement does not apply to juveniles charged with violating a valid court order (VCO) or possessing a handgun, or those held under interstate compacts. The VCO (instituted in 1980) exception, the most significant to date, was encouraged by juvenile court judges to provide a procedure for handling certain juveniles (e.g., chronic runaways) who had disobeyed a court order.

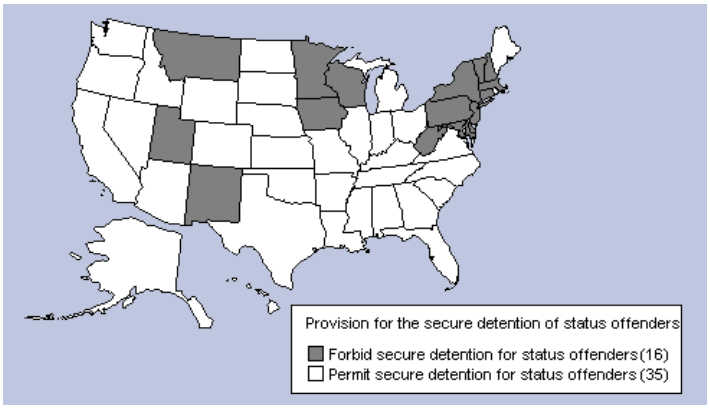
In practice, federal regulations permit accused status offenders and nonoffenders to be held in secure juvenile facilities for up to 24 hours following initial contact with the police or the court. However, the VCO exception allows a status offender to be held up to 48 hours (prior to an initial court appearance) for protective purposes or to assure the status offender's appearance at the violation hearing if they are found to have violated a valid court order.

MOST STATES MEET MINIMUM STANDARDS FOR COMPLIANCE WITH FEDERAL DSO REQUIREMENTS

OJJDP reports that 55 of 56 eligible states and territories participated in the Formula Grants Program in FY2010. In total, three states and one territory (American Somoa) achieved full compliance with the DSO requirement and 42 states, the District of Columbia, and one territory (Puerto Rico) met de minimis (the minimal) criteria for the level of violations. Full compliance suggests that the jurisdiction has removed 100% of status offenders and nonoffenders from secure detention and correctional facilities. In total, four states (and three territories) in FY2010 were subject to federal funding reductions for noncompliance with the DSO requirement. An additional state, Wyoming, does not participate in the Formula Grants Program.

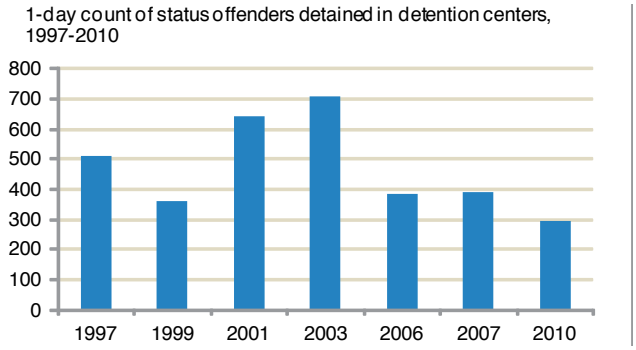
OJJDP's 2009 Annual Report indicates that DSO violations have decreased 97 percent, as measured in aggregate by a comparison between baseline data from when states began participation in the Formula Grants Program and data used to determine funding eligibility for FY2009.

SOME STATES PROHIBIT SECURE DETENTION FOR ALL STATUS OFFENDERS AND DO NOT USE THE VCO EXCEPTION



As of the end of the 2010 legislative session, 16 states prohibited secure detention for all status offenders, including those who violated a valid court order.[1] In the remaining states, statutes permitted secure detention for status offenders, either explicitly mentioning the VCO exception in their statutory provision or by indicating that status offenders could be held for a limited purpose (e.g., child safety or if the child is a flight risk). However, a number of these states do not to use the VCO exception in practice.

CUSTODY DATA PROVIDE A SNAPSHOT OF SECURELY DETAINED STATUS OFFENDERS



* The included CJRP analyses consider only those youth detained in facilities that self-classify as detention centers.

Data from OJJDP's Census of Juveniles in Residential Placement (CJRP) provide a 1-day count of juvenile offenders (accused and adjudicated delinquent and status offenders) held in juvenile facilities nationwide. Juvenile offenders held for status offenses accounted for just over 4 percent of all juvenile offenders in custody in 2010. Status offenders represent an even smaller share of youth held for detention purposes (less than 2 percent in 2010).

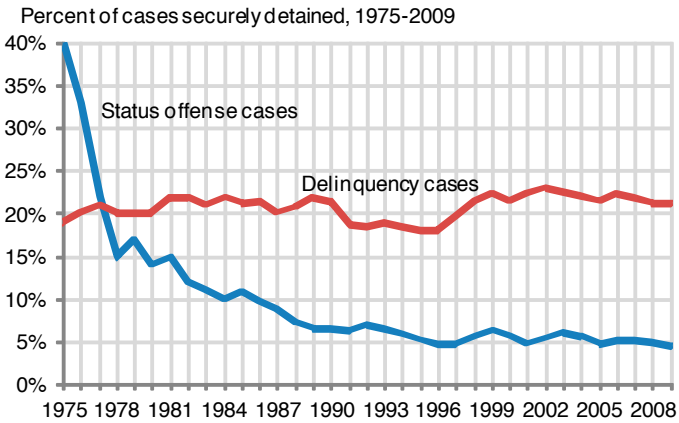
From 1997 (the first CJRP census date) to 2010 the number of detained status offenders held in detention centers declined 42 percent. With the exception of underage drinking, the number of detained offenders fell for each status offense category (runaway offenses, incorrigibility, truancy, and curfew violations) between 1997 and 2010.

OF STATUS OFFENDERS HELD FOR DETENTION PURPOSES, 3–IN–10 WERE RUNAWAYS

	Offense profile of detained status offenders in detention centers	
Most serious offense	1997	2010
Runaway	41%	29%
Incorrigibility	22%	23%
Truancy	12%	15%
Underage drinking	6%	13%
Curfew violation	6%	2%
Other status offense	14%	19%

Among detained status offenders in detention centers in 2010, those held for running away made up the largest proportion, followed by those held for incorrigibility. Compared with 1997, detained status offenders in 2010 included a greater proportion of underage drinking violators (6 percent vs. 13 percent) and a smaller proportion of runaways (41 percent vs. 29percent).

COURT DATA SHOW A SUBSTANTIAL DECLINE IN THE USE OF DETENTION IN STATUS OFFENSE CASES



The OJJDP-funded National Juvenile Court Data Archive, maintained by the National Center for Juvenile Justice, generates national estimates of cases that involve detention of a juvenile at some point between referral to court and case disposition.

In 2009, nearly 5 percent of all status offense cases involved detention, down from 40 percent in 1975. In 1975, status offense cases were twice as likely as delinquency cases to involve secure detention. By the mid-1980s, the likelihood that a status offense case would involve detention was half that of delinquency cases.

Between 1975 and 2009, the percentage of delinquency cases detained remained essentially constant, averaging 21 percent per year. Most of the decline in the use of detention in status offense cases occurred within the first 15 years of the passage of the JJDP Act. Following a dramatic decline, the percentage of status offense cases detained has remained relatively stable (averaging 6 percent per year) between 1989 and 2009.

Data Source: Authors' adaptation of OJJDP's Census of Juveniles in Residential Placement for the years 1997, 2010 [machine-readable data files] and NCJJ's National Juvenile Court Data Archive: Juvenile court case records for the years 1985-2009 [machine-readable data files] and Juvenile Offenders and Victims: A National Report (1995).

Points of view or opinions expressed here do not necessarily represent the official position or policies of OJJDP or the U.S. Department of Justice.

END NOTES

[1]Szymanski, L. (2011) What is the Valid Court Order Exception to Secure Detention for Status Offenders? *NCJJ Snapshot*, 16(5). Pittsburgh, PA: National Center for Juvenile Justice.

JUVENILES CONVICTED OF HOMICIDES:

Will The U.S. Supreme Court Take the Next Logical Step?

By Irene Sullivan

"Why is life without parole categorically different? How about 50, 60, 70 years? As close to death as possible? How are we to know where to draw those lines?" Justice Antonin Scalia was first out of the box to fire questions at defendant's attorney Bryan Stevenson.

However, on the first day of Spring in the city of cherry blossoms, all eyes and ears within the U.S. Supreme Court were focused on Justice Anthony Kennedy. Would he repeat the message of hope for young people when he so eloquently wrote for the majority two years earlier in Graham v. Florida: "Life in prison without the possibility of parole gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope." (Before Graham, the Court's decision in Roper v. Simmons had ruled the death penalty for juveniles unconstitutional.)

Relying upon scientific evidence that kids are different from adults because their brains hadn't fully developed and thus lacked impulse control and judgment, the Graham decision held life without parole sentences for juveniles convicted of crimes other than homicides to be cruel and unusual punishment, thus unconstitutional. Would the Court reach the same holding for juveniles convicted of homicides, or will "death is different" trump "kids are different?"

In a nutshell, the eight justices who asked questions struggled with all kinds of criminal justice concepts: mandatory sentences, transfers to adult court, minimum age limits, individualized sentencing, mitigation evidence, and society's need for punishment and retribution for juveniles who commit murders.

Defendant's attorney, Bryan Stevenson, Executive Director of the Equal Justice Initiative, led with his best argument by trying to build upon the momentum of Graham and Roper saying that "deficits in maturity, judgment and decision making found in juveniles are not crime specific."

But Justice Kennedy seemed reserved and somewhat muted, even when he focused on the "mandatory" aspect of most states' life without parole statutes for aggravated murders.

"What's a trial judge supposed to do?" he questioned. "Bring in social scientists or stories of rehabilitation?" He asked both sides – Stevenson and attorneys for the states of Alabama and Arkansas — what they were arguing for: a categorical ban on life without parole sentencing for juveniles, or an end to the "mandatory" requirement, giving the trial court discretion.

Justices John Roberts and Samuel Alito seemed focused on the concepts of a national consensus, as 39 states utilized the sentence for juveniles and thousands of juveniles convicted of murder were imprisoned across the country. Justice Alito also added that "I'm not sure of the cruel and unusual point, but rather it might be a due process argument, as the defense can't point out mitigating factors if it's a mandatory sentence." Justice Roberts also found a "state of mind" argument for juveniles, whereby juries will look at the requisite intent, and may not convict of murder" but a lesser crime.

Justice Sonia Sotomayor saw differences between the Miller and Jackson defendants (Miller, high on drugs and alcohol, started a house fire that ultimately killed his neighbor; Jackson, who'd just turned 14 and also grew up in a gang-ridden neighborhood, was convicted under a "felony murder" theory as he never touched the firearm used to kill the store clerk during a robbery). "Not every juvenile is equal and not every murder is equal," she said, summing up both sides of today's argument.

Justice Stephen Bryer worried aloud about minimum age, "Is there no constitution minimum age for life without parole sentencing? Can this happen at 10? At eight? Is it totally up to the states?"

Justice Scalia jumped in again, "What is the minimum? Do we just pluck age out of the air? Is it the age of reason? If you say nine, 10 or 12, I'll say why not 14."

I attended the oral argument as one of a dozen retired juvenile judges who signed on to an Amicus Curiae brief in support of the defendants Evan Miller and Kuntrell Jackson in cases arising out of Alabama and Arkansas, respectively. I cheered the earlier Graham decision and hoped its rationale would carry forward in the Miller and Jackson cases.

But, I left the court today convinced that the decision was not going to be as clear cut as Roper or Graham, but hoped, as an amici, that mandatory life without parole sentences for juveniles would be struck down and that the Court just might tackle the difficult task of setting minimum age exceptions.

ABOUT THE AUTHOR:

Irene Sullivan is a recently-retired juvenile judge in Florida who is now traveling the country advocating for kids. Her book, *Raised by the Courts: One Judge's Insight into Juvenile Justice*, is about her experiences on the bench.

NOTE:

NCJFCJ was given permission to reprint *Juveniles Convicted of Homicides: Will The U.S. Supreme Court Take the Next Logical Step?* by the Juvenile Justice Information Exchange (JJIE). The original article was posted on March 20, 2012 on JJIE's website at JJIE.org.

Juvenile Justice Leaders Unite to Improve Outcomes for Status Offenders

By Marie Williams, Coalition for Juvenile Justice Director of State Strategies

All across the country, juvenile and family court judges are taking bold and innovative steps to address a longstanding issue – how to meet the needs of youth charged with status offenses, or at risk of being so charged, and their families without use of secure confinement. These judges demonstrate how it is both possible and preferable to use detention alternatives to respond to the needs of youth accused of truancy, running away, and other non-delinquent behaviors, many of which speak to deeper and often complex unmet mental health, educational, family, and community needs. Further, the impressive work of these judges affirms the proposition that diverting youth accused of status offenses and their families from formal involvement with the juvenile court is not necessarily costly, and results in significant returns on investment, both in lives improved and dollars saved. Elevating the work of these judges is timely and of high value.

...the impressive work of these judges affirms the proposition that diverting youth accused of status offenses and their families from formal involvement with the juvenile court is not necessarily costly, and results in significant returns on investment, both in lives improved and dollars saved.

Today, detentions of youth alleged to have committed status offenses are again on the rise, despite the deinstitutionalization of status offenders (DSO) core requirement of the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) that explicitly prohibits incarceration of children/youth adjudicated as status offenders since 1974. There appear to be multiple reasons for the rise in incarceration rates of non-delinquent youth, including use of the "valid court order" (VCO) exception, which allows the locked confinement of these youth under certain conditions when they are found in violation of a direct order from the court. Other reasons include a paucity of resources or perception of inadequate options to address some of the underlying issues and needs of youth committing status offenses and their families. Whatever the reason, it is clear that juvenile and family court judges who have tackled and mastered this problem in their own communities, without use of locked confinement, are uniquely positioned to share lessons, policies and practices to enable others to accomplish the same. Over the past year and a half, the Coalition for Juvenile Justice (CJJ) has worked closely with the NCJFCJ to examine various approaches employed by these trailblazers.

In addition to highlighting examples of judicial leadership on DSO, CJJ has concluded that there is a significant need for standards of care keyed to the best available research, and designed to promote practices and policies that best meet the needs of these youth and their families. To that end, CJJ has convened top experts to develop those standards, with the ultimate goal of diverting youth from locked confinement and, whenever possible, from formal involvement with the juvenile court. The standards, to be released this summer, are premised on the safety-permanency-well-being framework set forth by the Adoption and Safe Families Act, and modeled after the effective work done by the American Bar Association and others to create, promote and support implementation of standards to guide all key stakeholders in child welfare or juvenile justice.

The proposed standards and examples of judicial leadership are two key elements of a broad multi-year, multi-partner effort by CJJ, NCJFCJ and others, CJJ's DSO Project. The DSO Project seeks to elevate the dialogue on needs of youth charged with status offenses, and facilitate the development of resources and information that promote evidence-based and effective practices and policies to divert youth from court and confinement and toward supportive family-connected and community-based services.

For more information about examples of judicial leadership, the proposed standards or the broader CJJ DSO Project, please contact Tara Andrews, CJJ Deputy Executive Director, at andrews@juvjustice.org. Please also find DSO resources on the CJJ web site at www.juvjustice.org/dso_resources.html. We also invite you to subscribe to CJJ's monthly e-newsletter at info@juvjustice.org.

Judicially Led Responses to Eliminate School Pathways to the Juvenile Justice System

NCJFCJ has been awarded funding to develop strategies to help alleviate the increasing influx of youth from the school system to the juvenile justice system due to zero tolerance policies enacted in the 1990s. The Council will work closely with Judge Steven Teske and Judge Brian Huff during the project to convene other juvenile court judges, develop curricula, and build strategic planning teams in local jurisdictions that are struggling with the repercussions of the "school-to-prison" pipeline.

The goals and objectives of the project will focus on improving the policies and practices in cases involving school-based referrals of youth to the juvenile court.

The project objectives will include the following:

1. Develop curricula with key juvenile court judges and allied system professionals that will assist stakeholder committees, in local jurisdictions, strategically plan, as they form a multi-system response to uncouple the school-to-juvenile justice pipeline.
2. Develop and support regionally-based training and strategic planning facilitators who will be able to provide jurisdictions with training, facilitated strategic planning, and technical assistance.
3. Provide facilitators to jurisdictions that request assistance to develop new policies and practices to reduce or eliminate the school-to-juvenile justice pipeline.
4. Incorporate project-related educational inserts at major national conferences.
5. Author informative articles and technical assistance briefs to further inform the field of promising practices and project activities, as well as to profile jurisdictions implementing successful reform efforts.
6. Enhance the NCJFCJ's website to further disseminate information and products to the field.

Vision from the Bench to Fulfill the ICWA Promise

By Gina Jackson, Site Liaison, National Council of Juvenile and Family Court Judges

Working together to provide safety, permanency, and well-being are high priority goals that child welfare systems strive to achieve. It has been 33 years since the Indian Child Welfare Act (ICWA) was passed, and it is important to take the time to evaluate the impact on child welfare systems since that time. How are we doing as a Nation in following this important law, in spirit and practice? Recently, there has been a surge in ICWA awareness due to the latest disproportionality reports and media coverage indicating that there is still a significant problem.

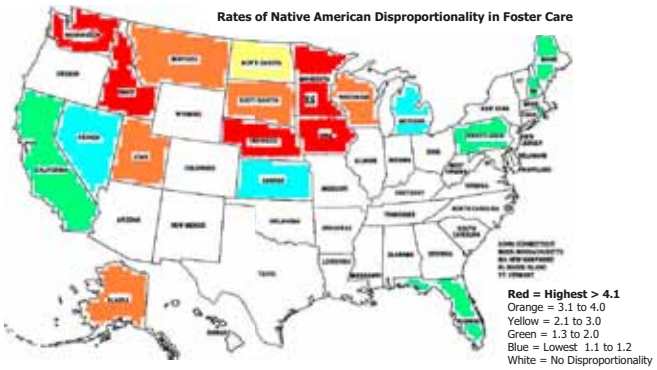
In the preamble of ICWA, 25 U.S.C. §§ 1901, Congress acknowledged that:

"An alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by non-tribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and states, [in] exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities."

While there has been progress since ICWA was passed, disproportionality rates continue to remain high. A review of child welfare systems data indicates that "across the United States, Native American children are overrepresented in foster care at a rate of 2.2 times their rate in the general population" (Disproportionality Rates for Children of Color in Foster Care, published by the National Council of Juvenile and Family Court Judges, May 2011). It is clear that many states continue to struggle with this issue, as 26% of states have a disproportionality index higher than 4.1., including one state that has an index rate of 11.6, which ultimately means that Native children come into foster care 11 times more often in that particular state. To download a complete copy of Disproportionality Rates for Children of Color in Foster Care, visit www.NCJFCJ.org.

Comparisons of Disproportionality by State
Native American

Across the United States, Native American children are overrepresented in foster care at a rate of 2.2 times their rate in the general population. While not all state show disproportionality, 21 states do have some overrepresentation. Twenty-six percent of the states that have overrepresentation have a disproportionality index of greater than 4.1. In Minnesota, the disproportionality is index 11.6.



Disproportionality Rates for Children of Color in Foster Care

It is time for leadership and vision from the bench to fulfill the ICWA promise. Since no child enters or leaves the child welfare system without a judge's order, it is imperative for judges to not only have a solid working knowledge of the Indian Child Welfare Act, but an understanding of why we have the Indian Child Welfare Act. It is extremely important to learn from the past in order to build a very different future in working with Native children, families, and tribes.

The approach to tribal engagement and working with tribes should come from a place of honor, respect, and mutual learning. During the 2010 White House Tribal Nations Conference, President Obama shared this statement:

"We know that, ultimately, this is not just a matter of legislation, not just a matter of policy. It's a matter of whether we're going to live up to our basic values. It's a matter of upholding an ideal that has always defined who we are as Americans...and I'm confident that if we keep up our efforts, that if we continue to work together... we will achieve a brighter future for the First Americans and for all Americans."

During this conference, the U.S. announced it will sign the United Nations Declaration on the Rights of Indigenous Peoples. While the Obama Administration was meeting with tribal leaders, the NCJFCJ brought together a group of Tribal Judicial Leaders and other Model Court Lead Judges for an unprecedented gathering. The purpose of this gathering was to listen, gain insight, and ultimately seek guidance through a tribal perspective on effective outreach and inclusion of tribal courts in NCJFCJ's work. In the NCJFCJ's governance structure, the organization has committed to weave diversity through everything the organization does. As a result of the first gathering, resolutions were developed and passed, including the NCJFCJ's Resolution in Support of Tribal Courts. This resolution acknowledges Tribal Courts as "equal and parallel systems of justice." The Conference of Chief Justices also passed a resolution in response to the gathering to "encourage greater collaboration between state courts and tribal courts to protect Native American children." These resolutions reflect a commitment and call to action for state courts and tribal courts to work together as allies for children and families.

The energy, ideas, and relationships developed in this group are remarkable. New state court and tribal court collaboratives are emerging. New state/tribal judicially-focused ICWA workgroups are forming, integration of tribal judicial presence on state Court Improvement Program advisory groups is increasing, and cross-site court visits between tribal courts and state courts are occurring for mutual learning. New ideas for pilot projects such as joint jurisdiction tribal/state courts are being discussed, as well as ideas for utilizing technology to better serve children and families. New judicial tools to improve ICWA performance are currently under development. Judges can make a difference by exercising their leadership and forming collaborative groups to strategically increase ICWA compliance on a local level and by working closely with State Supreme Court Improvement Programs to ultimately make an impact statewide. The following are just some of the things judges can do to provide judicial leadership to improve ICWA performance:

1. Commit to a vision of 100% ICWA compliance with child welfare system stakeholders, involving tribes working collaboratively to begin a strategic plan of action.
2. Ensure judicial officers and system stakeholders are effectively trained on historical trauma and institutional bias, as well as the spirit and context of the legislation.
3. Engage tribes by developing authentic relationships, judge to judge, court to court, and system to system to solve issues.
4. Invite tribes to participate on current teams, workgroups, projects,

initiatives, training opportunities, and as valued partners.

As judicial educators, judicial leaders, and system stakeholders, you have an opportunity to bring knowledge, awareness, and to inspire a vision for judicial leaders to fulfill the ICWA promise. This will have a transforming effect on so many lives, not only for the children and families before the court, but for generations to come.

For more information or to receive resources, tools, and technical assistance, visit the following websites:

- National Council of Juvenile and Family Court Judges: www.ncjfcj.org
- National Resource Center on Legal and Judicial Issues: http://www.apps.americanbar.org/child/rclji/home.html
- National Resource Center for Tribes: http://www.nrc4tribes.org/
- National Indian Child Welfare Association: www.nicwa.org
- Tribal STAR, a program of the Academy for Professional Excellence, San Diego State University School of Social Work: http://theacademy.sdsu.edu/TribalSTAR
- American Indian Enhancement Project of California Toolkit: http://calswec.berkeley.edu/CalSWEC/AIE/AIE_home.html
- QUICWA Compliance Collaborative Project: http://www.d.umn.edu/sw/cw/2010video/2011docs/QUICWA/brochure.pdf

Top photo: NCJFCJ Tribal Judicial Leadership Gathering. Bottom Photo: Memorial March to honor native children lost to adoption in Sioux City Iowa.

Oregon Statewide ICWA Compliance

By Shary Mason, JCIP Model Court and Training Analyst, Juvenile Court Programs, Oregon Judicial Department

The Oregon Juvenile Court Improvement Program (JCIP) partnered with the NCJFCJ and Casey Family Programs to create an Oregon State Court Compliance with the Indian Child Welfare Act (ICWA) Workgroup. Much was accomplished in the workgroup's first 18 months as stakeholders worked toward building tribal capacity, educating stakeholders and improving Oregon state court compliance with ICWA.

In support of the workgroup's goals, and in partnership with tribal representatives, the JCIP conducted and/or provided support for multidisciplinary trainings on ICWA and Active Efforts in ICWA cases in six Oregon jurisdictions and three statewide conferences. The JCIP also presented a workshop on Active Efforts at the National Indian Child Welfare Association (NICWA) conference in Alaska. At these trainings, the JCIP disseminated resource materials, such as the Active Efforts Principles and Expectations and the NCJFCJ ICWA Checklist for Juvenile and Family Court Judges. In addition, Casey Family Programs provided support through the Safe and Equitable Foster Care Reduction initiative to purchase NICWA's on line training course for over 1,000 juvenile dependency stakeholders statewide. The JCIP, as a key partner in the initiative, helped distribute information and promote participation in the training.

To engender an increased understanding about ICWA and why it is important, educating stakeholders about tribal cultures and history is critical. To this end, the JCIP invited Esther Stutzman to be a featured guest speaker at the juvenile judge's conference, where she told traditional stories and explained how stories shaped and influenced everyday life of the Native people. Also, representatives from JCIP, Urban Indian organizations and Department of Human Services, ICWA units helped the Multnomah County Court plan a county-wide trauma training, where Dr. Tom Ball presented on historical trauma and generational oppression to over 200 people.

Another important aspect of ICWA compliance is meaningful engagement with tribes. JCIP Model Court Teams were encouraged to identify tribal members within their communities, conduct outreach, and engage with tribes in the dependency process. To achieve a meaningful level of collaboration, judges began conducting tribal court cross site visits. Judge Suzanne Ojibway Townsend, of the Confederated Tribes of Grand Ronde, hosted Judge Tom Ryan, Multnomah County Circuit Court and Referee and Pro Tem Judge Paulette Sanders, Lincoln County Circuit Court. The Confederated Tribes of Siletz Indians, the Confederated Tribes of Umatilla Indian Reservation, the Coquille Indian Tribe, and the Cow Creek Band of Umpqua Tribe of Indians have agreed to host visits in the coming months. These cross-site visits provide state and tribal judges with unique opportunities to form relationships and gain a better understanding of how state and tribal courts can work together to ensure positive outcomes for children and youth involved in the child welfare system.

In addition to supporting multi-disciplinary training, resource dissemination, and tribal engagement, the JCIP is actively engaged in program review activities. JCIP staff sits on the ICWA Advisory Council, and participated in the most recent Department of Human Services ICWA Review. Results of the ICWA Review were presented to the Workgroup and at the NICWA Conference, and tribal feedback was incorporated into the recommendations for improving ICWA compliance. Also, the JCIP reviewed and revised Oregon's Juvenile Dependency Judge's Bench Book, the JCIP Model Court forms for judgments and orders, and the Citizen Review Board Supplemental Guide to ensure all documents contained clear and substantial language related to ICWA and ICWA principles.

Overall, important education and collaboration is occurring in Oregon and efforts are promising. However, improving statewide compliance with ICWA is one of the outcomes the JCIP has identified for the 2012-2016 Strategic Plan and much work remains to be done. Stakeholders in Oregon remained committed to improving ICWA compliance and are moving forward with developing strategies to meet this outcome.

END NOTES

[1] Materials are available on the JCIP website. http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/jcip/index.page

FVD Launches Interactive Website – Safe Havens Online

A new website developed by the Family Violence Department will increase the capacity of supervised visitation programs to serve both adult and child victims and perpetrators of domestic violence, child abuse, sexual assault, dating violence, or stalking.

The website, Safe Havens Online (http://safehavensonline.org), offers Supervised Visitation Program grantees,[1] non-grantees, and their collaborative partners (judges, units of government, advocates, and visitation providers) the first national interactive website dedicated to providing supervised visitation and safe exchange services while considering domestic violence.

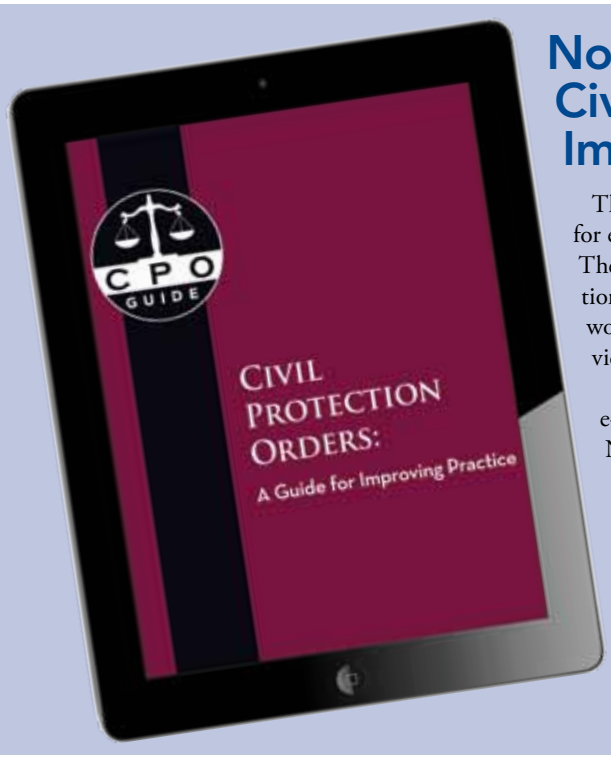
Since the inception of the Supervised Visitation Program, the Office on Violence Against Women (OVW), grantee communities, and technical assistance providers have been working to improve practice around supervised visitation and safe exchange for victims of domestic violence and their children. A wealth of material has been developed in the form of technical assistance, trainings, publications, and policies. In the past, this material has been housed in several different locations. Grantees voiced the need to have all material and information related to the Supervised Visitation Program in one central location that is readily and easily accessible. The new website accomplishes this goal by acting as a clearinghouse for material created by OVW technical assistance providers and other professionals in the field.

The website features tools and training for all collaborative partners, such as training modules with pre- and post-tests, streaming video and audio trainings, visitation center virtual tours, interviews with judges and supervised visitation practitioners, as well as other experts in the field. The website also features a module where visitors can actually ask experts questions during a live training segment. Of interest to judges, the website features a designated section for courts and an interactive map of the United States with a search function to locate Supervised Visitation Program sites in different communities. The website also features electronic updates of new features and materials available, access to a database

of articles and publications, information on the Supervised Visitation Program, links to other organizations, and frequently asked questions.

END NOTES

[1] The *Safe Havens: Supervised Visitation and Safe Exchange* grant program (Supervised Visitation Program) provides funding to supervised visitation centers that provide services for families who have experienced domestic violence.



Now Available on Your e-Reader – Civil Protection Orders: A Guide for Improving Practice

The NCJFCJ is proud to announce the release of its first publication available for e-readers, *Civil Protection Orders: A Guide for Improving Practice (CPO Guide)*. The *CPO Guide* was first released in printed form in 2010. It quickly gained national attention when President Barack Obama announced that the *CPO Guide* would be a component of his administration's efforts to help domestic violence victims. In July 2011, the *CPO Guide* became official policy of the NCJFCJ.

Now, the electronic version of the *CPO Guide* is available on nearly every e-reading device. It can be downloaded free of charge from the Apple®, NOOK®, and Sony® bookstores and from Diesel Books® online. Amazon Kindle® owners can also obtain an electronic version of the *CPO Guide* through the Kindle Bookstore for 99 cents.

With the electronic release of the *CPO Guide*, the NCJFCJ hopes to further expand the reach of this important publication by ensuring its widespread availability. This same objective will also be pursued with the electronic release of additional NCJFCJ publications in the future.

Two New Federal Strategies Toward Victim Safety

In December 2011, the National Center for Injury Prevention and Control[1] released findings of a comprehensive survey assessing the prevalence and effects of sexual violence, intimate partner violence, and stalking on men and women.[2] This population-based National Intimate Partner and Sexual Violence Survey of over 16,000 Americans is the first survey of its kind to provide both national and state statistics for adolescent and adult victims. Among key findings are that nearly one in four women and one in seven men have experienced severe physical violence by an intimate partner at some point in her or his life, and that one in six women has experienced stalking at some point in her life where she believed that she or someone close to her would be harmed or killed.

While the numbers speak volumes, the study also describes the impact on the victim. Both men and women who experienced rape, stalking, or intimate partner violence were more likely to report frequent headaches, chronic pain, sleeping difficulties, poor physical health, and poor mental health than men and women who did not experience these forms of violence. While both genders are undeniably affected, "women are disproportionately impacted, experience higher rates of severe intimate partner violence, sexual violence, and stalking, and more long-term chronic disease and other health impacts such as [post-traumatic stress disorder] symptoms….These data highlight the importance of preventing violence to ensure that all people can live life to their fullest potential."[3]

While the survey inquired into various types of victimization, statistics gathered by other federal agencies may now, too, tell a more comprehensive story. In January 2012, the Obama administration announced that it adopted a revised definition of "rape" in the Uniform Crime Report[4] in order to get a clearer picture of crimes of sexual violence that affect both women and men. The new, more inclusive definition is designed to more accurately reflect what states consider to be rape under their penal codes, which is generally neither gender-specific nor limited to only forced penetration.[5] According to Attorney General Eric Holder, "expanding the definition will provide [the Obama administration and future administrations] with a more accurate understanding of the scope and volume of these crimes."[6]

END NOTES

[1] A unit of the Department of Health and Human Services, Centers for Disease Control and Prevention.

[2] Available at http://www.cdc.gov/violenceprevention/nisvs/. Also available are the full report, executive summary, fact sheet, toolkit, and expanded state tables.

[3] Linda C. Degutis, PhD, MSN, Director, National Center for Injury Prevention and Control; Centers for Disease Control and Prevention, letter.

[4] The Uniform Crime Report is published by the Department of Justice, Federal Bureau of Investigation and is available at http://www.fbi.gov/about-us/cjis/ucr/ucr.

[5] The new definition of rape is "The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim." The prior definition that had been used since 1927 was "The carnal knowledge of a female, forcibly and against her will."

[6] Attorney General Eric Holder, announcement on the revisions to the Uniform Crime Report's definition of rape released January 6, 2012; available at http://www.justice .gov.

Judicial Institute Inspires Statewide Training

In January 2012, the NCJFCJ educated more than 60 Georgia Superior Court judges on elevating the judicial response to domestic violence cases. At the 2012 Winter Conference for Superior Court Judges in Athens, Georgia, NCJFCJ facilitated three two-hour segments: Enhancing the Judicial Response in Criminal Court Proceedings Involving Family Violence; Ensuring Safety in Custody Determinations Involving Family Violence; and Effective Issuance and Enforcement of Family Violence Temporary Protection Orders. The training included role-plays, videos, small group work, factual scenarios, and facilitated discussions on appropriate responses to domestic violence cases. Participating judges also received several NCJFCJ publications.

The Georgia training is an example of how national NCJFCJ educational programs can inspire similar training in local communities and how judges can lead those efforts. In September 2011, Georgia Superior Court Judge and NCJFCJ member Cindy Morris went to the National Judicial Institute on Domestic Violence's (NJIDV)[1] foundational course, Enhancing Judicial Skills in Domestic Violence Cases Workshop (EJS). The workshop motivated Judge Morris to contact other Georgia stakeholders and suggest that the state bring a modified version of EJS to Georgia.

Two of those stakeholders, NCJFCJ board secretary Judge Peggy Walker and Georgia Commission on Family Violence Executive Director Greg Loughlin were instrumental in getting the Judicial Council of Georgia's Committee on Domestic Violence to work six hours of the EJS curriculum into the agenda for their conference. The Georgia Commission on Family Violence and the Institute of Continuing Judicial Education of Georgia also contributed to the program.

Four faculty members traveled to Georgia to deliver the program, including former NCJFCJ board member Judge Michael Denton and FVD assistant director Judge Steve Aycock (Ret.). The Georgia judges responded positively to the educational program.

The Georgia program is an example of the kind of educational programs the Family Violence Department can create for regions, states, and local communities. If you would like to discuss programs in your area, please contact Danielle Pugh-Markie at dpugh-markie@ncjfcj.org or 775-784-6967.

END NOTES

[1] NJIDV is a partnership with Futures Without Violence, formerly The Family Violence Prevention Fund, the National Council of Juvenile and Family Court Judges, and the U.S. Department of Justice, Office on Violence Against Women. For more information, please visit http://www.njidv.org.

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