

Ten Truths about Juvenile Justice Reform

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Ten Truths

1. Confinement is still necessary.
2. Residential programs should be community-based when possible.
3. Confinement should not be the default response.
4. Risk and needs assessments are important.
5. Traditional forms of discipline are still best.
6. Probation is an existing viable alternative.
7. Evidence-based programming can improve outcomes.
8. Juveniles, even if sentenced as adults, should not go directly into adult facilities.
9. Performance incentive funding increases productivity, cost-efficiency, and positive outcomes.
10. Reform is possible.

Two distinct but interrelated phenomena are spreading across the United States. One, which is by no means novel, is the efforts of state lawmakers to control and reduce budgets in response to tough economic times. The other is somewhat new in some states, and that is the acknowledgment that juvenile justice systems too often fail taxpayers, victims, and juvenile offenders alike.

While these phenomena have different root causes, the latter may assist with the accomplishment of the former. Comprehensive juvenile justice reform can help reduce budgetary pressures on state lawmakers. And at the same time, outcomes for juveniles can actually improve, resulting in productive, law-abiding citizens independent of the justice system.

These 10 truths about reforming juvenile justice systems across the nation provide a guide for legislators undertaking this task.

1) Confinement Is Still Necessary

Comprehensive juvenile justice reform should recognize that, because of the danger some juvenile offenders pose to the community, there remains a need for confinement. Some juvenile offenders, such as those who commit violent, sexual, and habitual crimes, are appropriately placed in secure state facilities because incarceration is required to adequately punish them for their crimes and protect the public safety.

However, even for those offenders, confinement must be safe and employ programs that are cost-effective in rehabilitating youths to reduce the recidivism risks upon their return to society.

2) Juvenile Residential Programs Should Be Community-Based When Possible

Keeping juveniles closer to home produces better outcomes and lower costs. The evidence

shows that a juvenile who remains connected to his or her community and family while receiving treatment is more likely to have positive outcomes, all while avoiding expensive confinement in state facilities.¹ Community-based settings permit juveniles to develop strong bonds with mentors, establish community ties and relationships with community partners, and maintain and strengthen familial relationships.²

Community-based treatment in Missouri has created a model system of juvenile justice. Using smaller, less institutional group homes, camps, and treatment facilities located closer to a juvenile's community, recidivism rates for Missouri's youth are less than 9 percent (to adult criminal justice systems) and 6 percent (recommitted to the juvenile justice system) after three years.³ These rates are mere fractions of the average juvenile recidivism rate, and come at far lower costs than large, remotely located state training schools—around \$120 per day, less than half of the more than \$300 per day price tag for training schools.

3) Confinement Should Not Be the Default Response

The appropriateness of confinement for some juvenile offenders does not mean that it should be the default response to all criminal behavior by a juvenile. Nonviolent and low-level offenders rarely require confinement to adequately redress their wrongdoing. States can restrict the use of costly state youth facilities based on offense level (as Texas did, by limiting state lock-ups to juveniles charged with a felony) or on other determinations of a juvenile's risk to the public safety.

This is a key aspect of comprehensive juvenile justice reform, as non-violent and low-level offenders are exposed to criminal peer influences when housed with more dangerous and violent

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juveniles.⁴ But even beyond this risk, locking youths up is exceedingly expensive—hundreds of dollars per day, per juvenile. Recidivism rates vary by each state, but it is not uncommon for one-third to one-half of incarcerated juveniles to be back behind cell doors within three years of being released. Even more are re-arrested following their time in lockup. These high costs—both in dollars and in recidivistic tendencies—are often not justified in cases of nonviolent, low-level offenders.

4) Risk and Needs Assessments Are Important

In order to determine how to prioritize confinement for many offenders, juvenile justice systems need to have an accurate understanding of which juveniles present a future risk to public safety. A reliable way to make those distinguishing determinations is with a risk and needs assessment. This tool aggregates various types of information about the juvenile, both static (unchangeable) and dynamic (conduct that can be altered) risk factors.⁵ Risk and needs assessments have been proven to accurately identify risk levels based on the resulting recidivism rates for offenders of each level.

Using these assessments, juvenile justice systems can tailor resources and sentences to each offender's risk level. Higher-risk offenders can be placed in residential programs or, at times, very intensive in-home visiting programs involving techniques such as functional family therapy and multisystemic therapy accompanied by strict conditions such as curfews, electronic monitoring, and evening reporting centers. Low-risk offenders might be funneled towards probation and community treatment alternatives. A risk and needs assessment can help ensure that the juvenile justice system yields maximum returns for victims, taxpayers, and offenders.

5) Traditional Forms of Discipline Are Still Best

The juvenile justice system cannot and should not be a replacement for discipline by parents or schools. Zero tolerance policies and an overreliance on issuing criminal citations to students have combined to produce a high likelihood of judicial responses to minor misbehavior that ordinarily would not be deemed criminal. This passing of the paddle to the justice system for discipline creates high costs in court administration, fines, parental productivity. Moreover, a recent study found that almost 60 percent of all Texas public school students had been suspended or expelled at least once between the seventh and the twelfth grades.⁶ Suspensions and expulsions for discretionary violations have been found to increase the likelihood—by three factors—of later juvenile justice system involvement, and further swelling of correctional budgets.⁷

Traditional discipline is a far more effective and cost-efficient responses. School districts who rethink zero tolerance policies and automatic justice system referrals are enjoying better outcomes for juveniles. One school district in Georgia that created staggered responses to misbehavior saw an 87 percent decrease in reported fighting, a 36 percent decrease in other negative behaviors, 86 percent fewer justice system referrals, and a 64 percent drop in incidences of disruption.⁸ And at the end of the year, 20 percent more students were graduating. Other promising practices include positive behavioral supports, school-based teen courts, student behavior accounts, student behavior contracts, and peer mediation.

Reformulating school discipline policies can decrease the school-to-prison pipeline, bringing down juvenile justice expenditures and increasing the number of youth in schools and graduating, while maintaining judicial intervention for serious, criminal misbehavior.

6) Probation is an Existing Viable Alternative

Every juvenile justice system already has the existing framework and methodology for a viable alternative to state lockups for non-violent or low-level offenders: probation.

Juvenile probation costs a mere fraction of locking up youths, and offers an array of programming that can be tailored to each juvenile's needs, from anger management, to education, to life skills, and substance abuse treatment. In Texas, in 2010, only 2.7 percent of juveniles placed on deferred prosecution and 13.4 percent of those adjudicated to probation were incarcerated within three years of starting probation.⁹ The Washington State Institute for Public Policy has conducted research and cost-benefit analyses of various juvenile probation programs which can be adopted by existing juvenile probation departments and expanded to create reform in the system.¹⁰ Increased use of successful juvenile probation programs can decrease unnecessary use of state lockups and increase positive outcomes.

7) Evidence-Based Programming Can Improve Outcomes

The last 20 years have produced a wealth of evidence on incapacitation and other treatment alternatives for juvenile offenders. The result is a system of “evidence-based” programs, which simply means that a program has been found in empirical, controlled studies, to reduce the risk of criminal behavior. Evidence-based policymaking integrates the education and information from studies of program outcomes into policy decisions.

There are several resources which aggregate evidence-based programs, primarily in three major databases of evidence-based programs that provide a full array of information for policymakers.¹¹ An evidence-based program provides information on its costs as well as outcomes, which permit policymakers to select the appropriate program with full information of its benefits and limitations.

8) Juveniles, Even if Sentenced as Adults, Should Not Go Directly Into Adult Facilities

There are juveniles whose crimes have been determined to be heinous enough to warrant trial and sentencing in an adult court, rather than under a juvenile judge. Nonetheless, juveniles should spend the portion of their sentence during which they are a minor in juvenile lockups alongside other juveniles.

This policy ensures that youth offenders receive age-appropriate programming in juvenile facilities in contrast with adult lockups that typically lack programming designed for juveniles. For example, in Texas, only 38 percent of juveniles in adult facilities are enrolled in educational classes, compared to 96 percent of juveniles in the juvenile justice system.¹² Second, there are high risks associated with housing youths in adult facilities. Researchers have found increased rates of violent and recidivism without an accompanying deterrent value and juveniles face a high risk of suicide, sexual assault, and physical assault.¹³

In Texas, juveniles can be sentenced by a criminal court to a fixed term of years, which will begin in the youth lockup, and after the youth reaches the age of 19, he or she can be transferred to an adult facility.¹⁴ This hybrid sentencing option gives judges the ability to ensure a juvenile is given adequate treatment and protected from the potential negative impact of age-inappropriate correctional placement.

9) Performance Incentive Funding Increases Productivity, Cost-Efficiency, and Positive Outcomes

In many juvenile systems, states bear the full cost of keeping youths in state-run youth lockups while counties typically pick up some or all of the cost of juvenile probation. This creates a fiscal incentive for counties to unnecessarily commit youths to state lockups.

A far better approach is to allow the money to follow the youth. When a county decreases the number of juveniles sentenced into a state facility, the state can return a portion of those savings to the county to create community-based treatment and diversion alternatives. States can require counties to spend the money on certain types of programs (such as evidence-based treatment options) and link a share of the funding to performance measures, thereby incentivizing better outcomes for juveniles, such as reduced recidivism and educational and vocational progress.¹⁵

In the 1990s, Ohio adopted such a funding policy called RECLAIM (Reasoned and Equitable Community and Local Alternative to Incarceration of Minors) that gives money to counties that treat juveniles who would otherwise be incarcerated and deducts funds for low-risk juveniles who are sent to state facilities.* The policy has been highly successful, as the recidivism rate for moderate risk youth placed through RECLAIM was 22 percent, compared with a 54 percent rate for such offenders in state lockups.¹⁶ RECLAIM is also estimated to have saved between \$11 and \$45 per dollar spent due to the reduced need for more costly state youth lockups.¹⁷

If the county fails to reduce the rates of juveniles sent to state lockups, it must return the funding, which is strong encouragement to reduce the number of youth sent to state lockups and properly effectuate county-level systems.

10) Reform Is Possible

Comprehensive reform of a juvenile justice reform is difficult. But it is not impossible. Take Texas, for example. In 2007, the Texas juvenile justice system was plagued with scandal and abuse. Outcomes were poor and costs were high. By 2011, juvenile incarceration has dropped almost 60 percent. Budgets have been cut—during one legislative session, to the tune of over \$100 million, as a result of facility closures. And all the while, juvenile crime rates have fallen 15 percent in the same time period, as measured by the number of referrals.¹⁸

While there is more work to be done, as Texas and other states have demonstrated, policymakers can successfully reform juvenile justice systems to provide greater public safety at a lower cost to taxpayers. These 10 truths can help guide this effort. ★

* No funds are deducted for public safety beds, which include juveniles adjudicated for aggravated murder, attempted aggravated murder, murder, attempted murder, kidnapping, rape, voluntary manslaughter, involuntary manslaughter, felonious sexual penetration, and aggravated arson.

Endnotes

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- ¹⁷ Ibid.
- ¹⁸ "The State of Juvenile Probation Activity in Texas: Calendar Years 2009 & 2010," Texas Juvenile Probation Commission (Nov. 2011).



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