

OCTOBER 2017

stoneleighfoundation.org

Youth on Probation:

Bringing a 20th Century Service Into a
Developmentally Friendly 21st Century World

By Robert G. Schwartz

Visiting Fellow

OVERVIEW

Principles of adolescent development have accelerated positive changes to the juvenile justice system. These changes have been most pronounced in reducing reliance on incarceration and in approaches to sentencing of youth tried as adults. While juvenile probation has made some developmentally friendly adjustments, it remains an area that is fertile for reform.

ACKNOWLEDGMENTS

I am indebted to many colleagues. I have received consistently rigorous advice from Steve Bishop of the Annie E. Casey Foundation, Dr. Naomi Goldstein of Drexel University, and Marie Williams of the Stoneleigh Foundation. I have benefited, too, from the wise insights of Emily Buss of the University of Chicago Law School; Beth Fritz, chief juvenile probation officer in Lehigh County, PA; Gary Ivory, southwest president at Youth Advocate Programs, Inc.; Dr. Marina Tolou-Shams of the UCSF Department of Psychiatry; and John A. Tuell, executive director of the Robert F. Kennedy National Resource Center for Juvenile Justice.

TABLE OF CONTENTS

Introduction.....	4	What Might This Look Like in Practice?.....	9
How Might We Think Differently?.....	5	Where Might Jurisdictions Begin?.....	11
What Are Barriers to Introducing a Developmental Approach to Juvenile Probation?.....	6	Conclusion.....	11
Guiding Principles.....	7	Endnotes.....	12
		Contact.....	13

Introduction

“A consensus is emerging that the correctional model of juvenile justice should be replaced by a developmentally oriented approach that keeps youth in their communities, avoids formal legal involvement unless necessary to ensure accountability or protect public safety, and provides whatever services and interventions are needed to support the prosocial development of youth whose cases are diverted from or referred to the juvenile justice system for formal processing.”¹ Indeed, every state has seen a decline in youth confinement over the last 20 years.²

Even before the decline in incarceration, most youth in the juvenile justice system were on some form of probation. In 2013, an estimated 383,600 delinquency cases resulted in a term of probation—5% above the number of cases placed on probation in 1985. Adjudicated delinquents accounted for 54% (205,300) of all delinquency cases placed on probation in 2013. In the remaining delinquency cases, the youth agreed to some form of voluntary or informal probation.³

In Pennsylvania, for example, dispositions of Consent Decree Probation, Probation, and Informal Adjustment continued to represent over half (54.8%) of all dispositions, while placement resulting from new allegations of delinquency decreased slightly (7.5% to 7.0%) from 2014 to 2015.⁴

Although there are some jurisdictions in Pennsylvania and across the country that are experimenting with innovative forms of probation supervision, too many probation departments operate much as they have for the last century. The challenge for juvenile courts and probation departments is to create and implement—in the terms of the 2014 National Research Council report—a “developmentally oriented approach” to community-based supervision that ensures “accountability,” promotes “public safety, and connects youth to services and interventions that are needed” to support probationers’ “prosocial development.”⁵

In most jurisdictions today, youth who are on probation must comply with boilerplate “conditions of probation.” Some of the lists of conditions are developed by judges, some by probation officers. They are rarely correlated to

assessments of a young person’s risks and needs. They rarely vary by the age and developmental status of the youth. Probation officers infrequently probe to ensure that youth understand the conditions. Indeed, while some conditions are crystal clear to probation officers, they are often opaque to the youth they supervise. Ambiguous conditions can lead to probation officers or judges revoking probation and placing young people in residential facilities.

Consider the dilemma posed by Drexel University Professor of Psychology and Stoneleigh Fellow Naomi Goldstein, Ph.D. Imagine a young person who has missed more than a year of school. The court orders the youth to “attend school,” which becomes a condition of probation. The youth then attends school three days a week. Is that compliance or non-compliance with the condition of probation? While the youth might see increased school attendance as progress, too often courts and probation officers see the weekly two days of absence as flouting the court order. Some probation officers will file a motion to revoke probation; some judges will grant the motion. The youth will perceive detention or incarceration for this “technical probation violation” as unfair.

There are many variations on this theme. Must a young person comply with each condition 100 percent of the time? How many misses count as a probation violation? Does the answer depend upon the juvenile probation officer? On the juvenile court judge? On the youth’s prior history? On the youth’s developmental capacity? On the youth’s race or ethnicity?

Are all conditions of probation qualitatively the same? For example, drug and alcohol treatment programs expect some relapses over time. Do juvenile probation officers—who oversee a “drug free” condition of probation and take urine samples to test compliance—have similar expectations? Should a condition of not using drugs be treated the same as a condition to attend school?

Do juvenile probation officers have the skills to help youth succeed in meeting those conditions or others that they impose? As Dr. Goldstein has observed, probation officers identify many roles in their work with youth. They see themselves as monitor, enforcer, mentor/coach, parent, role model, change agent, case manager, therapist, and

court representative.⁶ While some of these roles can be adapted to probation that is sensitive to adolescent development, these roles are often in conflict. Probation officers face the challenge not only of adopting a role or roles, depending on the circumstances, but on conveying his or her role to youth. This should be done transparently, so young people know when they can give an honest response (“Have you been using drugs?”) in order for the juvenile probation officer to provide mentorship or case management. The young person must also know if the same response might lead to a return to court.

Incarceration is the ultimate sanction available to judges or probation officers when they interpret a young person’s behavior as “non-compliant.” Because judges cannot be seen as ignoring violations of orders, it is inevitable that at some point, for some youth, the judge will revoke probation. The result is a system in which juvenile probation officers may give less weight to their role as mentors who help youth overcome setbacks than they do to their role as monitors who compel compliance.

How Might We Think Differently?

In my last years at Juvenile Law Center, we, like many others, focused on “normalcy” for older *foster youth*.⁷ Federal law⁸ requires states to provide youth in substitute care the opportunity to experience age-appropriate activities and opportunities similar to their peers who are not in care. Juvenile Law Center in 2015 published a paper on this topic,⁹ and is working to implement the federal law in Pennsylvania to create more opportunities for foster youth.¹⁰

The idea of “normalcy” for delinquent youth is different. Indeed, it’s hard to imagine that incarcerated youth will have opportunities for class trips. Rather, normalcy is related to the movement to inform the justice system with principles of positive youth development (PYD) and, more recently, to align the system with what is known about adolescent development. Researchers in developmental psychology and neuroscience have shown the importance of treating youth differently, and of treating youth in developmentally appropriate ways as they grow older.

It is difficult, but not impossible, to bring developmental principles to bear on the lives of juvenile probationers. It is challenging, but not impossible, to help these youth lead “normal” lives when normalcy for too many of them has meant enduring trauma, poverty, and hostility. It is easier to advance developmental principles when juvenile probation officers have assessment tools that help them build on youths’ strengths while helping youth navigate through a thicket of needs.

The PYD movement emerged in the late 1990s, when some juvenile justice experts sought to introduce PYD to juvenile justice.¹¹ This meant emphasizing success, rather than failure. As I have written elsewhere,¹² PYD refers to attitudes about youth, to what youth do and achieve during and at the end of their route to adulthood, and to the informal and formal systems of support that help youth reach adulthood successfully. These overlapping operational definitions suggest why the formal juvenile justice system was not a fertile area for PYD. The formal system developed in the last century—which was supposed to prevent youth from re-offending after arrest—did not routinely think about children developmentally, rarely recognized youths’ strengths, didn’t believe in youths’ abilities to succeed, and only spottily offered the kind of supports necessary for success.¹³ Indeed, even systems that purported to rely on PYD too often failed to develop new expectations—and measures—for success.

The difficulties of promoting positive development suggest the questions raised by any effort to bring adolescent development and the advancement of “normalcy” to the lives of delinquent youth. In what ways are “normalcy” principles transferrable from the foster care to the justice system, which at bottom relies on a regimen of custody and control? Although there is a de-incarceration movement, there is still excessive incarceration, in particular of youth of color. Delinquent youth lack many of the rights of foster youth (e.g., stay-put provisions in home schools). They enter and exit delinquency placements at random times during the year that are not tied to the school calendar. When they are on probation (before or after placement), youth are restricted in the

kinds of activities they can participate in and with whom they can associate. Probation officers remain primarily concerned about preventing recidivism rather than advancing youth well-being. Thus, in these respects, “normalcy” for delinquent youth differs from “normalcy” for dependent youth.

Yet, Dr. Goldstein has emphasized how important it is for juvenile probation officers to promote a “normal” developmental trajectory:

The adolescent brain is developing rapidly, making adolescence a critical time for learning—and a great deal of behavioral learning takes place by repeatedly performing behaviors and receiving feedback (often naturalistic feedback). If we want youth to be able to live “normal” lives as teenagers and adults, they have to learn how to function in “normal” situations, with “normal” interactions and “normal” activities. If we deprive them of normal life experiences via incarceration or long-term, intensive restrictions (e.g., in-home detention), they don’t have these “normal” experiences and lose the opportunities to learn about normal behavior—and we can’t turn the clock back on the brain (there’s a reason this is considered a critical period for learning). In contrast, allowing them to engage in normal behaviors—while being coached/mentored by a juvenile probation officer or treatment provider—can facilitate positive learning and promote positive behaviors in the very situations we want these youth to function in the future.¹⁴

Although there are difficulties, more juvenile justice systems are asking how probation can be developmentally appropriate. Some probation systems are focusing on reducing harm caused by probation supervision that fails to attend to what is now known about adolescent development.¹⁵ (Harm occurs, for example, when youth are incarcerated for technical probation violations. It occurs, too, when youth lose faith in the system because they believe they are treated unfairly or don’t understand what is expected of them.) Juvenile probation should be like a parent who holds onto the seat of a child who is learning to ride a bicycle. The child isn’t punished when she can’t ride on her own. Rather, parents learn to take their hands off the seat gradually. There is a developmental equivalent when probation officers work with teens who are learning how to behave.

What Are Barriers to Introducing a Developmental Approach to Juvenile Probation?

There are some obvious barriers to introducing a more developmental approach to juvenile probation, let alone going to scale. Some of those barriers are mentioned above. Others include local culture and institutional traditions and the time it takes to retool a department. Experienced probation leaders must be early adopters if they expect new probation officers to think and act differently than their 20th century counterparts.

There are less obvious barriers.

Most jurisdictions haven’t changed the job title and job description of juvenile probation officers in many years. Washington State is an exception, where probation officers have been called “probation counselors” for several years. Many duties of probation counselors are the same as those of probation officers, but the job title implies a different lens through which those duties are viewed.

When deinstitutionalization occurs, it rarely comes with a transfer (reinvestment) of corrections funds into community-based services such as probation. Pennsylvania, for example, directed \$2 million to juvenile probation when it closed a youth development center in 2013. That reallocation has remained in the state budget ever since. The Pennsylvania experience is unusual, even for Pennsylvania. States that close institutions too often redirect savings to general operating budgets, rather than to probation or to efforts to divert youth from the system entirely.

Departments think of caseloads, rather than workloads. Caseload standards are routine in human services. Many experts have noted that “workload” is a better unit of measurement, since it incorporates the various tasks inherent in a human service job. Thus, as caseloads decline because fewer youth are entering the juvenile justice system, it is important to imagine how a department might implement a new version of juvenile probation. Leadership must: a) appreciate all that goes into the workload (from risk and needs assessment, to

helping youth and parents set expectations and goals, to helping a young person meet those expectations and goals); and b) have a budget and staff that allows those tasks to be accomplished. Neither effort is easy. Indeed, when policymakers design systems, they often imagine “ideal” scenarios where experienced workers with unlimited time and resources have a single case. Policymakers don’t imagine a system that has gone to scale. Underfunded “ideal” systems usually end up with unmanageable workloads.

Probation is, at its heart, a risk-management system.

Yes, an ideal version will help youth meet expectations and goals and maintain a normal developmental path. But if a young person is in the juvenile justice system, there’s a public expectation that the youth will instantly and completely cease offending. Again, compare this to the field of addiction, where few expect users to change their behaviors all at once. The juvenile justice system doesn’t see “progress” when youth offend less frequently or seriously. Thus, a bad lapse—and a simple newspaper headline—can threaten an entire program that is designed to allow for mistakes while helping youth learn from them. A wise parent can tolerate mistakes and help his or her child learn from them—that’s part of normal adolescence—but even an enlightened juvenile probation department will be challenged to do the same.

There is rarely system-wide agreement on what counts as “success,” not only for juvenile probationers, but for the juvenile probation department as a whole. In an enlightened Balanced and Restorative Justice (BARJ) state like Pennsylvania, it has been relatively easy to identify success as recidivism reduction and victim restoration through restitution or community service. It has been harder to measure “competency development”—an important BARJ component—in developmental terms. Probation departments, for the most part, look at whether a young person is in school or employed at case closing. Being in school and having a job are important, but they are static measures of a dynamic time of life. When it comes to competency development, every youth will have a different pathway to success. It is thus unsurprising that competency development has been hard to define and equally difficult to measure.

Many jurisdictions have an entrenched reliance on boilerplate conditions of probation. The biggest challenge will be securing the willingness of judges and senior juvenile probation officials to move from a system of court orders and conditions to helping a young person meet expectations and goals. “Conditions of probation” endure even in thoughtful Pennsylvania jurisdictions, where counties are emphasizing case planning more than conditions. Conditions just don’t go away. There are many reasons for this. Some systems have judges who rotate through juvenile court; some have judges who have ruled their county juvenile justice systems for years. Some judges are knowledgeable in adolescent development; others are not. Courts are crucial to any juvenile justice transformation. For juvenile probation to succeed in delivering developmentally appropriate supervision, juvenile court judges must demonstrate flexibility and a willingness to try something that is new and developmentally sound.

Guiding Principles

Juvenile probation should build on research to help teens stride toward adulthood while holding them accountable in developmentally appropriate ways. Juvenile probation officers—or “counselors”—thus have opportunities to help parents or family caregivers as they nurture their children and support their children’s ambitions and developmental pathways. What might those opportunities look like, and what are the principles that might underpin them?

Probation departments should be clear about their place in the juvenile justice system.

- **Probation departments should know what their purpose is.** There must not only be clarity on the purpose of juvenile probation, but that purpose must also be understood and internalized by a) everyone in the probation department, and b) the stakeholders, such as judges, who direct or work with probation. Why do they exist in general, and what is their purpose for a particular young person? The National Research Council suggests that a 21st century, developmentally grounded approach to juvenile justice is one that “manages risk” through

thoughtful assessments, case plans, and services.¹⁶ The Center for Children’s Law and Policy observes that “[y]outh are placed on probation because officials believe that they do not represent a public safety risk that warrants out-of-home placement, but may still need supervision as they participate in rehabilitative programming. Probation is not simply about identifying each occasion where a young person doesn’t do what he or she is supposed to do.”¹⁷

- **Probation departments should adopt clear goals.** The following are adapted from Dr. Naomi Goldstein’s writings. A developmentally designed juvenile probation system should include a graduated response¹⁸ system that will:
 - a. Help youth improve decision making.
 - b. Emphasize short-term, positive outcomes for probation-compliant behaviors.
 - c. Be designed in such a way that enables youth to experience success almost immediately.
 - d. Emphasize effort and improvement through a process of behavior change rather than expecting immediate, perfect compliance with probation requirements, goals, and expectations.
 - e. Create expectations and goals that address fewer behaviors at a time, rather than emphasizing all probation requirements, goals, and expectations at once, while taking care to avoid unnecessarily extending the duration of probation.
 - f. Utilize reinforcement (incentives, rewards, and positive feedback) to motivate youth to meet expectations and goals and to help youth learn from their positive behaviors.
 - g. Fairly sanction misbehavior, incorporating elements of procedural justice.
 - h. Provide youth with opportunities to take part in prosocial activities and engage with positive peers (e.g., playing in a sports league, taking art classes).¹⁹
- In the course of managing risk and encouraging life success, **juvenile probation should avoid doing harm.**²⁰ This is an oft-ignored axiom. Many youth who would otherwise grow out of their offending, or learn from their involvement with the system, are

snared by net-widening conditions of probation that magnify the nature, intensity, or duration of their juvenile justice system involvement.²¹ This leads to disruption of normal developmental pathways. Medicine calls this an iatrogenic effect, where the treatment does more harm than good. Some probation departments, like that of Lucas County, Ohio, avoid having probation conditions that widen the net by diverting more youth from the system in the first place.

- **While managing the risk of recidivism is an important goal of probation, it is not the only goal.** Youth should, for example, gain problem solving skills, improve academically, and gain employment skills. However, the period of time that a young person is supervised by probation—a duration aimed at reducing recidivism—should not be extended solely for the purpose of completing a program or activity.²²
- **Probation officers must have workloads that are not too burdensome for them to be effective, thoughtful case managers.** As noted above, “workload” is different from “caseload.” The latter is a number that can include youth with complex as well as straightforward needs. As the number of youth in the justice system declines, probation officers should be able to supervise fewer probationers. They should be able to spend the time necessary to develop thoughtful case plans and help youth succeed in meeting their goals and expectations.

Probation decisions must advance pro-social goals.

- **The decisions that judges and probation officers make about expectations and goals for a young person must make sense to that youth.** They must seem fair and have a transparent connection to the youth’s misconduct or needs. Similarly, consequences (both positive and negative) do a better job of promoting learning if they are logically connected to the youth’s behavior.²³ They should not seem arbitrary, boilerplate, or pointless. The literature on legal socialization and procedural justice has taught us that youth are likely to respond well to adult decisions that seem fair.²⁴

- Individualized juvenile probation services and conditions of probation require abandoning boilerplate conditions.** Probation officers must be thoughtful case managers who develop well-conceived case plans that include “proactive statements about what must occur in the near future to address youths’ risk to community safety, their most pressing needs related to their delinquent behavior, and their accountability obligations.”²⁵ In short, there should never be “conditions of probation,” which lead too often to “technical” violations. Instead, probation officers should develop with families and youth individualized case plans that set expectations and goals. This approach will eliminate the Goldstein Dilemma, described earlier, which asks whether a young person is compliant or non-compliant with a condition of probation. Instead of forcing the probation officer to make that determination, the absence of conditions will turn the probation officer into someone who helps the youth find a way to meet the case plan’s individualized expectations and goals. “[Rather than viewing noncompliance or lack of progress as a defeat or a failure, a good probation officer seizes it as a teaching opportunity.”²⁶
- Juvenile probation should help youth meet expectations and goals.** “Less than expected progress should not automatically be blamed on the youth; it may be the result of an inadequate plan, inadequate service delivery, or a misconceived strategy.”²⁷ Juvenile court case plans should be individualized and include differential responses of sanctions and incentives.²⁸
- Juvenile probation should set developmental goals for adolescents on probation that include preparation for the exercise of rights and responsibilities that society assigns to adults.** This means involving youth in decision making about their futures, even if they make choices that seem inapt.²⁹ This approach replaces a “surveillance” model of supervision with one that focuses on positive behavioral change.³⁰
- Probation officers must recognize that not all**

needs are the same. A young person may have many needs, but they are not equally important when it comes to reducing recidivism. It is important to “identify and address the key needs that are the primary causes of youth’s delinquent behaviors.”³¹ The Council of State Governments (CSG) observes that principles of risk, need, and responsivity can help agencies improve outcomes and use resources more efficiently. A validated risk assessment identifies and focuses supervision and services on those youth most likely to reoffend. Not all youths represent the same risk. (CSG notes that supervising low-risk youth can make things worse.) The “responsivity” principle, a cousin of Positive Youth Development, matches “youth to services based on their strengths and how they respond to treatment.”³²

- Probation officers should provide supervision that is as “parent-like” as possible.** By involving youth and parent(s) in the development of the case plan, probation officers come closer to acting like ordinary devoted parents.³³ A developmentally grounded case plan, with expectations and goals, gets closer to how an ordinary devoted parent would raise her child. This approach also fosters “legal socialization,” as youth and parents experience the system as fair.³⁴

What Might This Look Like in Practice?

The good news is that over the last 10 to 15 years, principles of adolescent development have been steadily diffused through the juvenile justice system. Principles of juvenile probation, grounded in PYD or adolescent development, are rooted in increasingly fertile ground.

Many of the principles set forth in this paper were recently endorsed by the National Council of Juvenile and Family Court Judges, which “supports and is committed to juvenile probation systems that conform to the latest knowledge of adolescent development and adolescent brain science,” and which “recommends that courts cease imposing ‘conditions of probation’ and instead support probation departments’ developing, with families and youth,

individualized case plans that set expectations and goals.”³⁵

Many jurisdictions have taken steps towards developmentally grounded juvenile justice systems.

Pennsylvania, for example, is a Balanced and Restorative Justice state that is ideally suited to revamp probation. Juvenile courts and juvenile probation officers must attend to a young person’s “competency development” as well as public safety and victim restoration. While Pennsylvania currently measures whether a young person is in school or employed after completing probation, it is well poised to include competency-development measures when drafting expectations and goals with youth and family. Fleshing out “competency development” will enhance strong work that the state is already doing through its Juvenile Justice System Enhancement Strategy (JJSES). Indeed, the Pennsylvania Council of Chief Juvenile Probation Officers has recently emphasized adolescent development and graduated responses. JJSES has already led to developmentally based approaches in its use, for example, of validated assessment tools and motivational interviewing.

The Annie E. Casey Foundation is working with two Probation Transformation sites, Lucas County (Toledo), Ohio, and Pierce County (Tacoma), Washington to implement developmental approaches to juvenile probation.

Lucas County created a misdemeanor services unit and adopted a policy of diverting all misdemeanor cases, which comprise, on average, 70% of juvenile court referrals. This has reduced probation caseloads and enabled the probation department to revamp its approach to juvenile probation. There has been a reduction in probation violations for behaviors in which non-justice-involved teenagers often engage. Probation officers recognize that youth stumble, and that probation is an opportunity to teach problem-solving skills. Toledo has seen a significant reduction in placement and in probation violations. Indeed, the county has virtually eliminated placements because of “violations of probation.”³⁶

Pierce County (Tacoma), Washington, has instituted an Opportunity Based Probation program, an incentive-based system that rewards probationers for meeting goals. As youth accumulate points, they earn prizes

and congratulations from the court, culminating in a graduation ceremony. The county has an incentive package that promotes PYD, and includes options such as YMCA memberships, internships, and early termination from probation.³⁷

Utah recently established a risk-need-responsivity model, described above, as its guiding principles; instituted new policies to focus on hiring staff skilled at engaging youth and families in assessment conversations; required probation officers to become certified on the use of the state’s assessment tool; established detailed performance criteria for conducting and using assessments; began storing assessment results in a permanent electronic case management system (CARE); and began regularly evaluating the fidelity of assessment and case-planning processes through the Quality Service Review (QSR) group.³⁸

San Francisco’s Juvenile Probation Department in 2012 endorsed a Probation Enrichment Program delivered by the Center for Juvenile and Criminal Justice. Selected youth avoid confinement for probation violations by attending two all-day Saturday workshops a month. The workshops, for families and youth, have an evidence-based curriculum.³⁹

New York City’s Department of Probation in 2016 adopted Youth Thrive, a positive youth development and resiliency framework that focuses on building protective and promotive factors shown through research to promote healthy development and well-being and reduce risk factors in youth. The Department is currently training all of its probation officers on youth development and what they can do to enhance the protective and promotive factors with the youth they serve. The Department has also adopted—and select staff are coaching the workforce in using—a new working service agreement with youth that encourages mutual goal setting, is transparent about expectations and consequences, and builds on youth strengths and interests.⁴⁰

Many juvenile probation departments across the country are working with the RFK National Resource Center for Juvenile Justice. The Center has developed a superb quality control checklist for almost every aspect of juvenile probation.⁴¹

Where Might Jurisdictions Begin?

System improvement often involves a rule of simplicity. Efforts to take model programs to scale have often failed because the models have required extraordinary capabilities from service providers. Successful replication requires a model that is straightforward enough so that it can be implemented by newcomers and experienced workers alike. It makes no sense to write music that only a few musicians can play.

There is also a need to make clear to newcomers what they should expect when they become juvenile probation officers (or juvenile probation counselors). Jurisdictions must revise juvenile probation job descriptions to emphasize helping youth rather than merely monitoring them; assessing needs and strengths, rather than only focusing on weaknesses and risks; working with families, rather than demonizing them; and developing knowledge of other youth-serving systems. In jurisdictions that hire through civil service, exams must be revised to reflect the modern role that probation serves.

As Dr. Jeff Butts of John Jay College of Criminal Justice has noted, before the positive youth development model can become a standard approach for delivering services and supports in a youth justice context, researchers and practitioners must continue to test and refine the model. The youth justice field needs to reduce the multitude of developmental concepts to *a workable set of core elements*. Having too many goals and principles is akin to having none.⁴²

Conclusion

Except during times of crisis, systems tend to resist change. Change can happen with a clear vision, strong leadership, motivated workers, and useful data. Too often, however, line workers know that they will outlast political appointees who call for reform. Experienced workers may cynically advise new hires to follow the old ways of doing things. Sometimes the staff just doesn't believe in the values that change agents want them to adopt.

These risks will certainly be present when judges or probation chiefs initiate wide and deep changes that are grounded in principles of adolescent development. One of the greatest barriers to a paradigm shift will be how and when to address re-offending without incarceration. Traditionalists will not want to cede their ability to incarcerate youth for "non-compliance" with conditions of probation. There may be net-widening, as some borderline youth who might be placed on probation find themselves incarcerated, and as judges decline to place on probation those youth who seem unlikely to adapt easily to community supervision. Crimes committed by youth who have not met the expectations and goals of their case plans may erode public and system-wide trust in a new model.

The stakes, however, are high. There will be a ripple effect throughout the juvenile justice system if community-based juvenile probation becomes developmentally sound. Juvenile probation officers frequently supervise youth who return from institutions to their communities. There will be a tangible increase in the ability of a developmentally grounded juvenile probation department to change the course of a young person's life. Youth, families, schools and communities will be the beneficiaries.

ENDNOTES

- ¹ National Research Council. (2014). *Implementing Juvenile Justice Reform: The Federal Role*. Washington, DC: The National Academies Press. doi: 10.17226/18753, at page 11.
- ² Office of Juvenile Justice and Delinquency Prevention. (2017, June 1). *Easy Access to the Census of Juveniles in Residential Placement*. Statistical Briefing Book. Retrieved from <https://www.ojjdp.gov/ojstatbb/ezacjrp/>.
- ³ Office of Juvenile Justice and Delinquency Prevention. (2017, March 27). *Probation as a Court Disposition*. Statistical Briefing Book. Retrieved from <https://www.ojjdp.gov/ojstatbb/probation/qa07102.asp>.
- ⁴ Placement accounts for about 7% of dispositions, see: Juvenile Court Judges' Commission and Center for Juvenile Justice Training & Research. (2016) *2015 Pennsylvania Juvenile Court Dispositions*. Commonwealth of Pennsylvania.
- ⁵ National Research Council, *supra*, note 1.
- ⁶ Naomi Goldstein is a researcher and full professor at Drexel University. Her case and observations are presented with permission via a note to Robert Schwartz on June 14, 2017.
- ⁷ For an excellent overview of bringing developmental principles to older foster youth, see: Harper Browne, C. (2014). *Youth Thrive: Advancing healthy adolescent development and well-being*. Retrieved from *Center for the Study of Social Policy*: https://www.cssp.org/reform/child-welfare/youth-thrive/2014/Youth-Thrive_Advancing-Healthy-Adolescent-Development-and-Well-Being.pdf.
- ⁸ Preventing Sex Trafficking and Strengthening Families Act of 2014, Pub. L. 113-183.
- ⁹ Pokempner, J., Mordecai, K., Rosado, L., & Subrahmanyam, D. (2015). *Promoting Normalcy for Children and Youth in Foster Care*. Philadelphia, PA: Juvenile Law Center.
- ¹⁰ Although many foster youth are also involved with the justice system, it is unclear how the federal law will affect "normalcy" opportunities for them.
- ¹¹ See generally the work of Jeffrey Butts, director of the Research & Evaluation Center at John Jay College of Criminal Justice.
- ¹² Schwartz, R. G. (2001). Juvenile justice and positive youth development. *Trends in Youth Development: Visions, Realities, and Challenges* (pp.231-267). New York, NY: Springer US.
- ¹³ *Id.*
- ¹⁴ *supra* note 6.
- ¹⁵ See generally the work of Robert F. Kennedy National Resource Center for Juvenile Justice.
- ¹⁶ *supra* note 1, at page 24.
- ¹⁷ Center for Children's Law and Policy (2016). *Graduated Responses Toolkit: New Resources and Insights to help Youth Succeed on Probation*. Washington, DC: Author.
- ¹⁸ *Id.*
- ¹⁹ Goldstein, N. E., NeMoyer, A., Gale-Bentz, E., Levick, M., & Feierman, J. (2015). You're on the Right Track: Using Graduated Response Systems to Address Immaturity of Judgment and Enhance Youths' Capacities to Successfully Complete Probation. *Temple Law Review*, 88, 803-836.
- ²⁰ *supra* note 1, at page 23.
- ²¹ This is one reason that many jurisdictions have diverted more youth from the system entirely. Recent diversion efforts are reminiscent of the effort to promote "benign nonintervention" in the 1960s and 1970s. Many juvenile justice experts believed that intervention, even probation, would do more harm than good for youth who would naturally age out of their "delinquent" behavior.
- ²² Compare Torbet (2008), *supra* note 25, at page 19, arguing that length of stay in a juvenile justice facility should not be extended "solely for the purpose of completing the program's 'levels,' earning another credit, or finishing an activity, let alone the notion of wanting to keep the youth until he's 'fixed.'" ²³ *supra* note 19.
- ²⁴ See generally the works of Tom R. Tyler, department chair and university professor of psychology at New York University, for example: Fagan, J., & Tyler, T.R. (2005) Legal Socialization of Children and Adolescents. *Social Justice Research*, 18(3), 217-241. doi: 10.1007/s11211-005-6823-3.
- ²⁵ Thomas, D., Torbet, P., & Deal, T. (2011) *Implementing Effective Case Management Strategies: A Guide for Probation Administrators*. *Technical Assistance to the Juvenile Court Bulletin*. Office of Juvenile Justice and Delinquency Prevention, National Center for Juvenile Justice, and National Council of Juvenile and Family Court Judges.
- ²⁶ Torbet, P. (2008). *Building Pennsylvania's Comprehensive Aftercare Model. Probation Case Management Essentials for Youth in Placement*. Pittsburgh, PA: National Center for Juvenile Justice, at page 29.
- ²⁷ *Id.*
- ²⁸ *supra* note 17; *supra* note 19.
- ²⁹ Buss, E. (2016). Developmental Jurisprudence. *Temple Law Review*, 88, 741-768, at page 753.
- ³⁰ Robert F. Kennedy National Resource Center for Juvenile Justice/Council of State Governments Justice Center, unpublished power point, 2016.
- ³¹ *Id.*
- ³² *Id.w*
- ³³ The notion of Ordinary Devoted Parent was developed in the mid-1970s to address how courts should address the needs of children in the child welfare system (Goldstein et al., 1986). The key lesson was that "It is in the best interests of the child that these professionals [like juvenile probation officers] always keep in mind that they are not the child's parents. Even though each of them may assume one or more aspects of the parental task, neither alone nor together can they replace parents." Goldstein, J., Freud, A., Solnit, A.J., & Goldstein, S. (1986). *In the best interests of the child*. New York, NY: Free Press.
- ³⁴ See, Fagan, J., & Tyler, T.R., *supra* note 24.
- ³⁵ National Council of Juvenile and Family Court Judges (2017) *Resolution Regarding Juvenile Probation and Adolescent Development*. Washington, DC: Author, found at https://www.ncjfcj.org/sites/default/files/Fnl_AdoptedProbationPolicyResolution_7-2017_1.pdf.
- ³⁶ Annie E. Casey Foundation, Juvenile Justice Strategy Group, *Probation Transformation* (unpublished power point, June 2017).
- ³⁷ *Id.*
- ³⁸ *supra* note 30.
- ³⁹ Center on Juvenile and Criminal Justice. (2017). *Probation Enrichment Program*. Retrieved from <http://www.cjcj.org/Direct-services/Probation-Enrichment-Program.html>.
- ⁴⁰ For more information on Youth Thrive, see: Center for the Study of Social Policy. *Youth Thrive*. Retrieved from <https://www.cssp.org/reform/child-welfare/youththrive>.
- ⁴¹ Tuell, J. A., & Hapr, K. L. (2016). *Probation System Review Guidebook* (2nd ed.). Boston, MA: Robert F. Kennedy Children's Action Corps.
- ⁴² John Jay College of Criminal Justice. *Positive Youth Justice—Overview*. Retrieved from <https://johnjayrec.nyc/pyj/>.

OUR MISSION

The Stoneleigh Foundation seeks to improve life outcomes for Greater Philadelphia's most vulnerable youth by advancing change in the systems that serve them, including juvenile justice, child welfare, education, and health. To meet our mission, we award fellowships to exceptional individuals who work within and alongside these systems to catalyze change.



123 S. Broad Street, Suite 1630 · Philadelphia, PA 19109

Tel 215 735 7080 · **Fax** 215 735 7089

info@stoneleighfoundation.org

[@StoneleighFdn](https://twitter.com/StoneleighFdn)

stoneleighfoundation.org