

TRANSFORMING JUVENILE PROBATION A VISION FOR GETTING IT RIGHT



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INTRODUCTION

Over the past 20 years, our nation's juvenile justice systems have steadily decreased the unnecessary use of detention and incarceration of young people, improving their chances of success as adults while preserving public safety. Yet the large reduction in confinement has not resulted in significant changes to its primary alternative — probation, which remains deeply flawed both in concept and execution despite being the most common disposition in juvenile justice.

Handcuffed by conflicting and often unrealistic expectations from judges, prosecutors and the public, and assigned overwhelming caseloads of too many youth who should not be the court's responsibility, juvenile probation lacks clarity about its goals and purpose. Despite the dedication and admirable intentions of probation professionals, probation often pulls young people deeper into the system without offering the support and guidance that would put them on the right path and reduce the likelihood of reoffending.

At its best, probation offers court-involved youth who would otherwise be confined the chance to remain in the community and participate in constructive and therapeutic activities. But probation can also become a gateway to unnecessary confinement for youth who frustrate authorities with noncompliant behavior but pose minimal risk to public safety. This overreliance on confinement disproportionately affects youth of color and exacerbates the already severe racial and ethnic disparities plaguing juvenile justice.

But it doesn't have to be that way.

Given research on adolescent behavior and brain development and evidence about intervention strategies that consistently reduce delinquency, the knowledge exists now to get juvenile probation right. Better yet, taking action to get probation right presents an enormous opportunity for improving the entire juvenile justice system. It is *the* reform strategy likely to deliver the best results for the most young people, with nearly a half-million given some form of probation annually.

Getting it right means transforming probation into a focused intervention that promotes personal growth, positive behavior change and long-term success for youth who pose significant risks for serious offending. It means dramatically reducing the size of the probation population and probation officer caseloads by diverting far more youth so they can mature without being pulled into the justice system.

It means trying new interventions and letting go of outdated, ineffective ones: ditching compliance in favor of supports, sanctions in favor of incentives and court conditions in favor of individualized expectations and goals.

Getting probation right means embracing families and community organizations as partners and motivating youth primarily through rewards, incentives and opportunities to explore their interests and develop skills, rather than by threats of punishment.

Finally, getting probation right means setting clear and meaningful outcome goals for probation itself — including those for improving racial and ethnic equity — and holding probation and its partner agencies accountable for achieving them.

This paper lays out the Annie E. Casey Foundation's vision for modernizing juvenile probation. It is based on more than 25 years of experience with the Juvenile Detention Alternatives Initiative® (JDAI) and five years of studying probation with researchers, practitioners, youth, families and pilot probation transformation sites.

The paper describes the evidence and rationale behind the vision's two pillars: reducing probation caseloads by diverting a greater share of cases from formal court processing and refashioning probation into an effective intervention for the smaller population of youth who will remain on supervision caseloads. The Foundation hopes to encourage local action, research, innovation and learning that will move juvenile probation toward its full potential for improving the entire juvenile justice system.

WHY WORRY ABOUT JUVENILE PROBATION?

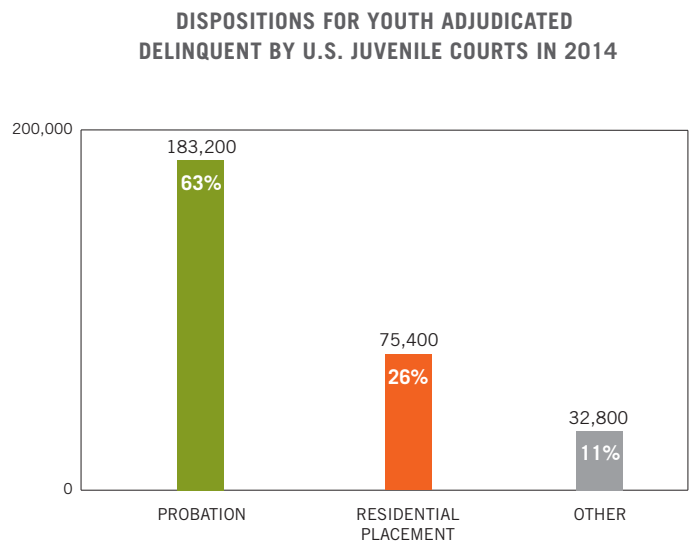


Probation plays an outsized role in the juvenile justice system and exerts a potentially pivotal impact in the lives of court-involved youth. It is the disposition most often imposed on young people who enter our nation’s juvenile justice systems.

Probation Plays a Pivotal Role in the Juvenile Justice System

In 2014, the latest year for which juvenile court data are available, more than half of the nearly 300,000 youths found delinquent in juvenile courts (63 percent) were sentenced to probation, as shown in the chart at right. “Informal” probation supervision was also the outcome for more than 100,000 youths whose cases were not formally processed in juvenile court in 2014 and for 73,000 youths whose cases were processed formally but were not adjudicated delinquent. (Informal processing of juvenile cases is often referred to as “diversion.”) Another 24,000 youths adjudicated for status offenses were placed on probation.¹ In all, 383,000 young people were placed on formal or informal probation supervision in 2014 — more than half of them youth with status offenses or informal probation cases.²

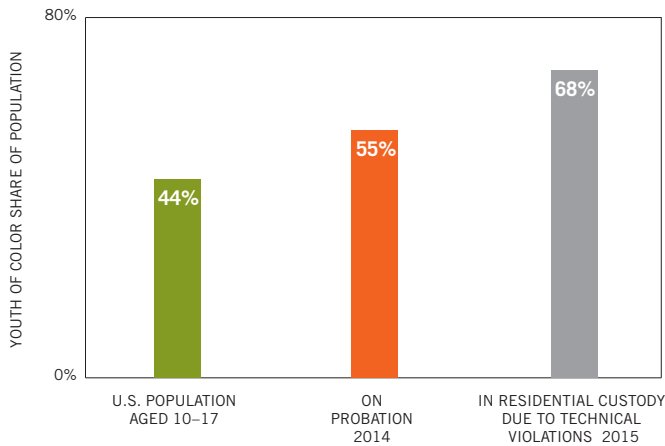
As the most common disposition, probation plays a large role in perpetuating the most glaring defect in our nation’s juvenile justice systems — the vast and continuing overrepresentation of African-American, Latino and other youth of color. In 2014, 55 percent of all probation dispositions involved youth of color — far higher than



SOURCE: Easy Access to Juvenile Court Statistics: 1985–2015. Retrieved from www.ojjdp.gov/ojstatbb/ezajcs

their share of the total youth population (44 percent).³ Even more worrisome, 68 percent of young people held in residential custody in 2015 for a technical violation — which usually involves breaking probation rules rather than being charged with a new offense — were youth of color.⁴

OVERREPRESENTATION OF YOUTH OF COLOR



*Youth of color include youth of all races other than white, plus all Latino youth regardless of race.

SOURCE: OJJDP Statistical Briefing Book. Retrieved from www.ojjdp.gov/ojstatbb

Juvenile probation also consumes substantial public dollars. Available evidence suggests that our nation's juvenile probation workforce includes 15,000 to 20,000 professionals, and that total juvenile probation costs nationwide — including personnel costs plus expenditures for probation-funded programming, supplies, technology, transportation and administration — likely amount to more than \$2 billion per year.⁵

Yet both nationally and locally, the day-to-day, nuts-and-bolts realities of juvenile probation receive scant attention. The most recent review of research on juvenile justice by the National Academies of Science, published in 2013, listed more than 1,000 reports but did not reference a single study examining the effectiveness of juvenile probation as an intervention for court-involved youth. Likewise, the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) has no ongoing survey

regarding youth on probation.⁶ The most recent OJJDP publication about juvenile probation, released in 2012, was a two-page brief that did little more than describe the nation's juvenile probation population.⁷

This lack of attention to probation is especially problematic given its crucial role as a gatekeeper to correctional commitments and other out-of-home placements. In the 2015 Census of Juveniles in Residential Placement, for instance, 18 percent of youth in custody were committed for technical violations, and another 5 percent were committed for violating court orders stemming from a status offense.⁸

Evidence Shows That Juvenile Probation Doesn't Work

In spite of the limited attention given to juvenile probation, the research indicates that surveillance-oriented probation is not an effective strategy for reversing delinquent behavior, with insignificant effects on reoffending and especially poor results with youth at low risk of rearrest.

Insignificant effects on reoffending. In 2013, a team of scholars at the University of Cincinnati reviewed the evidence on probation and concluded: "Traditional community supervision — both as an alternative to residential supervision (probation) and as a means to continue supervision after release from a correctional institution (parole) — is ineffective."⁹ Several other recent studies concur. For instance, a 2012 article on juvenile and adult probation in the *Journal of Crime and Justice* declared that "the impact of community supervision is at best limited and at worst leaves clients more likely to recidivate."¹⁰ Yet Mark Lipsey of Vanderbilt University, echoing similar findings from other scholars,¹¹ found that programs designed to stem delinquency through counseling, skill building and restorative justice all

A NOTE TO OUR READERS ABOUT RISK ASSESSMENT

This paper frequently refers to the concept of risk and makes distinctions between youth with high-risk (or higher) scores vs. those with low-risk (or lower) scores. It does so because many studies have found strong correlations between assessed risk levels and subsequent outcomes, a finding that generally holds true even among youth of the same race and/or ethnicity.

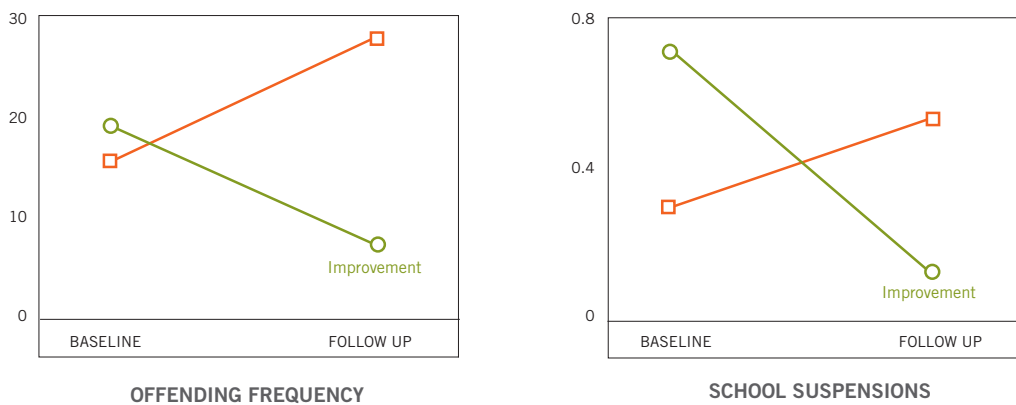
Yet this research on risk is highly problematic, both conceptually and pragmatically, in ways that exacerbate the justice system's unequal (and harsher) treatment of youth of color as compared to their white peers. One difficulty arises from the fact that juvenile courts and probation agencies have no way of measuring young people's actual offending rates but can only measure their rates of rearrest. We know that policing practices and deployment patterns differ greatly across the country and that the experiences of youth of color with police are fundamentally different than they are for white youth. As a result, young people's likelihood of arrest depends heavily on contextual factors — like race and ethnicity, neighborhood and school — that are beyond their control. By relying on future system involvement (arrest, adjudication or incarceration) as their primary outcome measure, risk assessment instruments essentially take for granted, and therefore help to perpetuate, the cycle of unequal treatment. Often this discriminatory dynamic is exacerbated in the scoring of risk assessment instruments, when risk levels assigned to youth of color can be elevated due to objective factors like “age at first arrest” and “number of prior court referrals” (which, again, are influenced by race and other contextual factors) and to more subjective factors like “attitude toward authority” that may disadvantage youth of color due to unconscious or implicit bias of workers administering the assessment.

This conundrum offers no easy answers. But at a minimum, it demands that juvenile court and probation professionals remain mindful of racial and ethnic disparities, intensify efforts to combat those disparities and refrain from using assessment tools entirely or primarily to justify incarceration or to determine sanctions or supervision levels on probation — as is too often the case today. Instead, risk and needs assessment instruments should be used mainly to identify youth who should be diverted from the system, inform the case planning process and identify opportunities and interventions that can best help young people achieve the goals of probation — accelerating their personal development and encouraging personal growth and positive behavior change that maximize their chances for a safe, happy, law-abiding, productive and fulfilling adulthood.

ORANGE COUNTY, CALIFORNIA, STUDY FINDS THAT DIVERSION FROM JUVENILE COURT LEADS TO GREATER YOUTH SUCCESS

Researchers from the University of California Irvine tracked the success of 532 youth who were arrested and referred to juvenile court for the first time. Using a sophisticated “propensity matching” procedure, the researchers compared subsequent outcomes for youth who were diverted from court versus youth who were formally processed in court. The study found that the diverted youth were far less likely to be suspended from school or rearrested, and they self-reported far less reoffending behavior than youth formally processed in court.

**DIVERTED YOUTH IMPROVE (green line)
WHILE FORMALLY PROCESSED YOUTH GET WORSE (orange line)**



SOURCE: Adapted from Beardslee, J. B. (2014). *Under the radar or under arrest: How does contact with the juvenile justice system affect delinquency and academic outcomes?* (Doctoral dissertation, UC Irvine).

reduce juvenile reoffending by an average of 10 percent or more, while supervision tends to have a lesser impact. Interventions focused on discipline (such as boot camps) or deterrence (such as Scared Straight) increase recidivism.¹²

Especially poor results with youth at low risk of rearrest.

A 2014 evaluation of programs funded under the RECLAIM Ohio initiative found that among youth scoring as low risk, those placed on probation were more

than 50 percent more likely to reoffend (as measured by felony adjudication and/or commitment to Department of Youth Services) than those not placed on probation. This study also found that youth scoring as low risk who were diverted from court reoffended far less frequently than comparable youth who were formally processed in court.¹³ Likewise, a recent study in Florida found that youth with low-risk scores who were diverted from court

had lower rearrest and reconviction rates than youth with low-risk scores who were placed on probation.¹⁴ As the Council of State Governments has concluded, “Research shows that juvenile justice systems can do more harm than good by actively intervening with youth who are at low risk of reoffending.”¹⁵

Surveillance-Oriented Probation Lags Behind Knowledge of Youth Development

Probation’s lack of effectiveness and its poor results with youth at lower risk of reoffending are entirely predictable based on recent adolescent brain research, which has documented clear developmental differences between teens and adults.

In the words of the National Academies of Science, the juvenile justice field has seen “an explosion of knowledge” in recent years.¹⁶ This new research includes a better understanding of adolescents’ lack of “psychosocial maturity” — the abilities to control impulses, consider the implications of their actions, delay gratification and resist peer pressure.¹⁷ Furthermore, new research on intervention strategies to reduce delinquency has refuted the once widely held notion that nothing works in youth justice rehabilitation.

As Juvenile Law Center Executive Director Emeritus Robert Schwartz explains, “The formal system developed in the last century...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.”¹⁸

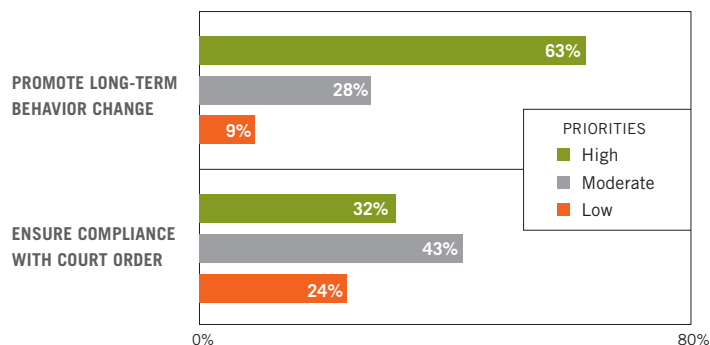
For the most part, today’s historic advances in knowledge have bypassed the most prevalent and arguably the most important element of our nation’s juvenile justice systems: probation. Among the most important lessons of this modern knowledge:

Youth need support, not surveillance. While juvenile probation practices vary widely from jurisdiction to jurisdiction, even officer to officer, the core element of the probation experience involves (1) a judge who imposes a list (often a long one) of rules and requirements that the young person must follow and (2) a probation officer who then keeps tabs on the youth to monitor compliance. When youth on probation disobey these rules — by skipping school, failing a drug test, breaking curfew or missing appointments — they may be found in violation of probation and punished accordingly, up to and including incarceration. Yet the developmental arc of the human brain shows why this heavy emphasis on surveillance and rule following does not succeed. The brain does not fully mature until age 25, and lawbreaking and other risky behaviors are commonplace during adolescence. Most youth grow out of lawbreaking without any intervention from the justice system.¹⁹ Why impose additional rules on already troubled youth, heighten scrutiny of their behaviors and then punish them for predictable transgressions when most would likely desist from delinquency on their own?

For youth at lower risk, less is more. Research finds that for youth at lower risk of reoffending, the most effective strategy for juvenile courts and probation agencies is to abstain from interfering — in other words, issue a warning and stay out of the way. A 2013 meta-analysis by Holly Wilson and Robert Hoge found that, controlling for young people’s backgrounds, youth assessed as low risk who are placed in diversion programs reoffend 45 percent less often than comparable youth facing formal court processing and/or more invasive sanctions. Wilson and Hoge also found that youth assessed as low risk who participate in intervention programs have higher recidivism rates than those who receive only a caution.²⁰ Results from many other studies confirm that formal processing and probation supervision are counterproductive for youth at low risk for rearrest.²¹

LACK OF CONSENSUS ON PROBATION'S TOP PRIORITIES

Share of Probation Officers' Ranking as High vs. Moderate vs. Low Priority



SOURCE: Survey of probation officers and supervisors in all 12 JDAI Deep End sites, plus 12 other experienced JDAI sites, conducted for the Annie E. Casey Foundation by the Urban Institute in 2016.

Nurturing maturity is key. The growing body of research on what works in juvenile justice confirms that interventions aimed at deterrence and discipline tend to actually increase recidivism, and those geared toward surveillance tend to have little or no effect on recidivism.²² By contrast, programs designed to boost psychosocial maturation through positive youth development opportunities and counseling — particularly cognitive behavioral approaches designed to improve problem solving, perspective taking and self-control²³ — tend to reduce recidivism rates by a considerable margin.²⁴

Youth respond far better to rewards and incentives for positive behavior than to the threat of punishment for misbehavior. Studies focused on both youth and adults find that those on probation are more responsive to rewards and incentives for positive behavior than they are to punishments and sanctions for negative behaviors.²⁵ For instance, a recent study involving adults on intensive probation supervision found that “the probability of completing [probation successfully] increases substantially as the rewards-to-punishments ratio grows until a 4:1

ratio is achieved.”²⁶ The use of incentives is even more important for youth. As Drexel University psychologist and Director of the Juvenile Justice Research and Reform Lab Naomi Goldstein and a team of colleagues explained in 2016, “Incentives are an important component of behavioral management systems because they help youths learn and implement new, desired behaviors. In contrast, although applying punishment often results in a reduction or suppression of certain conduct, this technique only *inhibits* undesired behaviors; it does not *replace* them with desired ones.”²⁷

Lack of Clarity About Probation’s Mission, Goals and Outcomes

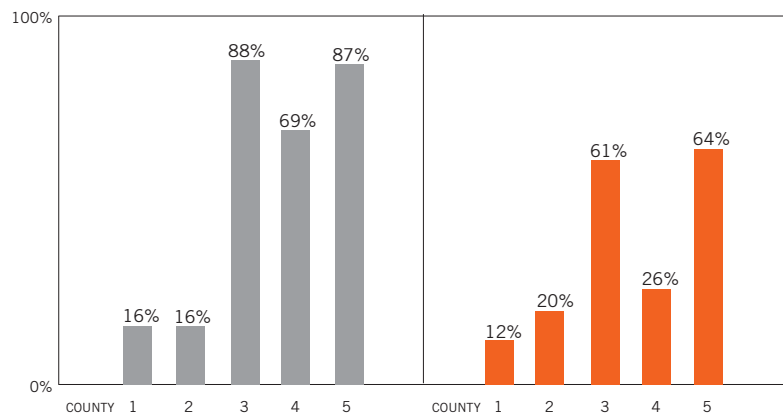
The fundamental flaw with probation is that it is not rooted in a theory of change, so there is an absence of a commonly articulated vision. It is therefore not surprising that probation is practiced very differently from state to state, and even officer to officer.

In a report published in 2002, the National Center for Juvenile Justice lamented that in many juvenile probation agencies “nobody is given responsibility for stating the goals and objectives, documenting the performance, or measuring the outcomes of probation.”²⁸ In 2014, the executive director of the Robert F. Kennedy National Resource Center for Juvenile Justice, John Tuell, a longtime juvenile probation officer, noted that the juvenile probation field still does “not adequately hold

ourselves accountable for the efficacy of our labor and the outcomes of the youth and families we intend to serve.” Tuell wrote that “In many departments it is unclear what outcomes probation officers are seeking — or even that client outcomes should be the focus of their activities. Without this focus, probation officers often turn their attention to meeting contact frequency and paperwork requirements, which often has little if any impact on adolescent behavior.”²⁹

INCONSISTENCY OF PROBATION PRACTICE — DIFFERING RESPONSES TO IDENTICAL CASE SCENARIOS

Experts from the W. Haywood Burns Institute presented hypothetical scenarios to probation officers in five JDAI sites in Ohio. When the Burns Institute asked the probation officers whether they would file a violation of probation, their answers varied widely from site to site.



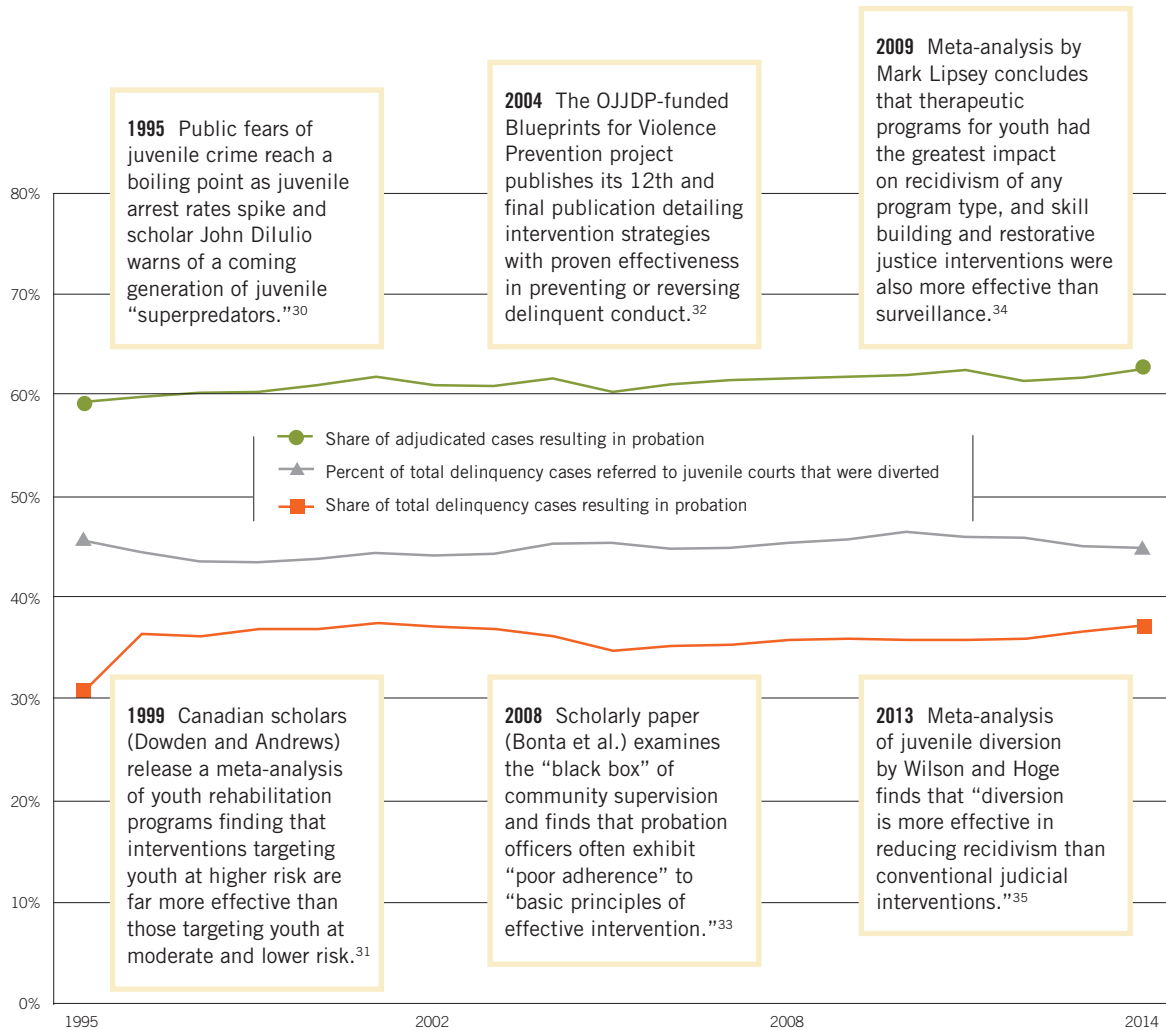
■ GERALD
Male, age 15
No prior arrest

ADJUDICATED: placed on probation
OFFENSE: driving under the influence
.....
BEHAVIORS: alcohol possession following a positive drug screen for marijuana

■ CECILY
Female, age 16
No prior arrest

ADJUDICATED: placed on probation
OFFENSE: felony vandalism, under the influence
.....
BEHAVIORS: missing a scheduled appointment and failing to return probation officer phone calls following three days of truancy

**DESPITE BIG SHIFTS IN CRIME RATES, PLUS AN EXPLOSION OF NEW KNOWLEDGE,
THE USE OF DIVERSION AND PROBATION HASN'T CHANGED**



SOURCE: Hockenberry, S., & Puzanchera, C. (2017, April). *Juvenile court statistics 2014*. Pittsburgh, PA: National Center for Juvenile Justice. Retrieved from www.ncjj.org/pdf/jcsreports/jcs2014.pdf

DESPITE THE RESEARCH SHOWING THAT DIVERSION FROM FORMAL COURT PROCESSING TYPICALLY IMPROVES YOUTH OUTCOMES, FEW STATES OR LOCAL JURISDICTIONS INVEST SIGNIFICANT TIME OR MONEY TO ENSURE ADHERENCE TO BEST PRACTICES.

Problematic Probation Practices

In light of the research, many common practices in probation are problematic or counterproductive:

Too many youth on probation caseloads who don't belong.

Many youth who score as low risk to reoffend continue to be placed on informal or even formal probation. Data show that from 1995 to 2014, a period of large declines in youth confinement and a surge of new research, juvenile courts saw neither an increase in the share of youth whose cases were diverted from juvenile court (which held steady between 43 and 47 percent) nor a reduction in the share of juvenile court referrals resulting in probation (which hovered between 35 and 37 percent).³⁶ Meanwhile, probation caseloads continue to include large numbers of youth whose behavioral problems are rooted in abuse and neglect, trauma, mental health and substance abuse issues and/or family crises — and who would be better served by human services systems that are more appropriately situated to address these difficulties.³⁷

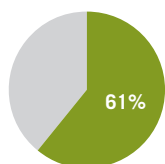
Underuse or misuse of diversion, an otherwise effective tactic. Despite the research showing that diversion from formal court processing typically improves

youth outcomes, few states or local jurisdictions invest significant time or money to ensure adherence to best practices.³⁸ Most diversion programs are only available to youth without any prior offending history, and most exclude all youth accused of felonies.³⁹ Moreover, research studies consistently find that diversion is a point of significant racial and ethnic disparity in juvenile justice, with youth of color being diverted from juvenile court far less frequently than their white peers.⁴⁰

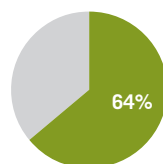
Using diversion appropriately is not simply diverting more youth to programs. It includes a full range of options, including warn and release, restorative justice practices and referrals to other agencies. Studies dating back decades have found that many or most diversion program participants are accused of minor misbehaviors,⁴¹ which would be handled more appropriately with a warning — despite a large body of research showing that this “net-widening” dynamic of diversion programs sometimes does more harm than good.⁴² Carleton University scholar Robert Hoge explained that when police apprehend youth committing minor crimes, their most common response is to release the youth, perhaps with a warning. However, Hoge explained, “[when] a diversion program is available, the officer may be tempted to use that option with the youth even though it may be inappropriate given the nature of the crime and the level of risk of the youth.”⁴³ Also, many diversion programs punish youth who disobey diversion rules by rescinding diversion and returning them to court, a practice that results in a formal delinquency record for diverted youth and can “defeat the purpose of diversion.”⁴⁴

Inadequate attention to racial and ethnic equity. Though academic research examining the intersection between race and ethnicity and probation violations is limited, some studies have found significant disparities.⁴⁵ As noted earlier, national juvenile court statistics indicate that more than two-thirds of young people confined in residential facilities for technical violations in 2015 were youth of color.

INADEQUATE ATTENTION TO RACIAL AND ETHNIC EQUITY



Seldom or never discuss racial disparities in their treatment of probation youth with peers and supervisors



Seldom or never review data on racial and ethnic disparities

SOURCE: The Annie E. Casey Foundation. (2016). *Probation practice survey*.

In 2013, a panel of leading scholars convened by the National Research Council cited frequent “discomfort in discussing race and racial inequities” in juvenile justice agencies, commenting: “In effect, racial disproportionality (and race generally) has become the elephant in the room: most people concede that racial disparities pose a huge problem but are reluctant to candidly discuss their root causes and possible remedies.”⁴⁶ A 2016 survey of juvenile probation personnel in 24 JDAI jurisdictions suggested that inattention to racial and ethnic equity in probation remains widespread: 61 percent of the nearly 1,000 probation professionals surveyed reported that they seldom or never discuss racial disparities in their treatment of probation youth with peers and supervisors, and 64 percent said that they seldom or never review data on racial and ethnic disparities.⁴⁷

Given those findings and probation’s role as the response of choice for most youth who enter juvenile justice systems, probation carries some responsibility for the continuing inequities facing youth of color, and probation leaders have a duty to help lead the search for solutions.

Continuing counterproductive use of standard conditions and costly financial penalties. Contrary to overwhelming evidence and prevailing expert opinion, juvenile courts and probation agencies continue to employ practices that reduce the likelihood young people will succeed on probation.

- **Problematic probation orders.** In September 2016, a National Juvenile Defender Center issue brief found that in some jurisdictions, youth “are required to manage over thirty conditions of probation — a near impossible number of rules for children to understand, follow or even recall.”⁴⁸ In July 2017, the National Council of Juvenile and Family Court Judges (NCJFCJ) issued a new resolution recommending 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.”⁴⁹
- **Excessive fines and fees.** Youth placed on probation (and their families) face myriad and often onerous

financial costs⁵⁰ — even though these fines and fees actually increase reoffending rates and exacerbate racial and ethnic disparities in juvenile justice. A recent study in Allegheny County (Pittsburgh), Pennsylvania, found that fines, fees and restitution imposed on youth had a large and statistically significant impact on their likelihood of reoffending, with greater financial obligations leading to higher recidivism even controlling for the young people’s backgrounds and offending histories.⁵¹

Insufficient collaboration with families and community partners. While probation officers can play an important role in helping youth achieve success, the most powerful influences on court-involved youth, particularly for the long term, come from their families and from others in their communities.

- **Families.** OJJDP has noted, “Justice system officials too often treat family members in a way that commonly makes them feel ashamed and guilty. When family members engage with system representatives, it is often

because of their own perseverance in spite of a lack of support from system officials.”⁵²

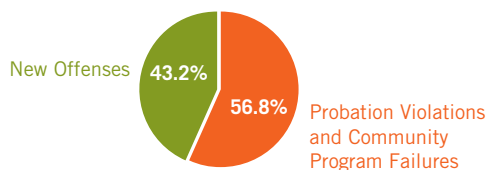
- **Community partners.** Meaningful partnerships are also scarce between probation agencies and community organizations — particularly community-based organizations in underserved neighborhoods where many court-involved youth reside. When the National Council on Crime and Delinquency surveyed nonprofit service providers and youth-focused community-based organizations for a 2014 report, the organization wrote: “The message from these leaders was consistent: Not enough money is reaching ‘the street level.’”⁵³

Too many youth confined for technical violations.

Increasingly, research makes clear that placement into residential facilities does not reduce reoffending behaviors⁵⁴ and that periods of residential confinement can seriously harm young people’s future health and success.⁵⁵ The costs involved in confinement can be astronomical,⁵⁶ and the risks are great that placement

IN SOME STATES, THE MAJORITY OF PLACEMENTS INTO RESIDENTIAL CUSTODY STEM FROM TECHNICAL VIOLATIONS AND OTHER RULE BREAKING, NOT NEW OFFENSES

PENNSYLVANIA:
Share of Residential Placements for New Offenses vs. Probation Violations and Community Program Failures



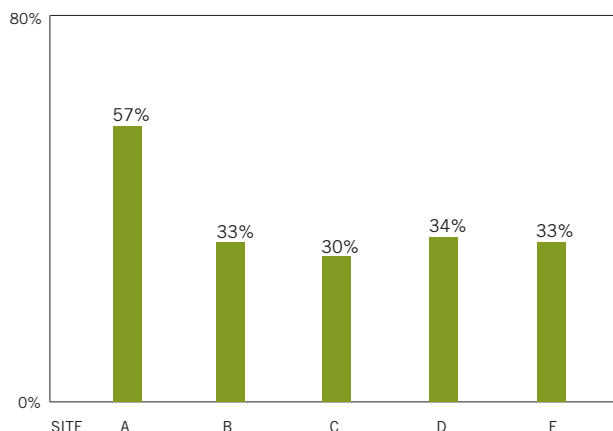
SOURCE: Juvenile Court Judges Commission. 2016 Pennsylvania Juvenile Court Dispositions.

SOUTH CAROLINA:
Most Frequent Offenses Associated with Commitments to Residential Custody

CASES	OFFENSE	CATEGORY/ STATUS
420	Probation Violation	
173	Contempt of Court	
91	Assault & Battery	3RD DEGREE
24	Larceny	BREAKING INTO AUTOMOBILES
23	Burglary	2ND DEGREE – NON-VIOLENT

SOURCE: South Carolina Department of Juvenile Justice. Annual Statistical Report 2015–16.

**PROBATION VIOLATIONS AS A PERCENTAGE
OF ALL OUT-OF-HOME PLACEMENTS
Initial Cohort of Deep End Sites (2012)**



decisions will be influenced by subjective bias and exacerbate racial and ethnic disparities. For all these reasons, the NCJFCJ now urges juvenile courts and probation agencies “to develop alternatives to formal probation revocations for technical violations, to ensure that detention or incarceration is never used as a sanction for youth who fail to meet their expectations or goals.”⁵⁷ Yet in many jurisdictions, more youth are committed to residential facilities for probation violations than for violent felonies or any other type of lawbreaking behavior,⁵⁸ as shown in the charts on page 15. In each of the five initial JDAI sites piloting an approach to significantly reduce the use of post-dispositional out-of-home placements — often referred to as “deep end” sites — initial assessments determined that at least 30 percent of placements came directly from probation. In one deep end site, 53 percent of commitments were due to probation violations.⁵⁹

Limited use of rewards and positive incentives. The use of positive incentives remains the exception in juvenile

probation. Incorporating the use of reinforcements, as one recent study put it, would “necessitate a paradigmatic shift in supervision philosophy” before it could be widely accepted.⁶⁰ A recent law journal article noted: “The vast majority of juvenile probation systems — like adult probation systems — emphasize probationers’ failures to comply with requirements...[T]his approach fails to recognize the power of positive reinforcement in shaping behavior over time. Typically, the sole form of potential reinforcement for compliance is the long-term promise of eventual discharge from supervision; few opportunities exist within the typical probation structure to provide intermediate reinforcement of shorter-term, probation-compliant behaviors.”⁶¹

Deficit-based approach. Scholars William Barton and Jeffrey Butts noted: “The traditional juvenile justice system is deficit based. Policies and programs are designed to identify youth problems and to implement strategies for reducing those problems.”⁶² Youth who become deeply enmeshed in the juvenile justice system often reside in communities that lack well-resourced schools, safe recreational spaces, active civic organizations or access to entry-level jobs offering an upward career ladder. Juvenile courts and probation agencies lack the wherewithal to reverse these societal injustices. However, when they focus primarily on deficits, they miss opportunities to connect court-involved young people with positive adult mentors and role models and to provide opportunities for young people to explore their interests, build skills, develop their talents and contribute to the well-being of their communities.

Failure to align probation supervision and services with young people’s risk of reoffense. Perhaps the most consistent finding from recent juvenile justice research is that interventions work best when they target youth at high risk of reoffense. Youth who score as high risk present the greatest opportunity to prevent harm. These are the young people for whom the stakes are highest

**NATIONAL JUVENILE COURT
STATISTICS INDICATE THAT MORE
THAN TWO-THIRDS OF YOUNG PEOPLE
CONFINED IN RESIDENTIAL FACILITIES
FOR TECHNICAL VIOLATIONS IN 2015
WERE YOUTH OF COLOR.**

that we get it right and who need our most effective resources. Mark Lipsey has written that delinquency risk is the variable with “the largest relationship by far” with success in juvenile justice intervention programs,⁶³ and most jurisdictions now employ formal risk and needs assessment instruments. Yet juvenile courts and probation agencies frequently violate this “risk principle” by devoting effective community interventions to the wrong kids — those assessed as lower risk. Kids assessed as higher risk who would benefit most, especially youth of color, either do not receive these services while on probation or end up in out-of-home placement.

Failure to address delinquency-related needs of probation youth. Research finds that juvenile probation agencies often fail to connect youth with appropriate services matched to their individual delinquency-related needs.⁶⁴ For instance, a study of Ohio juvenile corrections agencies found “no evidence” that probation officers and juvenile corrections were using information from the state’s risk/needs assessment instrument “to guide the delivery of treatment interventions.”⁶⁵

Unnecessarily long periods of probation supervision. Juvenile probation varies widely from jurisdiction to jurisdiction. In some, such as Los Angeles County,

California, and Allegheny County, Pennsylvania, the average length of juvenile probation exceeds two years.⁶⁶ In several states, including Colorado, Florida and Virginia, the average time on probation is roughly 12 months.⁶⁷ In other states, the average duration of probation is shorter. Though no expert consensus exists on the optimal duration of supervision for youth, evidence suggests that limiting probation terms and using the incentive of shortening probation terms as a reward for positive behavior can improve outcomes and reduce costs with no harm to public safety. Guided by this research, juvenile justice experts in the Pew Charitable Trusts’ Public Safety Performance Project have recommended shorter periods of probation for youth in several states.⁶⁸

**A NEW
VISION FOR
JUVENILE
PROBATION**

II

The Casey Foundation’s vision for juvenile probation transformation rests on two pillars: reducing probation caseloads by diverting a greater share of cases from the juvenile court system and refashioning probation into a more strategic and effective intervention for the much smaller population of youth who will remain on supervision caseloads.

Establishing a superior system of community supervision will require widespread agreement over what probation is meant to accomplish and a commitment from juvenile courts and probation agencies to measure their success in achieving concrete goals aligned with that purpose.

To jumpstart a constructive dialogue toward crafting this consensus, the Foundation proposes the following to the leaders and line staff of juvenile probation agencies — as well as judges, prosecutors, juvenile defenders and other system partners. *Resolve to:*

Transform juvenile probation into a purposeful intervention targeted to youth who pose significant risk for serious reoffending. Partner with families and communities to promote personal growth, positive behavior change and long-term success (as opposed to surveillance and compliance), as a means to protect public safety — and do so in ways that promote racial and ethnic equity.

Probation must become strategic and goal oriented, applying our best knowledge to maximize the odds that young people will turn away from criminal behavior and succeed in adult society.

Formal probation, in which a youth is assigned a probation officer and held responsible by a court for complying with terms of probation, should be limited only to youth with serious offenses or otherwise assessed to be a risk to public safety. Youth who have not committed serious offenses and are not at high risk for rearrest should not be placed on probation. These young people should be handled outside of the court system by community organizations and/or public agencies unconnected to the court system.

As detailed in the next section of the report, this change can occur only with the cooperation and support of judges and prosecutors, and it will require that juvenile justice leaders work with community partners to significantly expand their menu of diversion options,

PROBATION TRANSFORMATION
Limiting System Involvement

Goals

DIVERSION Divert at least 60% of cases including ALL youth with low-level offenses and lower-risk levels.

PROBATION Use probation only as a purposeful intervention to support growth, behavior change and long-term success for youth with serious and repeat offenses.

Methods

- Community-Led Diversion
 - No Formal Processing
- Refer to Services, Do Not Order
 - No Probation Lite
 - No Court Consequences
- Expectations and Goals, Not Court Conditions
 - Positive Relationship Building
 - Family-Engaged Case Planning
 - Improve Decision Making and Build Skills
 - Incentives and Opportunities

Outcomes

- ↑ Youth Diverted
- ↑ Family Engagement
- ↑ Community Resources
- ↑ Positive Adult Relationships
- ↑ Youth Remaining in Communities
- ↑ Community Safety
- ↑ Racial and Ethnic Equity

including the option of counsel and release, and to develop an organized continuum of resources and services for diverted youth. Adopting these practices would have a profound impact on probation caseloads — allowing probation officers and departments to maximize their skills and training to dedicate time, attention and resources to the young people who present the greatest need for intervention and risk to public safety.

Promoting Personal Growth, Positive Behavior Change and Long-Term Success

For youth who do pose a significant risk to public safety and require targeted guidance, support and opportunities, probation must be focused, strategic and goal oriented. Probation interventions must be carefully designed and individualized to maximize the likelihood that each young person placed on supervision will avoid negative behaviors

and make progress on their path toward healthy and constructive roles in adult society.

Our advancing knowledge about adolescent development and behavior makes clear that most youth who engage in delinquent conduct, even in serious offending, are amenable to change. Studies show that effective intervention programs — those aimed at helping young people mature, build critical-thinking skills and behaviors and address the underlying causes of their delinquent conduct — can substantially reduce rearrest rates.⁶⁹ Additionally, restorative justice practices — such as community conferencing, victim-offender mediation and peace circles — are effective in holding youth accountable for their offenses, teaching skills and competencies, building victim empathy and providing meaningful ways for harm to be repaired and for victims to engage, if they choose, in a growth opportunity for the young person.⁷⁰ Meanwhile, adolescent development research makes clear

that access to constructive opportunities can play a central role in determining young people's life trajectory.⁷¹

Juvenile justice scholar William Barton wrote: "Competency development means much more than recidivism reduction. It means attending to supports and opportunities that can foster positive life outcomes. This can best be done by including youth and their families in planning, building on existing strengths of the young people, and incorporating the community, both in terms of informal supports and professional services, as appropriate for each individual youth."⁷²

Protecting Public Safety

Protecting the public must remain a core purpose for probation and the juvenile court generally. In fact, the proposed new approach seeks to improve probation's record on public safety by bringing its practices more in line with what works in reducing young people's likelihood of rearrest.

Probation leaders and their partners in the juvenile court should continue to consider confinement for the small number of youth who get arrested repeatedly for serious offenses and pose a demonstrable threat to their communities, and they must measure the effectiveness of intervention programs — and probation generally — in lowering offending rates of youth placed on probation. However, the focus on public safety must be clear eyed and must apply realistic and appropriate goals for young people on probation. Rather than expecting perfect compliance with probation rules, it must make room for missteps and setbacks, while aiming to put youth on a path toward maturation and long-term success.

Employing Measurable Objectives

Public discussions about juvenile probation, and about juvenile justice generally, often revolve around the need

for "accountability" — and for good reason. Virtually everyone agrees that there should be an acknowledgment of and an appropriate response to youthful misdeeds. (At the same time, the ideal of accountability should never be used as an excuse for imposing counterproductive punishments on young people.) Accountability, however, is equally necessary for probation itself. If probation agencies are to fulfill their potential for improving young lives and promoting public safety, they must begin to hold themselves accountable for results. More specifically, probation agencies should employ measurable objectives in the following areas:

- limiting the formal probation population to youth who pose significant risk to public safety;
- eliminating the use of secure detention and out-of-home placements for technical violations and minimizing placements in all other circumstances;
- taking aggressive and strategic action to monitor and address racial and ethnic disparities and to promote equity;
- providing positive youth development activities and fostering success in school and/or career preparation;
- effectively engaging parents and forging meaningful community partnerships;
- meeting the needs of (and gaining favorable reviews from) probation parents and families and youth themselves;
- meeting the needs of (and gaining favorable reviews from) victims;
- addressing young people's identified needs and delinquency-related risk factors; and
- achieving meaningful goals for reducing reoffending.

EXPANDING
& IMPROVING
THE USE OF



DIVERSION

TO REDUCE
PROBATION
CASELOADS

The use of diversion never rebounded after the “superpredator” era in the late 1990s.

In 1985, 54 percent of all youth referred to juvenile courts nationwide were diverted. Of these diverted youth, 21 percent were assigned to a probation department caseload as part of their diversion agreements.⁷³ By 1998, as public concerns over juvenile crime and violence reached their zenith nationwide, the share of youth diverted fell to 43 percent, and 26 percent of diverted youth were assigned to a probation caseload. In other words, many more youth — including many youth charged with first-time misdemeanors — were being formally processed in court and/or assigned to probation caseloads for minor lawbreaking.⁷⁴ Remarkably, the diversion rate has barely budged since 1998. In 2014, the most recent year for which data are available, just 44 percent of youth referred to juvenile courts nationwide were diverted. Of these diverted youth, nearly one-fourth (24 percent) were assigned to probation caseloads.⁷⁵

This continued heavy reliance on formal processing and probation supervision for youth at low risk for rearrest represents a conspicuous current-day failure of our nation’s juvenile justice systems. Juvenile courts and probation agencies should heed the evidence and — like the farsighted leaders in Los Angeles County, California⁷⁶ (see text box on next page) — sharply expand the share of cases diverted and begin addressing predictable adolescent misbehavior outside of the court system. Except in cases where young people demonstrate a significant threat to

public safety, they should be held accountable for their misbehavior without resorting to legal sanctions, court oversight or the threat of confinement.

The juvenile justice system should also heed the evidence in determining how to work with youth who get diverted. Specifically, juvenile courts and probation agencies should abandon the practice of placing diverted youth on informal probation caseloads, essentially “probation lite.” Instead, they must craft appropriate responses (including the option of doing nothing beyond warning and releasing youth in many cases) that align with research and have the highest likelihood of maximizing young people’s success. For youth who require diversion interventions, juvenile courts and probation agencies should substantially expand their partnerships with neighborhood-based community organizations, and local and state governments should begin funding community providers to oversee most if not all diversion cases.

Finally, as part of their efforts, every jurisdiction should put in place appropriate safeguards to ensure that diversion does not lead to counterproductive net widening, where diversion programs end up serving young people whose misconduct would otherwise (and more appropriately) be addressed by parents, teachers and others in the community.⁷⁷

THE NATION'S LARGEST COUNTY GOES ALL IN FOR JUVENILE DIVERSION

On November 7, 2017, the Los Angeles County Board of Supervisors enacted a historic new juvenile diversion initiative, perhaps the most ambitious in our nation's history, which will steer thousands of young people each year away from the juvenile court system and into supportive services in the community. Not only will young people diverted through the program be shielded from referral and adjudication in juvenile court, most will also avoid any arrest or citation.

According to a 75-page report detailing the reforms, roughly 11,000 (about 80 percent) of the 13,665 arrests and citations issued to county youth in 2015 would have been eligible for diversion under the new system — including youth accused of status offenses, misdemeanors and most nonviolent felony offenses.⁷⁸ The plan authorizes law enforcement officers either to counsel and release youth they apprehend (for any status or misdemeanor offense), or to refer youth to diversion programs in lieu of arrest (or in some cases, following an arrest) for any misdemeanor and many felonies.

To manage the diversion effort, Los Angeles County is creating a new Office of Youth Diversion and Development, which will be charged with forging partnerships with the Los Angeles Police Department, the Los Angeles County Sheriff's Department and several dozen smaller law enforcement agencies in the county to promote the use of diversion. The new agency will also be tasked with developing partnerships with community agencies to assess and serve youth placed in diversion programs, crafting procedures for managing the cases of diverted youth and collecting and analyzing data to monitor progress and evaluate the impact and effectiveness of diversion efforts.

Los Angeles County has allocated \$26 million to pay for an array of community-based programs and services, with the goal of securing another \$14 million over four years to fully fund the planned service continuum.⁷⁹

In announcing the diversion program, the chair of the county's board of supervisors, Mark Ridley-Thomas, said, "Giving youth access to supportive services as an alternative to arrest and incarceration is both morally imperative and fiscally responsible."⁸⁰ Janice Hahn, another county supervisor, added, "The best juvenile system is one that keeps kids out of it in the first place."⁸¹

Which Youth Should Be Diverted?

Diversion decisions will always reflect individual circumstances, and specific criteria used to make these decisions will vary from jurisdiction to jurisdiction. But as a rule, youth should be diverted from formal court processing unless they are alleged to have committed a serious violent felony, have a history of serious and/or chronic offending or have been assessed as high risk of rearrest.

More specifically, the Casey Foundation recommends the following criteria in deciding whether youth should be diverted or formally charged.

- **Always diverted:** Youth should be adjudicated or formally processed for a first offense only if they have committed a serious violent crime. Otherwise, there should be no formal processing for first-time offenses. Also, except in cases of chronic reoffending involving offenses posing a significant threat to public safety, youth should not be formally processed or adjudicated for committing a misdemeanor. Likewise, youth should not be formally processed for a first-time nonviolent felony offense.
- **Rarely diverted:** Youth should be formally processed if they have committed a serious violent crime with premeditation. In most cases, youth also should be formally processed if they are charged with a second violent felony regardless of circumstances, or for a third felony of any kind.
- **Factors for deciding in-between cases:** For cases that fall between the always diverted and rarely diverted criteria, the decision whether to formally process juvenile cases should be determined based on factors such as: premeditation and role in the offense; the youth's strengths, assets and supports; the youth's willingness to take responsibility for the offense; success or failure in completing any previous diversion agreements; and/or the assessed risk for rearrest. Systems need to track all diversion cases by race and ethnicity. If in-between

cases are resulting in racial disparities, jurisdictions should examine and modify practices that lead to these inequities.

Compared with standard practice today, applying these criteria will substantially increase the number of diverted cases in the vast majority of court jurisdictions. Whereas 44 percent of juvenile referrals nationwide were diverted in 2014, the criteria above will require that at least 60 percent of juvenile cases — and likely much more than that — never reach juvenile court.

Though such high rates of diversion may seem unrealistic to some readers, some jurisdictions are already diverting a large majority of youth referred on delinquency charges. For instance, just 40 percent of Multnomah County youth referred to court in 2016 were formally processed. Many cases (32 percent) were simply dismissed by prosecutors, and the rest were placed in either community-based or probation-administered diversion programs. (For more on Multnomah's innovative work in probation reform, see text box on page 42.) Likewise, Washington's Pierce County has formally processed exactly 40 percent of youth referred to court on delinquency charges in each of the past three years (2014–16).

When Should Youth Be Diverted?

By Whom?

Diversion can occur at any of three stages:

- **Prior to arrest:** The first opportunity for diversion is for *police officers* not to make an arrest or for *school officials* not to involve police or initiate a court referral when confronting youth involved in minor lawbreaking behavior at school.
- **At the prosecutorial level:** After an arrest, prosecutors can decide that it will not benefit public safety and is not

in the interests of the young person to refer the case for formal processing in juvenile court.

- **At juvenile court intake:** Once youth have been referred to juvenile court by prosecutors, diversion can be initiated by juvenile court intake officers (or at times by judges themselves) if they believe that formal processing would not be necessary for public safety or beneficial to the young person.

Expanding the use of diversion at any or all of these stages is critical to the success of many youth currently enmeshed in the juvenile court system and to reducing probation officer caseloads — a key ingredient for successful probation reform. Yet the decision to divert youth from juvenile court is seldom made by probation personnel. In some jurisdictions, while intake officers employed by probation agencies have some authority or influence over decisions on whether youth should be formally processed in court, diversion decisions are most often made by police officers, educators, prosecutors, judges or other court staff. Therefore, pursuing meaningful progress in probation transformation will require probation leaders — working with other system partners and community allies — to reach out to law enforcement chiefs, school administrators, judges and prosecutors and advocate to sharply reduce the share of youth formally processed in juvenile court.

What Should Diversion Entail?

Depending on the circumstances and seriousness of the case, and any needs or risks identified as part of the initial screening process, diversion can occur at one of four levels:

- **Warn and release/no intervention** — appropriate for many or most youth with a first-time misdemeanor offense (and some with second and third misdemeanor offenses). Given the extensive research showing the harm that diversion programs can cause through net widening,

warnings without intervention should be an option in every jurisdiction's diversion continuum and should be the default for most first-time low-level offenses, regardless of whether the diversion is initiated by police, schools, prosecutors or juvenile intake workers.

- **Short-term, light-touch diversion** — such as an apology letter, essay, workshop or low-intensity diversion program. The latter can include civil citation programs or brief and non-intensive police- or prosecutor-run diversion programs.

- **Restorative justice models** — such as those employing community conferences, neighborhood accountability boards, youth courts or victim-offender mediation panels, where an informal hearing is conducted and an appropriate resolution determined. In these cases, which are especially appropriate when young people's offenses have harmed a victim, resolutions may include an apology letter or essay, restitution or community service, participation in youth development programming (mentor, after school, academic tutoring) or individual/family counseling. However, restorative justice programs would not have a budget to pay for youth to participate in expensive or high-intensity programs or services.

- **Individualized service plan** — where youth with more extensive offending histories and/or more significant needs are assessed thoroughly and either linked to another, more appropriate human services system (e.g., child welfare or mental health) or referred to one or more intervention programs suited to individual needs and circumstances. Services might include individual or family counseling, cognitive-behavioral training, mentor or advocate program, academic tutoring, wraparound services, sex offense counseling, positive youth development activity and an evidence-based intervention (such as Multisystemic Therapy or Family-Focused Therapy). For these youth, the diversion coordinating agency would have access to funds or slots to purchase appropriate services when necessary.

PROMISING DIVERSION PRACTICES

For most courts and probation agencies nationwide, sharply reducing probation caseloads and increasing the share of delinquency cases processed informally (outside of court) will represent a fundamental shift from longstanding common practice. However, some jurisdictions are already pursuing changes consistent with this new approach, with encouraging results.

Limiting arrests for misbehavior at school. Since prohibiting arrests at school for a set of common nonserious misbehaviors and crafting an elaborate menu of alternative responses in 2003, *Clayton County, Georgia*, has reduced school arrests by more than 90 percent.⁸² In *Philadelphia*, police instituted a new policy in 2014 to divert students accused of low-level offenses. Instead of being arrested, these students are assessed by Philadelphia's Department of Human Services and referred as appropriate to service providers in the community. In the first three years, school arrests declined 68 percent.⁸³

Giving law enforcement officers an alternative to arrest in the community. In *Florida*, nearly 10,000 young people were issued civil citations in 2016 rather than being arrested for a range of low-level offenses.⁸⁴ In *Summit County (Akron), Ohio*, local police and sheriff's departments have referred 600 to 800 youths to police-led diversion programs in each of the past four years. This represents at least 20 percent of all Summit County delinquency cases each year.⁸⁵

Employing restorative justice in lieu of court. In *Davidson County (Nashville), Tennessee*, the share of juvenile court referrals handled informally has increased from 12 percent in 2013 to 52 percent in 2016, with many youth being served in new restorative justice programs.⁸⁶ In *Alameda County, California*, a recent evaluation found that youth diverted to a Restorative Community Conferencing program were half as likely to reoffend as youth formally processed in court.⁸⁷

Crafting diversion alternatives for youth with serious human service needs. Many jurisdictions have created diversion pathways to ensure that juvenile probation does not serve as a dumping ground for youth whose misbehavior is best addressed outside the court system. *Pima County (Tucson), Arizona*,⁸⁸ and *King County (Seattle), Washington*,⁸⁹ have created diversion programs for youth involved in domestic disputes. Several jurisdictions are working with the *National Center for Mental Health and Juvenile Justice* to expand diversion options for youth with serious mental health issues,⁹⁰ and *Los Angeles* is one of many sites taking action to ensure that youth involved in the child welfare system do not become involved with the juvenile justice system unnecessarily.⁹¹

Creating a community hub to coordinate diversion. *Multnomah County's Juvenile Reception Center* is a site where police bring youth arrested for low-level offenses who are inappropriate for detention. Staff at the reception center perform screening and assessments, talk with youth and their families and refer them to appropriate services in the community.⁹² Likewise, the *Huckleberry Community Assessment and Resource Center in San Francisco* serves as a hub for diversion efforts, conducting assessments, offering crisis intervention as necessary and providing appropriate referrals for youth diverted from court.⁹³

SHIFTING RESPONSIBILITY FOR DIVERTED YOUTH TO AGENCIES UNAFFILIATED WITH THE COURT WILL ALLOW PROBATION OFFICERS TO CONCENTRATE THEIR FULL ATTENTION ON THE MOST SERIOUS, AND THEREFORE MOST IMPORTANT, PROBATION CASES.

For youth assigned to any type of intervention or service plan, the terms of diversion should be spelled out in a formal agreement signed by the youth, his or her caregiver and the diversion coordinating agency. This diversion agreement should be crafted as soon as possible after the incident (days, rather than weeks or months), and all diversion activities should be initiated promptly and accomplished quickly — with cases generally ending within three months or less.

How Should Diversion Differ From Probation Supervision?

Whenever or wherever it is initiated, diversion should differ from probation in several fundamental ways. Unlike youth on probation:

- Diverted youth should never be assigned to probation or supervised by a probation officer.
- There should be no possibility of placement or confinement for failure in diversion. This means that diverted youth should never be subject to court-ordered

conditions. Except in rare cases involving chronic offending and significant risk to public safety, they should not face court-imposed consequences for noncompliance with a diversion agreement or contract.

- There should be no court-imposed contact standards to guide how often diversion program providers meet or speak with diverted youth (or their families).

Who Should Oversee Diversion Programming?

Today, most or all diversion programming typically is overseen by the probation department, and some youth diverted from court are nonetheless treated as conventional probation cases. This arrangement often results in excessive scrutiny and intervention for youth who pose minimal risk to public safety.

Probation agencies should abandon this function. Instead, all diversion programming initiated at juvenile court intake — and preferably all diversions initiated by police, schools or prosecutors as well — should be handled by organizations in the community and/or public human services agencies outside the court system. Not only are community organizations and non-court public agencies better situated to work with young people who merit court diversion, but also shifting responsibility for diverted youth to agencies unaffiliated with the court will allow probation officers — and probation departments — to concentrate their full attention on the most serious, and therefore most important, probation cases.

To maximize the effectiveness of diversion, each jurisdiction should seek over time to identify a single community-based organization — or a coalition of organizations and agencies⁹⁴ that are independent from the court, prosecutor's office and probation department — to oversee diversion. The responsible agency or collaborative should offer a single point of entry for assessments, referrals and care coordination and service

integration provided to diverted youth, as well as crisis intervention when necessary. This diversion coordinating organization should receive ongoing operating funds from the court or from county or state government, and it should be responsible for developing, overseeing and tracking outcomes for a continuum of diversion options.

What Should Happen if Youth Fail to Complete Their Diversion Agreements?

Youth should not face court-imposed consequences for noncompliance with their diversion agreement or contract. Often, authorities retain the right to reopen and process the cases of youth who break their diversion agreements or fail to complete prescribed diversion programming. The threat of possible adjudication may help compel compliance by youth in diversion. Ultimately, however, retaining this threat is unnecessary and counterproductive because most youth grow out of delinquent behavior without any intervention, and formal processing substantially increases the likelihood of future arrests, while doing little or nothing to improve behavior.

In cases where diversion agreements call for young people to undertake tasks or participate in activities or follow rules, diversion program staff should work hard to engage youth and their families and encourage compliance with diversion agreements. But diversion staff should also be willing to terminate some cases as unsuccessful without imposing further consequences. If the noncompliant young person commits a subsequent offense that results in arrest, his or her behaviors can be addressed with a more intensive diversion intervention or with formal court processing. If no subsequent offense occurs, there is no benefit to further court involvement. Such young people are better left to grow and mature under their families' supervision.

The Casey Foundation recognizes that some juvenile court and probation officials may worry that

eliminating the threat of court refiling might encourage noncompliance among diverted youth, potentially harming public safety. We accept that, as no conclusive research is currently available to prove these fears unjustified. Santa Cruz, however, has long refrained from refiling diverted cases without suffering any discernible public safety consequences. Arrest rates in Santa Cruz County have plummeted 75 percent over the past two decades (nearly identical to California's statewide average),⁹⁵ and county data show that following diversion, only 11 percent of youth are charged with a new offense with one year.⁹⁶ Jurisdictions should begin to experiment with these practices and carefully monitor the outcomes. Adolescent development studies show clearly that young people are seldom swayed by threats of future punishment and that greater involvement in the justice system is typically counterproductive. Continuing business as usual — routinely sending youth back to court for noncompliance — is squarely at odds with the prevailing evidence.

How Should Probation Departments Interact With Diversion?

Probation should have no role in administering diversion or in overseeing the cases of diverted youth. Local government and/or the juvenile court should create an oversight committee to monitor and support diversion programs throughout the jurisdiction. This committee — which should include local government officials, service providers, public school system administrators and a variety of leaders representing community organizations, families and youth themselves, in addition to the juvenile probation chief — should set expectations and policy and program guidelines for diversion (including rules to prevent net widening); conduct training and support for personnel involved in providing diversion services; collect and analyze data to assess the adequacy and success of existing diversion programs; and assess needs and develop programs to expand or improve diversion options.

REINVENTING
PROBATION
TO FOSTER
YOUTH
SUCCESS

IV

Expanding the use of diversion and developing a stronger continuum of diversion programming should significantly improve system outcomes. Yet even if our nation's juvenile justice systems manage to extend diversion in all appropriate cases, a sizable population of young people who pose a more serious threat to community safety will remain.

For these youth, probation supervision is necessary to protect the public. Probation can also be an effective tool for helping youth with more significant offending histories to turn away from delinquency, develop self-awareness and other critical life skills and begin achieving important milestones on the pathway to success in adulthood. But probation agencies can only achieve this progress if they embrace a new and better-honed approach that emphasizes building relationships, matching interventions to youths' needs, focusing on incentives rather than sanctions and providing opportunities for positive youth development.

Smaller Caseloads Focused on Success

Reorienting probation must begin with a new and much clearer consensus among agency leaders and line staff as well as other system players about the mission of juvenile probation: All must agree that promoting personal growth, positive behavior change and long-term success — rather than compliance — are probation's guiding purpose.

With the reduced probation populations made possible by increased use of diversion, probation officers should be assigned far smaller caseloads than has been common to date — perhaps 8 to 12 youth per officer. Caseloads this small would represent a significant break from past practice, and they should enable probation officers to develop close, caring, positive relationships with all youth on their caseloads. Smaller caseloads should allow probation officers to work intensively with youth and partner with their families and communities to help young people thrive in school, pursue positive activities in their communities and build cognitive behavioral skills — such as improved decision making and increased capacities to control impulses, weigh consequences, resist negative peer pressure and navigate stressful situations.

Rewards for Goal Achievement and Positive Behavior

Instead of focusing on rules and relying solely or primarily on the threat of violations or other sanctions to minimize

PROBATION TRANSFORMATION IN ACTION Pierce County (Tacoma), Washington

Since becoming a probation transformation site in 2014, Pierce County has moved aggressively to update its juvenile probation practices. “Probation has become much more than just supervision,” says Juvenile Court Administrator T.J. Bohl. “We are evolving into a more Positive Youth Justice model that promotes behavior change, skill acquisition and healthy relationships.”

Perhaps the county’s most ambitious new program, *Opportunity-Based Probation*, was designed in partnership with a University of Washington scholar. This approach shifts probation’s emphasis from deterring misbehavior to incentivizing positive behavior change and personal growth. When youth meet weekly goals identified in their case plans, they receive points which can be redeemed for prizes (bus passes, gift cards, passes to popular venues) or for opportunities to participate in popular enrichment activities. When youth break probation rules or fail to complete goals, they may temporarily lose their ability to earn or redeem points or other privileges, and they may need to participate in a problem-solving conversation, but they are rarely sanctioned. Young people are returned to court only if their problematic conduct endangers public safety.

BEHAVIORS		POSSIBLE POINTS	OPPORTUNITY PRIZES AND RECOGNITIONS		
			POINTS	PRIZES	COURT RECOGNITION
Complete community service hours	x	10			
Pass random urinalysis		2	5 points	Bus tickets (5) Bag of chips Nail polish Keychain lanyard Restaurant gift card (\$5)	Keep up the good work!
Complete restitution	x	10			
Complete letter of apology	x	5	21 points	Restaurant gift card (\$15) \$15 ORCA card \$15 Tacoma mall gift card Movie tickets (2)	Congratulations letter from probation
Complete weekly responsibility goal	x	1 - 3			
Complete weekly probation commitment goal	x	1 – 4	42 points	2 Rainiers vouchers Earbuds 2 Museum of Glass passes 2 Ice skating rink passes	Community Opportunity! Congratulations letter from judge
			Completion of court conditions and probation plan		Graduation ceremony (reduced probation time)

Continued on next page.

The *Pathways to Success* program targets African-American boys age 15 and younger — a demographic the county’s data showed were at highest risk to fail in probation and end up in custody. Employing a team-oriented wraparound approach, the program is jointly overseen by a care coordinator and a probation counselor. While Pathways to Success provides therapeutic treatment for many participants, all youth in the program take part in positive youth development opportunities where they can explore their interests and build practical skills. Beyond these new programs, Pierce County has made several other important changes, including:

- **New community partnerships for positive youth development.** The probation department now funds local organizations to offer multiweek programs in boat building, skateboarding, yoga and bicycle repair, as well as programs at the local YMCA. The county is also funding a local organization to provide mentors for court-involved youth.
- **Intensified focus on family.** Since beginning its probation transformation work, Pierce County has surveyed youth and parents, conducted focus groups and created a new 12-member family council to advise the probation department. The county is increasingly employing a “youth and family team” approach to help craft young people’s case plans and track their progress over time. Also, Pierce County is funding “parent advocates” to support the families of court-involved youth.
- **Improving diversion.** Pierce County has partnered with a community organization to deliver a 12-hour evidence-based seminar for youth who are assessed as lower risk and for their parents. It has also developed a new diversion program for youth involved in domestic disputes, and it has reduced the number of youth referred back to the prosecutor for failing to complete their diversion agreements.

Taken together, these reform efforts represent a fundamental shift in Pierce County’s philosophy. “From a cultural standpoint, we’re trying our best to keep kids out of institutions,” adds Probation Manager Kevin Williams. “We have total buy-in from our staff on [the belief] that if we can keep them in our community, they’re more likely to make a successful transition to adulthood.”

SOURCE: All information provided by the Pierce County Juvenile Court.

noncompliance with court-ordered conditions, case management should be driven by incentives encouraging positive behavior and promoting meaningful personal growth by offering opportunities and rewards valued by youth.

Case plans should identify a series of discrete, readily attainable goals that provide youth an opportunity to achieve (and be recognized for) success early and often during their time on probation. In addition, as motivation to pursue their case plan goals, youth on probation should be offered the chance to earn desired opportunities such as paid jobs and internships, popular recreational activities, loosening of behavior restrictions and reduced duration of probation.

Limited and Constructive Use of Rules and Sanctions

Juvenile courts should cease imposing long, standardized conditions of probation. Instead, probation departments should work with youth and families to develop individualized case plans that set expectations and goals. When youth don't meet agreed-upon expectations or fail to take steps outlined in their case plans, issuing a probation violation should be a last option, not the first. Instead, every probation department should develop and follow a detailed response grid offering predictable, calibrated and constructive responses to any type of noncompliant behavior. Consequences for negative behavior spelled out in the response grid should be meaningful to the young people but — unlike the threat of a violation and possible confinement — should not involve punitive sanctions that harm the young person's healthy development or unfairly deny his or her liberty.

Even in cases when noncompliance rises to the level that warrants a probation violation, confinement is never an appropriate sanction. Rather, the violation should trigger a review in which the judge may revise the terms

of the probation order. Everyone involved in the case (youth, family, probation officer, service provider, mental health counselor, etc.) should work collaboratively to diagnose the underlying problem(s) and brainstorm new approaches that might be incorporated into the young person's case plan.

Throughout this process, probation officials — as well as judges, prosecutors and others — should be guided by an understanding that youth on probation often exhibit significant behavioral problems. Probation cannot expect youth to quickly comply with all expectations or to easily desist from all delinquent conduct. The change process is gradual, often a matter of two steps forward and one step back. Probation can only succeed if it accepts this reality and offers graduated responses and meaningful incentives to encourage young people on their path to successful, law-abiding adulthood.

Commitment to Racial and Ethnic Equity

Probation agencies must take determined and strategic action to address racial and ethnic disparities and promote equity. Organizationally, probation agencies must make equity a top priority and create a culture in which issues of racial and ethnic equity are freely and openly discussed. Heeding the lessons learned from past efforts, probation agencies must undertake a comprehensive set of best practice steps delineated by the W. Haywood Burns Institute,⁹⁷ the Center for Children's Law and Policy⁹⁸ and others. These steps (detailed in the following checklist) include geographic mapping to determine disparities in the locations of youth arrests and of the programs and services to serve them; examining differential arrest and referral rates for various offenses (especially those such as resisting arrest and disorderly conduct, which involve considerable discretion); measuring the relative effectiveness of service providers in working with youth of different races and ethnicities; and surveying respected leaders and community organizations in

A CHECKLIST FOR JUVENILE PROBATION AGENCIES ON RACIAL AND ETHNIC EQUITY AND INCLUSION

REQUIRED ACTIVITY	YES	NO	STATUS (if under development)
1. Establish a standing committee, led by one or more high-level administrators, dedicated to examining and addressing racial and ethnic equity.			
2. Assign a Racial and Ethnic Equity Coordinator for the department, who serves as a liaison between the racial and ethnic equity committee and the probation department.			
3. Recruit respected leaders in communities of color to participate in and help lead the racial and ethnic equity committee.			
4. Conduct frequent data analyses, disaggregated by race and ethnicity, to identify possible disparities for each decision point in the juvenile court process, as well as disparities in arrest rates for varying offenses and lengths of stay in detention/ placement, levels of supervision, violations of probation, etc.			
5. Provide support and advocacy for parents by employing family navigators, or some form of parent support network, and by establishing a Family Council that reflects the demographics and culture of the youth population being served.			
6. Undertake geographic mapping to identify disparities in where youth are being arrested and where programs and services to serve them are located.			
7. Regularly measure the relative effectiveness of service providers working with youth of different races and ethnicities (as measured by program completion rates, youth/family surveys and/or subsequent system involvement).			
8. Survey youth and family members as well as respected community leaders and top staff of community organizations located in neighborhoods where large numbers of system-involved youth reside to identify service barriers, gaps in culturally responsive programs and services, and other concerns of youth, families and communities of color.			
9. Review staff composition to determine whether staff reflect the cultural composition and native languages of probation clientele; refocus hiring practices to address glaring demographic, cultural and linguistic gaps.			
10. Implement mentoring, credible messenger or advocate-type programs that utilize staff who are from the communities being served.			
11. Implement a staffing process for cases being considered for out-of-home placement that includes a community member from the racial and ethnic equity committee.			
12. Develop a racial and ethnic equity plan, overseen by the Racial and Ethnic Equity Coordinator.			
13. Provide regular staff training on racial and ethnic equity and disparities and on implicit bias.			
14. All policies should include a racial and ethnic equity impact statement.			
15. Wherever significant problems and disparities are identified, the racial and ethnic equity committee must take concerted action, including: <ul style="list-style-type: none"> • devise new strategies or practices to address the situation; • establish clear quantitative goals for selected strategies; • monitor the impact of the new strategies; and • refine the approaches as needed in an ongoing pursuit of greater equity. 			

low-income neighborhoods of color where many system-involved youth reside. Wherever significant problems and disparities are identified, system stakeholders must devise new strategies or practices to address the situation, monitor their impact and continually refine the approaches in an ongoing pursuit of greater equity.

Community connections are especially important in jurisdictions where people of color predominate and where youth of color make up a large share of the probation population. Probation leaders in these jurisdictions should make it a priority to hire officers who reflect the racial and ethnic backgrounds of the populations they serve.

Collaborative Family-Engaged Case Planning

Probation must begin with a case planning process that is individualized, strength based, trauma informed and inclusive — i.e., the product of an open three-way discussion among youth, parents and family members and the probation officer.

As part of its work on probation practice reform, the Casey Foundation has supported the development of the Family-Engaged Case Planning Model, which spells out a new approach to the development of probation case plans.⁹⁹ This case planning tool emphasizes several key ingredients for success:

- **Engagement with youth and families.** The probation case plan must be developed through open conversation with the young person and his or her parent(s) or caregiver(s).
- **Realistic change model.** Probation must embrace realistic expectations for young people's progress, which starts by meeting people where they are in terms of readiness for change and builds incrementally upon small successes.

- **SMART goals.** Each young person's case plan must center around the achievement of tangible goals that are specific, measurable, attainable, relevant and timely (SMART).

- **Common ground.** The process and relationship should begin with the identification of an achievable goal that is important to all the parties (court, probation, youth and family members).

- **Strength based.** Rather than focusing primarily on identifying and addressing problems facing the youth and his or her family, the process of developing and implementing the case plan should recognize and incorporate the assets, skills and resources that the youth and family bring to the process.

The case planning process should also recognize the needs and interests of victims, and — as with diversion — probation case plans should embrace restorative practices such as victim-offender mediation where appropriate. Especially when youth have harmed others (theft, physical injury or damaged property), case plans should require youth to engage in activities aimed at repairing the harm through meaningful community service, restitution, letters of apology or other means.

A Focus on Family

Probation success hinges on active and constructive involvement of the family, and probation agencies must therefore undertake ambitious efforts to engage and support families. Probation officers should involve family members as primary partners not only in case planning, but also in all subsequent stages of probation. In doing so, probation officers should apply a broad definition of family by engaging all adults with close ties who might be a resource to support a youth's success, including parents or other guardians and extended family and surrogate family members who provide a "circle of care."

PROBATION TRANSFORMATION IN ACTION Lucas County (Toledo), Ohio

Since launching its probation transformation work in 2014, Lucas County, Ohio, has developed an entirely new approach to youth charged with misdemeanor offenses and has practically eliminated the practice of confining youth for technical violations of probation. These and other reform steps have enabled the county to cut the number of youth placed in residential and correctional facilities in half.

Misdemeanor services — Steering low-level offenses away from the court and probation. In a dramatic departure from prior practice, all youth referred to juvenile court on misdemeanors in Lucas County are now either diverted from court or overseen by specialized case managers in the county's new Misdemeanor Services Unit. Based on an initial assessment, youth overseen by this unit are referred to appropriate resource providers in the community such as a mentoring program, positive youth development activity or evidence-based family treatment program. Youth may also be assigned to pay restitution and/or perform community service.

But unlike conventional probation cases, the case managers do not require these youth to attend regular meetings, submit to drug testing or participate in activities under threat of further court action. Most importantly, while case managers work diligently to gain young people's cooperation, Lucas County does not return youth with misdemeanors to court for noncompliance with their service plans. Instead, these young people's cases are terminated as unsuccessful completions. Only if they commit a felony offense are youth on the misdemeanor caseload referred to court and potentially placed on probation.

Additional reform steps. Lucas County is also pursuing an array of other reforms, such as:

- contracting with a local community organization to employ *family navigators* to support the parents and other family members of youth in delinquency court;
- funding community-based organizations to offer *positive youth development activities* such as glass blowing, metal working, ceramics, boat building and bike repair;
- partnering with the *Youth Advocate Program (YAP)* to provide mentors/advocates to work with court-involved youth; and
- *expanding diversion options* by creating a new restorative circles program and making a range of services available to diverted youth that were previously limited to youth on probation.

Continued on next page.

Curtailling confinement for technical violations. In 2012, 30 of the 100 youths removed from their homes in Lucas County were sent into placement due to technical violations — not new lawbreaking behavior — and more than half of those youth scored as low or moderate risk to reoffend. In 2016, Lucas County placed just four youths in residential custody for technical violations, and five youths in each of the two years before that.

“Research and science have shown us that detention and incarceration should only be used to keep the community safe, so we made the determination that the court wasn’t going to use [confinement] in response to technical violations of probation,” says Judge Denise Cubbon, the ranking judge on Lucas County’s juvenile court. “It then becomes necessary to arm judges and court officers with research-driven alternatives and evidence-based practices to maintain youth in the community while keeping the community safe. So that’s what we’ve done.”

SOURCE: All information has been provided by Lucas County Juvenile Court and Probation Department.

To help maximize the constructive involvement of families, probation agencies should hire parents of youth currently or formerly involved in the justice system to guide and counsel parents and other family members. Probation agencies should also actively solicit and heed the opinions of family members through advisory committees, surveys and other means.

In addition, probation agencies should refrain from imposing or collecting fines and fees from the families of probation youth. Such fees can cause crippling debt for the families of court-involved youth, many of whom are low income, alienating family members whose active participation and support are crucial to young people’s success.

Positive Youth Development

Positive youth development must be a core value of probation. Rather than focusing primarily or exclusively on treating problems, probation must offer young

people opportunities and help them to build skills and develop capacities they will need to make better decisions and succeed as adults. Probation case plans should involve youth in victim-offender mediation or other restorative justice activities when appropriate and — most importantly — provide opportunities for young people to build positive relationships with adults, pursue their interests, participate in constructive recreational and educational activities and contribute in meaningful ways to their communities. In some cases, probation agencies will want to develop and fund programs focused specifically on (and limited to) youth on probation; in other situations, youth will gain most by participating in opportunities open to all youth.

Community Connections

Youth on probation need access to meaningful and relevant youth development opportunities and especially to positive role models and organizations in their home

neighborhoods. Historically, however, probation agencies have not aggressively pursued meaningful connections with community partners. This gap is especially problematic for youth who live in deeply underserved neighborhoods — and particularly when those neighborhoods are primarily populated by people of color. To address this situation, probation agencies will need to substantially intensify their community engagement efforts.

Specifically, they must:

- Partner with (and provide significant funding to) community organizations rooted in neighborhoods where large concentrations of youth on probation reside.
- Work with community-based organizations to provide restorative justice programs.
- Connect probation youth with positive role models in their communities through mentor and advocate programs, volunteer probation officers, CASA, etc.
- Assign a high-ranking staff member to serve as a community liaison whose role will be to promote and strengthen community connections, work with community-based partners and reach out to community members as needed to address needs and goals of individual youth.

Minimized Use of Confinement and Placement and Never for Probation Violations

Inevitably, regardless of how well probation officers work with young people and their families, and no matter how many constructive opportunities they offer, some youth on probation caseloads will fail to meet the expectations and goals of their case plan. They may engage in troubling behaviors such as recreational drug use, or skipping school, or missing scheduled meetings or program

activities. Some will commit new offenses either during their periods of supervision or afterward.

Probation officers should work as hard as possible to help youth avoid these setbacks. But it is equally important that probation and court officials not overreact to misbehavior by removing youth from their homes and placing them in detention, correctional facilities or other residential programs.

Except when youth have committed serious offenses and pose an immediate and significant threat to public safety, youth should not be confined as a result of new offenses committed while under probation supervision — nor for offenses committed after they complete probation. Personal growth, positive behavior change and long-term success — probation’s mission — are gradual processes with predictable ups and downs. Therefore, probation agencies’ success should be measured, in part, by their results in minimizing placements and keeping young people in the community. Every probation department should have a policy requiring a review process prior to approving any out-of-home placement. In addition to the probation officer and his or her supervisor(s), this review should be led by a senior administrator in the probation department, and it should include the youth, his or her caretakers, a community representative and other adults in the youth’s and family’s support network. This type of procedure is currently being used to good effect in St. Louis City and Santa Cruz. Many other jurisdictions also employ some type of pre-placement review. However, the procedures often fall short of ensuring that placement decisions are reviewed at the highest level of the department; inclusive of youth, families and their support network; and focused on finding alternatives to placement whenever possible.

Avoidance of Damage of System Involvement

Although juvenile courts were created, in part, to protect the privacy of youth and prevent them from suffering long-term consequences due to youthful misdeeds, privacy protections have been substantially rolled back in recent times due to policy changes and technological advances. Information about arrests, formal charges and adjudications in juvenile court, which can now be accessed by employers, college admission officers, consumer reporting agencies and others, can sharply limit opportunities for a lifetime.¹⁰⁰

Recognizing this problematic trend, probation leaders should take all appropriate steps to keep youth from facing these collateral consequences. Specifically, they should take action in two areas:

- **Judicious use of consent decrees and deferred prosecution.** Probation and court authorities should allow some youth whose cases are serious enough to warrant formal processing to be supervised on probation without the formal stain of adjudication. Through deferred prosecution and consent decree procedures, they should allow some youth the opportunity to have their charges dropped if they complete probation successfully. (In these cases, failure on probation would result in a return to court and possible adjudication.) This option is especially appropriate for younger youth and those without a prior adjudication on their records.
- **Shield young people's privacy.** Probation and court authorities should also adopt policies and practices to minimize the extent to which young people's arrest and/or court records are circulated. Key steps include: limiting records access to individuals connected to the young person's case; automatically sealing records as soon as youth are discharged from court supervision; providing the opportunity (simply and at no cost) to seal or expunge records of juvenile arrests and adjudications; excluding juvenile records from all public records requests; and

prohibiting states and local authorities from sending juvenile records information to the FBI for inclusion in national offense databases.

Limited Periods of Supervision

Probation should begin as soon as possible following referral to juvenile court, and it should not be a long-term intervention. While the duration of probation should be individualized, based on the young person's success in meeting goals and demonstrating the capacity and will to avoid delinquent behavior, the typical period of probation should be roughly six to nine months. Youth who meet expectations and achieve their goals quickly might be permitted to exit probation more quickly. But even for those who struggle to meet their goals, the period of probation should generally not exceed one year.

Accountability for Results

"Probation departments cannot succeed (or for that matter fail) without aiming at something," as noted in the *Desktop Guide to Good Juvenile Probation Practice*. "That something must be understood and agreed upon... [a probation agency applying best practice] systematically measures the tangible results of its interventions, compares those results to its goals, and makes itself publicly accountable for any differences."¹⁰¹

A key requirement for fundamental juvenile probation reform must be a clear focus on goals. Probation agencies will need to begin identifying measurable goals, collecting outcome data and holding themselves accountable for achieving concrete results consistent with their mission. Specifically, probation agencies and their court and community partners should be held accountable for achieving measurable outcome goals in the following domains:

Limiting the formal probation population to youth who pose significant risk to public safety. Probation agencies should be held accountable for ending the practice of supervising diverted youth on informal probation. Goals should be set and outcome data collected to measure success in diverting youth who have not committed serious violent offenses and are at lower risk for rearrest. Policies should be put in place to mandate diversion for all but youth assessed as high risk, and jurisdictions should measure their performance in complying with these policies and in increasing the share of youth diverted from court.

Eliminating the use of secure detention and out-of-home placements for technical violations and minimizing placements in all other circumstances. Probation should be held accountable for working with prosecutors, judges, public defenders and other child-serving agencies to eliminate the use of placements as a consequence for technical violations and to minimize the use of correctional and other out-of-home placements in all delinquency cases. At a minimum, probation agencies should make it standard practice to review all potential alternatives to placement before any young person is removed from home, and they should set goals and monitor progress toward reducing the number of youth sent to placement both overall and in relation to the number of felony referrals to juvenile court.

Taking aggressive and strategic action to monitor and address racial and ethnic disparities and to promote equity. Accountability measures to assess the adequacy of probation efforts to promote racial and ethnic equity must extend well beyond calculating the “relative rate index” (RRI) to determine how much more likely youth of color are to reach successive stages of the juvenile court process (arrest, court referral, detention, adjudication, placement and transfer to adult court). In addition, probation agencies must be held accountable for undertaking the full menu of best practice steps described earlier (see page 34), including careful and

PROBATION SHOULD BE HELD ACCOUNTABLE FOR WORKING WITH PROSECUTORS, JUDGES, PUBLIC DEFENDERS AND OTHER CHILD-SERVING AGENCIES TO ELIMINATE THE USE OF PLACEMENTS AS A CONSEQUENCE FOR TECHNICAL VIOLATIONS.

ongoing data analysis and geographic mapping to identify underlying causes for system disparities and imbalances in the quality, availability and cultural responsiveness of programs and services. System stakeholders must also be held accountable for devising new strategies or practices to address identified problems and for monitoring the impact of the new strategies and continually refining their approaches in an ongoing pursuit of greater equity.

Providing positive youth development opportunities and fostering success in school and/or career preparation. As a first step, probation agencies should strive to ensure that all probation youth are enrolled in school and/or actively participating in work or career preparation programs. Beyond that, probation should establish goals and measure outcomes to determine whether each young person is attending school regularly and making good academic progress, participating in constructive activities in the community, exploring careers and/or pursuing interests in keeping with their case plans and building connections with positive adult mentors, role models and respected adults in their communities.

OTHER TRAILBLAZERS IN PROBATION TRANSFORMATION

In addition to Lucas and Pierce counties, a number of other JDAI sites, and some non-JDAI jurisdictions, are making noteworthy progress toward transforming probation in positive ways.

Multnomah County, Oregon, has adopted the Functional Family Probation model that puts supporting family members and promoting family well-being at the heart of probation’s mission.¹⁰² Also, Multnomah has partnered with two community organizations — one in a predominantly Latino neighborhood, the other in an African-American neighborhood — to create the two-part Community Healing Initiative (CHI). The original CHI program offers extra support for probation youth at high risk for rearrest, while the CHI-Early Intervention program provides an alternative to formal processing for youth who pose less risk to public safety.¹⁰³

Santa Cruz County, California, has forged partnerships with community organizations to provide positive youth development programming, including the Aztecas Youth Soccer Academy for youth on probation. It also created the Fuerte program to provide intensive support (when needed) to assist probation youth with significant mental health and/or social service needs. Santa Cruz has long used a 20-plus item checklist to hold itself accountable for combating racial and ethnic disparities, and it recently developed an elaborate response grid spelling out protocols and options for responding to youth who deviate from their court-ordered conditions. Remarkably, Santa Cruz did not send a single young person to an out-of-home placement during the last five and a half months of 2017.¹⁰⁴

The **City of St. Louis** has adopted a Team Support Approach where probation officers work with parents, family members and other caring adults to help devise a “success plan” for each young person, and then to revise and update the plan over time. Since implementing this approach in 2014, the share of youth referred back to court on new charges while on probation has fallen 59 percent, and the re-referral rate for youth after leaving probation has fallen 38 percent.¹⁰⁵

Since 2010, **New York City’s Department of Probation** has substantially increased the share of youth diverted from court, simplified the list of standard conditions for youth on probation and implemented a new case planning protocol that involves youth and their families in helping to establish personal goals and identifying a suitable mix of supports and opportunities.¹⁰⁶

Summit County, Ohio, has reduced the number of youth placed on probation for misdemeanor offenses from 152 in 2014 to just 29 in 2017 — a drop of 81 percent. Instead of probation for these youth, Summit imposes individualized and limited dispositions involving referral for treatment, referral for assessment, community service, restitution, essay writing or — in some cases — no further action.¹⁰⁷

Effectively engaging parents and forging meaningful community partnerships. Transforming juvenile probation will require a far greater role for parents and other family members and far stronger partnerships with organizations and individuals in communities where large numbers of youth on probation reside. Probation agencies should measure and incentivize probation officers' success in engaging parents and securing their active participation in the case planning process and all other aspects of their children's probation cases. Likewise, probation agencies should foster strong connections with community partners in two ways: First, probation agencies should develop concrete goals for working with — and also contracting with — community-based organizations as part of their efforts to offer youth a broad array of enriching and culturally responsive youth development opportunities. Second, probation agencies should establish community advisory boards or include respected community members on existing advisory boards to ensure that probation policies and practices are fully informed by community concerns.

Meeting the needs of (and gaining favorable reviews from) probation parents and families and youth themselves.

To help measure its progress toward forging positive relationships with parents and families, and with youth themselves, probation agencies should regularly survey family members, as well as youth, to gather feedback on how well they believe probation is serving them.

Meeting the needs of (and gaining favorable reviews from) victims.

Probation agencies and their community partners should also survey the victims of offenses committed by youth. Employing restorative justice strategies is valuable both as a matter of justice and a means for fostering adolescent development. Therefore, victim surveys should be conducted regularly to determine whether victims are satisfied that the justice system has responded appropriately.

Addressing young people's identified needs and delinquency-related risk factors.

Probation agencies should set goals and monitor their performance in connecting youth with appropriate and well-crafted services to address key risk factors such as problematic peer associates, substance abuse, family conflict or academic failure. Probation should also monitor the success of these interventions in reducing the identified risks and — whenever possible — review the quality of service provider programs using assessment tools such as the Georgetown University Center for Juvenile Justice Reform's Standardized Program Evaluation Protocol (SPEP)¹⁰⁸ or the University of Cincinnati's Correctional Program Checklist.¹⁰⁹

Achieving meaningful goals for reducing reoffending.

Juvenile probation agencies must also upgrade their procedures for measuring success in reducing reoffending. Probation's success in protecting public safety should be measured in terms of progress toward desistance — reducing the frequency and seriousness of reoffending, while helping youth build the skills, relationships and positive assets¹¹⁰ that will move them away from offending for the long term — as opposed to overly simplistic recidivism measures that count one new arrest or adjudication the same as many and that treat a marijuana possession charge the same as a murder. When recidivism is used as a public safety measure, it must be measured using appropriately matched groups, employing techniques like propensity score matching or comparison group analysis, to determine whether probation interventions are lowering the reoffending rates of supervised youth.

LIMITATIONS
OF **CURRENT**
EFFORTS TO
REFORM &
IMPROVE
JUVENILE
PROBATION



While probation has arguably received too little focus and attention from the administrators, policymakers and scholars responsible for guiding and improving juvenile justice, the Casey Foundation recognizes that many others in the field are already working hard to improve juvenile probation outcomes.

Indeed, several prominent reform efforts have emerged in recent years to boost probation's effectiveness:

- The University of Cincinnati's *Effective Practices in Community Supervision (EPICS)* has provided training and coaching sessions for officers in more than 80 probation agencies nationwide serving juvenile and/or adult populations.¹¹¹ This training aims to boost such skills as building effective relationships with young people, teaching important cognitive and behavioral skills and individualizing young people's case plans based on objective risk and needs assessments.
- The *Carey Guides* are a set of 33 user-friendly handbooks designed to help probation officers and other corrections professionals apply research-informed practices with youth or adults on their caseloads.¹¹²
- The *Robert F. Kennedy National Resource Center for Juvenile Justice* has developed an intensive "probation system review" process to help juvenile probation agencies optimize their performance.
- The American Probation and Parole Association, the Robert F. Kennedy National Resource Center and the

Council of State Governments Justice Center have worked together to create a *Juvenile Probation Reform Academy*, where teams of probation professionals review their operations in light of research-informed best practices and begin to craft probation reform action plans.

In addition to these probation-specific approaches, three more broadly focused juvenile justice reform strategies have emerged in recent years with significant implications for probation practice:

- Several initiatives provide support for *effective utilization of risk and needs assessment instruments* through staff training on how to conduct the assessment and help in developing policies and practices to ensure that assessment findings are used properly.¹¹³
- Some jurisdictions have begun to assess the effectiveness of their intervention programs — and to address identified shortcomings — using the *Correctional Program Checklist* or *SPEP*, both of which measure programs' adherence to an extensive array of research-informed quality measures.

- OJJDP's *Juvenile Justice Reform and Reinvestment Initiative* has funded a handful of jurisdictions nationwide to adopt best practice reforms such as utilizing empirically based risk and needs assessments, developing dispositional matrices and using the SPEP rating system to assess and improve intervention programs for juvenile justice youth.

These reform models target critical needs and show promise to address some of the challenges facing juvenile probation agencies. Most of them can help probation officers in making more accurate assessments, strengthening their skills in interacting with youth and doing a better job of matching the type and intensity of interventions to the identified risk and needs factors of individual youth. And all the reform strategies described here are informed by research and employ thoughtful, innovative methods to provide needed assistance in these areas.

In spite of their strengths, none of the prominent probation reform efforts mentioned above, alone or in combination, are sufficient to tackle the fundamental challenges facing juvenile probation. Why not?

Too Narrow a Focus

By and large, current prominent juvenile probation reform efforts target only some of the high-priority challenges facing probation. Other key challenges are either absent from the existing reform strategies or receive only secondary emphasis. What's missing?

- **Insufficient attention to the need for reducing probation populations and expanding court diversion.** While reducing caseloads is not inconsistent with the prominent current reform models, none of them has identified reducing probation caseloads as an explicit outcome goal. Likewise, none has devoted significant attention to the challenges

WHILE REFORM STRATEGIES TO IMPROVE THE PROFESSIONAL PRACTICES OF PROBATION OFFICERS AND UPGRADE ASSESSMENT AND CASE PROCESSING PROCEDURES CAN BOOST PROBATION'S EFFECTIVENESS AT THE MARGINS, THE JUVENILE PROBATION FIELD WILL NEVER MAKE SUBSTANTIAL PROGRESS AS A WHOLE UNTIL A MUCH CLEARER CONSENSUS EMERGES ABOUT WHOM PROBATION IS MEANT TO SERVE AND WHAT IT IS MEANT TO ACCOMPLISH.

associated with substantially expanding and improving available diversion alternatives, as would be required for juvenile courts and probation agencies to heed the evidence and limit probation to youth at higher risk of reoffending.

- **Muted focus on racial and ethnic equity.** Despite the system's vast disparities, current probation reform models have not made action against racial and ethnic disparities a top priority, and they have not promoted rigorous or promising new approaches to easing disparities.
- **Inadequate attention to empowering families and engaging community partners.** Most probation reform models concentrate primarily on improving the practices of individual probation officers or the quality of intervention

programs. Yet none of them promotes an ambitious change strategy for improving probation's relationships with parents and family members — or providing families with assistance they may need to support their system-involved children. Likewise, none of the reform strategies emphasizes the need for stronger alliances with community partners.

- **Limited focus on positive youth development.** None of the existing probation reform strategies highlight positive youth development as a primary goal or prioritize the importance of typical adolescent development needs such as recreation, connection to mentors and other positive adults and opportunities for leadership development and meaningful community service.

- **Inattention to probation's problematic role as a gateway to confinement.** Current models do not emphasize the importance of curtailing placements stemming from probation rule violations, and none makes reducing these placements an explicit goal.

Failure to Address the Need for Clarity About Mission, Goals and Outcomes

Perhaps the most fundamental shortcoming of current juvenile probation reform efforts is the failure to directly address the core mission of probation. While reform strategies to improve the professional practices of probation officers and upgrade assessment and case processing procedures can boost probation's effectiveness at the margins, the juvenile probation field will never make substantial progress as a whole until a much clearer consensus emerges about whom probation is meant to serve and what it is meant to accomplish. With one exception,¹¹⁴ the existing reform strategies do not push system stakeholders to clarify probation's purpose, to align policies and practices with the agreed-upon mission and to measure success against concrete goals.

CONCLUSION

The juvenile justice field has recently made encouraging progress, not only in making JDAI’s core strategies a national standard for detention practice but also in reducing the reliance on correctional confinement. Yet it is hard to conceive how our field can sustain this progress, and it is hard to see how we can live up to the founding ideals of the juvenile court as a kind and just parent, providing equal justice under the law, unless we begin to align the system’s most pervasive element — juvenile probation — with what works.

The knowledge provided by recent research on adolescent brain development and behavior demands a fundamental rethinking of juvenile probation practice. Such a rethinking has enormous potential to improve system performance and the lives of young people.

The recommendations offered here reflect a measured and carefully considered response to the glaring gaps between current practices and the best available information about what works or should work with court-involved youth and to the limitations of existing reform efforts to bolster probation practice.

This report and its recommendations, however, are just a beginning. They provide a general outline for probation

transformation and encourage local action, innovation and learning. They offer guidance, but not a specific plan or program model, that jurisdictions might follow to optimize their probation policies and practices.

To help fill this void, Casey will publish a probation transformation “playbook” that will provide more detailed recommendations for change in probation and diversion practices. The Foundation anticipates sharing more information about exemplary models and important issues related to probation reform.

At the same time, Casey will be providing hands-on support to local JDAI sites working on probation practice reforms. The Foundation will continue its partnerships with the two probation transformation sites in Lucas County, Ohio, and Pierce County, Washington, as they push the envelope on enlightened probation practice. In addition, Casey will continue working with JDAI sites to encourage and support their efforts to review their probation practices and pursue steps toward the emerging probation transformation approach. Working together, the field can seize the opportunity before us to get probation right.

Endnotes

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