



Summit on Racial Disparities in the Juvenile Justice System: A Statewide Dialogue

Report and Recommendations

**Prepared by the
Indiana State Bar Association's
Civil Rights of Children Committee**

October 2010

*Heartfelt appreciation is extended to the following:
the volunteers who helped plan the “Summit on Racial Disparities
in the Juvenile Justice System: A Statewide Dialogue”
and worked diligently on this follow-up report;
our speakers from the local, state or national level
who shared their expertise, knowledge and experience,
which ultimately led to the development of consensus-based recommendations
on which Indiana can move forward; and
the many Summit attendees who are now looking forward
to using this report to help engage in dialogue and action
to bring about positive change in their communities.*

*For more information about Summit presentations
and resources, please visit www.inbar.org.*

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*Congratulations to the ISBA on winning
the NABE LexisNexis 2010 Community & Educational Outreach Award
for its “Summit on Racial Disparities in the Juvenile Justice System:
A Statewide Dialogue.” The ISBA was honored at the
NABE Award Luncheon on Aug. 6 at the ABA’s Annual Meeting in San Francisco.*



We are pleased to present this report to you as a blueprint for reducing racial and ethnic disparities in Indiana's juvenile justice system.

Last year, the Indiana State Bar Association (ISBA) held a multi-day forum, "Summit on Racial Disparities in the Juvenile Justice System: A Statewide Dialogue," from Aug. 25-27, in Indianapolis. A diverse, interdisciplinary group of more than 300 people attended the Summit, which continued the important work done by the Indiana Commission on Disproportionality in Youth Services. The Commission issued its report and recommendations in 2008.

Summit organizers made a commitment in August of 2009 to follow up on the Commission's work by preparing this report with recommendations based on the lessons learned from the Summit. Not surprisingly, the recommendations that follow echo those of the earlier Commission and take us a step further toward our shared goal of improving outcomes for our youngest Hoosiers.

Over the last year, the ISBA worked with juvenile justice stakeholders to identify 10 priority areas, and then developed specific recommendations to address the significant racial disparities that exist in Indiana's juvenile justice system. This final report is being released in conjunction with the ISBA's 2010 Annual Meeting, Oct. 13-15, in Indianapolis. It is also included as an insert in this issue of Res Gestae, the State Bar's flagship publication, which is sent to nearly 12,000 members of the ISBA. Finally, the Association will make this report available to judges, legislators, public officials, agency staff, child advocates, the Summit attendees and the public through direct mailings and Web site access.

Although these recommendations are not all-inclusive, we hope they will help build on existing reforms and be the foundation for launching broader, more integrated reform to reduce racial and ethnic disparities in our juvenile justice system. We all share in the responsibility to address this complex issue, which affects the lives of so many Indiana children and families. By focusing on what we can change, and by working together, we can make a big difference for Indiana's children.

This is an exciting time for our state. We are grateful for your continuing support, and hope you join us in our efforts.

Sincerely,

Handwritten signature of Randall T. Shepard in blue ink.

*Chief Justice Randall T. Shepard
Indiana Supreme Court*

Handwritten signature of Bill in blue ink.

*Representative William A. Crawford
Indiana General Assembly*

Report and Recommendations

Prepared by the ISBA Civil Rights of Children Committee as a follow-up report to the Summit on Racial Disparities in the Juvenile Justice System: A Statewide Dialogue, which was conducted on Aug. 27, 2009, in Indianapolis

(Released on Oct. 15, 2010)

RECOMMENDATION 1

Work with educators and stakeholders to insure that school policies advance the right of children to remain in school in a safe and supportive school environment, allowing them to complete high school.

Zero tolerance in school discipline and the use of suspension and expulsion disproportionately impact youth of color, and are leading to high rates of school failure, increased delinquency and adult crime. Evidence-based practices for improving behavior and discipline, including the use of positive behavioral supports and improved services through schools, are essential to achieving a safe and supportive school environment.

The collateral consequences of exclusion, expulsion or arrest upon youth should be widely understood by educators and school administrators, and such options should be used sparingly in a fair, nondiscriminatory manner, for serious school and public safety concerns.

All schools are encouraged to adopt policies and programs that advance the right of children to remain in school. Innovative programs already existing at the local level should be identified, promoted and replicated statewide. The “actions” that follow are steps schools can take to create a safe and supportive school environment, while minimizing disruptions in learning for disciplinary reasons. Disruptions in schooling for youth entering and exiting juvenile justice facilities should be minimized as well, and appropriate educational services should be assured for youth in confinement.

Actions

- Schools are urged to conduct disciplinary proceedings in a fair, nondiscriminatory and culturally responsive manner.
- Schools should reduce out-of-school suspensions and expulsions, and create disciplinary alternatives based on evidence-based best practices.
- Community partners should work with schools to develop options for in-school discipline that offer continued learning opportunities and are based on graduated discipline and restorative justice principles.
 - Schools are urged to limit exclusion from student’s regular educational programs as a disciplinary response.
 - School districts should create alternative schooling plan in all districts for youth who face expulsion and

provide full procedural protections for such students. Partnerships with existing school programs operated by residential treatment providers for youth with multiple needs should be explored.

- All stakeholders should encourage passage of laws and implementation of policies and practices that close the achievement gap between white, black and Hispanic students while maintaining high standards for all children.
- The legal community should work with schools, families and youth to establish programs, where needed, to help youth and families understand and exercise the right to remain in school.
- School administrators and educators should be trained on de-escalating conflict and confrontation with youth in a culturally responsive manner.
- Education services in detention or correctional facilities should be improved through standardizing educational requirements; youth should be assured of receiving credit for school work previously done in confinement upon returning to school; and measures should be taken to ensure a youth’s return to school without disruption upon release from juvenile justice facilities.

Relevant Projects and Suggested Partners

Several statewide legislatively mandated initiatives bear on issues addressed by this recommendation. HEA 1419 (2009) (Student Discipline) required the Department of Education (DOE) to develop a model, evidence-based plan for improving behavior and discipline within schools, which school corporations are then to use to develop their own plans. DOE released a model plan to school corporations in June 2010, and over the next year, local districts will develop their own plans. HEA 1193 (2010) (Law Enforcement, School Policing and Youth Work Group) creates a law enforcement, school policing and youth work group that will make recommendations about school policing and safety, training on interactions with youth, and alternatives to arrest. Both HEA 1419 and 1193 have requirements for school systems to report disaggregated data on school practices to DOE for oversight purposes.

The legal community has become increasingly involved in efforts to secure the rights of children to remain in school. In January, the American Bar Association (ABA) House of Delegates adopted three resolutions pertaining to the right of children to education. The State Bar’s Civil Rights of Children Committee

is recommending the adoption of a similar resolution by the ISBA House of Delegates at the organization's Annual Meeting in October.

The use of family group decision-making has become an effective restorative justice tool to address school violence and other school discipline problems in a culturally sensitive manner that accesses services and focuses family and schools on the child's best interests. Innovative court-led programs, such as Allen County's Family Group Pilot Project in East Allen County Schools and Hamilton County Youth Assistance Program, should be supported and replicated in other communities. Residential providers are trained in therapeutic crisis intervention, and training partnerships with them should be explored.

Resources

- HEA 1419 (2009) (IC 20-26-5-32) (School Discipline)
- HEA 1193 (2010) (IC 5-2-6.9) (Law Enforcement, School Policing and Youth Work Group)
- American Bar Association Commission on Youth at Risk and Commission on Homelessness and Poverty Recommendation 118A (Right to High-Quality Education), 118 B (Right to Remain in School) and 118C (Right to Return to School) (2010), available at http://www.abanet.org/youthatrisk/aba_yar_recoomendation.pdf
- American Bar Association Zero Tolerance Policy Report (2001), available at <http://www.abanet.org/crimjust/juvjus/zerotolreport.html>
- IARCCA, <http://www.iarcca.org/index.html>
- Indiana Department of Education, Improving Behavior and School Discipline, <http://www.doe.in.gov/sservices/discipline/index.html>
- Indiana University Center for Evaluation and Education Policy Equity Project, Indiana Disproportionality, <http://ceep.indiana.edu/equity/projects.php>
- Kris Miner, "Classrooms and Prisons: Wisconsin Program Explores the Use of Restorative Justice Circles for Empathy Development and Violence Prevention"
- Russell Skiba *et al.*, American Psychological Association Zero Tolerance Task Force, Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations (2006), available at <http://www.apa.org/pubs/info/reports/zero-tolerance.pdf>
- Youth Law T.E.A.M. of Indiana, An Indiana Assessment of Education Services in Juvenile Detention Centers and County Jails, available at <http://tinyurl.com/detention-education>

RECOMMENDATION 2

Reduce inappropriate school arrests and referrals to the juvenile justice system.

Over the last several decades, increasing numbers of police and security guards have been stationed on school campuses, particularly in urban areas. That increase, combined with the growing use of school misconduct policies that are premised on zero tolerance, has resulted in escalating rates of low-level or "misdemeanor" offenses being referred to the juvenile justice system. Excessive school-based arrests increase the risk of school failure, delinquency and adult crime.

As Clayton County, Ga., Juvenile Court Judge Steven C. Teske urges, "We should be arresting those kids who are serious threats to public safety, not those who make us mad."

The collateral consequences of arresting youth should be understood by all education, law enforcement and juvenile justice personnel, as well as by families and youth. Court-involved youth face numerous obstacles imposed by law and may face additional barriers imposed by business, education and government that impede their successful return to their communities. All stakeholders should work collaboratively to ensure that youth have every opportunity to succeed, and that the use of court involvement by school officials/security personnel is used sparingly, for serious public safety matters warranting such involvement. School-based police and administrators should work together to determine what is an arrest-eligible offense, and police should blend into the day as a "go to" resource for the student, thereby contributing to a supportive and safe learning environment.

Actions

- Require professional training for non-law enforcement security personnel in schools.
- Train school-based police on appropriate law enforcement interactions with youth and alternatives to arrest. Include CIT (Crisis Intervention Training) for all officers.
- Work together with schools to encourage collaborative, community-based interventions and best practice alternatives to reduce referrals of low-level offenses or violations of school rules.
- Work with law enforcement to limit school-based arrests to situations when serious threats to public and/or school safety occur.
- Reduce criminalization of school-related conduct for youth that does not warrant court intervention. The inappropriate arrest of students with disabilities or special education needs is a particular concern.
- Require school corporations to adopt policies that define the role of law enforcement and the use of arrest within school.
- Require cross-disciplinary training of educators, school administrators, law enforcement and child-serving agencies, with juvenile justice participation, on the collateral consequences of arrest and the operations/workings of the juvenile court.
- Engage youth and families in understanding the collateral consequences of arrest and involvement in the juvenile justice system.

Relevant Projects and Suggested Partners

The success of best practice model Clayton County, Ga., demonstrates the importance of engaging collaborative processes to identify appropriate alternatives to arrest that include: (i) cross-disciplinary training of school, law enforcement and juvenile justice personnel; (ii) adoption of graduated discipline systems; (iii) enhanced law enforcement-student relationships; and (iv) reserving arrest for only serious school safety matters.

The collaborative processes set forth by HEA 1193 and 1419 can help reshape educational practices away from zero tolerance, exclusion and arrest, toward practices that contribute to increased student engagement, greater academic success and ultimately safer learning environments.

The 1193 Work Group is also charged with recommending educational curricula to the Department of Education concerning the collateral consequences of arrest.

The ISBA and other legal organizations are important resources for developing a collateral consequences project for youth with juvenile justice involvement.

Indiana's four Annie E. Casey Juvenile Detention Alternatives Initiative (JDAI) sites (Marion County since 2005, with Lake, Porter and Tippecanoe counties added in 2010) and the Indiana Criminal Justice Institute (ICJI) State-Led JDAI Expansion are moving juvenile court reforms ahead that rely on development of community-based alternatives to detaining low-risk youth and forging partnerships with multi-system stakeholders to create alternatives to detention and limit referrals to the juvenile justice system, including school-based arrests.

Resources

ABA Criminal Justice Section Report 102A (Collateral Consequences for Juveniles) (2010), available at <http://new.abanet.org/sections/criminaljustice/Pages/default.aspx>

Clayton County, Ga., Annie E. Casey Designated School Referral Reduction Model, see Summit Reference Materials, Indiana State Bar Association Web site, <http://tinyurl.com/summit-resources>

New Jersey Annie E. Casey Designated Model State JDAI Program, <http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative/Resources/May09newsletter/FeatureStory.aspx>

Strategies for Youth (Cambridge, Mass.), <http://www.strategiesforyouth.org/training.htm>

RECOMMENDATION 3

Collaboratively devise trainings and intervention initiatives that reflect law enforcement as a critical point of entry to the juvenile justice system.

In Indiana, law enforcement officers are not required to receive age-appropriate, specialized training directed at handling or interacting with youth. Yet, most law enforcement officers routinely come into contact with youth in

their daily patrol duties. Recent data studies of Indiana's juvenile justice system indicate that Disproportionate Minority Contact (DMC) is most consistently pronounced across the studied counties at the point of arrest. Culturally responsive training on how to interact with youth and de-escalate confrontations with youth to avoid arrest should be provided to all officers.

Not every matter is a court matter, but cases begin at arrest. Through training, collaboration and development of alternatives, a structure with options can be created to deal with minor and low-risk issues more effectively and without arrest.

Actions

- Train all law enforcement officers on interacting with youth and de-escalating conflict and confrontation with youth, in a culturally responsive manner.
- Foster broad understanding among law enforcement officers of community-based and school-based alternatives to arrest.
- Encourage collaborative participation by law enforcement officials in the development of community-based alternatives and a diverse array of options for police handling youth without first resorting to arrest.
- Acknowledge the special role of school police in urban areas and develop heightened levels of training for interacting and working with youth in urban, school-based settings in a culturally responsive manner.

Relevant Projects and Suggested Partners

The HEA 1193 Work Group will identify training needs and recommend multi-disciplinary training for law enforcement, school police, school corporation officers and privately retained security guards.

The Indiana Law Enforcement Academy (ILEA), the regional law enforcement academies, the Indiana School Safety Specialist Academy of the DOE, and other multi-disciplinary professional associations are important partners in ensuring that the 1193 Work Group recommendations are adopted and implemented.

Resources

Russell Skiba *et al.*, Disproportionate Minority Contact in Indiana: Quantitative Analysis Final Report (2007), available at http://www.iub.edu/~safeschl/Equity/docs/ICJI_FinalReport2007.pdf

Strategies for Youth (Cambridge, Massachusetts), <http://www.strategiesforyouth.org>

Effective Police Interactions with Youth (Connecticut), police training, <http://tiny.cc/Police-Youth>

National Alliance on Mental Illness of Indiana, criminal justice trainings, <http://tinyurl.com/nami-org-cj-trainings>

Stop Watch Program, MBTA (Boston Transit Authority), <http://www.strategiesforyouth.org/archives/stopwatch.htm>

RECOMMENDATION 4

Devise and implement standardized data collection to measure disparity and disproportionality at all decision points in the juvenile justice system. Juvenile justice stakeholders should work with other agencies providing services to children (including the Department of Education, Department of Child Services, Division of Mental Health and Addiction and the Department of Correction) to coordinate standardized data across systems.

Success in targeting policies and practices that underlie systemic disproportionality and disparities depends on collection of reliable, standardized race/ethnic-based data.

Indiana's participation in federal pass-through funding through the Juvenile Justice and Delinquency Prevention Act (JJDP A) requires accurate reporting of DMC data in Indiana.

The Indiana Criminal Justice Institute was notified in 2009 that Indiana's data collection efforts were not sufficient and future funding would be jeopardized if the state was found out of compliance. As a result, the state, with multiple agency involvement, devised a plan, with federal participation and approval, to collect appropriate court data from a majority of Indiana counties by January 2011.

Although there is growing reliance upon data to base decision-making in all four child-serving systems (mental health, education, child welfare and juvenile justice), no system has developed race/ethnic data consistently or reliably in all programs. Standardized data collection across systems is still lacking and a major barrier toward achieving a continuum of services for youth in Indiana. Achieving consistency, reliability and standardization in race/ethnic-based data collection at all decision points is essential to assessing disparities, targeting resources, and achieving and monitoring reform efforts. Data should be collected disaggregated by race/ethnicity, gender, age and geography. Consistent parameters/definitions for collecting race/ethnic data should be agreed upon across program, agencies and systems.

Actions

- Implement the Office of Juvenile Justice and Delinquency Prevention mandated compliance plan for Indiana to report disaggregated data for measuring DMC at each point of contact in each county court system.
- Cross-coordinate development of standardized, disaggregated data through efforts of the Board for Coordination of Programs Serving Vulnerable Individuals, with cooperation from government agencies and major data collection initiatives.
- Use data to develop and monitor specific strategies to reduce or eliminate known disparities and disproportionality. Ensure the transparency of data reports.

- Implement HEA 1193 mandate for data collection of school-based arrests and target training resources to develop alternatives in schools or districts with excessive school-based referrals.

Relevant Projects and Suggested Partners

Close cooperation is needed among ICJI, the Indiana Judicial Center, local county courts and the judicial branch data/technology initiatives, including the Judicial Technology and Automation Committee, to coordinate and standardize the collection of data.

The Board for Coordination of Programs Serving Vulnerable Individuals (the executive branch interagency coordination board charged with implementing the Indiana Commission on Disproportionality in Youth Services recommendations) is a pivotal government entity to ensure multi-agency support for developing standardized data systems. The Indiana Departments of Education, Child Services (DCS) and Correction (DOC), the Division of Mental Health and Addiction (DMHA), ICJI, the Indiana Civil Rights Commission, and the Indiana Judicial Center should work with the Board as lead agencies on standardizing data collection across agencies. Efforts should be made to ensure transparent use and reporting of data from ongoing juvenile court reform efforts, such as the four Annie E. Casey JDAI county sites, the ICJI State-Led JDAI Expansion, and the Indiana Juvenile Mental Health Screening, Assessment and Treatment Pilot Project.

RECOMMENDATION 5

Realign incentives and achieve cost savings in the juvenile justice system; use savings to expand community and school-based services.

Detaining and incarcerating low-risk offenders is costly to taxpayers, contributes to high rates of school failure, and causes deeper involvement with juvenile and adult criminal justice systems.

Sufficient funding should be supported by state and local government for community-based services and interventions that serve as alternatives to arrest and detention, and create diversion options. Inter-system resource reallocation (reinvestments) of actual cost savings should be used to strengthen community-based delivery systems, to provide services and supports that ultimately prevent youth from entering into the juvenile justice system in the first place.

Actions

- Charge an existing body or form a multi-disciplinary task force to study best practices in Illinois, Missouri, Ohio and New York for using incentives and state funds to prompt local communities to disinvest in state and county detention/correctional options and reinvest in community-based services for low- to medium-risk youth.

- Use work of that task force to recommend a pilot project in the 2012 legislative session, and to build on existing court reform and major youth initiatives.

- Use reinvestment strategies to support State-Led JDAI Expansion. Redirect state resources to support reforms at local JDAI sites, and reallocate the cost savings achieved into development of alternatives to detention for low- and medium-risk youth.

- Use reinvestment strategies to support other major youth initiatives that have as a core goal increasing the number of children being served by community-based institutions and reducing the number who come in contact with the juvenile justice system.

- Re-examine DCS policies that create barriers to placing youth on probation who need mental health treatment at a treatment facility. Such policies result in the higher use of county detention facilities and greater numbers of youth left unserved in the community.

Relevant Projects and Suggested Partners

The Board for Coordination of Programs Serving Vulnerable Individuals should work with other major youth initiatives and juvenile court reform efforts to form a collaborative task force to study reinvestment strategy model programs and involve a broad range of juvenile justice stakeholders and child advocates in the dialogue.

The work from major youth initiatives and juvenile court reform efforts, *e.g.*, HEA 1193, HEA 1419, local JDAI reform sites, State-Led JDAI Expansion, and the Indiana Juvenile Mental Health Screening, Assessment and Treatment Pilot Project, should be supported and integrated into pilot areas for using best practices to spur development of community services.

Indiana has enlisted the Pew Center on the States' Public Safety Performance Project to evaluate and compare current criminal justice policies and practices with evidence-based and fiscally responsible best practices. Since 1976, the prison population in Indiana has grown from 7,500 to 29,000. Budget appropriations for corrections have increased from \$142.4 million to \$1.36 billion during that same period. Currently, Indiana has one of the highest rates of incarceration, even though other states are implementing reforms that are dramatically reducing their incarceration rates and the resulting burdensome cost on taxpayers. A steering committee of legislators and public officials has been charged with making recommendations in November 2011. That same group should ensure that juvenile justice policies and practices receive similar scrutiny to support best practice development, fiscal responsibility and reinvestment strategies.

Resources

Justice Policy Institute, *The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense* (2009), available

at http://www.justicepolicy.org/images/upload/09_05_REP_CostsOfConfinement_JJ_PS.pdf

Missouri Youth Services, http://www.djj.state.fl.us/blueprint/documents/Tampa/3_Missouri_DIV.pdf

Public Safety Performance Project of the Pew Center on the States, <http://tinyurl.com/pewcommunitycorrections>

Redeploy Illinois, <http://tinyurl.com/Redeploy-IL>; <http://tinyurl.com/Redeploy-IL-2007>

Reclaim Ohio, <http://tinyurl.com/Reclaim-Ohio>

Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State (2009), <http://tinyurl.com/NY-juvenile-justice>

RECOMMENDATION 6

Require all juvenile justice agencies, providers and professional associations to develop diversity plans, adopt diversity policies and practices, and monitor implementation. Conduct ongoing cultural competency and diversity training for juvenile justice personnel at each point of contact and at state and local levels.

Creating culturally responsive environments for delivering services to youth requires ongoing training that is responsive to the actual demographic of those who are served. Such training contributes to fairness in decision-making and positive outcomes for youth. Similarly, culturally responsive environments should be created in all child-serving systems – education, child welfare, mental health and juvenile justice.

Actions

- Conduct annual institutional training events to develop cultural competency and working knowledge of evidence-based practices and alternative options for working with youth of particular racial/ethnic/gender/age groups. This should include training on positive youth development, strengths-based practices and research on poverty.
- Achieve diverse and bilingual workforce proportional to the demographics of children in care.
- Cultivate diverse and bilingual service providers.
- Periodically hold statewide summits for juvenile justice officials, professionals and personnel, with involvement by child welfare, mental health and education stakeholders, featuring best practice models and programming.
- Support integrated coordination of Disproportionate Minority Contact reduction initiatives with other ongoing juvenile court reforms.

Relevant Projects and Suggested Partners

This recommendation depends heavily on top-down support from public policy officials and associations responsible for professional training. Involving community members from impacted populations of color is critical in both implementation and monitoring.

Important stakeholder partners include executive branch agencies, judicial leadership, professional and trade associations, and child advocate organizations. Specific organizations whose mission is to promote diversity, cultural competency and systems improvement should be included as champions for broad public policy support.

This effort should include the involvement of the Indiana Judicial Center's Juvenile Justice Improvement and Child Welfare committees; the Indiana Supreme Court's Commission on Race and Gender Fairness; Office of GAL/CASA, Division of State Court Administration; and the Board for Coordination of Programs Serving Vulnerable Individuals. Nongovernmental organizations, including the Indiana Disproportionality Committee, La Plaza, the Children's Coalition of Indiana, the ISBA Civil Rights of Children Committee, Child Advocates Inc., Youth Law Team and IARCCA, are important resources for identifying best practices involving affected populations.

Resources

William H. Barton and Jeffrey A. Butts, *Building on Strength: Positive Youth Development in Juvenile Justice Programs* (2008), available at http://www.njjn.org/media/resources/public/resource_786.pdf

Child Welfare League of America, <http://www.cwla.org/programs/culturalcompetence/default.htm>

Georgetown University National Center for Cultural Competence, <http://www11.georgetown.edu/research/gucchd/nccc/>

Indiana Disproportionality Committee and Indiana Minority Health Coalition, *Cultural Assessment and Training Project Report* (2009), <http://tinyurl.com/training-report>

Indiana Supreme Court Commission on Race and Gender Fairness, *Interpreter Certification Program and Report with Recommendations*, <http://www.in.gov/judiciary/fairness/projects.html>

Dr. Ruby Payne and Phil DeVol, *Bridges Out of Poverty*, training, http://www.ahaprocess.com/Workshop_Training_Dates/Community_Programs.html

RECOMMENDATION 7

Develop strategies to address the particular needs of “dual jurisdiction” youth (i.e., children who are involved in both child welfare and juvenile delinquency cases or who cross over from one system to the other) in order to minimize the risk of children entering or reentering either the foster care system or the juvenile justice system.

Youth served in the child welfare system are at greater risk of coming in contact with the juvenile justice system. Youth of color are disproportionately represented in the child welfare system, and racial/ethnic disparities in that system contribute to disparities in other systems, including the juvenile justice system. Providing services for dual jurisdiction children involves distinct challenges and requires cross-system assessment, communication and coordination.

Initiatives should be launched to prevent entry of foster children into the juvenile justice system. In order

to avoid negative outcomes for dual jurisdiction youth, the two systems should be reformed to create a continuum of care, coordination and communication between the systems.

The ability of juvenile courts to address dual jurisdiction children in a meaningful way directly impacts disproportionality. Some children who come into the delinquency system by reason of a delinquent act would be better served by the filing of a CHINS (Child in Need of Services) proceeding so the needs of the entire family can be addressed. Local courts are currently experiencing increasing limitations on their discretion to direct cases so that children do not unnecessarily carry the “delinquent” label. Current barriers that prevent local courts from directing DCS to initiate CHINS investigations and provide services should be removed so that families receive assistance and the child's best interests are served.

Actions

- Eliminate financial barriers to services and treatment for dual jurisdiction youth to give the systems and the courts greater flexibility in addressing the needs of these youth.

- Use diversion and intervention services for minor or low-level acts of misbehavior committed while a youth is in foster care.

- Restore judicial discretion and authority to coordinate the services of DCS and juvenile probation; create a legal preference enabling youth to have their dependency proceedings remain open with continued family support; and allow the court judicial discretion and authority to direct DCS to initiate a CHINS case when foster children are released from DOC.

- Conduct a review of current policies and practices to require better identification of dual jurisdiction youth and better cross-system assessment, communication and coordination of these cases.

- Adopt policies and procedures that allow for more flexibility in providing services and treatment to these youth, and eliminate any gaps in services for these youth.

- Develop strategies, practices and programs to minimize the risk that youth will reenter the juvenile justice system and/or the child welfare system, including use of after-care services.

- Require appropriate cultural competency training for all GAL/CASA staff and volunteers and child welfare personnel so they are better able to meet the needs of the diverse children who enter both systems; promote training for all juvenile defense counsel on cultural competency and foster care issues.

- Require the appointment of a GAL/CASA advocate for all dual jurisdiction youth regardless of which system

the child may enter first, and provide appropriate additional funding so that CASA programs can serve these additional youth.

- Consider establishing family group decision-making as a pilot project with multiple counties as participants.

Relevant Projects and Suggested Partners

The Office of GAL/CASA, Division of State Court Administration; the Indiana Judicial Center's Child Welfare and Juvenile Justice Improvement committees; the Board for the Coordination of Programs Serving Vulnerable Individuals; and child welfare and juvenile justice stakeholders should lead efforts to seek legislative and agency changes allowing for more flexibility, better coordination and better communication regarding dual jurisdiction youth. Such efforts should involve youth, providers and child advocacy organizations.

Resources

ABA Policy and Report on Crossover and Dual Jurisdiction Youth (February 2008), <http://www.abanet.org/youthatrisk/crossoveryouthpolicy.html>

Child Welfare League of America, Child Welfare and Juvenile Justice Integration Initiative (2008), <http://www.cwla.org/programs/juvenilejustice/jjprogressreport.pdf>

RECOMMENDATION 8

Unify and coordinate statewide juvenile justice court reform, integrating local Disproportionate Minority Contact reduction as a critical focus underlying all efforts.

Disproportionality and racial disparities in the juvenile justice system is a systemic problem that has no single cause and becomes more pronounced as children progress more deeply into the juvenile justice system. A working council should be formed to focus on integrating current juvenile court reform efforts with DMC reduction at the state level. This body would provide focus and direction at the state level, forging collaborations with interdisciplinary involvement and full participation by juvenile justice agencies and professional associations at state and local levels. This council should work closely with other organizations and collaborative initiatives whose focus is similarly reducing disproportionality and racial/ethnic disparities in child services in Indiana.

Broad leadership involvement is needed to provide input, direction, policy formulation and program implementation for this initiative, and this is true as well for all juvenile justice system reform efforts being pursued at the state level. Consistent leadership involvement in the multiple efforts at reform now underway in the state is important to achieving effective systems reform at the state and local levels.

Actions

- Consider forming a state DMC Advisory Committee involving top juvenile justice officials and critical stakeholders as an entity administered by the Indiana Criminal Justice Institute and the State Advisory Group (SAG).

- Consider forming a Council on Juvenile Court Systems Reform, and include the aforementioned DMC Advisory Committee as a member of that council. Such an umbrella council would help integrate leadership and advisory functions of all major state-led juvenile court reform initiatives now underway in Indiana, and support DMC reduction as an integral component of all court reform efforts.

- Form local DMC committees in county court jurisdictions, led by the judge with juvenile jurisdiction, to monitor disproportionality data, engage stakeholders, and identify policies and practices that are contributors to disparities, and develop coordinated solutions at the local level. Where Juvenile Detention Alternatives Initiative reform is ongoing at the local level, such DMC committees should be organized and operated in conjunction with that effort.

- Expand JDAI replication statewide so that eventually all juvenile court jurisdictions are engaging in best practice detention reform. Urban areas with pronounced disproportionality should be prioritized for earlier phases and staffed by local JDAI/DMC coordinators as an integral component of the JDAI reform effort.

- ICJI, SAG, the Indiana Judicial Center, the Commission on Race and Gender Fairness and the Division of State Court Administration should work collaboratively with legislators to form a long-term plan to develop sustainable funding for court reform efforts. Use federal pass-through monies, innovative cross-agency funding, state fiscal allocations and private funding to support best practice development and reform efforts. Cross-system savings and investments in community-based alternatives should be monitored.

- ICJI should act as a clearinghouse and support the development of a best practice resource bank with information on local, state and national resources to address DMC.

- Prevailing probation practices that rely on the use of punitive responses to minor probation violations should be eliminated, and evidence-based, best practice alternatives should be implemented to help prevent further penetration of youth in the juvenile justice system.

Relevant Projects and Suggested Partners

The Indiana Criminal Justice Institute and the State Advisory Group should collaborate with the judicial and legislative branches on the integration and financial

support of all major juvenile court reform initiatives now underway in Indiana. Collaboration should include multi-disciplinary involvement, with local judicial jurisdictions as critical partners, and DMC reduction activities as an integral focus of all efforts. A state leadership team led by the Indiana Supreme Court and judiciary, with participation from ICJI, DOC, legislators, other state agencies (DCS, DOE, DMHA, Prosecuting Attorneys Council, Public Defender Council), professional associations (Indiana State Bar Association, Probation Officers Professional Association of Indiana, Indiana Juvenile Detention Association), mental health, medical and university representatives should be designated to integrate juvenile justice systems reform.

Major youth initiatives now underway – such as the 1193 Work Group, the State-Led JDAI Expansion, which has DMC reduction as an integral value underlying reform, and the Indiana Juvenile Mental Health Screening, Assessment and Treatment Pilot Project – should be pursued collaboratively where vision and work are shared. Efforts should be coordinated to build an integrated system of court reform.

RECOMMENDATION 9

Increase access to counsel.

Unavailability of legal counsel contributes to disproportionality and racial/ethnic disparities in the juvenile justice system.

Access to counsel is essential at a child's entry point into the juvenile justice system and has a significant impact on outcomes – the availability of diversion, “fairness” or due process in adjudication, and the use of alternatives at disposition.

Actions

- Convene a task force with legislative involvement to review *Indiana: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings*, National Juvenile Defender Center (2006), and make recommendations regarding: (1) waiver of counsel issues and the rights of children to procedural protections throughout juvenile court processes; (2) whether a state juvenile public defender's office should be created, and, if so, how it should be funded; (3) how to address financial and other barriers that have impeded access to counsel in juvenile proceedings; and (4) enhancing quality of representation through training, including cultural competency and responsiveness.

- Legal community and government officials should work with state bar leaders to study and monitor minority access to justice through representation of legal counsel in the juvenile justice system.

Relevant Projects and Suggested Partners

The Indiana State Bar Association should work with the Indiana Public Defender Council and Indiana Prosecuting Attorneys Council, in collaboration with the judiciary, to reach a shared understanding of access to counsel issues, professional training needs and the impact on racial disparities in the juvenile justice system.

Resources

Indiana: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings, National Juvenile Defender Center (2006), <http://tinyurl.com/access-to-counsel>

RECOMMENDATION 10

Create a legislative, standing Commission on Children to guide state public policy in a consistent and coordinated manner toward positive outcomes for children.

Such a commission should work with legislative and other non-legislative initiatives and boards to ensure consistency in legislative policy in support of ongoing reform efforts for children, with a particular focus on enhancing the quality of care and reducing racial/ethnic disproportionality and disparities in child-serving systems in Indiana.

The commission should have legislative and non-legislative members, modeled after the Commission on Mental Health. Experienced juvenile court trial judges should be included on the commission.

Actions

- Commission should complete a comprehensive review of the juvenile code, for both CHINS and Delinquency. The goals should include identifying and eliminating barriers to child-centered coordination of care, providing services in least-restrictive settings, and engaging a dialogue on the right-sizing of juvenile court (age limits on detention, reforming adult transfer laws, etc.). Eliminating status offenders as delinquents and creating a CHINS category for them should be considered.

- Commission should collaborate with all child-related initiatives to ensure consistent development of legislative policy support for reforming delivery of services to children in Indiana across all systems in a culturally responsive manner and to reduce Disproportionate Minority Contact and disproportionality of services for youth of color. Positive youth development and strengths-based practices should be supported through legislative reform efforts.

Relevant Projects and Suggested Partners

Legislators should work with the judiciary, executive branch agencies, the legal community, and child advocacy organizations to reach a consensus on composition and functions of the commission. Parents and youth should be involved as partners.



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