



Youth Transition Funders Group

BEYOND THE TUNNEL PROBLEM

ADDRESSING CROSS-CUTTING ISSUES THAT IMPACT VULNERABLE YOUTH

BRIEFING PAPER #3: A SENSIBLE MODEL FOR JUVENILE JUSTICE

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A SENSIBLE MODEL FOR JUVENILE JUSTICE

INTRODUCTION

The public generally assumes that elected officials study the factors causing social problems before they devise strategies to eliminate or mitigate those problems. It would seem to be a simple matter of establishing cause and effect and then designing an effective means of intervention. Few social policies, however, are actually made this way. In fact, policies are often made in reverse. After officials decide to respond to a new problem, they review the options available from a menu of known solutions, and then choose whatever solution seems closest to being appropriate for the new problem.

In this abbreviated search, less costly solutions are considered first, and easy answers always beat complicated answers. When they want to reduce congested traffic, for example, policymakers do not target the relative demand for public versus private transportation or the lack of affordable housing that helps to generate suburban sprawl. Instead, they build roads and highways. Even if they suspect building roads will not solve their longstanding traffic problems, public officials know they can deliver new roads. It is a comfortable and familiar solution. Of course, it is probably no coincidence that road construction also generates tangible benefits for powerful constituencies. Policymakers stick with familiar solutions because they are manageable and they make sense economically, if only in the short term.

This same dynamic can be seen in policies for reducing juvenile crime. The most popular policies to combat youth crime are the most familiar solutions—law enforcement and individualized treatment. The first is a modern necessity. The second is part theoretical assumption and part practical compromise. Most juvenile justice policies are based on the theoretical assumption that the youth involved in the justice system have something “wrong” with them. They have personal problems or family problems that cause them to misbehave and those problems need to be treated in order to prevent additional crime. Despite decades of research showing that the propensity to violate the law is common to all social strata and that delinquent behavior is less likely when youth are effectively attached to pro-social adults, school, and work, policymakers continue to assume that the best way to keep youth out of the juvenile justice system is to correct their individual defects with therapeutic interventions. Therapy is a crime-reduction strategy that governments know how to deliver. It is a familiar solution, but it is not a sensible solution from a theoretical, fiscal, or practical perspective.

Policymakers and practitioners need to build a sensible model of juvenile justice. A sensible model of juvenile justice would prevent youth crime as soon as possible using cost-effective, community-based, non-therapeutic approaches. It would intervene in the real and immediate causes of harmful behavior among adolescents using accessible and common-sense approaches. The current model of juvenile justice was not designed to achieve these goals. In most U.S. communities, the juvenile justice system was designed to minimize costs, to manage policy conflicts over the appropriate response to serious and violent offenders, and to accommodate a crude pragmatism that sacrifices theoretically sensible approaches for the familiar solutions advanced by political stakeholders and professional groups.

THE LIMITS OF MODERN JUVENILE JUSTICE

Far too often, juvenile justice debates are framed in simplistic, binary terms. One is either in favor of punishment or treatment, either deterrence or rehabilitation. In binary arguments about public safety, punishment and deterrence nearly always win out over treatment and rehabilitation. As a result, youth advocates tend to welcome any fact or argument that supports the use of treatment or casts doubt on the effectiveness of punishment. The youth advocacy community is very pleased, for example, with studies showing that youth moved out of juvenile court and into criminal (adult) court are actually more likely and not less likely to commit new offenses upon release (e.g., McGowan et al., 2007). Advocates are also encouraged by the growing research support for adolescent mental health and substance abuse treatment programs (e.g., Kraft et al., 2006), and by the increasing quality of evidence supporting family treatment programs including multisystemic therapy (e.g., Henggeler et al., 2002).

The policy tide has clearly begun to turn as evidence accumulates that treatment programs can be effective and doubt grows about the impact of punishment, especially after ten years of crime statistics showing that serious juvenile violence remains at historically low levels (Butts and Snyder, 2007). Policymaker demands for ever-tougher punishment seem to be subsiding in state and local jurisdictions. Many states have even begun to retreat from the harsh policies that once sent thousands of juveniles to adult court (Snyder and Sickmund, 2006: 186).

During this period of relative progress, however, discussions of juvenile justice policy and practice have become distorted in a new way by the binary nature of public safety arguments. Youth advocates have become distracted by their own success. The advocacy community has become so accustomed to arguing in favor of mental health, drug treatment, and family therapy that for many in the juvenile justice field, these programs have become synonymous with good practice. These programs, however, are only one part of the juvenile justice system. They should never be allowed to dominate policy and practice with youthful offenders.

Most delinquent youth do not engage in criminal behavior because of drug problems, mental health problems, or family dysfunction. Clearly some do, and for these youth the growing availability of evidence-based treatment is a welcome development. For many, even most youth in the juvenile justice system, however, these programs will never address the root causes of their delinquency, which are more likely to include the reaction to school

failure, an adolescent's normal appetite for thrill seeking, defiance of authority, lack of empathy for victims, material desire or greed, a fear for their own safety, and a general social environment that is conducive to and accepting of a wide range of illegal behaviors. These youth are not likely to respond well to therapeutic treatment. Forcing them into therapeutically oriented programs could increase their anti-social posture rather than reduce it. The juvenile justice system needs a new model of intervention that makes sense for the millions of young offenders every year who come to the attention of authorities without having committed a serious or violent crime and without treatable mental health or substance abuse disorders.

To be effective, juvenile justice must be theoretically oriented. Put simply, the juvenile justice system should focus on reducing the causes of juvenile crime in order to reduce the effects of juvenile crime. What are the factors that lead young people to become involved in crime? What interventions are most effective in interrupting the connections between cause and effect? Surprisingly, the current juvenile justice system is not often built using theoretically derived strategies. The designers of the system rarely ask the question, "What tools do we need?" Instead, they ask, "What can we do with what we have?"

Juvenile justice systems have well-established policies for responding to serious and violent crimes by youth. There may be controversy over whether a particular youth should be tried as a juvenile or as an adult, but the theory guiding the response to such cases is simple deterrence and retribution. The theory of deterrence presumes that youth will not engage in serious crime once they are sufficiently aware of the severe punishment that follows such behavior. The theory of retribution suggests that it doesn't really matter whether punishment affects future behavior; it is society's obligation to condemn unacceptable acts.

What about youth charged with less serious and non-violent crimes, including theft, burglary, fraud, vandalism, minor assaults and drug possession? Youth accused of less serious and non-violent offenses account for three-quarters of the youth referred annually to juvenile justice authorities nationwide. According to recent data from OJJDP (Snyder, 2006), the national number of juvenile vandalism arrests in 2004 was four times larger than the

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number of robbery arrests (103,400 versus 25,340). Juvenile arrests for disorderly conduct outnumbered arrests for aggravated assault by three to one (198,800 compared with 60,450). More juveniles were arrested for curfew violations in 2004 (137,400) than were arrested for murder, rape, robbery, and aggravated assault combined (91,100). What theoretical concepts should guide the juvenile justice system's response to these cases?

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What about youth whose illegal behavior does not stem from emotional problems, mental health disorders, and substance abuse? What theory should guide our response to these youth? They represent the majority of young people referred to juvenile courts and probation. In recent years, some mental health advocates have argued that three-quarters of all juvenile offenders suffer from mental health and drug abuse problems, but their statements are based on a misunderstanding of the relevant research. These large estimates are derived from studies of

detained and incarcerated youth (e.g., Teplin et al., 2002). The results of these studies should not be used to generalize about mental health problems among all juvenile offenders.

When researchers investigate the prevalence of mental health and substance abuse problems among a broader range of youthful offenders, including those not incarcerated, the proportion of youth with detectable diagnoses is considerably lower. Wasserman and her colleagues (2005) measured the prevalence of mental health disorders among youth referred to a juvenile probation intake department and found that 46 percent of youth had at least some diagnosable disorder. Even this figure, however, was reached only by including every conceivable degree of mental health problem. By this standard, the same statement could be made about 21 percent of all U.S. adolescents (U.S. DHHS, 1999). The most common mental health problem among probation youth in the Wasserman study was separation anxiety (27%), but the same symptoms are found in 13 percent of all adolescents (U.S. DHHS, 1999: 124).

One in four youth in the Wasserman study had at least some substance use disorder, but relatively few had the type of serious drug problems feared by parents and communities. Three-quarters of the diagnosed drug problems among juvenile probationers involved the use of alcohol and marijuana rather than other substances (e.g., cocaine and methamphetamine). “Substance abuse” disorders involving drugs beyond alcohol and marijuana were detected in just three percent of the juvenile probation sample, while “substance dependence” disorders involving these other substances were noted in fewer than four percent of all youths.

Moreover, when prevalence studies find rates of mental health disorders and substance abuse problems that are higher among young offenders than among youth in general, much of the difference is likely due to the social environments of impoverished and disadvantaged communities. A broad consensus of epidemiological studies suggests that mental disorders are associated with disadvantaged social status, including income and education levels (Kessler et al., 2006). National surveys of mental health problems find that the rate of disorders is highly correlated with life stressors. In 2005, for example, the National Survey on Drug Use & Health (NSDUH) included a series of questions designed to reveal whether respondents had experienced a “major depressive episode” within the previous year. The rate among unemployed respondents was more than twice as high (14% versus 6%) as the rate among respondents working full time (Office of Applied Studies, 2006).

Other studies show that mental health disorders are more prevalent among those with less education. The third National Health and Nutrition Examination Survey (NHANES III) examined the lifetime prevalence of mental disorders among men between the ages of 20 and 39 (Jonas et al., 2006). The results indicated that the rate of dysthymia (mild depression), for example, increased from 2 percent among men with at least some college, to 5 percent among men with a high school education, and 12 percent among men with less than a high school education. Similarly, the prevalence of “any mood disorder” was 7 percent for men with some college, but nearly 14 percent among men with less than a high school education. Research on adolescent mental health has long shown that perceived community safety has a significant effect on the appearance of mental health disorders among youth. As one study of youth across a range of Los Angeles communities found:

“Adolescents’ experience of living in a neighborhood—in particular, exposure to ambient hazards—is associated with their mental health. As the neighborhood becomes more threatening, symptoms of depression, anxiety, oppositional defiant disorder, and conduct disorder increase” (Aneshensel and Sucoff, 1996: 305).

Mental health prevalence statistics suggest that, on balance, the incidence of mental disorders is higher in poor and disadvantaged communities—the very areas where youth are more likely to be arrested and to become involved in the juvenile justice system. Thus, the increased prevalence of mental health problems among youth in the juvenile justice system is at least in part due to the economic and social conditions of the neighborhoods in which they live, rather than to inherent individual differences between offenders and non-offenders. Mental health treatment and substance abuse treatment are certainly important components of the juvenile justice system, but clearly they would not be sufficient by themselves as an overall strategy for public safety.

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THE PROMISE OF POSITIVE YOUTH DEVELOPMENT

The juvenile justice system needs a new, sensible model for policy and practice, one that can be used to design and deliver interventions for the full range of delinquent offenders coming to the attention of law enforcement and the courts. A growing evidence base suggests that one way to build a new model for juvenile justice for all youth would be to draw upon the principles of positive youth development.

Positive Youth Development (PYD) is a comprehensive way of thinking about adolescent development that is gradually replacing the deficit-based approaches that dominated policy and practice throughout much of the twentieth century. Adolescence was once seen as a period of turmoil and risk, and professionals were expected to identify and fix problems affecting individual youth. In recent years, practitioners and researchers began to challenge the deficit-based perspective by pointing out that most youth manage to thrive even in the presence of multiple risk factors. Rutter (1993) and others began to use the term “resilience” to describe the qualities

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that support healthy development in the face of adversity. Social programs began to investigate new methods of increasing resilience and to incorporate such methods into their work with children and adolescents. Developmental specialists began to see adolescent development as a process sparked by the interactions that youth have with adults across a wide range of social environments—families, schools, workplaces, neighborhoods, and communities. Adolescents were seen not as objects to be acted upon, but rather as self-directed,

independent individuals who may deserve special care, but who also merit the dignity and autonomy accorded other members of the community. The concepts of PYD suggest that young people develop and flourish when they are connected to the right mix of opportunities, relationships, and social assets.

The term “adolescent development” describes a topic of scientific investigation in which researchers generate knowledge about the processes of individual growth and maturation, while “positive youth development” describes the various methods, techniques, and practices used to apply that scientific knowledge in agency and community

settings. The principles of PYD are newly championed throughout the federal government, including the White House. The Helping America's Youth (HAY) initiative, launched by the Bush Administration, is dedicated to ensuring that all youth have the support of caring adults and that they develop strong, positive connections to society. The final report of the White House Task Force for Disadvantaged Youth (2003) highlighted research showing that healthy adolescent development requires youth to have "caring adults in their lives, opportunities to learn marketable skills ... and opportunities to contribute meaningfully to their communities and society" (p.95). America's Promise, started during the Clinton administration and led in part by General Colin Powell, brings together communities, individuals, and organizations from all sectors to increase access to developmental resources for children and youth.

The concepts underlying positive youth development also enjoy broad support in the scientific community. The PYD framework begins with the idea that youth with access to supportive resources and positive relationships are less likely to experience school failure, substance abuse, and delinquency (Catalano et al., 2004; Scales and Leffert, 2004). A growing body of work suggests that the benefits of positive, developmental assets are pronounced, even for youth from disadvantaged communities (Aspy et al., 2004). In recent years, the National Research Council and Institute of Medicine have released a number of important works related to PYD, including *A Study of Interactions: Emerging Issues in the Science of Adolescence Workshop Summary* (2006) and *Community Programs to Promote Youth Development* (2002). Researchers in a variety of disciplines have endorsed the value of PYD, its principles and practices, its heritage in theories of adolescent development, its connections to community well-being, and its implications for public policy and social institutions.

Practice guidelines for implementing effective youth development approaches have been released by an array of organizations, including the National Clearinghouse on Families and Youth, the Forum for Youth Investment, the National Network for Youth, the Community Network for Youth Development, the National Youth Development Information Center, and the Search Institute. The Search Institute, in particular, has enjoyed wide success with its "40 Developmental Assets" framework. A wide variety of asset-based PYD frameworks are being implemented at state and local levels.

APPLYING POSITIVE YOUTH DEVELOPMENT IN JUVENILE JUSTICE

A coordinated system of juvenile justice interventions designed around the core concepts of positive youth development could serve as a new model for juvenile justice and perhaps make a real difference for young offenders and their communities. Such a model would be applicable to a larger portion of the youthful offender population and it would be rooted in the theoretical and empirical literature about adolescent development. The challenge for future policy and practice is to make PYD a concrete and permanent feature of crime prevention and control.

The concepts underlying positive youth development have been recognized for years. One of the foundational studies in this area was the OJJDP Program of Research on the Causes and Correlates of Delinquency (Causes

and Correlates). Started in 1986, the Causes and Correlates projects (Denver Youth Survey, Pittsburgh Youth Study, and Rochester Youth Development Study) used repeated contacts with age-specific cohorts of youth to reveal the complex empirical relationships between youth development and delinquency (Browning et al., 1999; Thornberry, Huizinga and Loeber, 2004).

There are a number of existing practice frameworks in juvenile justice that could be used to build a new PYD approach for delinquency prevention, including the “competency development” component of the balanced and restorative justice model (Torbet and Thomas, 2005). Other compatible frameworks include strength-based approaches, asset building, wrap-around services, and various family-based services models, as well as the community assessment and intervention model known as “Communities That Care” (CTC), conceived by the Seattle Social Development Project (Hawkins et al., 2007).

Applying PYD principles to juvenile justice interventions must be planned and coordinated, or the effort could dissolve into an array of disconnected programs. Without a theory-driven, goal-oriented strategy for constructing and operating interventions for youthful offenders, a PYD framework could easily become diluted and ineffective. Positive youth development is a broad concept. Which pieces are critical for young offenders? Should juvenile justice interventions focus on work, school or both? Should they include the arts, or is this a secondary concern for young offenders? If mentoring is an effective strategy to help youth build positive relationships with adults, do young offenders need a specialized form of mentoring? These decisions must be based upon sound research findings.

The first step in building a new PYD strategy for delinquency prevention is to reduce the multitude of PYD concepts to a workable set of core elements that would be appropriate in a juvenile justice context. Practitioners need a road map, or a bridge to join the wide array of PYD ideas with the operational realities of juvenile justice. Researchers have been calling for such a bridge for the past decade, but there are still no detailed models or frameworks available to practitioners (Barton, 2004; Bazemore and Terry, 1997; Schwartz, 2003).

DO WE REALLY NEED A NEW MODEL?

Some may ask, “but isn’t positive youth development basically what the juvenile justice system does now?” Unfortunately, the answer is often “no.” The public generally believes that prevention and early intervention are the principal functions of the juvenile justice system, but it is surprisingly rare to find jurisdictions that pursue these goals seriously. Especially in large cities, the first few offenses committed by a young person are usually ignored unless they involve violence, harm to victims, or other serious consequences. There are at least two reasons for this apparent policy failure. First, according to studies of self-reported delinquency, the vast majority of youth engage in at least some illegal behavior before adulthood. An estimated one in three juveniles will commit at least one serious act of property crime or violence before age 18 (Thornberry and Krohn, 2003:100-101). For this reason alone, the justice system refrains from taking action until a youth exhibits more persistent delinquency. Providing a formal response to all instances of delinquency would be extremely expensive. Second, intervening through the auspices of the juvenile justice system involves significant risk. Contact with the justice

system can be harmful. The stigma and negative self-identity associated with involvement in the legal system could lead youth to engage in more illegal behavior, not less (Bernburg and Krohn, 2003).

For these reasons, all juvenile justice systems support some use of “diversion” to avoid drawing youth into the legal system unnecessarily. In many communities, however, diversion services are not very effective. At most, youth and families may be offered informal, non-coercive referrals to social service agencies. This is rarely effective because few communities provide a sufficient mix of activities and resources for youth and families, especially the type of opportunities that would be attractive to voluntary clients.

Most adolescents in the earliest stages of delinquency need the same things that all adolescents need—they need outlets for physical activity, they need ways to have fun without breaking the law, and they need to develop a sense of belonging that fosters attachment to pro-social peers, adults, and community institutions. Vulnerable and at-risk youth usually need help with school, and they often need work experience and job readiness skills. They need meaningful, pro-social engagement with friends and neighbors, and they would likely benefit from

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greater involvement in music and the arts. Some youth may need therapeutic services as well, but most young offenders do not. They need far more basic resources. Providing all youth with easy access to a diverse array of supports and opportunities would allow communities to intervene during the beginning stages of delinquent behavior without prematurely drawing youth into the formal justice system. The challenge for community officials is to devise ways of pursuing this goal with research-informed, theory-driven approaches that will help to build a new evidence base for delinquency prevention.

Policies and practices in the juvenile justice system are often developed in reverse. Problems are remodeled to fit existing solutions. Too often, interventions that are appropriate for particular subgroups of juvenile offenders—those charged with serious and violent crimes or those afflicted with serious drug problems and mental disorders—are allowed to become the model for all youth. Practitioners are grateful for the growing menu of evidence-based interventions for addressing drug problems and mental health issues, and these programs are an important and necessary component of an effective juvenile justice system, but they are not sufficient by themselves as a strategy for controlling juvenile crime. The juvenile justice system needs a new intervention model that is appropriate for young offenders who do not fit one of the existing treatment categories. The concepts of positive youth development may offer a way to build such a model.

CONCLUSION AND RECOMMENDATIONS

Designing and building a new intervention framework for youthful offenders will take time. It has taken decades for the field to move from the simplistic counseling models of the early twentieth century to the behavioral treatment models of today. The foundational ideas behind today’s treatment models were built step by step, with

clinical trials and random-assignment studies. To become a central component of tomorrow's juvenile justice system, the positive youth development approach must be pursued in the same way. Such a model has to be clearly conceptualized, tested, and verified in small pilot experiments. Then, it must be taken to scale through system-wide reform at the county and eventually state level.

As a first step in this strategy, the funding community should help youth development innovators to turn their attention to the needs and abilities of youth in the justice system. Practitioners need program models and intervention frameworks that are designed for youthful offenders. The young people involved with the justice system present special challenges. Many come from highly disadvantaged communities and they may have embraced values and behaviors that make them resistant to the conventional, pro-social messages embedded in popular youth development frameworks. The juvenile justice system needs youth development frameworks that have been designed with its clients in mind.

Next, the various pieces of a customized youth development framework must be implemented in a variety of settings and on a relatively small scale in order to build a record of program effects. To demonstrate the efficacy of the youth development approach, funders should support small, targeted experiments. One experiment might test the differential effects of civic engagement for youthful offenders; others might focus on the effects of adult role models, artistic expression, physical activity, etc. There is often a small literature on these components, but most studies involve normative populations and offer little guidance for programs serving court-involved youth.

Finally, as the lessons of small experiments begin to accumulate, the funding community should support efforts to combine their findings into a comprehensive youth development approach for juvenile justice clients. Program managers need to know exactly what the new youth development model entails and then be able to implement the components of the model carefully and with proven fidelity to a research-oriented framework. Then, the complete model should be tested with rigorous, experimental evaluations. To make real progress in juvenile justice reform, practitioners and researchers must work together to generate strong findings that are replicated over time and in multiple settings. The growing support for mental health services for young offenders is proof that persistent efforts can result in lasting reforms. With sufficient resources, a similar effort to create a youth development approach in juvenile justice could produce significant benefits for the two million young people brought into the juvenile justice system every year.

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ABOUT THE *BEYOND THE TUNNEL PROBLEM* SERIES

This series examines how the systems of public education, juvenile justice, and child welfare can work in better coordination to address the needs of youth who are often impacted by more than one system at a time. The series provides information on the scope of the "tunnel problem" and recommendations for how funders and policymakers can support better collaboration between systems and youth-serving organizations at the federal, state, and local levels. It features thoughts and commentaries from leading experts from various disciplines.

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