

## JUVENILE JUSTICE REFORM:

### ***Accountability Alternatives that Replace the Valid Court Order Exception***

**The Juvenile Justice and Delinquency Prevention Act (JJDP)** aims to maintain community safety while preventing the victimization of justice-involved children. It requires states receiving federal funding to comply with four core requirements, including the deinstitutionalization of status offenders.<sup>1</sup> A substantial body of research demonstrates that diverting youth who commit minor infractions or offenses from juvenile court more effectively prevents recidivism than detention or incarceration<sup>2,3,4,5,6</sup>. This evidence has convinced the majority of state legislatures to phase out Valid Court Order (VCO) exceptions that allow the detention of status offenders.<sup>7</sup> Some states detain status offenders as a mechanism when there are concerns that the youth will not comply with court-ordered sanctions in the community. Other courts detain youth hoping to garner more formal services that “keep kids off the streets”.<sup>8</sup> The scientific literature indicates these strategies may actually threaten public safety and cause harm to youth offenders.

Incarcerated status offenders are more likely to recidivate by engaging in criminal behavior, in part because they develop relationships with more serious and chronic offenders (i.e., deviancy training). Further, detention severs ties with important support systems—including school and family.<sup>9,10</sup> Relative to peers who have not been involved in the justice system, justice-involved status offenders are more likely to have histories of trauma and emotional vulnerabilities,<sup>11</sup> less likely to graduate high school,<sup>12</sup> have lower lifetime earnings,<sup>13</sup> and are more likely to be female and/or youth of color.<sup>10,14</sup> The most effective responses to a status offenses:

- Occur immediately, prior to court referral
- Address underlying causes of youth conduct problems
- Engage the entire family
- Likely to have public cost-savings<sup>15,16</sup>

Research also indicates that juvenile offenders who are processed tend to *increase* criminal behavior.<sup>4,17</sup> In communities where pre-court intervention is not currently in place, evidence-based detention alternatives (that are well-implemented)<sup>18</sup> reduce recidivism, yield better public safety outcomes, and save money.<sup>19</sup> The most effective interventions:

- Address risk factors and root causes of behaviors, including co-occurring mental health issues<sup>16</sup>
- Leverage prevailing social systems (e.g., schools, families), that have the greatest power to sustain behavioral change<sup>20,21,22</sup>
- Are based on youths’ strengths and needs and other risk factors<sup>10,23,24</sup>
- Facilitate personal development (e.g., insight, behavioral skills, relationships)<sup>25</sup>
- Support youth in program adherence<sup>17</sup>
- Mobilize existing resources in the youth’s community<sup>26</sup>
- Reinforce engagement with contingency management<sup>27,28,29,30,31,32</sup>

## Highlights

- Even though incarcerating low-level offenders is associated with poorer public safety outcomes, many status offenders are detained under a Valid Court Order (VCO).
- Some states use the VCO to detain status offenders as an accountability mechanism when there are concerns that the youth won’t comply with court-ordered sanctions in the community.
- Youth adherence to court-ordered interventions can be strengthened by involving multiple, key stakeholders (e.g., parents, schools), incentives for compliance, and delivering interventions in school or home settings.

### Recommendations:

- Avoid using detention as a mechanism to hold status offenders accountable.
- Engage pre-court diversion services when possible.
- Involve key stakeholders in monitoring and service delivery with youth.
- Reinforce therapeutic engagement with contingency management strategies.
- Provide judges with options for school- and home-based approaches for sanctioning status offenders.

## Graduated Response Systems

Systems that offer tiered or graduated responses serve as a framework for judges to hold status offenders accountable in community settings through the use of flexible sanctions and incentives (for positive behaviors). Engaging key stakeholders (e.g., parents, schools) is critical to Graduated Systems. Specifically, the court and stakeholders work together to monitor youth and design developmentally-appropriate responses to court order violations.<sup>33,34</sup> Importantly, the system includes a judicial override to give judges ultimate authority over sanctions and reinforcements. Graduated sanctions comprise a continuum of integrated court-supervised responses that match offenders' risk levels and treatment needs with appropriate services and supervision.<sup>25,26</sup> Furthermore, research repeatedly demonstrates that the use of sanctions and incentives together more likely reduces problem behaviors and recidivism than detention.<sup>23,35,36</sup> In addition to involving key stakeholders, youth compliance with court orders can be further strengthened by leveraging interventions in key settings for youth, including their homes and schools.

## Youth Compliance

Adherence or compliance with behavioral and mental health interventions can be hindered by a number of circumstances, including an unrealistic number of supervision conditions,<sup>10</sup> times and locations of services (e.g., distance, perceived safety), cost and/or availability of services, a lack of transportation, and prolonged waiting times between referral and service initiation.<sup>37,38,39,40</sup> In general, service initiation and retention are greatest when providers engage families and youth in collaborative working relationships and address barriers to service engagement in youths' social and cultural contexts.<sup>41</sup> Those strategies employ changes to the therapeutic context; in contrast, a feasible addition to nearly any program, which does not require change to nature of the service, are incentives and reinforcements for compliance and cooperation.<sup>27-32</sup> Nevertheless, a range of contextual barriers for family and youth attendance in clinic-based settings has led to the emergence of school-based mental health clinics<sup>24</sup> and home-based family therapy.<sup>38</sup>

## Home- and School-based Approaches

Strategies delivered in the home or in schools have potential to improve youth adherence to court orders by engaging key stakeholders in accessible settings. National organizations such as the National Council of Juvenile and Family Court Judges advocate for school and community-based alternatives to the use of detention.<sup>42</sup> Several home and school-based approaches have been used with court-mandated and/or voluntary alternatives to detention and incarceration, and often result in high rates of adherence because they involve flexible scheduling and services are delivered in accessible settings. Many effective programs are implemented in homes, schools, or both, such as Functional Family Therapy<sup>43</sup>, Aggression Replacement Training<sup>44</sup>, Life Skills Training<sup>45</sup>, the Blues Program<sup>46</sup>, and Cognitive Behavioral Intervention for Trauma.<sup>47</sup> Another noteworthy school-based example is the Truancy Project in Clark County, WA.<sup>48</sup> Additionally, several effective program models span implementation across contexts, such as Multisystemic Therapy<sup>49</sup>, Positive Family Support<sup>50</sup>, Targeted Truancy Interventions<sup>51</sup>, and Treatment Foster Care Oregon<sup>52</sup>. In particular, a trial using Multisystemic Therapy nearly eliminated treatment dropout among substance abusing youth.<sup>53</sup> Additional research-based information about home- and school-based interventions can be found on a number of directories of evidence-based intervention strategies.<sup>19,54,55,56,57</sup> However, only 5% of juvenile offenders receive evidence-based interventions.<sup>15</sup>

## Conclusion

Evidence-based interventions engaging key stakeholders and occurring in schools or homes effectively reduce recidivism while preventing harm. Concerns about youth compliance with court orders can be avoided when engaging and accessible programs are well implemented. JJDPA Title II funding could be leveraged to increase local access to evidence-based interventions (e.g., transportation, service providers who rotate between communities), which may be most limited in rural communities. The use of VCOs leads to poorer public safety and fiscal outcomes because detention of low-risk offenders often increases recidivism.<sup>2-6</sup> In contrast, judges' endorsement of evidence-based interventions in homes or schools can reduce recidivism and costs to taxpayers, as well as attenuate concerns about youth accountability and compliance.

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## Resources

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