



A Fiscal Perspective: The National Trend Towards Free Market Principles in Juvenile Justice

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Introduction to the Foundation

- The Texas Public Policy Foundation is a state-based think tank covering a broad range of issues, from health care to education, with a mission to promote individual responsibility, free enterprise, limited government, and private property rights.
- In 2005, the Center for Effective Justice was founded within the Foundation, focusing on criminal justice reforms within Texas.
- Our work in Texas eventually spread to juvenile justice, and successful policy implementation in Texas led to the expansion of our work to other states.



Ten Guiding Principles

First: *Some* Confinement is Necessary

- Juvenile justice systems simply must provide at least some style of secure confinement for the small minority of serious or violent juvenile offenders.
- Public safety concerns demand this level of security to prevent further crimes while the youth undergoes rehabilitation.
- However, those facilities must be sufficiently safe to allow for effective rehabilitation for juvenile offenders.
- Generally, smaller facilities and those closer to home are better.
 - The Missouri Model; \$120 per day and less than 9 percent recidivism in adult or juvenile system.

Second: Community-Based Programming

- Countless studies have highlighted the general effectiveness of community-based programming over institutional state “training schools,” which usually are located hundreds of miles away from a youth’s home.
- This effectiveness generally springs out of positive connections made and maintained in the community; however, the lower costs of community-based placements can dramatically effect state budgets.



Third: Because of the effectiveness of community-based programming...

- Confinement should not be the default response for most youth.
- Careful distinctions are needed to differentiate between the majority of youth, who are low-risk and would likely become worse off due to confinement, from the small minority of high-risk youth, who would benefit from secure confinement.
- In Texas, a broad barrier was set for state level secure confinement (misdemeanant youth).
- Other states limit confinement on a case-by-case basis.



Fourth: Risk and Needs Assessments are Necessary

- A proven and reliable risk and needs assessment can, on its own, greatly increase successful outcomes in juvenile justice systems.
- Static and dynamic factors; risks and needs.
- Provides invaluable information on treatment plans and placement options.
- Most useful when available and used by each decision-maker at each juncture of the justice system.

Fifth: School Discipline Heavily Impacts Juvenile Justice

- The advent of zero-tolerance policies began a trend away from traditional in-school discipline, towards greater reliance on juvenile justice interventions into common school misbehavior.
- This use of the juvenile justice system to discipline students can come at a high cost and overburden the courts, diverting valuable justice system resources away from genuine public safety concerns.
- Research shows that a balanced approach to school behavior issues can reduce overreliance on the justice system while creating better outcomes for students.

Sixth: Juvenile Probation is Often the Best Alternative

- Juvenile justice systems are under pressure to avoid secure confinement for most juvenile offenders. Probation can provide a wide-range of supervisory alternatives to confinement.
- Costs for probation are mere fractions of costs of confinement, and probation can be easily tailored to each juvenile offenders needs and risks.
 - Average cost for basic probation per day per youth in Texas is \$17.25, which equates to \$6,296 per year.
- Few geographic limitations (in terms of service providers).



Seventh: Focus on the Evidence

- Evidence-based programming is the “buzz-word” in juvenile justice systems.
- Simply, an evidence-based program is one that has been proven to reduce the risk of criminal behavior.
- Funding is increasingly tied to the exclusive use of such programming.
- Multiple databases track and compile research and evidence.
- While it is important to use proven programs, it is also important to avoid ignoring creative solutions and innovation.



Eighth: Juveniles in Adult Facilities Are at a Unique Disadvantage

- Even serious juvenile offenders face risks and disadvantages in adult lockups.
- The risks include an increased likelihood of physical and sexual assault as well as suicide risks.
- Disadvantages include a lack of education and age-appropriate programming.



Ninth: The Performance Incentive Funding Revolution

- Texas implemented performance incentive funding in 2009. Under the Commitment Reduction Program, counties are provided with funding to retain jurisdiction over youths who would otherwise be committed to state facilities.
- Other states—Ohio and Illinois—have implemented their own version of performance incentive funding.
- While each system is unique, the common thread is financial assistance following a reduction in state commitments. This creates a fiscal incentive toward treatment closer to home.



Tenth: Juvenile Justice Reform is Spreading

- Unlikely states, actors, and policymakers are taking up juvenile justice reforms for fiscal and moral reasons.
- A common refrain: “If Texas can do it . . .”
- Louisiana, Mississippi, Virginia, Georgia, Florida, Texas, California, Colorado, Nebraska: almost every state is looking for better outcomes and increased cost-effectiveness for juveniles.



National Trends and Research

Texas Reform Origins

- In 2006, a crisis struck juvenile justice in Texas.
- Criminal prosecutions were not enough:
 - Judges began avoiding sending youth to state facilities.
 - The Legislature swiftly acted to bar any further misdemeanants in state secure facilities.
 - Legislation was passed to increase security, install video cameras, and provide for an Ombudsman.

Damage Done

- Legislators had lost faith in the state facilities and began seeking out better ways to handle juvenile justice.
- State facility populations continued to decline, and thus state savings due to lower rates of incarceration could be passed on to the counties.
- The Commitment Reduction Program was enacted in 2009.
 - Community-based.
 - Less than \$140 per day.
 - Evidence-based.
 - Claw-back provision.

Justice Reinvestment Results

- An initial \$45 million funding of the Program gave counties grant money to place youths in community-based settings.
- Reduced populations in state facilities permitted the closure of three facilities and a cost savings of \$100 million.
- Initial results show that out of 4,000 youths first placed through the Program, only 58—or 1.4 percent—eventually required placement in a state facility.
- Delinquency rates continue to fall. Statewide referrals are down 18 percent, outpacing the national drop of 13 percent.



The Texas Model for Other States

- Texas' success was largely predicated on unlikely policymakers aggressively turning their attention toward this issue and making the bold choices once thought unlikely from a state like Texas.
- As the state reaped the benefits—both in lower costs and in lower delinquency rates—other states sought to learn from our success.
- The Foundation began to export the Texas Model to other states, by reaching out to conservatives to share our research and lessons learned.
- The Texas Model is not limited to performance incentive funding—but moreover, the recognition that confinement is not always the answer.



Juvenile Reform Examples

- **New York:** NYC juveniles will now be placed in facilities closer to home and state savings will be reinvested.
- **Georgia:** Legislation was introduced to re-write and modernize juvenile code along same principles.
- **Virginia:** Legislation that would have increased adult correctional placements for juveniles was blocked.
- **Colorado:** Prosecutorial waiver was decreased and judicial discretion over juvenile placement was reinvigorated.
- **Illinois:** Implemented REDEPLOY Illinois, diverting state savings to community based placements, saving \$9 million and cutting recidivism.
- **Ohio:** Similar effort with RECLAIM Ohio, which cut recidivism rates in half for participating youth.



Length of Stay

- Shorter is better.
- Residential treatment for juveniles with shorter lengths of stay—around six months—are associated with increased treatment effectiveness and gains in positive outcomes, and that longer lengths of stay do not increase positive outcome measures.
 - Two year study of 17,000 youth in Florida found “no statistically significant relationship to recidivism” for low-risk and moderate risk youth.
 - A different study matched youths with longer lengths of stay with youth with shorter lengths of stay and found little or no impact on re-arrest rates.

Detention

- The most costly and detrimental pre-adjudication supervision option.
- Detention precipitates higher rates of incarceration, even for similarly situated youth. Studies have found that youth are more likely to eventually receive formal judicial intervention and incarceration, even when controlling for offense severity, race, age, and gender.
- Additionally, youth can learn deviant behavior when housed with more dangerous or violent youth, an effect called “peer deviancy training.”

Detention Alternatives

- Alternatives: Risk assessments; deferred prosecution programs; mental health docket; evening reporting center; shelter options; specialized docket for gang members, human trafficking, and prostitution charges; electronic monitoring.
- Nationwide, JDAI sites saw a 6.1 percent drop in re-arrest rates while awaiting adjudication; 7.2 percent drop in failures to appear.

Disciplining Status Offenders

- A great deal of research suggests handling status offenders outside of the juvenile justice system entirely is the best bet.
- There is no evidence that juvenile justice system handling reduces or prevents future delinquency; in fact, due to peer deviancy, it likely increases delinquency risks.
- About half of the states prohibit the use of the “valid court order” exception.
- A majority of the states have implemented a CHINS, FINS, JINS, or CINA system.



Ideal System for Status Offenders

- Single point of contact or “gatekeeper.”
- Require a minimum level of pre-court diversion services.
- Monitor, evaluate, and collect data.
- Families, schools, community-based services, and child welfare services may all be involved.



Successful Examples

- **New York: PINS Diversion System**
 - Conference > services > termination > warrant.
 - In NYC, PINS reduced filed status offender cases by 79 percent.
 - Statewide, formal petitions down 41 percent.
- **Florida: CINS and FINS**
 - Not available to families who have not tried on their own.
 - Contract with private provider using shelter services and non-residential counseling.
 - Assessment > services > conference, if needed.
 - Only six percent ever sent to the court system.
 - Saved Florida over \$30 million in one fiscal year alone.

Successful Examples, cont.

- **Connecticut: Diversion to Family Support Centers (FSCs)**
 - Services: mediation, counseling > formal court petition.
 - Eliminated all detention of status offenders; only 25 percent ever formally adjudicated.
- **Louisiana: FINS Assistance Program**
 - Voluntary Family Services Plan > referral.
 - Individual parishes use detention alternatives in addition to FINS; one parish reduced formal filings on status offenders to 2 percent.

Conclusion

- Reform should start with the budget to identify excessive costs, ever mindful of the need to focus on positive outcomes for youth.
- Every youth diverted from a life of crime saves society \$2 million over his or her lifetime.
- Questions?