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Models for Change: A Post-Modern Initiative to Promote a Fair, Rational, and Effective Juvenile Justice System

by Diane Geraghty*

I. Introduction

One of the defining features of the American juvenile justice system over the last century has been its cyclical nature, marked by swings between policies favoring rehabilitation and those focused on punishment.¹ The most recent shift occurred in the closing decades of the twentieth century, when almost every state amended its laws to hold juvenile offenders more accountable for their crimes.² The John D. and Catherine T. MacArthur Foundation's *Models for Change* initiative is an effort to break the rehabilitation-punishment cycle by identifying the core elements of an effective juvenile justice system, and then using emerging science and strategic investments to develop stable models that can withstand the forces that have traditionally set the juvenile justice policy pendulum in motion.³

Models for Change is a natural outgrowth of the MacArthur Foundation's earlier efforts to increase understanding about the relationship between adolescent development and youthful offending. In 1996, the Foundation brought together a network of experts in psychology, law, sociology and other disciplines to conduct research on this topic, with a goal of providing baseline information which policy-makers and others could use to develop sound juvenile laws, policies, and practices.⁴ One of the major findings to emerge from the MacArthur Research Network on Adolescent Development and Juvenile Justice was scientific verification of the common law principle that young people are developmentally different than adults and that the legal system should take this difference into account when assessing a youth's culpability and capacity.⁵

Armed with these research findings and motivated by what it viewed as the diminished landscape of the juvenile justice system at the dawn of its second century, the MacArthur Foundation formally launched its *Models for Change* initiative in December, 2006.⁶ The goal of the initiative is to contribute to the regeneration of the American juvenile justice system by creating "successful and replicable models of juvenile justice reform through targeted investments in key states."⁷ The Foundation has pledged \$100 million over the next several years to accomplish this ambitious goal.⁸

II. Guiding Principles

The *Models for Change* initiative is based on eight principles. Collectively they represent the essential components of a fair and effective system of justice for responding to youthful offending. Rather than concentrating on rehabilitation or punishment, these guidelines incorporate the needs, rights and responsibilities of those affected by juvenile crime, including juvenile offenders, victims, families, communities, and the larger society. The guidelines are intended to provide a working framework for the development, implementation, and evaluation of a state's effort to move its juvenile justice system forward. The eight principles are:

1. *Fundamental fairness*: All system participants—including youthful offenders, their victims, and families—deserve bias-free treatment.
2. *Recognition of juvenile-adult differences*: The system must take into account that juveniles are fundamentally and developmentally different from adults.
3. *Recognition of individual differences*: Juvenile justice decision makers must acknowledge and respond to individual differences in terms of young people's development, culture, gender, needs, and strengths.
4. *Recognition of potential*: Young offenders have strengths and are capable of positive growth. Giving up on them is costly for society. Investing in them makes sense.
5. *Safety*: Communities and individuals deserve to be and to feel safe.
6. *Personal responsibility*: Young people must be encouraged to accept responsibility for their actions and the consequences of those actions.
7. *Community responsibility*: Communities have an obligation to safeguard the welfare of children and young people, to support them when in need, and to help them to grow into adults.
8. *System responsibility*: The juvenile justice system is a vital part of society's collective exercise of its responsibility toward young people. It must do its job effectively.

III. Focused Efforts in Key States

One of the challenges of juvenile justice system reform in the United States is that there is not a single system to reform. Instead, each of the fifty states and the federal government has its own laws, its own political, economic and demographic environment, and its own unique history and experience with juvenile justice. In light of this reality, the MacArthur Foundation made a strategic decision to invest in a small number of states that were positioned to make systemic changes in their laws, policies and practices. Success in these states would then serve as a catalyst for effective juvenile justice reform in other states.⁹ Ultimately Pennsylvania, Illinois, Louisiana and Washington were selected as the “bellweather” states in which *Models for Change* would operate. Although these states differ in many respects, they were selected on the basis of common features such as strong and engaged leadership, a willingness on the part of stakeholders to work collaboratively, and the potential to influence other states to adopt proven approaches to meaningful juvenile justice reform.

After its selection as a *Models for Change* state, each site brought together key stakeholders to engage in a planning process to identify three “targeted areas of intervention.” Targeted areas of intervention (“TAI”) are those aspects of a state’s juvenile justice system with the greatest potential for system-wide change across the state within a defined period of time and that are candidates for successful replication in other states. By limiting the potential scope of reform work in each state to three areas, the MacArthur Foundation sought to ensure that initiatives were clearly defined and capable of producing measurable results within three to five years. Given its longstanding commitment to racial and ethnic justice, the Foundation asked each state to make the issue of disproportionate minority contact (“DMC”) one of its three areas of concentration.¹⁰ In addition to DMC, the *Models for Change* states are working on a broad spectrum of juvenile justice issues, including alternatives to formal processing, truancy reform, a reduction in the number of youth tried in adult court, an increase in community-based alternatives to secure confinement, use of evidence-based and restorative justice practices, improved systems for reintegrating youth into communities after incarceration, and better mental health services for youthful offenders.¹¹ Some of these activities involve changes in laws and policies at a statewide level, while others take the form of localized pilot programs that can be emulated in other jurisdictions. The primary mechanism by which these activities occur are grants to state and local partners, including public entities, private organizations, academic and

research institutions, advocacy groups, and technical assistance providers.

Organizationally, *Models for Change* is structured to maximize the contributions of local, state, and national juvenile justice experts. The work in each state is managed by a “lead entity.”¹² The lead entity is responsible for developing and implementing a comprehensive work plan that includes clearly stated objectives and benchmarks by which progress can be measured. The lead entity also identifies key public and private partners in the state and works with grant applicants to design projects that align with and advance one or more of a state’s targeted areas of intervention. The lead entities works with the National Center for Juvenile Justice to establish objectives, gather baseline data, and track its state’s accomplishments over the life of the initiative. In addition, the Foundation established and funded a National Resource Bank made up of national juvenile justice experts who can work with states to help them shape their work and provide technical assistance in a broad range of areas, including mental health, corrections, indigent juvenile defense, child welfare, financing systems, media relations, data collection, and racial and ethnic equality.¹³

IV. Documentation and Diffusion

The *Models for Change* strategy is grounded in the theory that targeted investments in a small number of key states can be leveraged into widespread reform of the nation’s juvenile justice systems. To facilitate this goal, it is important to track and record each state’s planning, implementation, and evaluation process in order to allow later analysis of factors that contributed to positive changes in the state, as well as those that operated as obstacles to reform. Through this data-driven process, *Models for Change* hopes to gain insights into questions such as the effect of periodic changes in a state’s political leadership or finances on the momentum of reform, and whether there are effective strategies for managing potentially positive or disruptive transitions such as these.

If the *Models for Change* strategy is to be successful, there must be effective mechanisms in place for communicating successful interventions in one state to other states that are open to juvenile justice reform. Aware of this need, the Foundation intends to draw heavily on the growing body of innovation diffusion literature to map out plans for the replication of successful models of juvenile justice in other locations.¹⁴ This approach is an example of the Foundation’s effort to ground the *Models for Change* initiative in evidence-based research.

V. Going Forward

The *Models for Change* initiative has already begun to pay dividends. In Pennsylvania, for example, a broad cross-section of state leaders have adopted a joint policy statement agreeing to the elements of a model aftercare system to be put into place by 2010.¹⁵ In Illinois, lawmakers have reduced the number of youth automatically tried as adults and created a separate system of juvenile corrections.¹⁶ In Louisiana, a corrections-based model of juvenile justice is giving way to one focused on treatment and rehabilitation.¹⁷ And in Washington, the last of the four states to come on line, demonstration sites have been selected to work on a range of interventions, including improved access to effective interventions for truant youth, better coordination and collaboration among child serving agencies, and more effective approaches to tribal youth who come in conflict with the law.

Recently the MacArthur Foundation expanded the reach of its *Models for Change* work through the formation of two subject-matter action networks. The newly-created DMC Action Network will add four new sites to the existing four states for the purpose of developing strategic innovations to reduce racial and ethnic disproportionality. Similarly, the Mental Health/Juvenile Justice Action Network will involve eight states in developing information, resources and expertise in responding to the needs of the large number of youth in the juvenile justice system who have mental health needs.

Although *Models for Change* is based on a fixed set of core values, it is also a dynamic initiative that has already evolved organizationally and programmatically over time. An important example of this is the MacArthur Foundation's increasing focus on positive as well as negative mandates.¹⁸ A negative mandate is one that lessens or eliminates a policy or practice that is inconsistent with the goals of a fair and effective system of juvenile justice. Examples include a reduction of recidivism rates, lowered numbers of youth held in secure confinement, and fewer juvenile court referrals from schools. Positive mandates, on the other hand, are those that build a system's capacity to affirmatively serve the needs of individual youths. The dynamic relationship between negative and positive mandates is an important component of systems change. Positive mandates are important because they make it more likely that negative outcomes will be sustained over time. A permanent reduction in the number of incarcerated youth, for example, is heavily dependent on the availability and quality of alternative community-based services and sanctions. If those services do not exist or are ineffective in promoting

positive youth outcomes, experience suggests that at some point there will be a recycling back toward more punitive approaches for dealing with offending youth, including isolation and secure confinement. Fortunately, there is a growing body of empirically-based research that is available to guide the development of positive interventions.¹⁹ In the end, the ultimate measure of *Models for Change's* success will not be told by the numbers, but by the effect that the initiative's reforms will have on individual children served by the juvenile justice system.

Endnotes

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¹ See THOMAS J. BERNARD, *THE CYCLE OF JUVENILE JUSTICE 3* (Oxford University Press 1992). Bernard posits that the cycle begins when the public's concern with juvenile crime triggers harsh measures focused on punishment and deterrence. *Id.* This phase is followed by efforts to ameliorate the effects of the punitive approach. *Id.* Reform efforts lead to greater leniencies that are, in turn, blamed for high crime rates. *Id.* Bernard suggests that this cycle has repeated itself three times over the last two hundred years. *Id.*

² See Donna M. Bishop & Scott H. Decker, *Punishment and Control: Juvenile Justice Reform in the USA*, in INTERNATIONAL HANDBOOK OF JUVENILE JUSTICE 3, 16–22 (J. Junger-Tas & S.H. Decker eds., 2007).

³ See generally www.modelsforchange.net [hereinafter Models for Change].

⁴ See generally MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, www.adjj.org (last visited Nov. 15, 2007). For a discussion of the link between adolescent development and juvenile justice policy, see Laurence Steinberg & Robert G. Schwartz, *Developmental Psychology Goes to Court*, in YOUTH ON TRIAL, A DEVELOPMENTAL PERSPECTIVE ON JUVENILE JUSTICE 9–31 (Thomas Grisso & Robert G. Schwartz eds., University of Chicago Press 2000).

⁵ The U.S. Supreme Court cited the developmental differences between juveniles and adults in *Roper v. Simmons*, 543 U.S. 551, 578 (2005), declaring the juvenile death penalty unconstitutional.

⁶ See *Juvenile Justice: New Models for Reform*, A newsletter from the John D. and Catherine T. MacArthur Foundation, Vol. 3, at 5 (Fall 2005).

⁷ *Id.* at 6.

⁸ See *As Momentum for Juvenile Reform Builds, MacArthur Foundation to Invest \$100 Million*, BUSINESS WIRE (December 5, 2006). The MacArthur

Foundation's investment is in keeping with a long tradition of private involvement in state juvenile justice reform efforts. *See generally* JOAN GITTENS, *POOR RELATIONS: THE CHILDREN OF THE STATE OF ILLINOIS, 1818–1990* (University of Illinois Press 1994). For a profile of several of the individuals and organizations that played an active role in the founding of the juvenile court movement, see *A NOBLE SOCIAL EXPERIMENT? THE FIRST 100 YEARS OF THE COOK COUNTY JUVENILE COURT 1899–1999* (Gwen Hoerr McNamme ed., Chicago Bar Association 1999).

⁹ As part of this process, Foundation representatives visited several potential states, where they met with a range of stakeholders (*e.g.* state government officials, practitioners and advocates) to discuss the goals of the initiative, determine local interest and capacity, gather information and identify potential state leadership.

¹⁰ Although youth of color constitute one third of the adolescent population in the United States, they are disproportionately represented at key points in the juvenile justice system. Two thirds of youth in custody, for example, are youth of color. *See* Melissa Sickmund, *Juveniles in Corrections*, *JUV. OFFENDERS & VICTIMS NAT'L REP. SERIES BULL., OFF. OF JUV. JUST. & DELINQ. PREVENTION*, June 2004, at 10 (indicating that in 1999, minority youth accounted for 34% of the juvenile population, but 62% of youth in custody).

¹¹ *See supra* note 3.

¹² The lead entity in Illinois is Loyola University Chicago's Civitas ChildLaw Center.

¹³ *See supra* note 3.

¹⁴ *See generally* EVERETT M. ROGERS, *DIFFUSION OF INNOVATIONS* (New York: Free Press, 5th Ed. 2003).

¹⁵ *See supra* note 3 (Pennsylvania Joint Position Statement on Aftercare).

¹⁶ *Id.* *See also* Public Act 094-0574 (Illinois transfer law and Public Act 094 – 696 (creating new Illinois Department of Juvenile Justice)).

¹⁷ *Id.*

¹⁸ *See* Lois A. Weithorn, *Envisioning Second-Order Change in America's Responses to Troubled and Troublesome Youth*, 33 *HOFSTRA L. REV.* 1305, 1475–1476 (2005) (arguing that positive mandates should drive policies and practices aimed at reforming systems dealing with youth).

¹⁹ *Id.* at 1493. For a review of sample interventions, see U.S. DEP'T OF HEALTH AND HUMAN SERVS., *YOUTH VIOLENCE: A REPORT OF THE SURGEON GENERAL 99 – 129* (2001).