GOVERNOR'S JUVENILE JUSTICE COMMISSION

JIM DOYLE, GOVERNOR

DEIRDRE GARTON, CHAIR

December 28, 2007

The Honorable Russell D. Feingold
United States Senate
Judiciary Committee
506 Hart Senate Building
Washington, D.C. 20510

Dear Senator Feingold:

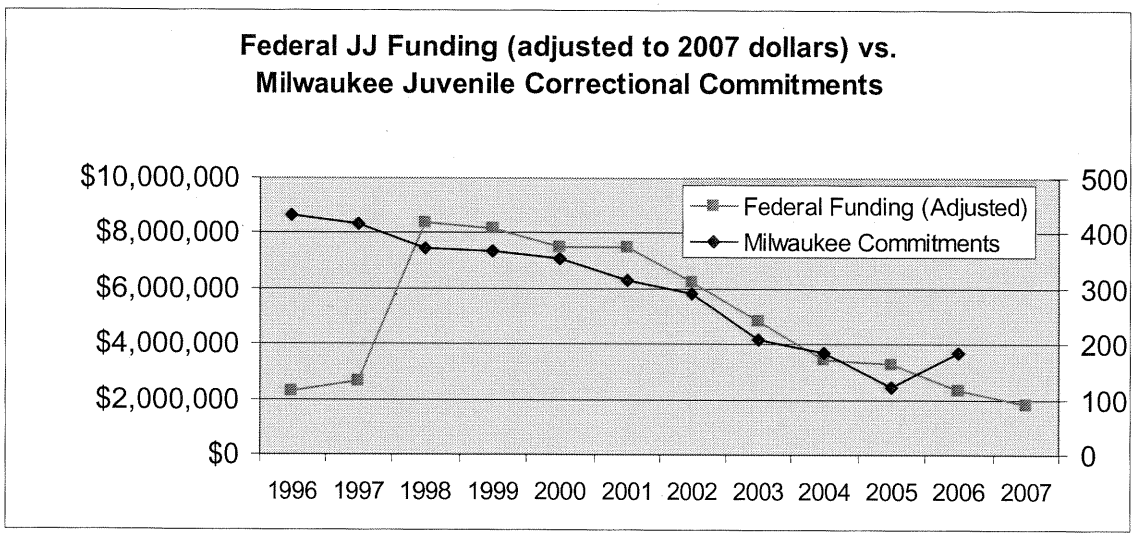
I was very pleased and honored to testify at the December 5, 2007, hearing of the Judiciary Committee entitled, "Reauthorization of the Juvenile Justice and Delinquency Prevention Act: Protecting Our Children and Our Communities." I truly appreciate the time you took with me before the hearing, as well as your opening statement made at the hearing. I am pleased to see the committee's consideration of and attention to the issues related to the reauthorization of this important statute.

Today, I am writing in response to questions you have posed to me, received December 18, 2007, as follows:

1. **As you know, federal funding for the JJDPA programs has declined precipitously in recent years.**
    a. **What are some of the concrete effects you've noticed from this decline in federal funding?**
    b. **What sort of effects might we expect to see in the future if this decline in funding is not reversed?**
    c. **Conversely, what would it mean for Wisconsin to receive a significant infusion of Title V funds in support of the JJDPA purposes and programs?**

The chart on the next page provides graphic evidence of what we saw happen as a consequence of the declining federal juvenile justice dollars coming into our state and a related effect on juvenile correctional commitments from Milwaukee County. The connection with correctional commitments is critical for many reasons, but most important are the high social and fiscal costs of serious juvenile crime and subsequent commitments to corrections. In Wisconsin, incarceration costs alone are now at $259 per day per offender representing an annual cost of nearly $100,000 for each youth incarcerated.

WISCONSIN OFFICE OF JUSTICE ASSISTANCE
1 S. PINCKNEY STREET SUITE 600, MADISON, WI 53702 • (608) 266-3323 • FAX: (608) 266-6676



An entire prevention or intervention program in a mid-sized Wisconsin community could be funded for what it costs to incarcerate a single offender. It follows that reducing correctional commitments—even marginally—especially when those funds are instead invested in community prevention or intervention programs can have a huge impact.

After seeing a turnaround in Milwaukee between 1998 and 2005, where programs supported with JJDPA dollars diverted youth from expensive correctional placements by treating them using innovative community treatment led to the lowest number of correctional placements in 10 years, we began to see a change in 2005. What caused this change? Certainly, the juvenile crime rate has increased in the last two years in Wisconsin. We also know that programs that had been supported with JABG, Title II and Title V funds have decreased every year from 1999 to 2006 and as a result there are fewer treatment slots for those youth. While there may not be a causal relationship, the correlation is unmistakable.

When there are fewer or no intensive treatment slots available to divert serious offenders from corrections, judges have no choice but to place those youth in corrections, and every youth placed consequently can reduce funds available for diversion programs by more than $100,000. It doesn't take very many correctional placements to wipe out the funding for an entire diversion program. [1]

With the significant decreases in JJDPA funds that took place between 1999 and today—but, especially between 2000 and 2004, program slots were reduced, new and innovative programs designed to meet the changing needs of youth and families were not started, and correctional numbers went up, furthering the negative economic cycle. This is what we believe we see happening in Milwaukee.

It appears that "tipping point" came for Milwaukee in 2005. Without sustaining diversion treatment slots, and having funding available to treat offenders in the community with what we now know works, we fear that this pendulum could swing back to the mid-1990s when nearly all

[1] **Correction to my oral testimony provided on December 5, 2007:** The recidivism rate for Division of Juvenile Corrections was not 33% in the first year post-release or 37% in the second year post-release. The correct number for 2000 – 2004 in the second year post-release was never more than 19%. In 2003 it was less than 14%.

P.O. BOX 7863, MADISON, WISCONSIN 53707-7863 • (608) 266-1212 • FAX: (608) 267-8983 •
WWW.WISGOV.STATE.WI.US

funds were spent to warehouse hundreds of Milwaukee youth in juvenile corrections and crime in Milwaukee was at an all time high.

Now is the time to make an investment in prevention. With an infusion of Title V funds, in the amounts similar to the amounts invested in accountability in the late 1990s, states could build the prevention and early intervention programs and infrastructure needed to stem an increase in juvenile delinquency and crime that may be looming on the horizon.

All the studies and meta-analyses highlight that prevention is the most **economically reasonable** response to juvenile delinquency.[2] States want to do prevention work, but need federal appropriations that provide both the seed money and infrastructure investments. Evidence-based programs shown to reduce future offending and crime risks may be expensive to implement and creating infrastructure within counties to fully monitor the effectiveness of such programs is also an expensive undertaking. The returns on such investments, however, can yield significant results, as illustrated by the Rock County experience where data analysis was used to drive targeting of programs,

Without federal support for state and local juvenile delinquency prevention, I fear that my state will continue to see decreased programming and services, increased delinquency, increased incarceration, more dollars spent on incarcerating youth, greater recidivating, and too many lost lives—literally and figuratively.

2. **Some commentators take the position that it makes sense to treat juvenile offenders differently from adults if the crime that's been committed isn't that serious, but that juvenile offenders who commit serious offenses should be treated as adults. What, if anything, is wrong with that logic?**

Prior to the 1980s, states rarely prosecuted youth as adults. An increase in crime in the late 1980s and early 1990s, however, moved policymakers and the public to question the ability of the juvenile justice system to effectively treat youthful offenders and protect public safety. Thus, between 1994 and 2000, 43 states changed their laws and made it easier and in many cases mandatory for certain youth as young as 14 years of age to be prosecuted as adults. Currently, all U.S. states, territories and the District of Columbia have laws that allow for the transfer/waiver of juveniles under the age of 18 into adult criminal court.

The practice of trying youth as adults is premised on the theory that youth who commit serious crimes (1) cannot be treated effectively within the juvenile justice system, (2) are as culpable for their actions as adults and should be held accountable in the same manner as adults and (3) will be more deterred from committing additional crimes if tried and incarcerated within the adult criminal system. Within the last 15 years, however, science has challenged and in many cases disproved this theory. State and local jurisdictions across the nation are designing programs that effectively treat violent and chronic juvenile offenders within the juvenile justice system without compromising public safety. Good examples of this are the Mendota and Running Rebels programs described below in my answer to your fourth question.

In addition, advances in adolescent brain science have revealed what auto insurance companies have known for decades: youth lack the developmental capacity to form the same judgments as

[2] Small, Stephen, Reynolds, Arthur, O'Connor, Cailin, Cooney, Siobhan, *What Works Wisconsin,* http://oja.state.wi.us/docview.asp?docid=6444&locid=97

P.O. BOX 7863, MADISON, WISCONSIN 53707-7863 • (608) 266-1212 • FAX: (608) 267-8983 •
WWW.WISGOV.STATE.WI.US

adults and therefore cannot be held to the same standards as adults. The Supreme Court acknowledged the findings of this research in *Roper v. Simmons*, the 2004 ruling that abolished the juvenile death penalty.

Finally, research has revealed that, at most, the practice of trying youth as adults has no effect on public safety, and at worst, actually decreases public safety. A recently released study sponsored by the U.S. Centers for Disease Control and Prevention found that youth tried and incarcerated as adults are more likely to commit additional crimes and more violent crimes following their release than youth adjudicated and treated within the juvenile justice system.[3]

In its reauthorization of the JJDPA, Congress can ensure responses to juvenile crime and delinquency that are more appropriate to a young person's age and stage of development and that lead to improved public safety.

Some amendments to the JJDPA for your consideration include:

- Add a new (f) to Sec. 222 to provide incentive funding and technical assistance resources for model demonstration programs regarding effective and timely removal of youth from adult incarceration settings.

- Amend Sec. 204(b)(7) to required OJJDP to-
  i. Work with states and counties to collect ongoing data on youth in the adult criminal justice system, including age, race, ethnicity, gender, offense, pre-trial detention, transfer mechanism, sentencing outcome, placement pre- and post-trial in jails, prisons or juvenile facilities, and
  ii. Conduct research on the outcomes trying juveniles as adults in criminal courts, i.e., does it increase or decrease public safety and violence; how did it impact facility conditions; does it effect the state of developmentally appropriate services and programs for youth in adult jails and prisons?

3. **Suppose Congress adopted the Administration's plan to essentially get rid of the JJDPA structure and collapse the existing juvenile justice programs into one block grant program. Assuming that we maintained federal funding for that block grant program, rather than cutting funding as the Administration also proposed, would there be any problem with that approach?**

For fiscal year 2008, President Bush and the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) proposed a dramatic change of direction in JJDPA funding and support. Fortunately, the Administration's plan was roundly rejected by a bipartisan group of members of Congress. Yet, if it were to be put into effect—it would indeed render the JJDPA wholly ineffective. There are four principal problems:

1. **No state needs assessment and state planning would be supported**: Granting a federal administrator at OJP (rather than OJJDP) complete discretion to define purposes for use of federal appropriations and authority to grant such funds directly to local providers and law enforcement would bypass and undermine the state

[3] See http://www.cdc.gov/mmwr/preview/mmhtml/rr506a1.htm "Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services," November 30, 2007

P.O. BOX 7863, MADISON, WISCONSIN 53707-7863 • (608) 266-1212 • FAX: (608) 267-8983 •
WWW.WISGOV.STATE.WI.US

assessment and planning processes required by the JJDPA. The Formula Funds program (Title II) of the JJDPA is the heart of what makes the JJDPA effective and is based on a state's determination of needs and gaps for the use of such funds, within the context of Title II requirements and purposes defined by Congress;

2. **The Administration's proposal would do away with state capacity to fulfill JJDPA goals:** The Administration's proposal strips away states' capacity to fulfill the requirements and purposes of the JJDPA. For more than 30 years Title II funds have ensured the development and constancy of a cost-efficient JJDPA infrastructure in each state. The infrastructure relies on voluntary citizen involvement in State Advisory Groups, and modest support for each Governor/executive to employ a state Juvenile Justice Specialist and other JJDPA-connected staff, such as a Compliance Monitor and a DMC Coordinator. Without funding for these JJDPA-focused staff positions and support to facilitate the work of the State Advisory Group, there would be no mechanism to advance the goals of the JJDPA;

3. **No funding would be dedicated to supporting state and local compliance with the core requirements of the JJDPA:** States and localities may not tackle some of the more difficult and complex issues in juvenile justice, especially those that necessitate substantial changes in policy and practice such as reduction of racial/ethnic disparities (DMC) in juvenile justice, without the push and incentives that federal funds provide. Title II and Title V of the JJDPA provide the **sole source of public monies** dedicated to supporting state and local compliance with the core requirements (DSO, Sight and Sound Separation, Jail Removal, DMC). The Rock County, Wisconsin, example of leadership in DMC reduction is a key example of how dedicated pots of JJDPA funds can be strategically used to make innovative and needed changes;

4. **It is entirely unclear that OJJDP would be open for business:** The Administration's proposal provides no explicit support for OJJDP. In fact, the proposed block grant would be administered above OJJDP by the Office of Justice Programs. Holding onto a juvenile justice focus within the U.S. Department of Justice is essential and, again, has been proven to be largely beneficial over the course of the past 30 plus years.

This breathtaking turn away from the JJDPA and a juvenile justice focus within the justice department came on the heels of a damaging reduction in federal funding for juvenile justice and delinquency prevention programs. Since FY 2002, nationwide, JJDPA related funds have been cut by $235 million or more than 57%.

The chart below illustrates where funding has declined, nationwide, and the requests to which many appropriators have responded in their rejection of the Administration's proposal. Along with reductions, monies that would have gone out to the states for JJDPA purposes under Title V are set aside for OJJDP projects instead, such as "Enforcing Underage Drinking Laws;" "the GREAT Program;" "Tribal Youth Programs;" and other activities that have value but are not explicitly part of the JJDPA paradigm for Title V. The appropriations requests listed in the chart take into consideration post-911 budget limitations and have been advanced on behalf of the State Advisory Groups by the Coalition for Juvenile Justice.

P.O. Box 7863, Madison, Wisconsin 53707-7863 • (608) 266-1212 • FAX: (608) 267-8983 •
WWW.WISGOV.STATE.WI.US

	FY02	FY03	FY04	FY05	FY06	FY07 CR	President's Proposal FY08	House FY08 Proposal	Senate FY08 Proposal	Congress FY08 Omnibus	CJJ REQUESTS for FY08
Title II	$88.8	$83.3	$83.2	$83.3	$79.2	$79.2	**--$0--**	**$81.175**	**$73**	**$74.26**	**$96**
Title V	$94.3	$46.1	$79.2	$79.4	$64.4	$64.4	**--$0--**	**$70** all but $2.5 is set aside for OJJDP projects	**$65** all but $30 is set aside for OJJDP projects	**$61.1** all but $3.2 is set aside for OJJDP projects	**$95**
JABG	$249.5	$188.8	$59.4	$54.6	$49.5	$49.5	**--$0--**	**$60**	**$80**	**$51.7**	**$250**
DPBG	N/A	$126.4 via diff. vehicles	--0--	--0--	--0--	--0--	**--$0--**	**$0**	**$0**	**$0**	**$126.4**

4. **In your testimony, you discussed some of the successes Wisconsin has had addressing the needs and rehabilitation of serious and chronic juvenile offenders. How can we translate those lessons nationally, and incorporate them into the JJDPA?**

One of the unique programs I mentioned in my testimony was the Mendota Juvenile Treatment Center. Further information on their research and its implications on future research and policy are provided in the attached excerpts of articles reflecting research conducted on this program's effectiveness both in terms of changing behavior and sparing cost. More research on how to best treat serious violent offenders is needed.

Research costs money and is one of the first things that suffers when funding is reduced. However, these initial findings that show significant and substantial reductions in violent offending by youth who were deemed "intractable" or "untreatable" and the resultant social and fiscal cost savings make a strong case for a significant investment in both the replication of this treatment program as well as further research. OJJDP should be at the forefront of funding and conducting such research.

In Wisconsin, and I believe in many states, there is a strong desire to treat difficult offenders, and especially mentally ill youth, in settings more appropriate than "standard" correctional settings. These good intentions are often stifled by the political implications of trying new programming for high risk youth. Funding and guidance on "what works" offered by Congress through OJJDP can help to bring critical players to the table, and allow for what has proven to be more appropriate and more cost effective treatment to these youth. Once communities and local legislators see the true savings, it is much easier to ask them to pick up the cost of these programs.

The other Wisconsin program that I mentioned for serious and chronic offenders was the First Time Firearm Offenders program, a partnership between Milwaukee County and Running Rebels, Inc., a community youth-serving organization. The program has shown great success in

P.O. BOX 7863, MADISON, WISCONSIN 53707-7863 • (608) 266-1212 • FAX: (608) 267-8983 •
WWW.WISGOV.STATE.WI.US

reducing recidivism by providing intensive services to youth who are at the crux of serious offending (carrying a gun) at a lower cost than a correctional placement. JABG funds allowed this new and innovative program to start in a time (late 1990s) when the idea of keeping serious offenders out of prison was not very popular. JJDPA funds also supported the evaluation of the program, which proved critical in leveraging local support for the program when JABG funds shrunk by more then 75% in recent years. The continuance of this program necessitates use of local funds—primarily savings from reductions in correctional placements.

Now, other communities would like to replicate the First Time Firearm Offenders Program with their serious offenders and are looking for funds to help leverage local funds and to provide encouragement for local leaders to be "smart on crime" in a way that is often politically difficult. This is where JJDPA funds—especially in the past when new funds were introduced, proved so valuable. Incentive grants or restoring JABG and other juvenile justice funds to at least 2002 levels, but preferably to levels in 2000 would be important steps taken in the right direction toward helping communities implement what we now know about the successful treatment and rehabilitation of serious offenders.

The results of these Wisconsin programs and other outstanding programs throughout the country can be translated nationally in three ways:

- Creation of incentive grants in the JJDPA for more effective treatment of serious and chronic offenders;
- Commitment to rebuilding a strong and vital research and technical assistance division at OJJDP that is adequately funded and creates links to other research arms of the federal government, as recommended by the Federal Advisory Committee on Juvenile Justice's Annual Report 2006; [4]
- Creation of an initiative to replicate the Pennsylvania model for taking research to practice as described by Ann Marie Ambrose in her testimony before the Senate Judiciary committee on December 5, 2007. While OJJDP in its Model Program Guide has provided a robust resource for states and communities to find evidence based programs, implementation can be daunting in itself. Much more technical assistance is required to help change the culture of a community.

Additional information on the Mendota Juvenile Treatment Center, research findings, and implications for further research and practice are presented in the excerpted articles to which I have provided emphases (sections in bold)—please see the attachments.

5. What recommendations do you have for reducing school referrals to law enforcement?

Wisconsin has piloted several programs in this area. One pilot program in Wisconsin that has promise is being conducted in Outagamie County. The Department of Human Services is working with law enforcement and the Boys and Girls Club of Outagamie County to provide an alternative to arrest for school related behavior. School officers take referred youth to the Boys and Girls Club where they are assessed and provided programming until the Department of Human Services can provide a case plan which usually occurs within twenty four hours. One of the hurdles to implementation of the program, however, is to persuade the schools to participate

[4] http://www.facjj.org/annualreports/2006_Annual_Report_to_the_President_and_Congress.pdf,

P.O. BOX 7863, MADISON, WISCONSIN 53707-7863 • (608) 266-1212 • FAX: (608) 267-8983 •
WWW.WISGOV.STATE.WI.US

in the project. Providing incentives to schools to come to the table to help plan for such youth to return to school is a critical component of any program. Another in Barron County that has had excellent results uses restorative justice practices and programming to help schools and students create a more tolerant environment.

To gain a national perspective on the matter of school referrals to law enforcement and juvenile justice, in August of 2006, the American Psychological Association (APA) published a major report by its Zero Tolerance Task Force, "Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations." They found that beginning in the mid-1990s, in response to drug enforcement concerns and later in response to school violence concerns, the vast majority of school districts in the United States enacted zero tolerance polices—although there is lack of a uniform definition. The APA acknowledges in its findings that schools have a duty to use all effective means needed to maintain a safe and disciplined learning environment. With this in mind, they examined research pertaining to the effects of zero tolerance policies on child development, the relationship between education and the juvenile justice system, and consequences for students, families and communities.

Key findings included:

- Recognition that increased reliance on more severe consequences in response to student disruption has increased referrals to the juvenile justice system for infractions that were once handled in school;

- Applications of zero tolerance policies were not equally meted out for youth of color and special needs students, as compared with the larger white and/or nondisabled student population. Youth of color and special needs students were more often subject to zero tolerance discipline, frequently interrupting their education pathways because of expulsion and/or arrest;

- There are dramatically higher expenditures by school districts for in-school security, school resource officers and similar law enforcement personnel with no attendant increases in school safety and security.

At the base of my recommendations and those of the APA taskforce is the idea that we cannot sanction infractions of school rules with the same severity as delinquent or criminal offenses. Law enforcement personnel working inside or with schools should not become disciplinarians or guidance counselors by default. Schools need to re-examine why they have "criminalized" behaviors that were handled informally and effectively within the school building in the past. They must also be cognizant of and guard against any and all forms of punitive bias toward students of color and special needs students.

The APA Task Force has listed within its report an extensive list of practice, policy and research recommendations for reforming and improving zero tolerance policies to reduce school referrals to law enforcement while ensuring optimal school safety. I will touch on a few here:

- Replace one-size-fits-all disciplinary strategies with graduated systems of discipline wherein consequences are geared to the seriousness of the infraction;

P.O. Box 7863, Madison, Wisconsin 53707-7863 • (608) 266-1212 • FAX: (608) 267-8983 •
WWW.WISGOV.STATE.WI.US

- Require school police officers who work in the schools to have training in child and adolescent development to better understand "normative" behaviors;

- Conduct research at the national level on disproportionate minority exclusion, or the extent to which school districts' use of zero tolerance disproportionately targets youth of color, particularly African American males;

- Conduct research on disproportionate exclusion by disability status, specifically investigating the extent to which use of zero tolerance increases the disproportionate discipline of students with disabilities and explore the extent to which differential rates of removal are due to intra-student factors versus system factors;

- Improve collaboration and communication between schools, parents, law enforcement, juvenile justice and mental health professionals to develop an array of alternatives for challenging youth.

6. **In his written testimony, former OJJDP Administrator Shay Bilchik made nine recommendations to Congress for strengthening the JJDPA: (1) eliminate the Valid Court Order exception to the Deinstitutionalization of Status Offenders requirement; (2) extend the Adult Jail and Lock-Up Removal and Sight and Sound protections to youth held pending trial in adult court; (3) require states to take concrete steps to reduce Disproportionate Minority Contact; (4) clarify that OJJDP's functions include research and evaluation, training and technical assistance, dissemination of research and evaluation of findings, and demonstration of new programs; (5) strengthen JJDPA's support in the area of mental health or substance abuse disorders; (6) require states to focus on the link between child victimization and juvenile justice; (7) enhance support for recruitment and retention strategies within the juvenile justice workforce; (8) enhance the role of OJJDP and the Federal-State partnership; (9) substantially increase funding for Title V Prevention and Title II Formula Grants to the states.**

    a. **As the Chair of Wisconsin's State Advisory Group, do you agree with these recommendations?**
    b. **Do you have any additional comments?**

I greatly respect former OJJDP Administrator Shay Bilchik and find myself in agreement with most of his recommendations. I will address each recommendation below. My main concern is that the practical effect of implementing all these recommendations may be to put more states and territories out of compliance with the JJDPA, which means they will lose federal funds that are valuable to ensure compliance with the JJDPA requirements and to support evidenced-based prevention and early intervention programs. If the recommendations are adopted in their entirety, there would also need to be better partnering by OJJDP with the states in the form of technical assistance without financial repercussions and penalties.

1. Eliminate the VCO Exception

I cannot immediately agree with the recommendation from Mr. Bilchik as it relates to my state. In my view, this recommendation warrants more thought and discussion regarding its purpose and implementation in the context of each state. In Wisconsin, youth under the jurisdiction of

P.O. Box 7863, Madison, Wisconsin 53707-7863 • (608) 266-1212 • FAX: (608) 267-8983 •
WWW.WISGOV.STATE.WI.US

the court may only be detained for limited reasons, as set forth in statute. Most significantly, Wisconsin requires a custody hearing before a judge or court commissioner within 24 hours of the end of the day on which the decision to detain has been made. With limited exceptions, failure to hold a timely hearing results in the juvenile being released. I believe the Wisconsin model is a good one, and protects children in custody, because it is structured to release kids within a certain time frame to any number of appropriate places and to conduct hearings very quickly.

In Wisconsin, youth who continually run away from nonsecure shelters may be placed in secure detention until a more suitable placement is found. Eliminating the VCO exception would mean that our judges who are concerned about the safety of such youth would not be able to temporarily detain them without violating federal law. Mr. Bilchik also states that judges in states that do not utilize the VCO manage status offenders without securely detaining them and cites the Juvenile Detention Alternatives Initiative (JDAI)—an initiative of the Annie E. Casey Foundation. Unfortunately, most states are not recipients of the JDAI funding. If efforts are made to eliminate or further limit use of the VCO exception, Congress will need to appropriate significantly more funds for states like Wisconsin to design alternative, nonsecure placements for status offenders, particularly those that continually run away.

2. Adult Jail and Lockup Removal

Here again I am concerned about placing an additional, unnecessary burden on the states. Here, too, I would want to have dialogue about how the changes proposed by Mr. Bilchik would be implemented and how states would transition to an improved status with federal support and partnership.

By way of example, presently our state has some elements in place to protect lesser offending juveniles which would need to be taken into consideration. In Wisconsin, the law requires that adult inmates be classified according to a variety of factors, including age and maturity, and they must be housed only with other inmates in the same classification. Therefore, Wisconsin law already provides some protections against juvenile offenders awaiting trial as an adult to prevent and reduce likelihood of harm by being placed with older, more seasoned offenders.

Mr. Bilchik also recommends prohibiting any sight or sound contact with adults in adult jails/lockups. But, as I see it the current JJDPA adequately protects youth who are temporarily housed in adult jails/lockups. Under the current law, there can be no sustained sight or sound contact, which OJJDP has defined to mean youth and adults must be separated so any sight contact is incidental and they cannot carry on a conversation. In addition, Wisconsin law strictly limits which county jails and lockups can securely hold juveniles. The facility must meet standards established by the Department of Corrections, juveniles must be held in a room separated and removed from incarcerated adults, the juvenile cannot be held in a cell designed for the administrative or disciplinary segregation of adults, there must be policies to ensure sight and sound separation between adult inmates and juveniles in all areas of the facility, and adequate supervision must be provided. In Wisconsin, no youth can be held in an adult jail or adult lockup unless those facilities have been approved by the Department of Corrections to hold juveniles. Only 11 jails of the 73 jails and 25 of the 62 municipal lockups are so approved. Juveniles are not held at all in non-certified facilities.

P.O. Box 7863, Madison, Wisconsin 53707-7863 • (608) 266-1212 • FAX: (608) 267-8983 •
WWW.WISGOV.STATE.WI.US

3. DMC

I agree with his recommendation, but want to add a word of caution about the recommendation to publicly report progress. Often the assumption of requiring public reporting is that a state/county that is performing poorly in addressing DMC will step up its efforts because it doesn't want to be publicly identified as being the "worst." However, publicity sometimes has the opposite effect. Places that are not adequately addressing DMC may take an "I won't give them ammunition to attack me" attitude, so they will refuse to collect data, engage in analysis, and other activities we want to encourage so DMC can be effectively addressed.

4. OJJDP Role --I agree with his recommendation.

5. Support for Mental Health and Substance Abuse -- I agree with his recommendation.

6. Mental Health and Child Victimization

I would oppose his recommendation if it places additional requirements on the state. Some of what Mr. Bilchik suggests could be quite burdensome such as requiring states to add to their State JJDPA Plans things like providing technical assistance to develop coordination between delinquency and child welfare systems, and to compile data and perform analyses of the data.

Right now, I do not believe that Wisconsin is in a position to do this. The new Department of Children and Families contains child welfare, but it does not have the juvenile justice programs—those remain at OJA and DOC. So, you have the difficulty of three state agencies trying to work together. The State Advisory Group is addressing some of this in terms of the CCAP legislation and eWISACWIS, but we have a long way to go. Should such activities become mandatory, I do not think it will be enough for our state to say we are "working with" DCF and DOC to address these issues without having a concrete plan. Again, implementation and ensuring a sufficient share of federal funding support as well as a positive partnership with OJJDP are the concerns, rather than the idea itself.

7. Recruitment/retention Strategies --I agree with his recommendation.

8. OJJDP and Federal-State Partnership --I agree with his recommendation.

9. Increased Funding --I agree with his recommendation

Many thanks for the opportunity to respond to your questions. Please feel free to call upon me if any additional information can be beneficial to your efforts to improve the federal response in support of state and local efforts and improvements in juvenile justice. I may be reached at 608-266-3323. You may also call upon Tara Andrews, Deputy Executive Director for Policy, at the Coalition for Juvenile Justice, a national leadership association of State Advisory Groups based in Washington, DC: 202-467-0864, ext. 109.

Sincerely,

Deirdre Garton

Deirdre Wilson Garton
Chair, The Wisconsin Governor's Juvenile Justice Commission

P.O. BOX 7863, MADISON, WISCONSIN 53707-7863 • (608) 266-1212 • FAX: (608) 267-8983 •
WWW.WISGOV.STATE.WI.US

Attachments to letter of December 28, 2007
Deirdre Wilson Garton
Chair, The Wisconsin Governor's Juvenile Justice Commission

Are Violent Delinquents Worth Treating? A Cost–Benefit Analysis

Michael F. Caldwell
University of Wisconsin–Madison
Michael Vitacco
Mendota Mental Health Institute, Madison, WI
Gregory J. Van Rybroek
University of Wisconsin–Madison
Journal of Research in Crime and Delinquency
Volume 43 Number 2 May 2006 148-168

10.1177/0022427805280053
http://jrc.sagepub.com hosted at http://online.sagepub.com

This study reports on the cost benefits of an intensive treatment program for unmanageable juvenile delinquent boys, compared to the usual treatment in a secured juvenile corrections facility. A total of 101 boys who received the majority of their treatment services in a specialized program providing intensive mental health treatment were matched to a group of 101 juveniles who received treatment as usual (TAU) in a secured juvenile corrections setting on the basis of treatment propensity scores. Outcome data included the number and type of criminally charged offenses over an average follow-up period of 53 months (range 14 to 92 months). Borrowing from Cohen criminal justice processing costs for each offense was calculated in 2001 dollars. The initial costs of the program were offset by improved treatment progress and lowered recidivism, especially violent recidivism. The treatment group yielded a benefit-cost ratio of more than 7 to 1 over the TAU group. The results are discussed and compared to cost-benefit analyses of other juvenile treatment programs.

Several studies have found that a small proportion of juvenile offenders account for the majority of serious and violent juvenile crimes (Howell and Bilchik 1995), and are more likely to persist in criminal activity into adulthood (Hamparian, Schuster, Davis, and White 1985; Moffitt 1993; Moffitt and Caspi 2001; Moffitt, Caspi, Harrington, and Milne 2002). Likewise, this subgroup of serious and violent juvenile offenders accounts for a disproportionate amount of the social and tangible costs of crime. Looking at the costs to victims of violent crime in Pennsylvania in 1993, (excluding criminal justice costs with the offender) Miller, Fisher, and Cohen (2001) reported that juvenile violent crime accounted for 47 percent of the cost to victims of all violent crime. **Although studies of community-based and prevention programs are certainly worthwhile, the most serious and violent juvenile delinquents are more apt to be found in secured facilities. Considering that secured placement services are the most costly to deliver the lack of studies of secured treatment services represents a significant gap in the literature.**

Cost-efficiency and cost-benefit analyses are complex and require a number of assumptions. Cost-benefit analysis involves comparisons of the costs and accrued benefits of an intervention or public policy with dollar values assigned to the costs of

implementing the program and benefits in the form of monetized outcomes, such as lower criminal justice or victim costs. The less rigorous cost-effectiveness analysis generally compares costs of two alternative ways of managing a social issue, without monetized estimates of the accrued benefits to society (Yates, 1985).

The Current Study: In the current study, we analyze the cost-benefits of an intensive treatment program for difficult-to-manage incarcerated delinquent boys. **Unlike previous studies, the current study focuses on severe and violent delinquent offenders who are, unless effectively treated, likely to persist in serious offending into adulthood, and are thus likely to absorb substantial tax-funded resources.** The treatment program studied is funded through state tax revenue. Thus, we have limited our analysis to costs that are directly paid from those revenues. Because the initial costs associated with providing an intensive treatment program of this type are substantial, the effectiveness of the program at reducing future tax-related costs is highly relevant. The study uses a matched comparison group of youth that received the usual juvenile correctional services, and calculates the actual cost of treatment and follow–up criminal activity and incarceration for each youth.

The Setting: The Mendota Juvenile Treatment Center (MJTC) was established in 1995 as part of a broad reform of juvenile justice legislation in the State of Wisconsin. The program was intended to provide mental health treatment to the most disturbed juvenile boys held in the state's secured correctional facilities. The program has a unique clinical and/or correctional hybrid structure. Although operated under the administrative code of the Department of Corrections as a secured correctional facility, the program is housed on the grounds of a state psychiatric hospital, and the staff is employed by the hospital. The program differs from the customary services provided in the secured juvenile correctional institutions (JCIs) in several significant ways. First, the treatment program consisted of three units with 14 or 15 single-bed rooms, compared to cottages of up to 50 double-bunked youth in the conventional JCIs. The program has more than twice the ratio of clinical staff-to-residents compared to more typical JCI units. Day–to-day administration of the MJTC program is the responsibility of a psychiatric nurse manager, whereas the JCI units are typically run by experienced security staff. The MJTC program emphasizes interpersonal processes, social-skill acquisition, and the development of conventional social bonds to displace delinquent associations and activities (Gottfredson and Hirschi 1990; Hirschi 1969; Sherman 1993; Sherman et al. 1992). The program relies on a variation of the "Decompression" treatment model (Caldwell 1994; Caldwell and Van Rybroek 2001, 2002; Monroe, Van Rybroek, and Maier 1988) to engage highly disruptive youth in the treatment program, along with Aggression Replacement Training (Goldstein et al. 1986), a cognitive-behavioral treatment approach.

The population of youth studied here has been previously described by Caldwell and Van Rybroek (in press); however, all current analyses are original. The "treatment" sample is composed of 101 consecutively released male youth that obtained the majority of their treatment and rehabilitation services from MJTC and were released when their commitment expired (usually due to aging out of the juvenile system). Each "treatment"

youth was matched to a "comparison" youth who had been admitted to MJTC briefly for assessment or stabilization services and then returned to the sending secured correctional institution for the majority of their treatment. The resulting sample consists of 202 youth who were placed on MJTC over a 2.5-year period.

The youth studied here were transferred to MJTC from the two primary secured juvenile corrections institutions (JCI). The staff at the JCI selected 152 Journal of Research in Crime and Delinquency and transferred the youths to and from MJTC with no screening from MJTC staff. Youth were generally transferred to MJTC due to their failure to adjust to the correctional institutional setting. They have been sufficiently disruptive or aggressive that they have, in effect, been "expelled" from traditional rehabilitation services. There are no exclusion criteria such as low IQ, psychosis, neurological deficits, or antagonistic resistance to treatment that would eliminate a juvenile for consideration for MJTC. Indeed, any of these conditions may serve as the basis of a decision to transfer the youth to MJTC.

First, offenders treated in the MJTC program were less likely than comparison offenders to be charged with a violent felony that injured someone within 2 years of JCI release. During this period, 10.7% (n = 6) of the MJTC youth were charged with such a violent, injurious felony, compared with 29.5% (n = 25) of comparison youth, X2 (1, N = 141) = 6.88, p < .01. When restricted to those cases with access to the community, the results were not significant, X2 (1, N = 141) = .16, ns. Second, offenders treated in the MJTC were less likely than comparison offenders to be charged with homicide during a longer follow-up period (up to 2,200 days). **None of the offenders treated in the MJTC (0%) were accused of homicide, whereas 9 (10.6%) members of the comparison group were charged with, and convicted of, at least one offense that included a homicide, X2 (1, N = 141) = 6.33, ns. These individuals accounted for 16 total deaths.**

The results of this study found that youth with psychopathy features who received intensive MJTC treatment had significantly lower rates and more days in the community before violent recidivism than those who received treatment as usual in the JCI. Although their general recidivism rates were similar, only one fifth (21%, n = 12) of the MJTC-treated youths were involved in institutional or community violence within 2 years after release, compared to approximately half (49%, n = 42) of the comparison cases. After conservatively controlling for a number of covariates, we found that MJTC-treated youth were 2.7 times less likely to become violent in the community than those who did not participate in this intensive treatment program. The disparity in recidivism rates between those who participated in MJTC treatment and those who received treatment as usual became more pronounced as the severity of offenses increased, and it was most pronounced for homicide.

The MJTC's apparent lack of impact on general and nonviolent misdemeanor offending may indicate that these offenses (primarily property and minor drug offenses) are more influenced by life circumstances in the youth's local neighborhood (e.g., socioeconomic strain) than by any personal changes that occur in treatment. Moreover, the MJTC

treatment program was specifically geared toward reducing antagonistic interactions and interpersonal aggressiveness. For the remarkably aggressive and psychopathy-like population of youth studied here, reducing serious and violent recidivism is arguably the top priority.

The process that generated referrals to the MJTC yielded a study group of extraordinarily serious juvenile offenders. **Although longitudinal research is needed before firm conclusions about the developmental appropriateness of applying the label of psychopathic to youth can be made, the present results contribute to the weight of evidence that those with features of psychopathy can respond to sufficient "doses" of appropriate treatment** (Gretton et al., 2000; Salekin, 2002; Skeem et al., 2003).

DISCUSSION: The results of this study found that youth with psychopathy features who received intensive MJTC treatment had significantly lower rates and more days in the community before violent recidivism than those who received treatment as usual in the JCI. Although their general recidivism rates were similar, only one fifth (21%, n = 12) of the MJTC-treated youths were involved in institutional or community violence within 2 years after release, compared to approximately half (49%, n = 42) of the comparison cases. **After conservatively controlling for a number of covariates, we found that MJTC-treated youth were 2.7 times less likely to become violent in the community than those who did not participate in this intensive treatment program. The disparity in recidivism rates between those who participated in MJTC treatment and those who received treatment as usual became more pronounced as the severity of offenses increased, and it was most pronounced for homicide.**

The MJTC's apparent lack of impact on general and nonviolent misdemeanor offending may indicate that these offenses (primarily property and minor drug offenses) are more influenced by life circumstances in the youth's local neighborhood (e.g., socioeconomic strain) than by any personal changes that occur in treatment. Moreover, the MJTC treatment program was specifically geared toward reducing antagonistic interactions and interpersonal aggressiveness. For the remarkably aggressive and psychopathy-like population of youth studied here, reducing serious and violent recidivism is arguably the top priority. The process that generated referrals to the MJTC yielded a study group of extraordinarily serious juvenile offenders. **Although longitudinal research is needed before firm conclusions about the developmental appropriateness of applying the label of psychopathic to youth can be made, the present results contribute to the weight of evidence that those with features of psychopathy can respond to sufficient "doses" of appropriate treatment** (Gretton et al., 2000; Salekin, 2002; Skeem et al., 2003).

IMPLICATIONS FOR RESEARCH AND TREATMENT DEVELOPMENT
Research Implications: It is important for future research to systematically describe whether and how treatment changes psychopathy features and the extent to which these changes (or others) relate to reductions in recidivism risk. The present study is limited by the lack of information about what may have changed in these treated youth. This limits

what can be said about whether psychopathy features truly are malleable in youth or whether some other factor is responsible for the reductions in recidivism risk. Despite this limitation, the present study differs from the two past studies of adolescents with psychopathic features and treatment outcome in three important ways. First, the treatment program of focus in the present study was specifically designed to address the needs of aggressive adolescent offenders, in part by eroding their antagonistic defiance of authority figures. Second, the sample studied here comprised juvenile offenders who uniformly scored at or near traditional cutting scores for defining psychopathy on commonly used measures. Third, the study design included a comparison group who participated in "treatment as usual." These analyses included systematic controls for the potential effect of the treatment assignment process and juveniles' supervision status on release.

Additional quasi-experiments or randomized controlled trials (RCTs) are needed to assess the response of adolescents with psychopathy features to psychopathy-relevant treatment programs. For quasi-experiments, propensity score analyses such as those used in the present study are among the best available approaches for assessing treatment response. However, these analyses are not perfect. On one hand, these analyses cannot control for unobserved variables that might affect the treatment assignment process. It is possible that variables beyond the set of 12 key demographic (e.g., race), clinical (e.g., YO-LSI, PCL Factors, IQ), and offense-related (e.g., age of onset, number of offenses) characteristics that were condensed into propensity scores in this study both affected where the offenders were treated (MJTC or JCI) and were related to recidivism risk. However, given the chiefly system-driven referral system (e.g., how many beds are available in what setting), this seems unlikely. On the other hand, propensity score analyses and related statistical control techniques may be overly conservative in estimating treatment effects. For example, to the extent that greater treatment response is associated with a less restrictive setting on release, controlling for supervision status may control some of the variance of treatment response itself.

Treatment Development Implications: In addition to conducting RCTs or carefully conceptualized and analyzed quasi-experiments, it will also be important in future research to disentangle the effect of treatment resistance from treatment type. Although it is reasonable to assume that psychopathy may require specialized treatment techniques, it is also possible that individuals with psychopathic features may derive benefit from existing treatment techniques if they are delivered in sufficiently consistent and intensive doses, overcoming any resistance.

Based on the design of the present study, it cannot be definitively determined whether the relation between MJTC treatment and reduced recidivism risk reflects quantitative factors (i.e., the intensity and persistence of treatment) or qualitative ones (i.e., specialized treatment techniques). The most consistent "qualitative" factor in place during the study period was contextual: The MJTC program relied on a mental health administrative structure and philosophy with substantially more clinical staff, as contrasted with a correctional administration structure and staffing in the usual JCI treatment (see Lipsey,

Wilson, & Cothern, 2000). Although cognitive–behavioral treatment techniques were used, the program was repeatedly reorganized during the study period. Thus, it is unlikely that specialized treatment techniques account for the treatment effects seen here.

Individuals with psychopathy features tend to disrupt treatment programs, and as a result, they are more likely to be screened out, to drop out, or to be expelled from treatment. Oftentimes, security-based behavior management expands and treatment services are reduced. If the treatment program is not designed to retain individuals with very difficult characteristics, it is unlikely that these individuals will derive much benefit from treatment. The MJTC program attempted to keep youth involved in treatment regardless of their behavior. Disruptive and aggressive behavior was responded to with a priority given to providing continuous intensive treatment. In this respect, the greatest challenge to effective treatment of psychopathic individuals may be in the implementation and management of a treatment program that addresses safety issues without sacrificing the continuity of treatment.

These results raise the prospect that the violence potential of adolescents with significant psychopathy features may be significantly reduced through intensive treatment. These findings also suggest that concentrating treatment resources on this high-risk group of youth may be a maximally effective and efficient means of reducing violent and criminal behavior. And these possibilities necessitate much more study.

Reducing violence in serious juvenile offenders using intensive treatment

Michael F. Caldwell, Gregory J. Van Rybroek
Mendota Juvenile Treatment Center, 301 Troy Drive, Madison, WI 53704, United States
Mendota Mental Health Institute, Madison, Wisconsin, United States
Received 11 August 2003; received in revised form 4 May 2004; accepted 12 July 2004
International Journal of Law and Psychiatry 28 (2005) 622–636 633

This study reports on the reduction in violent offending in a population of serious and violent juvenile offenders following an intensive institutional treatment program. The treatment group (N =101) is compared to a similar group that was assessed but not treated (N =147). All youth were sent to the program from a juvenile corrections institution where they had received the customary rehabilitation services. The results show a significant reduction in the prevalence of recidivism in the treated group after controlling for time at risk in the community and other covariates. The effects of non-random group assignment were reduced by including a propensity score analysis procedure in the outcome analysis. **Untreated comparison youth appeared to be about twice as likely to commit violent offenses as were treated youth (44% vs. 23%). Similarly, treated youth had significantly lower hazard ratios for recidivism in the in the community than the comparison youth, even after accounting for the effects of nonrandom group assignment.**

Serious and Violent Recidivism: The results clearly show that MJTC treatment predicted slower and lower rates of serious and violent recidivism in the community. For felony offending, after accounting for non-random treatment assignment the change in _2 log likelihood ratio when treatment status was included was significant, v2 (1,N=248)=9.12, p b.005. Similarly, treatment significantly improved the model fit for general violence, v2 (1,N=248)=8.76, p b.005, and for felony violence, v2 (1,N =248)=9.86, p b.005, after controlling for the effects of non-random group assignment. As an illustration of the effects, the survival curve for violent offending for each treatment group after accounting for non-random group assignment is shown in Fig. 2, on the next page.

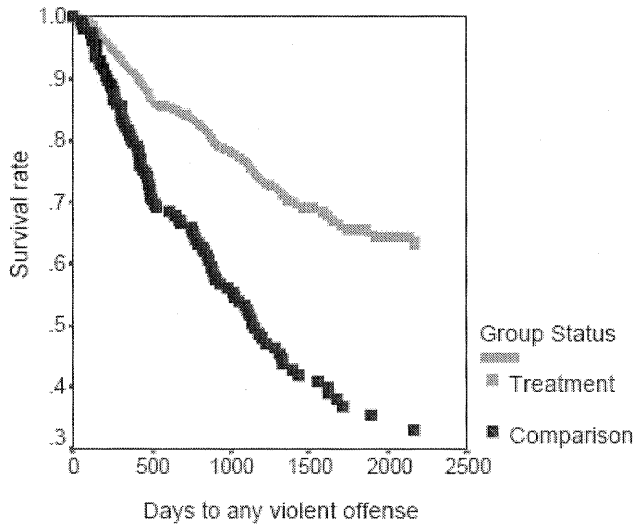


Fig. 2. Survival curves for MJTC treated youth and Comparison youth for violent offenses in the 54-month follow-up period.

These results indicate that, in addition to reducing the number of youth involved in offending, MJTC treatment increased the time in the community before failure in each outcome category. There appeared to be a more pronounced effect for more serious and violent offending. The prevalence of charged homicide offenses further illustrates this point. In stark contrast, the comparison group had a charged homicide rate of 7%, (accounting for 16 deaths). None of the treated group had been charged with a homicide during the follow-up period.

Discussion: These results indicate that the treatment approach used on MJTC appears to reduce the probability of re-offending and extend the time to first offense for treated youth. Further, the treatment program appears to have the greatest impact on serious violent offending, reducing the risk of such offenses by about half. Within the population of serious and violent juvenile offenders, those with the most extreme problems studied here appeared to be no less likely to respond to the treatment program. This study, therefore, provides a challenge to the notion that these youth are untreatable.

These findings have several potential public policy implications. Within institutions that house disruptive juvenile delinquents, approaches that interrupt active mental health services in order to apply deterrent sanctions or other behavior management interventions may be particularly misguided. Sanctions in particular may result in a deteriorating cycle of defiance. While steps to control the aggressive behavior of some youth are necessary, treatment approaches need to be designed so that they can be safely applied even when the juvenile is disruptive and uncooperative.

The meta-analysis conducted by Lipsey et al. (2000) found that youth that had shorter institutional stays also tended to have lower recidivism rates. In the current study a

treatment program that focused specifically on improving institutional adjustment yielded both shorter stays and lower recidivism in the treatment group. This suggests that programs that actively target institutional adjustment problems may produce benefits in lower institutional costs and less community recidivism.
A clear limitation of these data is that it is not clear what characteristics of the program may have impacted the youth, or precisely how the treatment process works to lower recidivism risk. The results found here are consistent with the meta-analysis conducted by Lipsey et al. (2000) that found mental health administered institutional programs to be more effective than juvenile justice administered programming. It is possible, then, that the treatment effect reflects organizational structure, staffing, and administration, rather than the more intensive treatment techniques. In addition, although the Decompression model is designed to treat more aggressive individuals, these data are not sufficient to conclude that it was the Decompression model that produced improved behavior management in the institution or lower violent recidivism upon release to the community.

Even with these limitations, the intensive treatment model used on MJTC appears to hold great promise for improving public safety by reducing serious and violent offending in the most antagonistic and unmanageable juvenile delinquents.

Institutional treatment strategies often focus on reducing specific delinquency risk factors such as poor problem solving, anger control, social skills or moral reasoning. Outcomes of these approaches have been mixed. Tate et al. (1995) reported the common finding that, even when these approaches succeed in ameliorating the risk factor, this often has no impact on re-offense. A fundamental concept in the Decompression model is that treatment needs to do more than install needed skills in the juvenile to be effective. Rather, treatment also needs to address the youth's detachment from, and antagonistic defiance of, conventional behavior and conventional lifestyles. This is not easily accomplished and it cannot be reduced to a structured program of workbooks and phases of treatment. Using a structure similar to the treatment approaches and attitudes fostered by researchers in the motivational interviewing paradigm (Burke, Arkowitz, & Menchola, 2003; Miller & Rollnick, 2002), as well as tenets in Hanna's change model (Hanna, 2002), MJTC focuses on setting the conditions for change. **The results show that a program that specifically targets generating system conditions that foster change can reduce violent recidivism even with violent and seemingly intractable juveniles.**