



the bridge  
to somewhere

How Research Made its Way into  
**LEGISLATIVE JUVENILE JUSTICE REFORM IN OHIO**

A CASE STUDY



SCHUBERT CENTER  
FOR CHILD STUDIES

## THE BRIDGE TO SOMEWHERE:

How Research Made its Way into  
Legislative Juvenile Justice Reform in Ohio

A CASE STUDY

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MANY STATES ACROSS THE COUNTRY FACE THE CHALLENGES POSED BY YOUNG PEOPLE IN THE JUVENILE JUSTICE SYSTEM. OHIO IS AMONG THE FEW STATES THAT HAS CREATED AND IMPLEMENTED INNOVATIVE FUNDING STRATEGIES AND RELIED ON RESEARCH AND EVALUATION TO IMPROVE ITS APPROACH.

## EXECUTIVE SUMMARY

In December 2010, Supreme Court of Ohio Justices Stratton and McGee Brown convened a group of stakeholders interested in supporting effective juvenile justice reform to meet with a team of political strategists and experts dedicated to achieving meaningful policy change in the upcoming legislative budget session. The following June, Ohio Governor John Kasich signed House Bill 86 (HB 86) and the state budget, House Bill 153 (HB 153), both of which included substantial, evidence-based policy reforms for young people in the juvenile justice system. This case study describes the partners, collaborative model and key elements in achieving this major policy change.

This collaborative policy change model involved several overarching elements: leveraging the current “policy window” that creates an opportunity for reform; defining juvenile justice as a compelling social problem; setting a research-informed policy agenda and framing solutions; strategically aligning existing spheres of influence with a core campaign team; and ultimately, adopting policy change through legislation.

**“Leveraging the policy window” involves taking stock of the current political climate and building from the foundation of work that often takes years to establish.** While the policy change in HB 86 and HB 153 occurred in a short legislative window, it was the result of significant, ongoing juvenile justice-related work by dedicated practitioners and advocates, both inside and outside of the public system. Political power had recently shifted in the November 2010 elections with Republicans gaining control of both houses of the state legislature as well as the executive branch. This political turn, coupled with Ohio’s looming state budget crisis, forged a sense of urgency that allowed policymakers to embrace a “smart on crime” approach to criminal justice reform. (See Section II.)

**Collective agreement on the pressing nature of the social problem requiring action creates a persuasive case for policy change.** Research and data help to illuminate the scope of a social problem, as well as identify potential leverages for action. Conducting secondary research to identify relevant data is only part of the process. Assembling, analyzing and translating the data is equally important to the task of social problem definition and its presentation as a “strategic representation of a situation.” In this case, data was used to identify some of the biggest cost drivers in the system and the fiscal impacts of certain policies and practices, as well as to demonstrate what works with this population and where effective alternatives to the status quo existed. In light of Ohio’s state budget crisis, the juvenile justice social problem was essentially framed as an economic one: the high social and fiscal costs of Ohio’s ineffective juvenile justice system and the better return on investing in effective programs. The problem was defined as the challenge of holding young people in the juvenile justice system accountable in developmentally-appropriate and cost-effective ways so that they could be more successful, positively contributing community members in the future. (See Section III.)

**Policy change requires solutions grounded in evidence to support the rationale for specific legislative reforms.** Policy research needs to connect findings as directly as possible with actions that policymakers can take. In this policy reform context, a comprehensive notion of “research” was employed, including the use of empirical findings, quantitative data, case studies, rules and regulations, professional feedback and other qualitative experiences including family, practitioner and constituent input. The research-informed policy solution in this case was framed as an “Invest in What Works” approach with a tri-fold set of strategies — realignment, reinvestment and revision of law to reflect core values of the juvenile justice system and principles of adolescent development. (See Section IV.)

OHIO GOVERNOR JOHN KASICH SIGNED HOUSE BILL 86 AND THE STATE BUDGET, HOUSE BILL 153, BOTH OF WHICH INCLUDED SUBSTANTIAL, EVIDENCE-BASED POLICY REFORMS FOR YOUNG PEOPLE IN THE JUVENILE JUSTICE SYSTEM.



**A strategic, collaborative “spheres of influence” model maximizes expertise among major players and organizations in the juvenile justice field.** Practitioners and lawyers, administrators, evaluators, researchers and advocates, among others, engaged in ongoing critical activities impacting the juvenile justice system in Ohio. These included: litigation (systemic class actions and individual legal representation) and monitoring of settlement agreements; evidence-based practice identification and development; capacity-building of local providers and juvenile courts; advocacy and policy reform efforts (including both constituent and professional lobbying, public awareness and education, and media communications); and policy research and bridge-building work across disciplines, agencies and stakeholders. A core campaign team, comprised in part of these influencers or “policy entrepreneurs,” was singularly dedicated to moving a clear juvenile justice reform agenda forward in the immediate future by capitalizing on these efforts. (See Section V.)

**HB 86 and the accompanying budget language in HB 153 included significant juvenile justice reforms,** including: promotion of research-supported outcome-based practices; reallocation of a percentage of correctional institutional savings into evidence-based community programs; increased judicial authority for judicial release of juveniles; revision of mandatory sentencing specifications for youth accomplices in certain crimes and the creation of a narrow reverse waiver option for youth transferred to adult court; adoption of a uniform juvenile competency code; and the creation of an Interagency Mental Health Juvenile Justice Task Force to develop a set of findings and recommendations concerning mentally ill youth in the system. Implementation of these policies is ongoing to ensure their effectiveness. (See Section VI.)

**Ten principles and implications for future policy reform efforts are highlighted at the end of the report.** These reflect the strategies employed in this endeavor and lessons learned along the way and may prove useful for planning and organizing of future child policy reforms.

1. Assess political feasibility and leverage the “policy window” in the current political landscape.
2. Capitalize on prior achievements and activities of “policy entrepreneurs” to build on available resources, relationships and lessons learned from related work.
3. Assemble and maximize the use of credible research and data to both illustrate the social problem a policy seeks to address and to present potential policy solutions.
4. Ensure a shared commitment to child well-being and public policy informed by accepted principles of child and adolescent development.
5. Craft a clear policy agenda consistent with an organizing framework that speaks to the concerns of policymakers, stakeholders and the public.
6. Build and manage a nimble, disciplined core team with the necessary mix of content, communications and political strategy expertise and skills.
7. Collaboratively align existing research, practice and policy efforts (areas of influential activity) to develop the most comprehensive and effective strategy for reform.
8. Engage a broad group of juvenile justice stakeholders to inform and promote the policy agenda.
9. Identify and nurture political champions in all branches of government as well as nontraditional allies.
10. Procure and deploy sufficient funding to address gaps in expertise and to support a core team.

The National Campaign for State Juvenile Justice Reform (led by the MacArthur Foundation and supported by other national funders and the Cleveland-based George Gund Foundation) proved pivotal. The National Campaign provided the resources otherwise unavailable for strategic management, professional government relation services, and communications support needed to craft and propel an intensive, sophisticated, and time-limited state legislative campaign resulting in passage of HB 86. (See Section VII.)

(129th General Assembly)  
(Amended Substitute House Bill Number 86)

AN ACT

**INTRODUCTION:  
CASE STUDY AS A  
LEARNING TOOL  
AND OVERVIEW  
OF PARTNERS AND  
POLICY CHANGE  
WITH A FOCUS ON  
CHILD WELL-BEING**



National and international attention has increasingly been directed to the intersection of research and policy. That is, how do we develop evidence-informed policies based on relevant research findings that will bring to bear best possible knowledge and make the application of research findings feasible and appropriate to the issues at hand (e.g., Huston, 2005; Huston, 2008; Shonkoff, 2000; Shonkoff, 2011; Tseng, 2012)? The challenges of bridging research and policy are reflected in this case study.

In many ways, the adoption of legislative policy change is a mercurial operation. While the popular Schoolhouse Rock “I’m Just a Bill” (Frishberg, 1976) scenario suggests a rather clear-cut path to legislative reform, the reality is much more circuitous and unpredictable. Indeed, to even suggest there is a potential “model” for successful public policy change is admittedly optimistic, if not downright misleading. Nevertheless, there are certain principles, strategies and vehicles that in combination can shed some light on this endeavor and provide some lessons and implications for future policy work in the juvenile justice field, and perhaps in other related child policy efforts. This is in essence what this publication strives to offer: a retrospective case study of a specific piece of state legislation that impacts the well-being of young people involved in the juvenile justice system and the community that, as James Baldwin so eloquently put it, “profits by or pays for whatever they become.”

Children’s well-being is a universal policy priority for government and public institutions, including members of legislative, executive and judicial agencies, as well as service providers, the general public and philanthropists nationwide. In the context of the juvenile justice arena, “well-being” can be viewed both in terms of the young person (i.e., positive youth development, rehabilitation and treatment) and the community (i.e., public safety and cost savings). Children and young people involved in the juvenile justice system present a unique set of costs and challenges to society. Despite the general public consensus<sup>1</sup> that children and communities benefit most from a system that recognizes young people are developmentally distinct from adults and as such require appropriate interventions to effectively treat, protect

and hold them accountable, public funding and policies frequently fall short of achieving these fundamental goals. As a result, children, families, taxpayers and ultimately whole communities suffer the consequences.

Ohio is one of many states across the country facing the challenges posed by young people in the juvenile justice system and the institutions responsible for serving them. However, it is also among the few states that have created and implemented innovative funding strategies and relied on research and evaluation to improve its approach and effectively address the needs of this vulnerable population. In many ways, this commitment to data-informed practice was part of the landscape that led to the adoption of juvenile justice reforms in 2011 through Ohio House Bill 86 (HB 86), a comprehensive criminal justice reform bill that included both adult and juvenile reforms, and helps set the stage for future reform efforts.

#### CASE STUDY AS A LEARNING TOOL

For purposes of this article, “case study” refers to “the collection and presentation of detailed information about a particular participant or small group, frequently including the accounts of subjects themselves. A form of qualitative descriptive research, the case study looks intensely at an individual or small participant pool, drawing conclusions only about that participant or group and only in that specific context. Rather than focus on the discovery of a universal, or generalizable truth, the emphasis is placed on exploration and description of a specific event or condition” (Colorado State University Writing Center, n.d.).

“In scholarly circles, case studies are frequently discussed within the context of qualitative research and naturalistic inquiry. Case studies are often referred to interchangeably with ethnography, field study and participant observation. The underlying philosophical assumptions in the case are similar to these types of qualitative research because each takes place in a natural setting (*in this instance in Ohio’s political legislative and executive sphere*), and strives for a more holistic interpretation of the event or situation under study” (Colorado State University Writing Center, n.d.).

The value of the case study approach to learning is based in part on the opportunity it presents to students to “learn to identify actual problems, to recognize key players and their agendas, and to become aware of those aspects of the situation that contribute to the problem” (Merseeth, 1991). Along the way, students also develop “the power to analyze and to master a tangled circumstance by identifying and delineating important factors; the ability to utilize ideas, to test them against facts and to throw them into fresh combinations” (Merseeth, 1991).

This article offers a dynamic illustration of stakeholder collaboration in several key roles in the context of a specific juvenile justice legislative reform campaign, including: policy research, agenda-setting and bridge-building; evidence-based practice (EBP) identification and development; local provider capacity building; advocacy and policy advancement; and litigation and monitoring. Lessons learned from this effort may provide a valuable teaching tool for students of public policy change and for those interested in future policy and reform collaborations at the local, state and national levels, including researchers and university centers focused on public policy, funders of policy reform and their grantees, related practitioners and their associations, and advocates and their national partners.

#### SCHUBERT CENTER FOR CHILD STUDIES AND REPORT CONTRIBUTORS

The Schubert Center for Child Studies at Case Western Reserve University (CWRU) bridges research, practice, policy and education for the well-being of children and adolescents. The center’s Child Policy Initiative, launched in 2004, sought to minimize the gap among academic study and research, public policy formation and professional practices for children. The goal of the Initiative was to develop a comprehensive, innovative program of multidisciplinary education, research and communications that intersects with policy work and concerns. The Initiative is now at the core of the center’s work threaded throughout student education, faculty associate activities, community engagement work and policy research and bridge-building. It is in this latter capacity that the Schubert Center, together with several critical partners, led the development of a comprehensive juvenile justice reform agenda that served as the framework for key policy changes adopted in HB 86.<sup>2</sup>

Below is a brief organizational description of each of the contributors to this report, each of whom played a unique role in the overall reform effort described herein.

The mission of the **Center for Innovative Practices (CIP)** at the The Dr. Semi J. and Ruth W. Begun Center for Violence Prevention, Research and Education at the CWRU Mandel School of Applied Social Sciences is to disseminate, educate and promote evidence-based and promising practices in the behavioral health field for children, youth and families. Using a ‘science to service’ and ‘research to practice’ approach, CIP’s

overarching goal is to assist in identifying and implementing cost-effective and evidence-based programming that support high-risk youth and families in building healthy and productive futures.

The **Children’s Law Center, Inc. (CLC)** was established in 1989 to protect the legal rights of children through quality legal representation, research and policy development, and training and education of attorneys and others. The CLC provides direct services in Ohio and Kentucky and collaborates with organizations regionally and nationally. Its work is based on a belief that youth in the juvenile justice system should receive fair and equitable treatment with due process rights afforded to them at every stage, access to quality representation, and individualized strength-based services provided in the least restrictive environment. As such, the CLC strives to eliminate the unnecessary incarceration of children and to create more humane and effective alternatives in local communities, and to promote access to effective legal representation throughout the youth’s experience in the system.

The **George Gund Foundation (Gund)** is a private philanthropic organization founded in 1952. It provides grants to nonprofit organizations in five areas: arts, community and economic development, education, environment and health and human services. Its primarily urban focus motivates the foundation to devote attention and resources to illuminating policies that impact this population, including national, state and local policymaking efforts. Consequently, Gund is committed to supporting nonpartisan, nonprofit advocacy in policy deliberations related to its program interests, such as the justice reform arena.

The **Juvenile Justice Coalition (JJC)** is a volunteer organization formed in 1993, with members (organizations, families and individuals) throughout Ohio. Its mission is to promote effective programs, equitable treatment of youth and public policy that will reduce juvenile delinquency in Ohio. JJC members and board have expertise in national and state juvenile justice systems. JJC is part of the National Juvenile Justice Network and is a founding member of the Juvenile Justice Initiative, which later became part of the **Ohio Juvenile Justice Alliance**, convened by **Voices for Ohio’s Children** and the **Children’s Defense Fund of Ohio**.

The **Office of the Ohio Public Defender (OPD)** protects and defends the rights of indigent persons by providing and supporting superior representation in the criminal and juvenile justice systems. OPD’s Juvenile Division focuses primarily on post-disposition advocacy and ensuring that the constitutional rights of children are fully realized and protected. The Juvenile Division strives to remain at the forefront of the struggle for systemic improvement in juvenile justice through statewide and national collaboration and involvement in policy, education, professional development and reform initiatives. The OPD staff provide legal orientation to all children as they enter the Ohio Department of





Youth Services (ODYS), and legal representation in appeals, detention-credit motions and other post-disposition matters concerning the child's fact or duration of confinement.

#### OVERVIEW OF POLICY REFORM PARTNERS

The **National Campaign to Reform Juvenile Justice (Campaign)** initiated by the **John D. and Catherine T. MacArthur Foundation (MacArthur)** and joined by several other funders, including **The George Gund Foundation**, spearheaded the catalyzing of a reform effort in Ohio with an initial invitation by **Supreme Court of Ohio Justices Evelyn Stratton** and **Yvette McGee Brown**. **M&R Strategic Consulting** and its local counterpart, **RStrategy**, served as the core campaign team coordinators, managing the lobbyists and all of the relevant stakeholders and campaign resources, including media and communications. Policy, program and legal content expertise was provided primarily by experts from the **CIP, CLC, OPD**, the **Schubert Center**, as well as the **JJC** and other advocates such as members of the Ohio Juvenile Justice Alliance. This case study discusses the roles of these key stakeholders and the collaboration that brought about policy change.

#### POLICY CHANGE IN HB 86 AND ITS SIGNIFICANCE AS A TURNING POINT IN OHIO JUVENILE JUSTICE POLICY

HB 86 and its accompanying state budget legislation was monumental in that it represented the first positive piece of state legislation for children in the juvenile justice system in decades, arguably since the creation of the RECLAIM (Reasoned and Equitable Community and Local Alternatives to Incarceration of Minors) funding formula for community-based programming in 1993.<sup>3</sup> Prior to the passage of HB 86, Ohio legislators, like many other states, focused on passing increasingly punitive policies with little or no consideration of principles of child and adolescent development and what research suggests works best for this population.<sup>4</sup> Indeed, much of this draconian policy was based on a faulty theory about a new generation of "super predator" youth and followed the adult criminal justice system's adoption of mandatory sentencing in response to the "war on drugs." As a result, the number of children confined in juvenile correctional facilities climbed steadily through the late 1980s

and into the 1990s, peaking at more than 2,600 youth in 1992 (ODYS, 2012). Youth were held in confinement for extended periods with little regard to effective treatment, reduced recidivism or costs, and juveniles were transferred to adult criminal courts and prisons or otherwise increasingly treated like adults. Consequently, the passage of HB 86 marked a significant turn in the direction of juvenile justice policy in the state of Ohio.

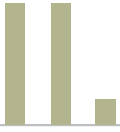
More specifically, HB 86 and the accompanying budget language in HB 153 included the following reforms: (1) promotion of research-supported outcome-based (i.e., evidence-based) practices in the state's statutory RECLAIM language; (2) explicit budget language permitting reallocation of a percentage of correctional institutional savings into evidence-based community programs; (3) increased judicial authority for judicial release of juveniles; (4) revision of some of the mandatory sentencing specifications for youth accomplices in certain crimes and the creation of a narrow reverse waiver option for youth transferred to adult court; (5) adoption of a uniform juvenile competency code; and (6) creation of an Interagency Mental Health Juvenile Justice Task Force (IMHJJTF) to develop a set of findings and recommendations concerning mentally ill delinquent youth for future consideration. Section VI discusses these reforms in more detail. At the time of this publication, implementation of these policies is ongoing to ensure their effectiveness. New statutory reforms concerning collateral consequences of criminal system involvement, including some impacting youth in the juvenile justice system like background checks, were subsequently adopted through additional Campaign efforts.

#### CASE STUDY ELEMENTS: AN EXAMINATION OF JUVENILE JUSTICE REFORM IN OHIO HB 86

This case study identifies the following key elements as a model for policy change: (1) leveraging the "policy window;" (2) defining juvenile justice as a compelling social problem; (3) setting a policy agenda and framing solutions; (4) coordinating spheres of influence: the core team and collaborative strategy; and (5) adoption of policy change. A list of principles and implications for future policy reform are identified at the end.



**LEVERAGING THE  
POLICY WINDOW:  
POLITICAL CLIMATE,  
JUVENILE JUSTICE  
LANDSCAPE IN OHIO  
PRE-REFORM AND  
KEY STAKEHOLDERS**



Policy change does not happen in a vacuum. Indeed, legislative policy change is often the result of incremental gains and years of significant groundwork, including data collection and analysis, piloting and experimentation, coalition building, messaging, awareness-raising and education efforts. Since the purpose of this case study is in part to highlight the role of research in the policymaking process, this linkage as well often takes years to accomplish, especially given that most primary research is not conducted with an eye toward what will be relevant in the policy context. Together, all of these actions help to build a strong foundation for future policy reform.

One of the partners shared a story that aptly described the critical nature of the foundational work in leveraging legislative change. After presenting at a national conference about the successes in juvenile justice legislative reform in Ohio and telling the audience that it seemed like we had found ourselves inside this perfect storm — a budget crisis, a strong Republican governor who wasn't afraid to enact reforms potentially labeled "soft on crime," and foundation support and money to hire lobbyists — someone remarked afterwards, "You may have been in a perfect storm, but you guys had spent years building your lightning rod."

#### **A PERFECT STORM FOR ACTION: TRANSITION IN STATE POLITICAL LEADERSHIP AND THE BUDGET CRISIS**

Like many states, in January 2011, Ohio faced a looming state budget crisis. While daunting, it also presented an important window of opportunity for policymakers to consider legislative reforms with budget savings or cost-neutral implications. In addition, the political leadership had just shifted from a Democratic governor and politically divided state legislature to both Republican-controlled executive and legislative branches. The election of a conservative Republican governor who embraced a "smart on crime" approach to adult correctional [and ultimately juvenile] reform proved critical. Finally, the influx of national resources, combined with

targeted local funding, explicitly dedicated to substantive juvenile justice legislative reform in the current budget cycle, facilitated the creation of a rigorous core campaign team that strategically coordinated expertise in research, policy content and political lobbying, with access to critical state leadership and influencers.

#### **BUILDING THE "LIGHTENING ROD": CRITICAL REFORM EFFORTS UNDERWAY**

Coupled with this political reality, a series of significant juvenile justice related activities occurred that collectively made Ohio ripe for legislative reform. These include: ongoing litigation and monitoring of the settlement agreement stemming from a federal class action lawsuit based on conditions of confinement,<sup>5</sup> closure of several state juvenile institutions, strengthened juvenile appellate advocacy and policy efforts, capacity-building of effective community-based options, the development of targeted approaches for incentivizing local courts to reduce state juvenile admissions, and coalition-building for policy reform among juvenile justice advocates. Behavioral and brain research concerning teens began to take hold in the public conscience, while political attention had begun to focus on adult criminal justice reforms, which provided an opening for highlighting issues related to children in the juvenile justice system. While legislative and budgetary policy changes had not been a part of any recent successful juvenile justice related reform efforts, the combination of these activities created the necessary foundation for legislative reform.

#### **CLASS ACTION LITIGATION AND CLOSURE OF JUVENILE FACILITIES**

The federal litigation concerning unconstitutional conditions of confinement of children in state juvenile correctional institutions (including related litigation concerning access to counsel and decision-making authority for early release of confined juveniles) and the resulting 2008 S.H. Settlement

Agreement (Settlement Agreement) is identified as perhaps the single most important (non-political) catalyst for legislative policy change in Ohio (*S.H. v. Stickrath*, 2008; *J.P. v. Taft*, 2007). While this litigation focused on ODYS juvenile correctional facilities and processes, it laid the groundwork for further reform by creating a sense of urgency to address the needs of this population of young people, bringing much needed public attention to numerous related issues in the state's juvenile justice system (i.e., juvenile sentencing practices, mental health challenges in this population, the high numbers of youth waiving counsel, etc.), identifying legislative barriers and opportunities for policy change and, inadvertently, by creating fiscal incentives to reduce the state's reliance on secure confinement for juveniles. Indeed, since the original filing of the conditions lawsuit in 2004, Ohio closed four juvenile correctional facilities and reduced facility average daily population from approximately 1,800 in 2004 to an average of 748 youth by the time HB 86 was signed into law in June 2011 (ODYS, 2004, 2011). In addition, a monitoring team had been in place to work with ODYS as part of the Settlement Agreement, which continued to both hold the state accountable for reforms agreed to and provide assistance and technical support to make improvements. Key components of the Settlement Agreement were commitments by ODYS to: (1) move toward a more regionalized approach to quality, community-based services; and (2) adopt guiding principles that create a continuum of care system emphasizing prevention, intervention and treatment in local communities, therapeutic residential care, and a system of aftercare to assist successful re-entry into the community after incarceration.

#### JUVENILE APPELLATE ADVOCACY AND POLICY FOCUS

The Juvenile Division of the OPD is integral to the provision of strong appellate representation of youth in the ODYS facilities and the identification and development of juvenile delinquency policy issues informed by this work. Created in 1993 but phased out due to budget cuts in 2002, the division was reinstated with funding from the General Assembly in

2004 after the release of *Justice Cut Short: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings in Ohio* (Brooks, Kamine and CLC, 2003). This report by the American Bar Association National Juvenile Defender Center and the Central Juvenile Defender Center (housed within CLC), in partnership with the JJC, shed light on the lack of effective advocacy for youth in the juvenile justice system in Ohio and informed additional reform efforts concerning access to counsel, quality of representation, lack of leadership within the defense bar to effect change on behalf of youth and other systemic barriers to effective representation. In addition to creating a culture of excellence in appellate advocacy, the OPD Juvenile Division has become a national leader on various juvenile court issues, such as waiver of counsel, juvenile competency, sex offenses and post-dispositional (sentencing) representation, and therefore a vital source for content expertise on potential policy reforms. OPD has been closely involved with both legislative and non-legislative policy reform efforts for many years, including work in previous General Assemblies addressing various juvenile legal issues such as sealing and expungement of records, sex offender laws, access to counsel issues and others. OPD had also been involved in a juvenile competency workgroup that Justice Stratton headed. This workgroup was initiated after Ohio's serious youthful offender (SYO) law was passed in the mid 2000s and drafted the juvenile competency statute several years ago with the input from numerous stakeholders around the state. It was not until HB 86, however, that the competency provision was enacted into law.

#### EXPANDING OHIO'S NATIONALLY-RECOGNIZED RECLAIM PROGRAM TOWARD EVIDENCE AND OUTCOME-BASED PRACTICES

The identification and promotion of EBPs in collaboration with local juvenile court jurisdictions through the implementation of ODYS RECLAIM, Targeted RECLAIM and the Behavioral Health Juvenile Justice (BHJJ) initiative has been another essential aspect of the overall readiness of Ohio for further

LEGISLATIVE POLICY CHANGE IS OFTEN THE RESULT OF INCREMENTAL GAINS AND YEARS OF SIGNIFICANT GROUNDWORK, INCLUDING DATA COLLECTION AND ANALYSIS, PILOTING AND EXPERIMENTATION, COALITION BUILDING, MESSAGING, AWARENESS-RAISING AND EDUCATION EFFORTS.



reform. Propelled in part by the litigation efforts, but also as a continuation of community-based activities that ODYS had been building through the use of RECLAIM, ODYS and local courts had been working in partnership with the University of Cincinnati and the CIP to evaluate and improve community-based treatment and diversion efforts with impressive results. Ohio was fortunate to have a fairly strong history in the implementation of EBPs with the creation by the Ohio Department of Mental Health (ODMH) in 2000 of a number of “coordinating centers of excellence” (CCOE). This initiative funded the development of several centers across the state that had the mission of disseminating one or more EBPs for targeted populations. CIP was one of the originally designated CCOEs through the dissemination of Multisystemic Therapy (MST) for youth with serious behavioral disorders, including those involved in the juvenile justice system.

A comprehensive evaluation of the BHJJ initiative found significant positive outcomes in various child well-being indicators, including a decrease in trauma symptoms for youth at termination, reported increased youth functioning and decreased problem severity and reported decreased substance use. Youth also demonstrated a more than fifty percent reduction in the risk for out of home placement at the time of termination; only six percent of successful BHJJ program completers were at risk for out of home placement at termination. Nearly sixty-two percent of the youth successfully completed the BHJJ program with an average length of stay in the program of approximately seven months. Successful completion of BHJJ produced

lower percentages of subsequent juvenile court charges, felonies, misdemeanors and delinquent adjudications compared to unsuccessful completion, although both groups demonstrated decreased juvenile court involvement after termination from BHJJ compared to before enrollment. Thirty-two out of the 1,665 youth (two percent) enrolled in BHJJ for whom recidivism data was collected were sent to an ODYS facility at any time following their enrollment. Using only the direct state budget contribution to BHJJ (totaling \$8.4 million from 2006-2011), the average cost per youth enrolled in BHJJ in fiscal year 2011 was \$4,778, compared to the estimated cost of \$167,960 for housing an average youth at an ODYS facility during the same time period (Kretschmar, Flannery and Butcher, 2012).

Targeted RECLAIM was initiated in 2010 to focus on the six counties with disproportionate rates of youth communities to ODYS facilities. Counties were funded to implement evidence-based programs and also had to set goals of targeted reductions of youth commitments. A review of the program found that reductions in commitments exceeded the target goals with an aggregated reduction of thirty-nine percent in 2010, and another twenty-three percent in 2011 (US Department of Justice, 2012).

These efforts demonstrate Ohio’s capacity to more cost-effectively address the needs of the young people in the juvenile justice system and the opportunity for building on this success by increasing investments in quality, outcomes-based community programming.

# THESE EFFORTS DEMONSTRATE OHIO'S CAPACITY TO MORE COST-EFFECTIVELY ADDRESS THE NEEDS OF THE YOUNG PEOPLE IN THE JUVENILE JUSTICE SYSTEM AND THE OPPORTUNITY FOR BUILDING ON THIS SUCCESS BY INCREASING INVESTMENTS IN QUALITY, OUTCOMES-BASED COMMUNITY PROGRAMMING.

## COALITION-BUILDING AND COLLABORATION FOR POLICY REFORM AMONG ADVOCATES

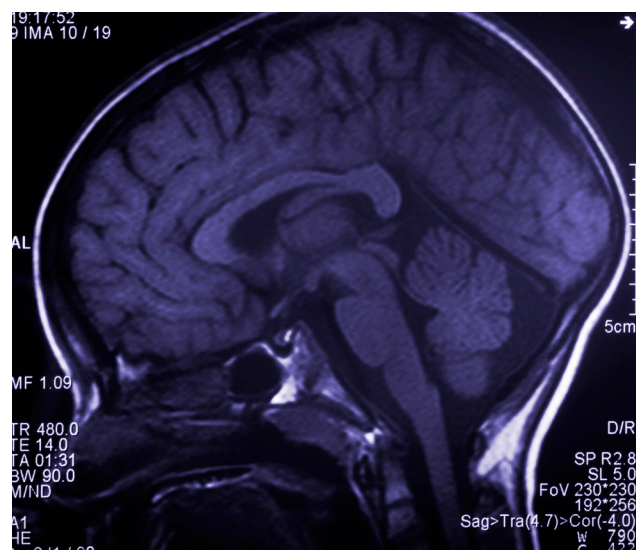
The JJC began visiting ODYS juvenile correctional facilities and putting pressure on ODYS to address concerns about treatment of young people confined there even prior to the S.H. litigation. In doing so, the JJC not only ensured some transparency by ODYS but also brought together other organizations and concerned citizens to participate in these visits, attend informational meetings and advocate on behalf of young people in the juvenile justice system. Once the Settlement Agreement was adopted, the JJC continued to bring attention to the progress of the implementation during its visits and meetings with ODYS and the Correctional Institutional Inspection Committee, demonstrating to the administration that the public remained concerned about these youth. Since its formation, the JJC has also met with legislators and other stakeholders to promote juvenile justice reform and share national best practice models.

Related to the *Justice Cut Short* report was the launch of the Ohio office of the CLC and the strategic collaboration among advocates to broaden and strengthen a coalition of individuals and agencies committed to effective juvenile justice reform. In 2005, the JJC, Voices for Ohio's Children, the CLC and other advocates hosted a statewide, convening event entitled "Rethinking Juvenile Justice" from which the "Juvenile Justice Initiative" (which later became the Ohio Juvenile Justice Alliance) was established. These organizational beginnings eventually led to the identification of targeted statutory reform priorities that informed the drafting of earlier juvenile justice reform legislation in HB 235,<sup>6</sup> portions of which were incorporated into HB 86. Extensive work on the content of HB 235 helped refine areas where juvenile sentencing could be scaled back to more appropriate levels with increased judicial discretion. HB 235 was sponsored by Representative Tracy Maxwell Heard and introduced in the Ohio House of Representatives in June 2009. While Voices for Ohio's Children through the Ohio Juvenile Justice Alliance helped champion Representative Heard as a sponsor of the legislation, the bill did not garner solid political support beyond its sponsor and died in committee.

The legwork that went into developing and promoting HB 235 served HB 86 well as it allowed the advocacy community to build and strengthen its alliances, to educate policymakers (including state agency administrators and legislators) and the public about the need for and value of reform based on best practices, and to refine arguments to counter detractors of juvenile justice reform. While HB 235 was not successful, the grassroots organizing as part of that effort ensured that there was a group of highly committed, knowledgeable and engaged advocates eager to pursue future reform efforts. HB 86 and the budget became the vehicle for those efforts.

## GROWING AWARENESS OF RESEARCH ON ADOLESCENT DEVELOPMENT AND HOW TEENAGERS DIFFER FROM ADULTS

In the years leading up to this reform effort, adolescent development and neuroscience research in particular became more significant in legal discourse in U.S. Supreme Court decisions as well as in the popular media. Similar in some ways to how the growing evidence of critical brain development in the first three years of life led to a specific set of informed public policies (i.e., investments in early care and education, home visiting programs, universal pre-kindergarten, etc.), technological advances in brain imaging and findings concerning the evolving nature of the teenage



brain, specifically in the pre-frontal cortex and critical executive functioning capacities, contributed to the promotion of developmentally-appropriate policy approaches. Many organizations, including conservative ones such as Right on Crime, and states such as Texas and Florida, adopted these methods and relied on adolescent development research to inform policy positions and reforms.<sup>7</sup> A series of landmark U.S. Supreme Court cases concerning juveniles discussed neurological and social science research in its decisions, beginning in 2005 with *Roper v. Simmons* which abolished the death penalty for youth under 18 years of age. In 2010, the Court ruled in *Graham v. Florida* that sentencing a juvenile to life without parole for a crime other than homicide was “cruel and unusual” and thus unconstitutional. The neuroscience research, discussed in amicus briefs<sup>8</sup> filed by the American Medical Association, the American Academy of Child and Adolescent Psychiatry and the American Psychological Association, among others, appeared to influence the majority of justices, who noted that “developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds.”<sup>9</sup> These decisions, based in part on research that had begun years earlier, as well as the growing media and public attention to science concerning the teen brain and development, played an important part of the general landscape in Ohio and lent support for some of the policy reforms eventually adopted in HB 86.

#### CAPITALIZING ON GROWING CONSENSUS FOR ADULT CRIMINAL JUSTICE REFORM

Several recent reports including a 2010 Council of State Governments (CSG) report on criminal justice reinvestments and a 2010 Ohio Chamber of Commerce Report on “Redesigning Ohio” highlighted the inefficiencies and disparities in the adult criminal justice system and opportunities for fiscal realignment strategies and policy changes (Osborne and Browning, 2010; CSG Justice Center, 2010). A large group of stakeholders from both sides of the political aisle, committed to adult criminal justice reforms, had mobilized under the leadership of two legislators to draft omnibus legislation (HB 235 Ohio, 2012). While this adult criminal justice bill did not get traction under the former administration, it had successfully used that time to mobilize stakeholders, craft and revise legislative language and essentially tee up the bill for serious consideration in the next legislative cycle. In addition, Governor Kasich’s appointment of a close ally and strong leader as the Director of the Department of Rehabilitation and Corrections (DRC) provided the confidence the Administration and the legislative leadership required for major legislative reform. Indeed, DRC Director Gary Mohr was a vocal proponent of the adult correctional reforms and testified at several hearings to lend his support. Director Mohr’s confidence and leadership was especially critical as the ODYS director was appointed after the legislative session began and, while not opposed, was less engaged in the juvenile reform efforts. Put another way, both elements

#### THE FALLING NUMBER OF JUVENILE COMMITMENTS IN OHIO LARGELY MIRRORS THE DECLINE IN VIOLENT JUVENILE CRIME

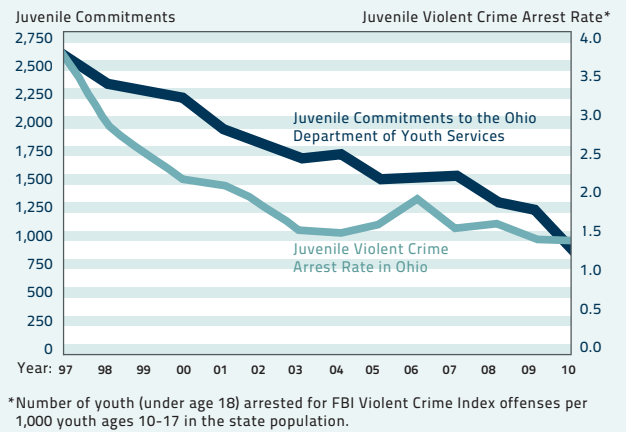


Figure citation: Butts and Evans, 2011

were necessary to pass substantive legislation that defied conventional conservative orthodoxy in a Republican-controlled legislature; one set the policy stage while the other set the political stage.

#### EARLY ENGAGEMENT OF KEY STAKEHOLDERS

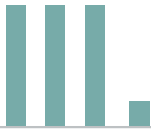
The early engagement of key stakeholders was integral to the leveraging of these elements and was foundational to the core campaign team’s strategy. The Supreme Court of Ohio served as the initial convener of juvenile judges and other interested stakeholders, including practitioners, attorneys, researchers and advocates. Notably, one of the Supreme Court Justices, Justice Stratton, in addition to leading the work of the juvenile competency workgroup, had been an active participant in the MacArthur’s Foundation’s earlier Models for Change (MfC) initiative in Ohio.<sup>10</sup> As part of MfC, Ohio and eight other states were awarded an Action Network grant to advance juvenile justice reform. Ohio aligned with the Mental Health Action Network to develop a school-based responder program (piloted in Summit and Jackson counties) to divert youth from justice system involvement, as well as to establish a work force development project. The work force project created a “mental health and juvenile justice” training curriculum for institution and detention staff (which is now available statewide through a collaboration between ODYS and ODMH).

While the MacArthur Foundation also supported the HB 86 work, this legislative campaign was distinct from MfC in that the campaign was explicitly intended to achieve substantive legislative reform consistent with best practices and principles of adolescent development. Thus, the stakeholders initially invited around the table were invested in effective reform; parties who were not supportive of promoting juvenile justice reforms consistent with these principles were not part of the legislative reform campaign.



**JUVENILE JUSTICE  
AS A COMPELLING  
SOCIAL PROBLEM:  
THE ROLE OF POLICY  
RESEARCH IN MAKING  
THE CASE FOR REFORM**





Public policy change requires collective agreement on the nature of the social problem requiring action. Chambers and Wedel (2005) describe social problems as “concerns about the quality of life for large groups of people where the concern is held as a consensus population-wide, and/or the concern is voiced by the socially powerful or economically privileged.” In the realm of child policy, the “quality of life” focus is on some aspect of child development and well-being for a certain portion of the child population. These social problems can be either narrowly tailored or more broadly encompassing. For instance, juvenile justice as a social problem could be defined from a variety of perspectives: a juvenile crime issue, a poor education issue, an economic issue, a community resource issue, a family stability issue, a public safety issue, a youth development issue, a systems failure issue, a rehabilitation issue, an ineffective punishment issue, a parenting issue, a violation of constitutional rights issue, a detention and confinement issue and so on. Determining the parameters of the juvenile justice social problem requires evidence and insight, beginning with an awareness of the basic principles of child development and well-being in the context of juvenile justice policy and in this case coupled with an understanding of Ohio’s unique challenges and resources.

#### **PRINCIPLES OF CHILD DEVELOPMENT AND WELL-BEING AND JUVENILE JUSTICE POLICY**

The intersection between the developmental life stage of adolescence and juvenile justice policy is a foundational aspect of a juvenile justice social problem. Developmental psychology shows how adolescents differ from adults in fundamental ways in their emotional and social maturity (Spear, 2009; Steinberg and Scott, 2003), ability to reason and understand information, social cues and social/interpersonal situations (Grisso, et al., 2003; Kambam and Thompson, 2009; Steinberg et al., 2009), identity development (Caffman and Steinberg, 2000; Steinberg and Scott, 2003), in the nature of their responses to authority and peer influences (Grisso et al., 2003; Steinberg and Monahan, 2007), and in their decision-making competence (Halpern-Felsher and Caffman, 2001; Steinberg and Scott, 2003).

Moreover, as noted above, advances in neuroscience and brain imaging explain more about cognitive and social-emotional differences in brain development, such as the continuing developmental activity in the prefrontal cortex, which controls executive functioning, impulse control and higher-order thinking (Giedd, 2004; Giedd et al., 1999; Gogtay et al., 2004; Kambam and Thompson, 2009). Recent studies, for example, point to the dual combination of increased valuing of sensation-seeking and cognitive immaturity that occurs in the adolescent brain and helps to better understand risk-taking behavior in teenagers. The dual systems model hypothesizes that adolescent risk-taking is stimulated by a developmental gap between the rapid increase in dopaminergic activity at the onset of puberty and the more gradual maturation of the cognitive system. The influx of dopamine leads to more reward-seeking behavior (e.g., risk-taking) before the parts of the brain controlling impulse control, self-regulation, and other aspects of executive functioning are mature (Steinberg et al., 2009). Empirical research shows increases in sensation-seeking through middle adolescence and more gradual subsequent declines through early adulthood and more generally, that adolescents are less likely to consider risks and long-term consequences in decision-making (Grisso et al., 2003; Halpern-Felsher and Caffman, 2001; Steinberg et al., 2008; Steinberg et al., 2009). Generally, adolescents place less emphasis on risk in relation to reward (Steinberg and Scott, 2003). This risk-benefit analysis research has important implications for understanding and intervening effectively with teenagers engaged in risk-taking and delinquent behavior and as a whole body of work, was part of the larger context for promoting specific juvenile justice reforms.

The ecological model of child development is another vital aspect of the developmental lens in the context of child policy. Urie Bronfenbrenner’s groundbreaking concept of the ecology of human development illustrates how children are nested in families, neighborhoods, communities and societal political and social systems and how these environments

# THE ECOLOGICAL MODEL OF CHILD DEVELOPMENT IS ANOTHER VITAL ASPECT OF THE DEVELOPMENTAL LENS IN THE CONTEXT OF CHILD POLICY. CHILDREN ARE NESTED IN FAMILIES, NEIGHBORHOODS, COMMUNITIES AND SOCIETAL POLITICAL AND SOCIAL SYSTEMS WHICH INTERACT WITH THE GROWING CHILD THROUGHOUT THE LIFE COURSE, AND THUS INFLUENCE A CHILD'S DEVELOPMENT.

interact with the growing child throughout the life course, and thus influence a child's development (Henggeler and Schoenwald, 2011). Understanding that children are uniquely affected by their environment and develop in different ways and at different rates has significant implications for treatment and programming interventions.

## THE "SOCIAL PROBLEM" AS A STRATEGIC REPRESENTATION FOR ACTION

The social problem — and eventually the policy response — ideally should be informed by relevant data. Research and data help to illuminate the scope of a social problem, as well as identify potential leverages for action. This latter aspect of policy research is paramount. Ann Majchrzak describes "policy research" as "research on, or analysis of, a fundamental social problem in order to provide policymakers with pragmatic, action-oriented recommendations for alleviating the problem" (1984).

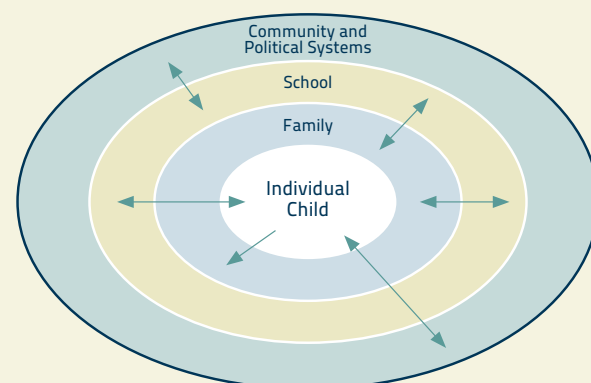
Identifying what is "relevant" in the context of a policy change effort can be a daunting task. It is important for both accuracy and credibility to present as complete a picture as possible. In this case, relevant findings were presented using a variety of juvenile justice-related data on budget requests and projections, juvenile arrest and other crime statistics, juvenile correctional population, demographics, recidivism, community program service and evaluation and cost-benefit analyses. A literature review of social science articles on adolescent development and the juvenile justice population was conducted, as well as on best practices and developmentally-appropriate strategies for meeting the needs of this population. Other sources included legal briefings, administrative and statutory research, state budget and program documents, government publications (i.e., U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention) and other reports by experts or interest groups (i.e., CSG, Ohio Chamber of Commerce, CLC., National Council of Juvenile and Family Court Judges, CIP, etc.) and public opinion surveys.

Conducting secondary research to identify relevant data is only part of the process. Assembling, analyzing and translating the data is equally important to the task of social problem definition. In *Policy Paradox and Political Reason*, Deborah Stone refers to the importance of social problem definition as a matter of "strategic representation of a situation" (1988). In other words, translating research and data to make a persuasive case for policy reform.

## BUILDING THE FACTUAL FOUNDATION AND RATIONALE FOR REFORM IN OHIO

In an effort to present the facts that would be the most compelling to a policymaker, key data points from the policy research were gleaned and presented in a concise summary of facts that could provide a foundation for a policy change agenda in a briefing entitled *Rightsizing Juvenile Justice in Ohio: FY 2012-2013 Budget — Why Ohio Needs to 'Get Smart' on Juvenile Justice Reform* (Rightsizing JJ) (Schubert Center for Child Studies, 2011). In light of the state budget crisis, this summary was framed as a budget reform opportunity in part by identifying some of the biggest cost drivers in the system and the fiscal impacts of certain policies and practices. Rightsizing JJ also highlighted key findings to demonstrate what works with this population and where effective alternatives to the status quo existed to support better system and individual child well-being outcomes.

Bronfenbrenner's Ecological Theory of Child Development





Rightsizing JJ led with the following statement and laid out ten key findings tied to fiscal implications to provide the rationale for policy reform (See Appendix A):

*“Taxpayers currently bear the burden of a series of practices and policies that could benefit from strategic, substantive reforms with both immediate and long-term cost-benefits. Consider the following costs...”*

The facts used as building blocks in the Rightsizing JJ reform agenda focused on several content areas including:

- Cost data (annual expense of confinement for a juvenile in a state facility, cost-benefit data on alternative treatment programs, budgets comparing correctional and community programs, return on investment data on specific evidence-based programs);
- Child development and brain research on the continuing evolution of the teen brain and other developmental tasks of adolescence;
- The use of incentivizing models to reduce state admissions;
- Juvenile crime data;
- Recidivism data demonstrating poor outcomes of confinement;
- Assessment tools (to identify appropriate treatment interventions);
- Characteristics of youth in the juvenile justice system;
- Ohio laws concerning mandatory sentencing and transfer in the juvenile context;
- Violence exposure data among youth placed in adult facilities.

The juvenile justice social problem in Ohio, not unlike many social problems that capture political attention, was essentially framed as an economic one comparing the high social and fiscal costs of Ohio’s ineffective juvenile justice system to the better return on investing in effective programs. More particularly, the problem was defined as the challenge of holding young people in the juvenile justice system accountable in developmentally-appropriate and cost-effective ways so that they can be more successful, positively contributing community members in the future.

**THE JUVENILE JUSTICE SOCIAL PROBLEM IN OHIO WAS DEFINED BY THE CHALLENGE OF HOLDING YOUNG PEOPLE IN THE JUVENILE JUSTICE SYSTEM ACCOUNTABLE IN DEVELOPMENTALLY-APPROPRIATE AND COST-EFFECTIVE WAYS SO THAT THEY CAN BE MORE SUCCESSFUL, POSITIVELY CONTRIBUTING COMMUNITY MEMBERS IN THE FUTURE.**



**AGENDA-SETTING  
AND FRAMING  
SOLUTIONS TO  
“INVEST IN  
WHAT WORKS”:  
USING RESEARCH  
TO INFORM A POLICY  
REFORM PLAN**

# IV.

Identifying and describing the nature of Ohio's juvenile justice system as a social problem in and of itself is not enough. Policy change requires solutions grounded in evidence to support the rationale for specific policy changes. Solutions should be ambitious but achievable. In other words, they need to be politically feasible.

Political scientist John Kingdon talks about the role of the policy "entrepreneur" in creating "frames" as categories for how one looks at the social problem (2011). In this instance, Ohio's budget crisis required a fiscal cost-benefit focus; however, as noted previously, there were several important related frames including child well-being, community safety, accountability and developmentally-appropriate EBPs. Describing the social problem in this multifarious way (rather than exclusively a problem of youth crime and recidivism, costly juvenile court and correctional systems or lack of sufficient funding, etc.) enabled the policy working group to design a set of policy solutions that integrated a broad view of "accountability" — fiscal, system, youth and public safety — with a similarly broad view of "success" as part of the policy change agenda. The proposed policy reforms in the Rightsizing JJ agenda were also intentionally aligned with guiding principles based on MfC core principles that incorporate an understanding of child development and adolescent research.<sup>11</sup> The policy agenda relied heavily on the research and data presented in the social problem, in the context of the state's current fiscal and political climate, thus providing a strong rationale for system reform.

It is important to note what is meant by "research" in this policy reform context, as well as the role of translation and interpretation in how research is used in the political arena (which will be discussed in more detail in the next section). Fundamentally, the core team in this effort relied on a comprehensive notion of research that included empirical findings, quantitative data, case studies, rules and regulations, professional feedback and other qualitative

experiences, including family, practitioner and constituent input. In a recent article, Vivian Tseng provides a thoughtful discussion of what she describes as a necessarily "broad conceptualization of research" in policy and the valuable role of interpretation (2012).

Tseng further highlights Carol Weiss' notions of "conceptual use" and "imposed use", both of which illustrate to some degree how research was used in this case. As Tseng notes, "conceptual use" of research speaks to the "enlightenment function" where research "influences how policymakers and practitioners think about issues, problems, or potential solutions" (2012). This conceptual notion captures how data was used to support the framing of the juvenile justice social problem in the Rightsizing JJ briefing to both educate policymakers and key stakeholders and to provide a basis for specific policy solutions. Weiss and colleagues more recent identification of "imposed use" refers to government initiatives explicitly tying funding with the adoption of evidence-based programs (Tseng, 2012). This imposed use can also be seen in the policy agenda and subsequent adoption of statutory language that specifically either required certain reinvestments in evidence-based programs or encouraged the use of "research-supported, outcome-based" programs.<sup>12</sup> This is further discussed in the policy agenda and subsequent reforms.

Aletha Huston, a developmental psychologist who has explored the interplay between scientific research on families and children and public policies targeting them, notes that policy research needs to connect findings as directly as possible with actions that policymakers can take (2005). Rightsizing JJ provided precisely this kind of connect-the-dots-type of approach in a concise and accessible format; it served as both an informal briefing document for policymakers and a succinct educational piece for other potential stakeholders.

POLICY CHANGE REQUIRES SOLUTIONS GROUNDED IN EVIDENCE TO SUPPORT THE RATIONALE FOR SPECIFIC POLICY CHANGES. SOLUTIONS SHOULD BE AMBITIOUS BUT ACHIEVABLE. THE TEAM RELIED ON A NECESSARILY “BROAD CONCEPTUALIZATION OF RESEARCH” TO BOTH EDUCATE POLICYMAKERS AND KEY STAKEHOLDERS AND TO PROVIDE A BASIS FOR SPECIFIC POLICY SOLUTIONS.



The Rightsizing JJ policy solution here was framed as an “Invest in What Works” message with a three-part strategy:

1. **Realign** public dollars from costly, ineffective ODYS institutions to cost-effective community-based alternatives.
2. **Reinvest** in proven-effective, research-supported and evidence-based interventions.
3. **Revise** certain key sentencing schemes to restore some of the fundamental qualities of the juvenile justice system based on principles of adolescent development and the discretionary role of juvenile court judges and to deter deeper system involvement.

In addition to the data and findings described in building the factual foundation and rationale for reform, the Rightsizing JJ briefing outlined an action agenda that identified:

- **specific legislative statutory changes;**
- **budget language;**
- **practice guidelines;**
- **process recommendations within this overall framework.**



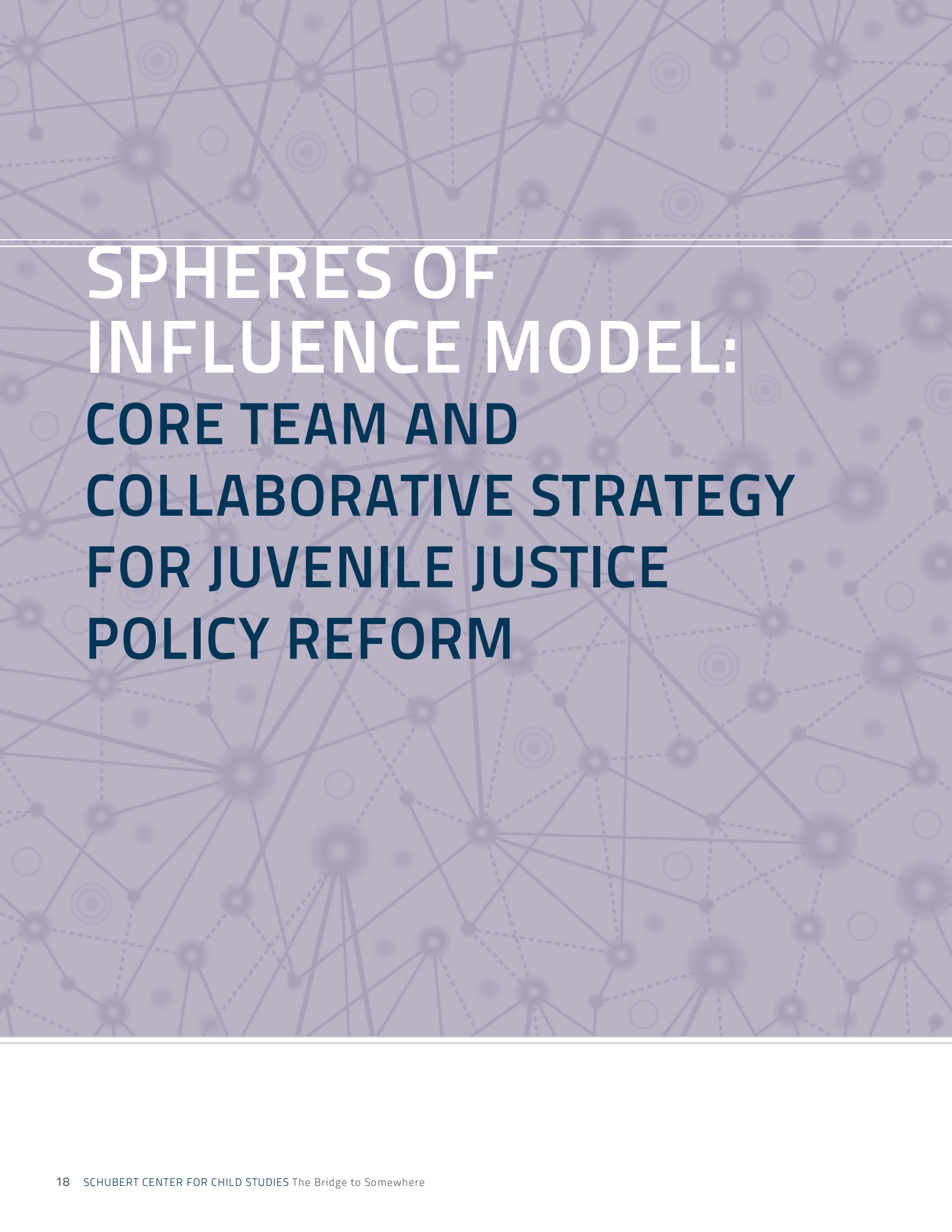
The agenda was ambitious in both its reach and depth, including a range of reforms from investments in evidence-based options to changes in mandatory sentencing schemes for juveniles, to the creation of a time-limited interagency state task force for addressing seriously mentally ill youth in the system, to a juvenile competency code. While the reforms were not adopted in full, a significant and meaningful set of policy reforms were ultimately included in the final bill (see Section VI).

The research-based principles described above were consistently relied upon to craft effective policy solutions. For example, in drafting the legislation language for the creation of an IMHJJTF, the task force membership included by statute, “child and adolescent development experts” and other critical stakeholders such as representatives from all three branches of government and family members. Moreover, IMHJJ task force members were required to review the literature and make recommendations “consistent with evidence-based practices.”<sup>13</sup> As noted earlier, the policy agenda specifically called for a percentage of savings from juvenile corrections (either through the further elimination of correctional facilities or through other cost savings realized through downsizing of population and personnel) to be reinvested in evidence-based programs, specifically naming at least two efforts currently supported by ODYS (BHJJ and Targeted RECLAIM). The policy agenda further sought to ensure that all community level interventions funded through the ODYS RECLAIM state-local cost-sharing formula be research-supported, outcome-based programs.

Evaluation research on the effectiveness of certain community interventions and the value of uniform risk assessments, including University of Cincinnati RECLAIM and CWRU Begun Center BHJJ evaluations, provided the foundation for policies to strengthen and build on these diversion and prevention efforts. Program-specific cost-benefit data provided further evidence for community-based policy solutions. The reforms sought through the removal of mandatory sentencing schemes for juveniles, such as non-discretionary transfer laws and limits on early release, also reflected the importance of developmentally-appropriate interventions as well as the significant cost implications of automatic sentencing practices. The existence of a separate juvenile competency code in and of itself puts into policy the recognition that children and adolescents are developmentally different and less mature than adults and as such require a more individualized approach.

This comprehensive policy agenda for juvenile justice reform was grounded in research to ensure its likelihood of success and credibility, and ultimately better outcomes for the young people involved. Presenting the policy solution as a tri-fold set of strategies — realignment, reinvestment and revision of law to reflect core values of the juvenile justice system and principles of adolescent development — provided a useful organizing framework for the reform agenda that also help to advance its political viability.

**POLICY RESEARCH NEEDS TO CONNECT FINDINGS AS DIRECTLY AS POSSIBLE WITH ACTIONS THAT POLICYMAKERS CAN TAKE.**

A background pattern of interconnected nodes and lines, resembling a network or data visualization, in shades of purple and blue.

# **SPHERES OF INFLUENCE MODEL: CORE TEAM AND COLLABORATIVE STRATEGY FOR JUVENILE JUSTICE POLICY REFORM**





Passage of HB 86 was the result of a strategic, collaborative model maximizing expertise among various individuals and agencies. Practitioners, administrators, evaluators, advocates, researchers and funders, among others, engaged in activities that impact the juvenile justice field, which generally fell within one of the following: (1) litigation and monitoring (including systemic and individual legal representation); (2) EBP identification and development; (3) capacity-building of local providers and juvenile courts; (4) advocacy and policy reform efforts (including both constituent and professional lobbying, public awareness and education, and media communications); and (5) policy research and bridge-building work among stakeholders, agencies and disciplines.

Each of these actions offered unique contributions that together created a collective sphere of influence that led to the overall success of the reform effort in HB 86. While one cannot know with certainty given the limits of a case study method, the absence of any one of the key circles of influence could conceivably have skewed the balance and overall credibility of the effort, thus undermining the effectiveness of the reform. This section describes the contributions of each of the specific juvenile justice-related activities, and the role of the core campaign team in capitalizing on these efforts, as part of a collaborative “spheres of influence” model for policy change.

#### **CAMPAIGN CORE TEAM**

The juvenile justice reform core campaign team, under the management of RStrategy and with support from M&R Strategic Services and private funders (MacArthur and Gund participated in more of an advisory role on the core team), included both professional lobbyists and several of the experts engaged in these various influencing activities. Lobbyists brought considerable political expertise and an eye toward the political feasibility of the reform agenda, as well as important contacts and access to the political leadership in Ohio. The content expertise came from the various individuals engaged in the “spheres of influence” activities and coordinated by the Schubert Center, as described below. RStrategy managed the overall team and campaign resources, including communications and media.

While connected to a broader coalition of invested juvenile justice stakeholders, this core campaign team was not institutionalized in any formal structure. Rather, it was ad hoc by design and worked with a disciplined focus on developing and guiding the comprehensive policy reform strategy that eventually led to HB 86 and companion legislation in the state budget. Kingdon (2011) describes those individuals or small groups that seek to promote significant policy change as “policy entrepreneurs.” He notes that policy entrepreneurs “could be in or out of government, in elected or appointed positions, in interest groups or research organizations. But their defining characteristic, much as in the case of a business entrepreneur, is their willingness to invest their resources — time, energy, reputation, and sometimes money — in the hope of a future return.”<sup>14</sup> The core campaign team was comprised in part of these kinds of policy entrepreneurs and was singularly dedicated to moving a clear, concise juvenile justice reform agenda forward in the immediate future.

**CIRCLES OF INFLUENCE AND CONTRIBUTIONS TO POLICY REFORM**

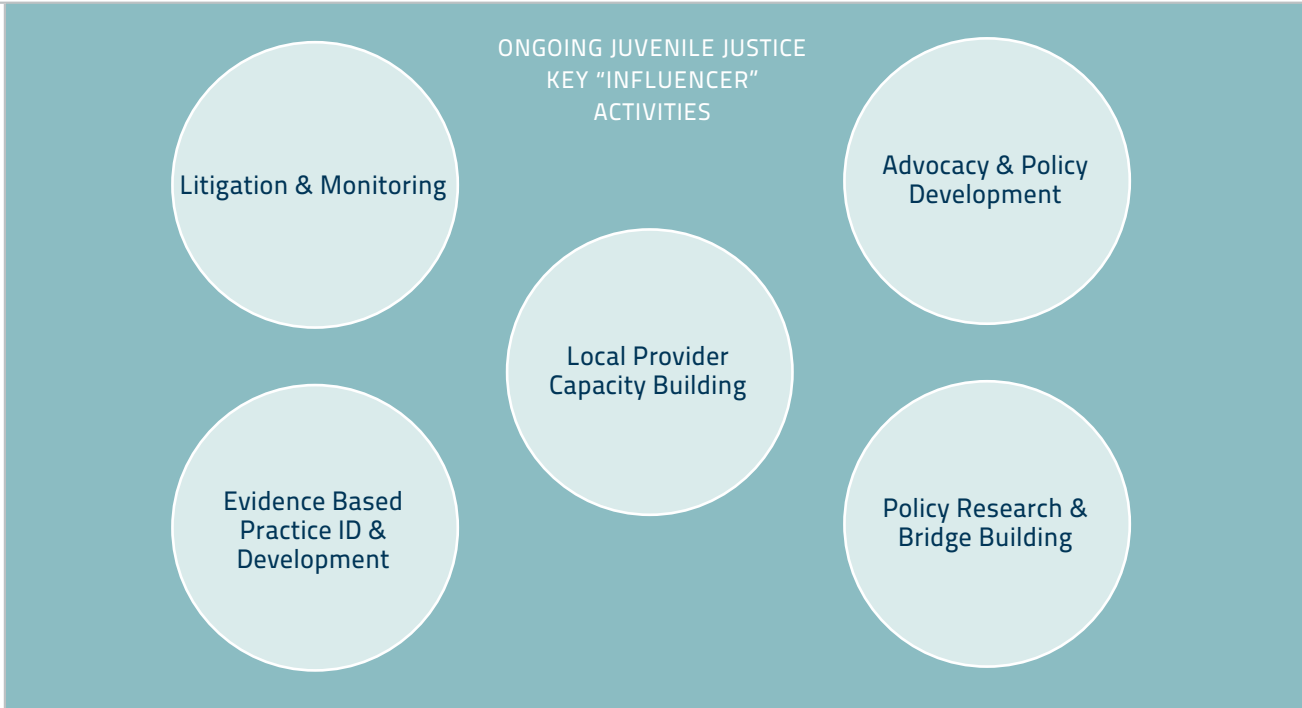
The illustration below reflects the ongoing activities in the juvenile justice field as circles of influence that operate through independent but related efforts. Kingdon refers to this type of ongoing activity in the context of policy development as the “policy primeval soup” that is constantly brewing and ready to be capitalized through some event or strategic action to effect policy change (in this case, the catalyzing event was in part Ohio’s state budget crisis as noted in Section II) (2011). At times, some of these efforts involved partnership among juvenile justice stakeholders to promote effective system change. For instance, EBP development and the capacity-building efforts of local providers and juvenile courts were linked through the ODYS Targeted RECLAIM and BHJJ initiatives. While these activities overlapped to some degree through existing partnerships, the policy change in HB 86 occurred as a result of the deliberate, coordinated alignment of these strategies through the guidance of the core campaign team. Private funders played a key role in providing the resources through grant relationships with some of the organizations working in each of the circles as well as resources to collectively harness these various efforts for effective policy reform through the core campaign team.

One of the core team members described the synergy between the spheres of influence in this way:

*Without the S.H. litigation and ‘hammer’ of the Settlement Agreement, ODYS, and by extension the Kasich Administration, would likely not have felt the same compulsion to come to and stay at the table. Without the policy expertise and professional advocacy, we would not have had an agenda that struck just the right chord of ambition and pragmatism or the muscle to get it through the ever-thorny legislative process. Without the policy research and bridge-building, we would not have had the science to back up our policy and legislative claims or the collaboration needed to keep sensitive legislation on track. Without the evidence-based practice identification and development, we would not have had examples that helped skittish lawmakers be comfortable with greater judicial discretion and less use of secure detention.*

**Juvenile Conditions Litigation and Monitoring Settlement Agreement Activity**

CLC attorneys took the lead in the investigation of conditions in ODYS facilities, together with private counsel and with information shared by clients of the OPD Juvenile Division. The investigation ultimately led to three class action lawsuits involving facility conditions (*S.H. v. Stickrath, now S.H. v. Reed*), the right of incarcerated youth to legal counsel to access the court on conditions (*J.P. v. Taft*),<sup>15</sup> and reforming the release function for incarcerated youth (*J.J. v. ODYS*).<sup>16</sup> Issues within the latter two cases eventually came to be monitored through the S.H. Settlement Agreement (Settlement Agreement),



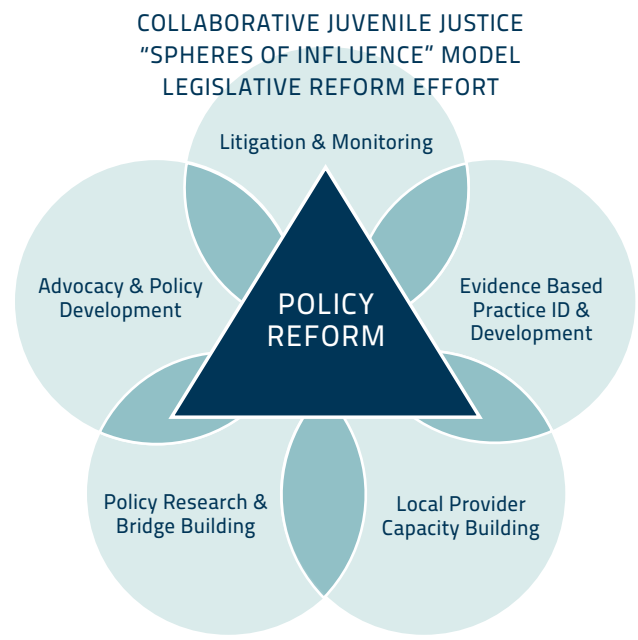
which addresses substantial short-, intermediate- and long-term remedies to unconstitutional conditions of confinement in ODYS facilities. Inherent in the Settlement Agreement are the guiding principles of an effective juvenile justice system of care that embrace a developmentally informed approach to treatment and rehabilitation of young people. Filed in May of 2008, the Settlement Agreement also created a system of care that was based upon risk and need levels and utilized community based alternatives in lieu of institutional placements in DYS secure facilities.

Apart from the importance of the litigation and the relief it secured in and of itself, discovery through the course of litigation and monitoring helped shape the policy reforms sought in HB 86. For instance, several statutory provisions within the juvenile code were identified as inconsistent with the guiding principles in *S.H. v. Stickrath*, and which hampered full implementation in *J.J. v. Taft* regarding the function of the Release Authority. More specifically, the S.H. litigation created the impetus for moving youth back into local communities under a continuum of care based upon risk and need levels, and sought input from a number of key stakeholders to substantially change the reliance upon institutional placement. The “Joint Plan for Reforming the Release Authority” adopted by ODYS recognized the need to maintain youth in institutional care only for specific purposes once they served their minimum sentence, related primarily to significant public safety risks and ongoing treatment needs that could not safely be provided within the community. Parties understood, however, that some statutory language frustrated the intent of both the

Settlement Agreement and the Joint Plan, including the loss of jurisdiction after the minimum sentence, and the requirement of longer mandatory minimum sentences for certain offenses regardless of the risk and need levels of the youth. Recognizing that longer stays do not equate with better outcomes for many youth, and in fact may worsen their condition, the parties agreed to examine legislative changes for “ongoing consideration.”<sup>17</sup> This background therefore directly informed some of the specific content in the policy agenda. While this work was clearly significant to defining some content included in the policy reform effort, there had been little legislative movement to actually achieve these legislative changes. Connecting with the other related “spheres of influence” efforts eventually enabled policy change to take hold through the juvenile justice reform campaign.

#### Evidence-Based Practice (EBP) Identification and Development Activity

EBPs have been promoted nationally and locally as data-informed efforts that demonstrate through research and evaluation improvements in outcomes for a specific population (Greenwood and Welsh, 2012). In Ohio, the BHJJ, the Ohio Youth Assessment System (OYAS), and the requirement of Targeted RECLAIM counties to use evidence based alternatives to DYS secure custody are all examples of using research to support practices which can reduce recidivism and keep youth from secure institutional placement where possible. Part of the policy content that was eventually incorporated into HB 86 and the budget bill sought to further expand and identify sustainable funding for EBPs consistent with efforts underway.





Peter Greenwood and Brandon Welsh (2012) define EBPs as those involving the use of scientific principles to assess the available evidence on program effectiveness and to develop principles for best practice in any particular field. One of the most recognized sources for programs using EBPs in the juvenile justice field is the Blueprints for Violence Prevention program at the University of Colorado, which initially identified 10 programs that met its standards for being considered a proven model program (Elliott, 1997).<sup>18</sup> Economists from the Washington State Institute for Public Policy also began to use cost data and forecasting tools to estimate the likely costs and benefits that would accrue if these model programs were adopted in particular settings. These cost-benefit studies suggested that in most states, every dollar invested in one of the more effective programs would result in a \$7 to \$10 return in benefits to taxpayers, mostly in the form of reduced spending on prison construction and operations (Drake, Aos and Miller, 2009). Ohio has demonstrated similar cost-benefits of community-based alternatives to secure confinement of youth.<sup>19</sup>

Several EBPs are gradually gaining ground in Ohio due in part to the work of the CIP, which has been at the forefront of systems change and program development in the area of children's mental health, including multi-system youth, such as those the juvenile justice system. CIP identifies EBPs in the behavioral health and juvenile justice fields and provides technical assistance to public and private agencies throughout Ohio. Specifically, the CIP clinical team disseminates MST, an EBP included in the Blueprints for Violence Prevention program. While the majority of MST teams are not exclusive to the juvenile justice population, virtually all of them receive referrals from juvenile courts. CIP also focuses on youth with co-occurring substance abuse and mental health conditions, which is prevalent among youth involved in the juvenile

justice system. CIP has developed a treatment model, Integrated Co-occurring Treatment, largely targeted at youth with multi-system involvement. While these approaches have had limited impact in the overall numbers of youth in need, their successful implementation and positive outcomes promote further adoption of EBPs as alternatives to secure confinement.

As a statewide resource for information and dissemination regarding EBPs, CIP has engaged in high-level policy discussions regarding children's behavioral health and used this expertise to inform the development of appropriate policy language to encourage effective programming for youth in the juvenile justice system. In the context of HB 86, CIP brought attention to some of the evidence and rationale for investing in effective community-based alternatives for youth, including those with serious behavior and conduct disorders, through both private meetings and public testimony. CIP provided aggregate opinion data from local providers, public administrators and other stakeholders from its "Community Needs Survey," BHJJ outcome data from the Begun Center's evaluation, EBP program-specific data focused on the target population, including data specific to key legislator's districts, and fiscal data that demonstrated "cost effectiveness/avoidance" by using EBP alternatives to ODYS secure placement. CIP brought the knowledge from both the literature and from the practice world and used cost illustrations and data specific to legislative districts to articulate this information to legislators and policymakers in a way that was most relevant to their concerns. (See Appendix B for illustrations of MST and In-Home Based Treatment (IHBT) cost matrix and Appendix C for legislative testimony.)

### Capacity-Building of Local Providers and Juvenile Court Activity

Closely related, though not necessarily linked, are EBP development activities and community program building among providers and juvenile courts at the local level. With the recognition that any downsizing of the state institutional population requires adequate and appropriate alternative interventions to meet the needs of diverted youth, policy must support the sustainable growth of effective programs in local communities. Ohio's community program capacity-building has been achieved primarily, although not exclusively, through the ODYS RECLAIM county subsidy program. RECLAIM focuses primarily on low to moderate risk youth to reduce the unnecessary use of secure placement in an ODYS facility. In 2010, ODYS reported approximately 130,000 admissions to programs with the RECLAIM subsidy, ranging from probation and electronic surveillance to residential treatment, drug testing and mental health counseling.<sup>20</sup>

RECLAIM has been partially responsible for the successful diversion a large portion of youth from deeper system involvement by using local alternatives to avoid placement in state secure juvenile correctional facilities. However, because RECLAIM does not require that its programs use EBPs, these alternatives have not necessarily been tied to achieving specific child well-being outcomes, such as reduced risk-taking or improved education related outcomes, nor has there been any external validation of program quality. Similarly, while Targeted RECLAIM has reported significant progress in diverting even higher numbers of youth who would be otherwise placed in state secure facilities, the outcomes focus solely on targeted reductions in secure placements without specific regard to individual level impacts.

The BHJJ program, in contrast, includes a number of additional child specific outcomes tied to well-being, such as improvements in the trauma symptom checklist items, increased school attendance, reduced substance abuse, increased family functioning and decreased contact with law enforcement (Kretschmar, Flannery and Butcher, 2012). Despite the fact that the BHJJ data includes significant indicators of well-being in its data collection and evaluation, the program is much smaller than the more general RECLAIM and Targeted RECLAIM activities. BHJJ was initiated in 2005 with six counties and continues to be implemented in six counties. CIP also provided technical assistance to providers seeking to adopt certain EBPs, as discussed above. These on-the-ground practices provided powerful real-life examples of what is possible to policymakers considering reforms.

Another area of local capacity-building involved the twelve juvenile community correctional facilities (CCFs) located around the state, as they are regionally based and less costly than state secure placement. ODYS initiated the implementation of Cognitive Behavior Therapy (CBT) within the CCFs in 2010 as a strategy for improving quality of care and outcomes for youth placed in CCFs. The University of Cincinnati provided technical assistance for implementing and evaluating CBT within the CCFs, in addition to evaluating the Targeted RECLAIM and RECLAIM programs. Again, these efforts served as important examples of alternatives to the state correctional facilities for policymakers.

Policy efforts concerning local program capacity-building involve several elements: creating and operating cost-effective community programs, integrating EBPs within community programs to ensure quality outcomes, using research and evaluation to measure the "success" of these programs, and identifying potential, sustainable funding streams to develop the local capacity to serve children and young people. At its core, however, forging relationships among critical partners — juvenile court judges, probation and court administrators, children mental health providers and program administrators, evaluators and technical assistance providers, and ODYS management — is vital to building an effective state-local system of care. Strong partnerships are built over time, through a series of dialogues, information sharing, training and other collaborative activities. This work was ongoing as part of ODYS RECLAIM efforts, Settlement Agreement monitoring and its technical assistance teams.<sup>21</sup> With a solid foundation in place, policy reforms could focus on expanding these efforts. In addition to the obvious practice implications, each of these features of capacity-building presented unique policy challenges and opportunities, several of which were identified in developing the policy content for reform in HB 86.

### Advocacy and Policy Reform Activity

The advocacy work of several organizations in Ohio, including the OPD, CLC, JJC and Voices for Ohio's Children, was constant and essential to the success of achieving the policy reforms in HB 86 and the state budget. The advocacy and policy reform work during the course of the HB 86 campaign occurred in several ways: shaping the policy content, identifying supporting resources, building alliances, raising public awareness, engaging the media and educating — and in some instances directly lobbying — policymakers.

Shaping the policy content was largely achieved by adapting prior policy work from earlier legislative efforts (notably HB 235) and working with a group of content experts coordinated by the Schubert Center to craft additional items for a rigorous policy agenda. Several of the legal and advocacy groups were part of sitting committees and engaged in earlier reviews of proposed reforms, such as the juvenile competency proposal, some of which were eventually incorporated into HB 86. Advocates working directly with young people in the juvenile justice system, such as staff from the OPD Juvenile Division, took the lead in developing and proposing specific legislative language to accomplish the broader reform goals in the policy agenda. This expertise was important both for the initial drafting of the policy proposals and for ongoing discussions, revisions and compromises as the legislation worked its way through the political process.

Juvenile justice advocates collectively identified key stakeholders, built alliances, widely shared information to raise public awareness about the need for juvenile justice system reform and those most impacted by it, and met with policymakers and key influencers, to ensure a level of urgency that demanded action by state leaders. This also included ongoing outreach and education to relevant professional associations such as the National Council of Juvenile and Family Court Judges, the Ohio Juvenile Judges Association, the Ohio Judicial Conference, the Ohio Justice Alliance for Community Corrections (OJACC), the National Juvenile Justice Network and others. JJC's mutually supportive relationship with OJACC is an example of the importance of these alliances. OJACC's support was useful because of the opportunity for JJC to inform and influence its member organizations — judges, law enforcement, prosecutors, legal defense attorneys, state agencies, etc. — about the juvenile provisions in HB 86, particularly given that OJACC had made significant contributions to the adult corrections provisions of HB 86.

Part of the CLC's work included a survey of nearly 1,000 stakeholders across the state from a variety of disciplines to understand the challenges and concerns of those working in the juvenile justice field. This added to the knowledge base by examining ways to help prepare for change and built working relationships with the judicial community. It also helped to frame a broad communications strategy among these groups that could help share information about changes occurring in Ohio as well as in the field of juvenile justice generally. Using webinars, blog radio shows, and a variety of fact sheets and policy briefs, the CLC, and its partners such as the JJC or Children's Defense Fund, helped to make materials on these

issues available to key stakeholder groups. The JJC also provided a steady public voice in the media through letters to the editor, as well as an opinion editorial, supporting juvenile justice reform.

An important point of distinction among advocacy efforts, and a vital component in this reform effort, was the role of professional lobbyists. Unlike the juvenile justice advocates, these lobbyists were hired to be a part of the core campaign team and recruited specifically for their experience, relationships and access to the political leadership both at the executive and legislative levels. Their skills and political instincts, coupled with the expertise of the advocates and other policy content specialists, created a formidable knowledge base for promoting the policy agenda.

### Policy Research and Bridge-Building

Serving as the central coordinating entity with several of the critical "spheres of influence" partners, the Schubert Center led the development of a comprehensive juvenile justice reform policy agenda with an eye toward influencing the state budget and supported with relevant secondary research and data analysis to make the case for reform. The policy broker/bridge-building role was multi-fold, requiring a familiarity with the body of literature relevant to the juvenile justice population, knowledge of and access to local and national experts in the field, the capacity to collect, analyze, synthesize and translate data and research for various audiences, working relationships with key stakeholders to review and revise ideas in real-time, the ability to convey a collective vision for reform in a concise, actionable framework, and an appreciation for political feasibility given the challenging reality of taking policy ideas and moving them to actual policy. In this case, that understanding included an ability to juggle sometimes competing interests to seek compromise while striving to protect child well-being as a core policy value beyond pure notions of return on investment.



The Schubert Center's research and bridge-building function in the context of specific policy related efforts employ the following guiding values:

- 1. Research-informed actions:** incorporating the use of reliable data to inform policy-making;
- 2. Alignment with principles of child and adolescent development:** policies reflect Bronfenbrenner's ecological understanding of child development and consistent with professional practice and findings promoting child well-being;
- 3. Collaborative, bidirectional processes:** informed by an open dialogue involving varied interests and stakeholders, often interdisciplinary, and with opportunities for feedback, clarification and revision;
- 4. Relevance to the current political climate:** presenting action-oriented research in the context of the current social, fiscal and political environment, and addressing research and data questions particularly relevant to policymakers given other pressing priorities, (such as the state budget deficit or safety and treatment issues in their district).

The research-informed approach incorporated the identification, translation, framing and positive exploitation of relevant data and research findings to inform and strengthen the underlying rationale for a specific policy proposal (and related decision-making by policymakers). The policy proposals relied on a comprehensive notion of relevant research that included empirical findings, quantitative data, case studies, rules and regulations, professional feedback and other qualitative input. More specifically, relevant research included original data (i.e., administrative budgets, DYS population demographics, crime data, etc.); legal statutes in Ohio Revised Code; legislative analysis; cost-

benefit data; program outcomes data; studies from the social sciences regarding adolescent development and evaluation of treatment interventions; national reports on juvenile court and system practices; legal opinions and supporting documentation and public opinion research.

Key informants played an important role in providing and identifying potential data sources and involved an array of experts, including juvenile judges, Supreme Court of Ohio staff, ODYS personnel, child service providers, law enforcement and juvenile court staff, child and adolescent associations (i.e., American Psychological Association, American Academy of Child and Adolescent Psychiatry, Society for Research in Child Development), national juvenile justice professionals (i.e., Youth Law Center, Campaign for Youth Justice, etc.) and conservative think tanks and organizations (i.e., Right on Crime, Ohio Chamber of Commerce, Buckeye Institute, etc.). These latter groups, such as the Texas Public Policy Institute, were uniquely relevant given the conservative political landscape in Ohio and provided support for fiscally responsible strategies to reform criminal justice while not endangering communities (Right on Crime, 2012).

A working group of policy content experts was assembled by the Schubert Center to help develop, draft and revise proposed policy content that was eventually accepted by the RStrategy campaign team and promoted by the campaign's lobbyists. This policy group included individuals with expertise in juvenile conditions of confinement, juvenile court and legal proceedings, child welfare and behavioral health systems, EBPs and program development, government relations, drafting legislation and legislative and fiscal analysis, program administration, advocacy, policy research and funding strategies. The policy team members had developed a foundation of trust and good working relationships over the years that proved essential to the process throughout the effort. After the legislation was

WITH THE RECOGNITION THAT ANY DOWNSIZING OF THE STATE INSTITUTIONAL POPULATION REQUIRES ADEQUATE AND APPROPRIATE ALTERNATIVE INTERVENTIONS TO MEET THE NEEDS OF DIVERTED YOUTH, POLICY MUST SUPPORT THE SUSTAINABLE GROWTH OF EFFECTIVE PROGRAMS IN LOCAL COMMUNITIES.

“THE CORE TEAM APPROACH WAS INSTRUMENTAL TO THE SUCCESS OF THE LEGISLATION. IT WAS BY ITS NATURE SELECT AND FAIRLY NON-INCLUSIVE — CHARACTERISTICS THAT ARE TYPICALLY ANATHEMA TO MOST OF ITS MEMBERS BUT, IN THIS INSTANCE, SUCH SELECTIVITY ALLOWED THE TRUST AND NIMBLENESS NEEDED TO RESPOND TO THE PACE OF THE LEGISLATIVE PROCESS TO DEVELOP QUICKLY AND KEEP US IN THE GAME.”

introduced, members of the policy group continued to be engaged in data gathering and analysis, legislative language revision and review, public testimony and other education efforts on the proposed policy, and in an on-going advisory capacity to the lobbyists and campaign team through the final passage of HB 86 and the budget.

#### **REAL-WORLD POLICY CHANGE: CAMPAIGN TEAM AND SPHERES OF INFLUENCE IN COLLABORATIVE ACTION**

The policy research and bridging function ensured the real-time availability of expert policy analysis from a reliable source. In doing so, it connected the professional “campaign” team (which was largely new to juvenile justice issues) and long-time Ohio-based advocates and practitioners (both public and non-profit) to broker an ambitious yet pragmatic agenda that could be turned into concrete legislative proposals and embraced by a broad range of stakeholders.

The day-to-day challenges of managing various elements of the campaign, engaging critical influencers and political leaders, being responsive to new developments and negotiations and communicating to different partners and stakeholders while methodically moving a policy reform agenda forward can be all-consuming. The ability to rely on the core campaign team and its advisors for essential guidance, information and strategic intervention was crucial to the success of the policy reform effort. This included having certain policy experts join the lobbyists in meetings with legislators and executive leadership, present expert testimony at legislative hearings (see Appendix C), follow up on various legislative requests for data and other information and being available to speak to media about the policy proposals and the scope of the juvenile justice social problem in Ohio. It also included using this policy expertise to help draft survey questions for a statewide opinion poll of likely Ohio voters, which resulted in a strategically timed release of polling data that showed strong public support for juvenile justice reforms that treated young people differently from adults (Newhouse and Blizzard, 2011).

“The core team approach was instrumental to the success of the legislation,” noted one of the team members. “It was by its nature select and fairly non-inclusive — characteristics that are typically anathema to most of its members but, in this instance, such selectivity allowed the trust and nimbleness needed to respond to the pace of the legislative process to develop quickly and keep us in the game.” As described earlier, acknowledging at-times competing interests and being open to compromise was a necessary attitude among the team in the face of current political realities.

Negotiations often occurred in last-minute conversations under the pressure of committee hearing calendars, the demands of legislators with major time constraints and competing interests, and narrow windows for legislative votes to ensure passage of proposed legislation. Policy content expertise was frequently required with very little lead-time to review proposed policy language revisions, to address concerns raised by competing interest groups and to investigate and present feasible alternatives. Diplomatic compromise was often required, while striving to avoid sacrificing fundamental policy reforms or values. The end result of the reforms adopted in HB 86 and the state budget bill, while ultimately successful at many levels, was not where the proposed policy agenda began. This compromise was especially difficult for some of the juvenile justice stakeholders because the Ohio House, under the impressive leadership of the House Speaker, passed a nearly unanimous version of the reforms that was much broader and reflected most of what had been originally proposed by the juvenile justice campaign team. However, when the House version went to the Senate, it quickly became evident that several of the policy reforms would either be removed or require significant revision for the sponsor to promote the legislation. Politically, the lobbyists had been extremely effective in garnering the support of the Governor’s Office and the House, which gave the legislation in the Senate a considerable advantage. Nevertheless, given some of the content in the House version of the bill, particularly on juvenile transfer and mandatory sentencing provisions, some of the conservative members of the Senate were reluctant to support the bill.





## leg-is-la-tion

Since the bill had already passed a conservative House and gotten informal support from the administration, the lobbyists recognized a political win was still possible but only with scaling back of some of the policies. This required constant back-and-forth between the core campaign team strategists and the policy content experts to identify potential options for compromise.

One example of this political compromise played out in the mandatory sentencing negotiations. While the House bill included reforms that would remove direct transfer provisions in current law, the Senate version removed these reforms. However, the core team, relying on research on best practices and recommendations by national juvenile justice system leadership, negotiated to have new language added to include a unprecedented reverse waiver provision that permitted transfer back to juvenile court for certain juveniles who had been automatically transferred to adult court. Another example of compromise involved the age for a rebuttable presumption of juvenile competency that was included as part of the competency reforms in HB 86. Through considerable behind-the-scenes negotiations, which involved the use of research on adolescent development, maturity and decision-making, the age was eventually raised from the proposed age of 12 to 14 years. The tenacious advocacy by the lobbyists, armed with relevant, credible research and expertise to support their arguments, led to the final adoption of many content pieces consistent with the overall reform policy agenda.

### A NOTE ON FUNDERS

The selection of Ohio as an initial state targeted for support in the National Campaign for State Juvenile Justice Reform (led by the MacArthur Foundation but eventually supported by other national funders and the Cleveland-based Gund Foundation) proved pivotal. The National Campaign provided resources otherwise unavailable for strategic management, professional government relations services and communications support needed to craft and propel the intensive, sophisticated and time-limited state legislative campaign resulting in passage of HB 86.

One core team member put it this way:

*I don't know any other way of saying it than this: the National Campaign funding secured the 'muscle' that was needed to get this effort across the finish line. HB 86 could have been a nice set of ideas that was left on the drawing board or in the scrap heap of a legislative committee rushing to finish work before session adjourned were it not for the effective combination of professional skills and relationships secured by the campaign that allowed the bill to grab and keep the attention of key executive and legislative leaders.*

The value of the Gund Foundation as a funding partner was equally important, not only as a local presence on the campaign team but particularly given the long-standing work of Gund in the juvenile justice arena and the willingness of its leadership to embrace a broad array of advocacy strategies that must constantly adapt to the inevitably shifting sands of any policy landscape. Prior to HB 86, Gund supported a wide variety of activities, including legal advocacy and the identification, development and evaluation of evidence-based interventions that could be proffered as effective community-based alternatives to state detention for juvenile offenders (e.g., CIP). Gund also provided financial support specifically for building the advocacy capacity of organizations with interests related to the juvenile justice system population. In addition to helping finance the expertise needed to craft and enact critical juvenile justice reforms in HB 86, Gund played an active role on the core strategy team (but excluded any direct lobbying) to identify a prioritized roster of reforms, develop a policy strategy and respond to circumstances impacting that strategy in a timely and effective manner as the legislative process unfolded.

Core team members described Gund's leadership as critically important given its reputation in the community: "Gund brought local legitimacy and the weight of the 'right thing to do' demonstrating that commitment through resources and participation. The quiet leadership and guidance of Gund was essential."



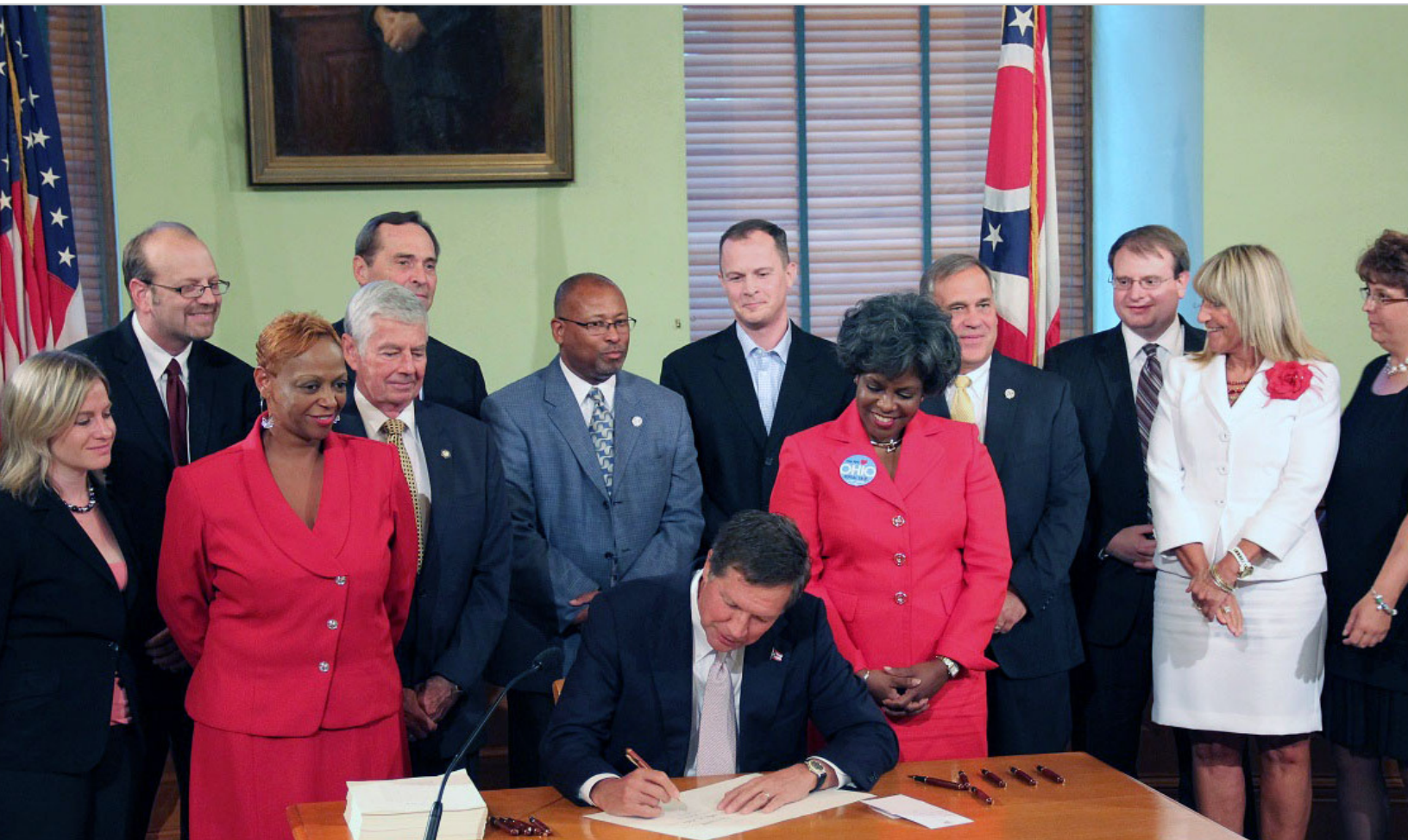
## JUVENILE JUSTICE POLICIES ACHIEVED WITHIN HB 86 REFLECT RESEARCH-BASED, CHILD DEVELOPMENT AND WELL-BEING PERSPECTIVE

Ultimately, HB 86 and accompanying state budget legislation led to the following reforms:

- 1. Promotion of research-informed and evidence-based practices.** Specifically, in reference to how RECLAIM dollars should be spent, HB 86 adds new language that states: Research-supported, outcome-based programs and services, to the extent available, shall be encouraged. The budget bill adopted explicit language permitting the reallocation of a percentage (up to forty-five percent) of correctional institutional savings into “evidence-based community programs.”<sup>22</sup>
- 2. Extension of juvenile court authority to allow for judicial release throughout a youth’s term of commitment.** Previously, judges could only grant an early release during a youth’s minimum sentence time period, after which any release decision rested solely with ODYS. Under HB 86 reforms, judges maintain jurisdiction to consider early release opportunities throughout a youth’s commitment, including juveniles serving mandatory sentences.
- 3. Revision of the existing mandatory sentencing specifications involving a gun (“gun specs”) to allow for judicial discretion in instances where the youth was not the main actor.** Specifically, juvenile judges have more discretion in sentencing for youth accomplices (complicity) under certain conditions where the youth did not furnish, dispose of or otherwise use the weapon.
- 4. Adoption of a uniform juvenile competency code that applies to all delinquency proceedings using a juvenile specific standard.** A juvenile is incompetent if, “due to mental illness, intellectual disability, or developmental disability, or otherwise due to a lack of mental capacity, the child is presently incapable of understanding the nature and objective of proceedings against the child or of assisting in the child’s defense.” A child who is 14 or older who is not otherwise found to be mentally ill, intellectually disabled or developmentally disabled, is rebuttably presumed to “not have a lack of mental capacity” (for purposes of determining mental capacity only).

- 5. Creation of a narrow reverse waiver provision for youth automatically transferred to adult court (mandatory bindover) that would permit transfer back to juvenile court.** This reverse waiver procedure only applies if a youth is convicted of an offense that would not have originally qualified as a mandatory bindover offense to adult court. In this instance, the case goes back to juvenile court for juvenile sentencing or an amenability hearing to determine whether the adult sentence should be invoked.
- 6. Creation of an Interagency Mental Health Juvenile Justice Task Force with child and adolescent development expertise to address the challenges of delinquent youth who “suffer from serious mentally illness or emotional and behavioral disorders.”** The six-month task force has representation from the state Supreme Court, the Governor’s Office, the House, the Senate, ODYS, ODMH, juvenile judges, public defenders, prosecutors, academic institutions, specific experts, including those with child and adolescent development expertise and community stakeholders, such as the National Alliance on Mental Illness. It must submit a report with findings and recommendations to the legislature prior to the next biennium.<sup>23</sup> (At the time of this publication, the IMHJJ Task Force has submitted its findings and recommendations in a joint report to the Governor, Legislature and the Supreme Court of Ohio.)<sup>24</sup>

On June 29, 2011 Governor Kasich signed HB 86 into law and noted: “This is a great story. Fewer kids in our institutions. More in community settings. What we know is if we can successfully apply community treatment, we have much better outcomes than when we lock people up and throw away the key. And that is what we are all searching for.” Legislators, judges, youth corrections officials, practitioners and other stakeholders joined together to witness the final passage of this historic juvenile justice reform. The core campaign and policy teams recognized the significance of this unprecedented policy effort, and appreciated the combined efforts of years worth of work to get to this result. They also saw the critical role effective implementation and further policy reform would play to fully realize the goal of the reform effort.



“THIS IS A GREAT STORY. FEWER KIDS IN OUR INSTITUTIONS. MORE IN COMMUNITY SETTINGS. WHAT WE KNOW IS IF WE CAN SUCCESSFULLY APPLY COMMUNITY TREATMENT, WE HAVE MUCH BETTER OUTCOMES THAN WHEN WE LOCK PEOPLE UP AND THROW AWAY THE KEY. AND THAT IS WHAT WE ARE ALL SEARCHING FOR.” – GOVERNOR KASICH

Photo credit: State of Ohio

# VII.

## PRINCIPLES AND IMPLICATIONS FOR FUTURE POLICY REFORM EFFORTS

While enactment of HB 86 and related legislation in the state budget was a major policy success, it will require significant administrative support and political will to realize its ultimate intent: to hold young people in the juvenile justice system accountable in developmentally-appropriate and cost-effective ways so that they can be more successful, positively-contributing community members in the future. Thus, ensuring policy (statutory, regulatory, administrative) and funding align to shift increasing resources toward evidence-based alternatives will be a continuing reform goal.

Major implementation issues include: follow-through with comprehensive findings and recommendations from the newly-created IMHJJ task force; assisting local providers and juvenile courts to ensure that their RECLAIM community interventions are research-supported and outcome-based; educating courts and legal personnel on the sentencing and release provisions; and identifying opportunities for juvenile correctional cost savings that could be realigned to support evidence-based practices consistent with the forty-five percent language in the state budget. In addition, various data collection needs were identified as well as future legislative reform opportunities. This will require the continuing efforts of those “spheres of influence” with a strong, sustainable coalition dedicated to improving outcomes and opportunities for young people.

Several principles or elements for success are identified here as a result of this reform (not in any order of priority). While these ten principles may not be universally applicable in all policy reform efforts, particularly given the uniquely local flavor and circumstantial nature of how policy is created that has been discussed throughout this report, they may nevertheless prove useful as part of an overall assessment and planning effort involving policy reform impacting children and adolescents.

### **1. Assess political feasibility and leverage the “policy window” in the current political landscape.**

Simply because a proposed policy makes sense for economic and social reasons, does not mean it will be an attractive political cause for legislators. Consider the current environment in a given state or region and seize the moment, particularly if the proposed policy speaks to concerns that are consistent with the priorities of gubernatorial and/or legislative leadership, in the common discourse or public eye.

### **2. Capitalize on prior achievements and activities of “policy entrepreneurs” to build on available resources, relationships and lessons learned from related work.**

It is very likely that important work in the related field of child policy has been ongoing in the local community or state for some time prior to the apparent new “window” of opportunity that calls for change now. Do not reinvent the wheel. Ensure that any new policy change effort is informed by the history of the field and its key players.

### **3. Assemble and maximize the use of credible research and data to both illustrate the social problem a policy seeks to address and to present potential policy solutions.**

A compelling rationale based on objective data and findings from relevant programs and scientific inquiry can capture the interest of policymakers and may ultimately help grow the necessary political will to take action. This data is also the foundation for making a persuasive case for specific policy changes.

### **4. Ensure a shared commitment to child well-being and public policy informed by accepted principles of child and adolescent development.**

There will be differing ideas about what is an effective policy, particularly as the details of suggested language changes or reforms become evident. It is imperative, therefore, to collectively agree among the policy team and key stakeholders from the outset that proposed policies be consistent with principles of child development. This shared understanding serves as a kind of moral compass to the political work and a touchstone for future deliberations about policy details.

### **5. Craft a clear, concise policy agenda consistent with an organizing framework that speaks to the concerns of policymakers, stakeholders and the public.**

Identify the main drivers in the existing political climate, such as cost, public concern about a current event or issue, program efficiency, accountability, etc. and use these where possible as measures or values related to the proposed policy change. Do not simply list an exhaustive set of policy proposals without priority, rather use a reinforcing message throughout the presentation of the policy agenda.



**6. Build and manage a nimble, disciplined core team with the necessary mix of content, communications and political strategy expertise and skills.**

Expertise and access to political leadership are essential ingredients to an effective campaign team. This will require a combination of professionals, both paid and unpaid (the work is part of their existing professional duties), and partnerships across political affiliations. Conviction based on sound evidence, tempered with restraint and discretion, helps to establish trust among partners. Understanding roles and communication expectations while being both disciplined in the pursuit of the policy agenda and also flexible when need be makes for a powerful collaboration.

**7. Collaboratively align existing research, practice and policy efforts (areas of influential activity) to develop the most comprehensive and effective strategy for reform.**

Experts in a particular field generally develop their professional expertise by targeting their attention and talents in their specific area of work; as such they often bring uniquely valuable information and insights to a policy reform process. However, they also may be less able or available to see the bigger picture and how the work of others also impacts the policy arena that is the focus for reform. Bi-directional bridge-building, bringing together the multitude of expert perspectives and key data, is vital to formulating the most promising and rigorous reform strategies.

**8. Engage a broad group of juvenile justice stakeholders to inform and promote the policy agenda.**

Ideally, the policy agenda has been informed by and shared with those engaged in or otherwise impacted by the public systems that the policy seeks to improve. There are myriad ways to involve these stakeholders as long as it begins early and continues at several strategic points throughout the process. Their support will be particularly important at certain junctures, such as during legislative hearings or in media efforts, as well as for future implementation work.

**9. Identify and nurture political champions in all branches of government as well as nontraditional allies.**

Securing a political champion or nontraditional allies is generally very challenging and will likely require personal interest in the cause, if not actual personal relationships, to succeed. The benefits of these champions and supporters can mean the difference between a token bill with little likelihood of success and a viable legislative vehicle for reform. The core policy team should have a well-considered strategy for building these alliances where possible.

**10. Procure and deploy sufficient funding to address gaps in expertise and to support a core team.**

Adequate resources are required to assemble, coordinate and sustain the demands of an effective legislative reform campaign. The amount may in some sense be less important than the flexibility of the funding, particularly in the ability to hire professional lobbyists as part of the core team. Also, while practitioners, content experts, advocates and others may engage in similar policy reform efforts apart from a targeted policy campaign, sharing some funding to support their engagement in a targeted campaign helps to ensure their continued ability to participate.

## ENDNOTES

- 1** See nationwide survey conducted by GBA Strategies (2011) at [http://www.gbastrategies.com/public\\_files/cfyj101111m1.pdf](http://www.gbastrategies.com/public_files/cfyj101111m1.pdf).
- 2** The full text of of HB 86 (Ohio, 2011) text can be found at [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_86](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_86) and bill analysis by the Legislative Service Commission at <http://www.lsc.state.oh.us/analyses129/11-hb86-129.pdf>.
- 3** RECLAIM is a state-local revenue sharing model that encourages counties through cost-incentives to place appropriate adjudicated youth in local alternatives rather than state facilities (HB 152 Ohio, 1993). Ohio Revised Code (2012) states: "(B) From the appropriated line item for the care and custody of felony delinquents, the department, with the advice of the RECLAIM advisory committee established under section 5139.44 of the Revised Code, shall allocate annual operational funds for county juvenile programs, institutional care and custody, community corrections facilities care and custody, and administrative expenses incurred by the department associated with felony delinquent care and custody programs. The department, with the advice of the RECLAIM advisory committee, shall adjust these allocations, when modifications to this line item are made by legislative or executive action. (C) The department shall divide county juvenile program allocations among county juvenile courts that administer programs and services for prevention, early intervention, diversion, treatment, and rehabilitation that are provided for alleged or adjudicated unruly or delinquent children or for children who are at risk of becoming unruly or delinquent children. The department shall base funding on the county's previous year's ratio of the department's institutional and community correctional facilities commitments to that county's average of felony adjudications, as specified in the following formula..."
- 4** Ohio laws leading to harsher treatment of juveniles included the mandatory bindover law passed in the mid-1990s that allowed juveniles to be transferred to adult court; the serious youthful offender (SYO) law passed in 2000 increasing mandatory bindover requirements, reducing the age from 12 to 10 for commitment to DYS, creating mandatory "gun specification" sentencing and defining chronic truancy as delinquent offense (SB 197 Ohio, 2000); and several sex offender laws (SB 3 and HB 393 Ohio, 2002) passed in the 124th General Assembly, in addition to SYO-related legislation and direct sentencing to juvenile detention (HB 400 Ohio, 2009).
- 5** "Conditions" litigation refers to the environment juveniles are confined in and the kinds of treatment they receive. It generally includes claims about failure to protect children from staff or youth-on-youth violence, arbitrary disciplinary practices, misuse of isolation, and inadequate medical, mental health, nutrition, education, special education or other rehabilitative services (*S.H. v. Stickrath*, 2008).
- 6** HB 235 (Ohio, 2010) was an ambitious bill with provisions to: eliminate mandatory transfer to adult court ("bindover"); eliminate mandatory SYO (Serious Youth Offender) dispositions; raise the age of eligibility for a SYO disposition from 10 to 14; make only felony offenses of violence eligible for bindover and SYO status; eliminate mandatory gun specifications; allow the juvenile court to release a child who is serving time for a specification; and allow both the juvenile court and DYS to release a child after the expiration of the child's minimum term.
- 7** See "Right on Crime" platform and positions at <http://www.rightoncrime.com/>.
- 8** AMA amicus can be found at <http://www.amaassn.org/ama1/pub/>

upload/mm/395/graham-v-florida.pdf and APA can be found at <http://www.apa.org/about/offices/ogc/amicus/graham.aspx>.

**9** Note that since the passage of HB 86 two other U.S. Supreme Court opinions concerning juveniles have similarly relied on behavioral research (*Graham v. Florida*, 2010). See also *J.D.B. v. N. Carolina*, 131 S. Ct. 2394, 2402, 180 L. Ed. 2d 310 (U.S.N.C. 2011) and *Miller v. Alabama*, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012).

**10** More information regarding the MacArthur MFC initiative can be found at <http://www.modelsforchange.net/index.html>

**11** The MacArthur Foundation Models for Change core principles: (1) Recognition of developmental differences between juveniles and adults; (2) Understanding of individual differences of young people; (3) Appreciation of youth potential; (4) Fundamental fairness (including for youth, families, victims and communities); (5) Safety; and (6) Shared responsibilities and accountability.

**12** This “research-supported outcome-based” language was eventually adopted in HB 86 (Ohio, 2011).

**13** Section 5 of HB 86 (Ohio, 2011) states in part: “(A) The Ohio Interagency Task Force on Mental Health and Juvenile Justice is hereby established to investigate and make recommendations on how to most effectively treat delinquent youth who suffer from serious mental illness or emotional and behavioral disorders, while giving attention to the needs of Ohio’s economy. (E) The members of the Task Force shall make findings and recommendations, based on the results of the Task Force’s duties, regarding all of the following: (1) Best practices in the field of treatment for youth with mental illness or serious mental illness who are involved in the juvenile justice system; (2) Guiding principles for the treatment of youth with mental illness or serious mental illness who are involved in the juvenile justice system; (3) The infrastructure, roles, and responsibilities of and other departments providing services to youth, in relation to effectively meeting the multiple needs of youth with mental illness or serious mental illness who are involved in the juvenile justice system; (4) Funding strategies that maximize public, private, state, and federal resources and that create incentives for high performance and innovative treatment; (5) Changes to administrative, court, and legislative rules that would support the recommendations of the Task Force.”

**14** For a broader discussion of “policy entrepreneurship” see Kingdon (2011) at page 122 and Mintrom and Norman (2009).

**15** *J.P. v. Taft* (2007) was also significant in that it recognized the right of youth incarcerated in DYS facilities to legal counsel to access the court on conditions of confinement issues. Through this case, the state was required to ensure that youth had access to attorney, and ultimately, the Legal Assistance Program (LAP) was created to fulfill this role. LAP attorneys investigate and file preliminary pleadings for youth with colorable claims involving constitutional violations.

**16** The reduction in ODYS facility population has also been aided by reforming the Release Authority through *J.J. v ODYS* (2007), a class action lawsuit addressing the arbitrary and unreasonable mechanisms utilized to determine the release of youth from DYS custody.

**17** Notice of all Parties to the Joint Plan for Reforming Release Pursuant to Stipulation for Injunctive Relief (*S.H. v. Stickrath*, 2008, Document 22), notes in at D: “Legislative changes have been discussed and should warrant ongoing consideration by all of the stakeholders involved in this issue, including addressing (1) extending the court’s jurisdiction over youth committed to DYS; (2) establishing a continuum of care as part of

a regionalization plan for DYS which allows for discretion in placement decisions initially and on a step-down basis in accordance with the individualized needs of youth; and (3) addressing mandatory minimum times established by law for gun specifications which have a significantly disparate impact on youth of color.”

**18** According to Greenwood and Welsh (2012), there are “four well-known and reliable sources of information regarding effectiveness of delinquency prevention programs, which can be combined to provide all the relevant information needed to make intelligent programming choices: (a) Blueprints for Violence Prevention; (b) meta-analyses conducted by Mark Lipsey; (c) publications by the Washington State Institute for Public Policy (WSIPP); and (d) the international Campbell Collaboration and its Crime and Justice Group’s electronic library of systematic reviews, which covers a broader range of topics on crime and justice. These sources stand out because they employ a rigorous scientific standard of evaluation, are comprehensive, and are updated periodically.”

**19** Appendix B notes, “For every dollar spent on IHBT/MST there is a return of \$5.55 in placement costs avoided.” See also, Lowenkamp and Latessa (2005) report “savings in the long run substantial and range anywhere from \$11-\$45 for every dollar spent on RECLAIM programming instead of a placement in CCF or DYS.”

**20** The full range of subsidy supported programming can be found at the ODYS website under “RECLAIM statistics” (ODYS, 2012).

**21** ODYS (2012) notes the critical nature of this relationship building in describing its RECLAIM efforts: “One of the core principles of RECLAIM since its inception has been collaboration between DYS and the juvenile courts. DYS has hosted regular meetings with court staff throughout the initiative to share program ideas, provide training and seek input on changes to RECLAIM. This initiative has been — and continues to be — an evolving one”.

**22** “For purposes of implementing juvenile sentencing reforms, and notwithstanding any provision of law to the contrary, the Department of Youth Services may use up to forty-five per cent of the unexpended, unencumbered balance of the portion of appropriation item 470401, RECLAIM Ohio, that is allocated to juvenile correctional facilities in each fiscal year to expand Targeted RECLAIM, the Behavioral Health Juvenile Justice Initiative, and other evidence-based community programs. (HB 153 Ohio, 2011).

**23** The Mental Health Juvenile Justice Task Force is created in section 5 of HB 86 (Ohio, 2011). Task force requirements regarding expertise include, “expertise in child and adolescent development, mental health, or juvenile justice appointed by the Governor, including, but not limited to, members representing the Ohio chapter of the National Alliance on Mental Illness, the Ohio Federation for Children’s Mental Health, an academic research institution with expertise in juvenile justice and child and adolescent development, and a provider of children’s community-based mental health services.” The duties of the task force include investigating mental health treatment models, conducting literature reviews of best practices, visiting mental health units, and making findings and recommendations by 3/31/12” (note this was revised to 9/30/12).

**24** The full Ohio IMHJJ Task Force report and recommendations can be found at: <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=QaD0TquNaiY%3D&tabid=36&mid=392>

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### Why Ohio Needs to “Get Smart” on Juvenile Justice Reform

Taxpayers currently bear the burden of a series of practices and policies that could benefit from strategic, substantive reforms with both immediate and long-term cost-benefits. Consider the following costs:

1. *S.H. v. Stickrath* litigation regarding unconstitutional conditions of confinement at all five of the state juvenile correctional facilities<sup>1</sup> and the necessary efforts to comply with the 2008 stipulation agreement cost the state millions of dollars. Continuing problems (i.e. inadequate treatment, violence, etc.) with the conditions and treatment of youth in these correctional facilities increase litigation-related expenses. **DYS spends at least \$117.3 million in GRF on institutional operations.**<sup>2</sup>
2. **The per diem is \$338 for each youth housed in a DYS correctional facility – about \$123,370 per year.** The average daily facility population in FY 2010 was 1,125 and the average length of stay was 11.9 months.<sup>3</sup> As of January, 2011, there were 759 youth housed in DYS facilities.
3. **The DYS \$338 per diem does not include other additional costs,** such as education (approximately \$11 million for education reimbursements and \$2.8 million for vocational education annually, which adds about \$47/day to the \$338 per diem). 54% of youth in DYS receive special education services.<sup>4</sup>
4. While the overall population of youth in DYS facilities has decreased (from 1,895 in 2007 and 3,639 in 1993) reflecting the downward trend in juvenile violent crime,<sup>5</sup> the number of youth requiring intensive mental health services have increased.<sup>6</sup>
5. Ineffective correctional programming, and lack of community programs, **increases both immediate short-term costs with longer lengths of stay, and long term future costs to public systems and new victims due to higher rates of recidivism.** 27.2% of youth either return to DYS or are admitted to DRC within 1 year of their release from DYS; 40.7% within 2 years; and, 50.9% within 3 years.<sup>7</sup>
6. **Mandatory juvenile sentencing laws added in the last decade have contributed to the overuse of costly correctional placements,** have restricted juvenile courts’ traditional discretionary role,<sup>8</sup> and are inconsistent with adolescent and brain development research.<sup>9</sup>
7. Inconsistent application and/or lack of a common risk assessment tool can lead to overuse of costly correctional placements for youth appropriate for more cost-effective, less restrictive placements.<sup>10</sup>
8. Reliance on secure correctional placements limit the state’s ability to maximize use of appropriate federal dollars through Medicaid match and potential IV-E participation.<sup>11</sup>
9. RECLAIM’s (state-local revenue sharing model) ability to divert a portion of youth from deeper end, more costly government intervention is limited where funding not tied to specific outcome goals informed by evidence of effectiveness.
10. Without effective diversion and treatment for juveniles, recidivism leads to higher and longer term costs that show up in the adult DRC system, as well as in expenses to taxpayers and intangible losses to crime victims.<sup>12</sup> Alternatively, **the return on investment in terms of improved public safety that evidence-based programs<sup>13</sup> for youth have been shown to produce are significant.**<sup>14</sup> For example, it is estimated that every \$1 spent on Multi-systemic Therapy (MST), a proven-effective program for serious and violent juvenile offenders, provides \$9.51 to \$23.59 in savings to taxpayers and crime victims.<sup>15</sup> In Ohio, the average MST intervention costs \$7,500-\$9,000 per youth (per year).<sup>16</sup>

## A PROPOSAL OF JUVENILE JUSTICE PUBLIC POLICY PRIORITIES FOR THE FY 2012-2012 BUDGET

Three (3) major budget reform opportunities exist that done in combination would result in immediate and substantial cost savings while improving public safety.<sup>17</sup>

### 1. Realign fiscal resources away from ineffective, costly secure placements to more effective programs that provide greater public safety return for each dollar spent.

a. Examine DYS GRF allocation to DYS “institutional operations” and identify opportunities to downsize institutions by redirecting appropriate youth<sup>19</sup> into less restrictive options,<sup>20</sup> with structured oversight system and accountability mechanisms, and shifting at least 45% of the cost-savings<sup>21</sup> to research-supported services (i.e. regionalized expansion of Targeted RECLAIM<sup>22</sup> interventions, BHJJ<sup>23</sup> programs, etc.) supported by the DYS Program 3.05 “community programs” budget line.<sup>24</sup>

b. Preserve DYS GRF funds used for community Cognitive Behavioral Treatment, Community Correctional Facilities<sup>25</sup> and private facility contracts,<sup>26</sup> tied with performance measures, to avoid increased use of costly DYS placements.<sup>27</sup>

c. Reduce the use of secure placements in DYS for lower risk youth utilizing the Ohio Youth Assessment System (OYAS) to inform evidence-based placement and treatment decision making in the juvenile justice system.<sup>29</sup>

d. Create an Interagency task force, with representatives from ODYS, ODMH, ODE and the Office on Health Transformation, among others as appropriate, to investigate and make recommendations within 6 months to the Governor and Ohio Legislature, on how to better respond to delinquent youth who suffer from mental health issues and/or have special educational needs.<sup>30</sup>

### 2. Revise statutory sentencing schemes that result in ineffective, overuse of costly secure placement and address court procedural and jurisdictional issues that would result in a more “fair, rational, effective, and developmentally appropriate” juvenile justice system.<sup>31</sup>

a. Restore individualized sentencing with judicial discretion<sup>32</sup> by replacing mandatory sentencing schemes in bindovers, SYO and gun specifications [that automatically result in higher rates of costly, secure placement for longer periods of time, in some cases up to three years minimum time in DYS]<sup>33</sup> with individual review where a judge determines the severity of a consequence.<sup>34</sup>

b. Allow Courts to maintain jurisdiction, with DYS, to release a youth throughout their term of commitment. Preserving judicial discretion through continuing judicial jurisdiction ensures the most appropriate use of ongoing secure placement while allowing potential release (and cost-savings) when warranted.<sup>35</sup>

c. Raise the age of eligibility for blended sentencing options (under the SYO – serious youthful offender – law) from 10 to 14 years of age.<sup>36</sup>

d. Approve the revised Interstate Compact provisions set by the Council of State Governments to ensure Ohio authorities can coordinate effectively with other states regarding out-of-state youth.<sup>37</sup>

e. Adopt proposed juvenile competency provisions to ensure a uniform and consistent set of guidelines by which juvenile competency is defined and addressed.<sup>38</sup>

### 3. Reinvest in critical community-based services<sup>39</sup> for juvenile justice involved youth, particularly those research-supported, outcome-based practices<sup>40</sup> that maximize results and public investments and capitalize on effective public-private partnerships.<sup>41</sup>

a. Maximize the RECLAIM<sup>42</sup> state-local revenue sharing model by incentivizing county- based interventions that have evidence of measurable performance effectiveness<sup>43</sup> (i.e. diversion, reducing recidivism, strengthening families, reducing admissions to more costly, secure placements), by adding language to the RECLAIM formula that promotes funding for research-based programs and services.<sup>44</sup>

b. Preserve DYS GRF line items<sup>45</sup> dedicated to (i) RECLAIM county subsidy,(ii) community programs, and (iii) youth services juvenile court subsidies<sup>46</sup> and (iv) the ODMH Behavioral Health Service-Children (supporting BHJJ) line item<sup>47</sup> dedicated to research- based, cost-effective treatment. Reductions of funding in any of these programs will likely increase the more costly juvenile correctional facility population as a result of reduced community program capacity.<sup>48</sup>

c. Require filing of the Medicaid State Plan Amendment<sup>49</sup> by 12/31/11 for Intensive Home Based Treatment (IHBT), a research-supported, outcome-based, cost-effective treatment model for children and youth with severe emotional and behavioral disorders that reduces use of costly out-of-home care.<sup>50</sup>

**2nd Phase Policy Track:** Other reform policy issues are worthy of attention but currently (a) there are less discernable short-term cost-saving/ shifting implications, and/or (b) the issue requires further examination and development to effectively position it and/or ascertain whether sufficient consensus exists to pursue the proposed reform. These items are among those currently identified as priorities for consideration through an ongoing policy development process.<sup>51</sup>

4. Additional sentencing reforms that would result in cost savings but require further study:

a. Amend aspects of the juvenile sex offender registration scheme (PRQJOR provision), consistent with new federal guidance regarding juveniles issued by the USDOJ,<sup>52</sup> that have resulted in significant implementation costs (both at the local and state level) without greater public safety.

b. Examine use of valid court order (VCO) provision [ORC 2152.02] and consider elimination to ensure Ohio will be in compliance with federal law under the proposed Reauthorization of the Juvenile Justice Delinquency Prevention Act (JJDP) removes VCO exception); this would also result in fewer costly secure placements and may save potential lost federal dollars.<sup>53</sup>

5. Reserve the JJ system for only the most appropriate youth and prevent deeper government and public system intrusion through front end strategies, diversionary practices and investments.

a. Examine school referrals to juvenile court to ascertain extent of referrals and whether alternative, more cost-effective disciplinary practices could be utilized.

b. Review detention sentencing, practices, and funding, including DYS JDAI pilot initiatives, for strengthening effective use of detention and alternatives.

c. Reexamine the RECLAIM funding formula for opportunities to maximize research-supported diversion practices.

d. Explore the use of specialized juvenile court dockets for youth with mental and behavioral health concerns.<sup>54</sup>

e. Invest in early care and education services as delinquency prevention support.<sup>55</sup>

## APPENDIX B: CENTER FOR INNOVATIVE PRACTICES MST AND IHBT COST-BENEFIT AND OUTCOMES-BASED PERFORMANCE DATA

6. Identify gaps in existing data (juvenile court, DYS, CCFs, detention centers, community programs, school disciplinary/suspension/expulsion/court referral rates and demographic data, disproportionality data throughout the juvenile system<sup>56</sup>, etc.) and develop recommendations for uniform data collection and management, and for data-driven decision making and performance-based outcome measures at critical stages of the juvenile justice system.

7. Continue to promote fair and effective juvenile legal proceedings with the provision of qualified counsel and alignment with best-practices in federal law and court policies and procedures.

8. Pilot a redesigned, regionalized approach to juvenile justice (probation, community programs, secure placements, release authority, re-entry programming and parole) in a voluntary, large urban district and/or in a voluntary, regionalized rural area, with an appointed oversight authority which includes representation of relevant experts and stakeholders.<sup>57</sup>

Full document including endnotes accessible at [http://schubertcenter.case.edu/research\\_policy\\_briefs.aspx](http://schubertcenter.case.edu/research_policy_briefs.aspx).

### 2012 Network Performance

The Ohio Center for Innovative Practices Network (CIP) supported 15 MST teams that had data on 476 cases<sup>1</sup> included in the 2012 MST Data Report. The Network's specific results are displayed below for comparison to averages for U.S. teams, international teams, and the overall average<sup>2</sup> for all cases in the 2012 MST Data Report. No analysis of significance was conducted.

#### MST PERFORMANCE DASHBOARD

Item	Performance Indicator	Target	Overall Averages	U.S. Averages	Int'l Averages	CIP Averages
<b>Ultimate Outcomes Review</b>						
1	Percent of youth living at home	90%	88.3%	87.6%	90.9%	<b>87.8%</b>
2	Percent of youth in school and/or working	90%	85.4%	86.6%	80.2%	<b>85.3%</b>
3	Percent of youth with no new arrests	90%	85.0%	85.3%	83.7%	<b>77.7%</b>
<b>Therapist Adherence Data</b>						
4	Overall Average Adherence Score****	0.61	.74	.75	.67	<b>.68</b>
5	Percent of clients reporting adherence above threshold (>.61) ****	80%	73.1%	74.9%	65.6%	<b>67.0%</b>
6	Percent of youth with at least one TAM-R interview	100%	90.5%	90.5%	90.4%	<b>90.3%</b>
<b>Case Closure Data</b>						
7	Percent of youth completing treatment	85%	84.6%	84.0%	87.1%	<b>86.3%</b>
8	Percent of youth closed due to lack of engagement	<5%	5.7%	5.9%	6.4%	<b>2.9%</b>
9	Percent of youth placed during treatment	<10%	6.0%	10.1%	6.5%	<b>10.7%</b>
10	Average Length of Treatment	100-140	129.8	128.3	136.1	<b>140.7</b>

Information	Calculation	Cost	Benefit
86% of 394 youth served remained in the home (339)	339 youth		<b>\$19,590,132</b> Placement costs avoided
Average cost of placement \$57,788	X \$57,788 = \$19,590,132		
IHBT Grant FY 08 & 09 (394 youth)	394 x \$7,500 =	<b>\$2,955,000</b>	Total cost of IHBT
Typical Case Rate for IHBT = \$7,500	\$2,955,000		
55 youth placed	55 x \$57,788 =	<b>\$3,178,340</b>	Total cost of placement
Average cost of placement \$57,788	\$3,178,340		
			<b>Total Benefit</b>
394 youth served in IHBT Grant FY 08 and 09	Cost saved minus cost of IHBT and cost of youth placed		<b>\$13,456,792 (for all youth served)</b>
	\$13,456,792 divided by total youth served (394)		<b>\$34,154 (Cost savings per youth)</b>
	Total Benefit (19,590,132 - 3,178,340)/Total Service Cost (2,955,000)	For every (\$1) dollar spent in IHBT	<b>\$5.55</b> is returned in placement costs avoided

1 Performance Dashboard includes only cases that were referred to standard MST between January 1, 2011 and December 31, 2011 and were closed for clinical reasons.

2 Data from all MST teams are included in the overall average, including this network's data.

#### SOURCE:

Center for Innovative Practices  
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Mandel School of Applied Social Sciences, Case Western Reserve University

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June 15, 2011

Thank you Chairman Grendell, Ranking member Turner and Senate Judiciary-Criminal Justice Committee members.

My name is Gabriella Celeste and I am speaking to you today as an interested party in HB 86 regarding juvenile justice reform matters and the Ohio Department of Youth Services (DYS). As the Child Policy Director with the Schubert Center for Child Studies at Case Western Reserve University, I am part of a larger group of stakeholders and experts that the MacArthur and Gund Foundations have helped to pull together to collectively address concerns in the juvenile justice system. The Schubert Center bridges research with policy, practice and education for the well-being of children and families. It is in this capacity, shedding light on some of the challenges in juvenile justice as well as relevant research findings and progress and opportunities for further cost-savings and success, that I wish to speak briefly today.

I should note up front that given some of the important adult sentencing reforms that are being considered right now, it is equally, if not more critical that we mirror some of these similar reforms on the juvenile side, particularly since the DHS is already so far ahead of the curve in identifying what works at the community level. DHS's progress is reflected in its mission, which is: *"to encourage positive change in the lives of youthful offenders through collaborative partnerships and culturally relevant therapeutic and academic interventions that support public safety and prepare youth to lead productive lives."*

Let me start with some facts concerning our juvenile justice system that we know from research and data – and then present three policy opportunities that are reflected in HB 86.

**FACT 1:** Ohio spends over \$123,000 a year to confine a single youth in a DHS correctional facility. These are all state GRF dollars (\$338 per day) – note that significant federal funds cannot be used for youth placed in DHS correctional facilities, which is not the case for treatment and community-based programs.

**FACT 2:** Over half of the youth we confine in DHS facilities today will reoffend within 3 years.

**FACT 3:** Ohio has proven effective community programs that cost on average \$10,000 per youth annually. In fact, every \$1 spent on Multi-Systemic Therapy, a proven effective program for serious and violent juvenile offenders, provides \$9.51-\$23.59 in savings to taxpayers and crime victims while dramatically reducing the recidivism rate.

**FACT 4:** Child development and brain research confirms what insurance and car rental companies have known for a long time, that the adolescent brain is in a period of tremendous growth and that the prefrontal cortex, the part of the brain that controls executive functioning, decision-making and risk-taking, is not fully developed. Research also shows the influence of peers and the "group context" nature of juvenile crime; coupled with evidence showing how maturity improves gradually and at different rates for different people underscores the rationale of the juvenile justice system's longstanding emphasis on individually tailored treatment. Best practice applies adolescent development principles to ensure effective outcomes.

**FACT 5:** More recent juvenile sentencing laws, particularly those that limit judge's ability to take an individualized approach, have led to overuse of costly correctional placements.

**FACT 6:** DHS facilities make low and moderate risk offenders worse than if they had been served in the community. Low and moderate risk youth continue to make up the majority of those confined in DHS facilities, although the use of the OYAS risk assessment tool developed by Dr. Ed Latessa's team from the University of Cincinnati is beginning to address this.

**FACT 7:** RECLAIM is a nationally recognized model that has been further leveraged by DHS in targeted pilot strategies to reduce unnecessary and ineffective use of costly DHS placements.

**FACT 8:** 50% of DHS youth are on a mental health caseload, right now, that is about 350 kids out of 700.

**FACT 9:** About 300 youth are transferred to adult court each year in Ohio. Despite the intent, not all of these youth offenders are the "worse of the worst". A *Columbus Dispatch* investigation in 2006 found that of the bindovers between 2000-2005, 21% of the youth transferred to the adult system were charged with low level felonies (F4 and F5), which includes things like drug abuse, receiving stolen property, assault and theft. According to a study by Forst and associates, youth in adult prisons were five times more likely to be sexually assaulted, twice as likely to be beaten by staff and 50% more likely to be attacked with a weapon than youth in juvenile facilities. And the suicide rate is eight times higher for youth in adult facilities. These laws are meant to deter but bound over youth are also more likely to reoffend compared to similar youth maintained in the juvenile system.

**FACT 10:** Juvenile violent crime is down and has been declining overall since 1994, both nationally and in Ohio. See the graph illustration as an attachment to this testimony.

While I could go on with more compelling facts to show why it makes sense to capitalize on this moment for juvenile justice reform, let me simply point out the obvious: Ohio is grappling with serious budget challenges, the conditions litigation that involves all of the DHS facilities has cost the state millions of dollars and the state already has a record of evidence-based success in knowing what works in the community for juveniles.

The Ohio Chamber of Commerce recently released a report, "Redesigning Ohio", calling for a number of fiscally smart policy reforms at the adult level, including reallocating a percentage of savings from closures of adult prisons into community based options and sentencing reforms to reduce our state's reliance on prison placements. The juvenile system is even more poised for these kinds of reforms, particularly given its proven track record with RECLAIM and performance-based intervention strategies, such as Targeted RECLAIM and the Behavioral Health Juvenile Justice (BHJJ) programs which I believe others will address in more detail.

The juvenile justice reform policy proposals in HB 86 promote accountability: fiscal, public safety and youth accountability with opportunities for future success. Specifically, HB 86:

**Promotes research-supported, outcome-based programs and practices that maximize results and provide greater public safety per dollar spent.**

**Revises certain statutory mandatory sentencing schemes (that often result in ineffective, overuse of costly, secure placement) to permit judicial discretion and addresses some key court procedural issues, such as competency.**

**And reflects an overall recognition that being “smart on juvenile crime” requires developmentally appropriate treatment and accountability measures.**

As one colleague aptly put it, this is definitely a case of trading the “worst of both worlds” (high cost with poor outcomes) for the “best of both worlds” (lowered costs with better outcomes – for youth and community safety). The reforms in HB 86 present a very good first step and we look forward to future reforms to create an even better juvenile justice system for Ohio’s citizens. Thank you for your attention.

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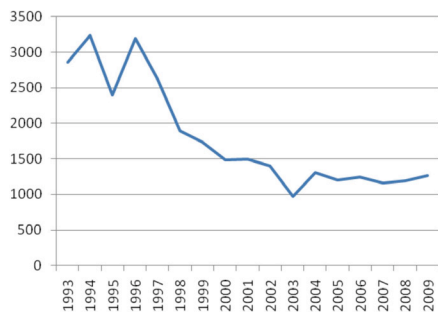
**ATTACHMENT 1: COMPARISON OF NATIONAL & OHIO JUVENILE VIOLENT CRIME DATA**  
**NATIONAL TRENDS: JUVENILE ARREST RATES FOR VIOLENT CRIME INDEX OFFENSES**

Arrests per 1000,000 Juvenile Ages 10-17, 1980-2008



OJJDP Statistical Briefing Book. Online. [http://ojjdp.ncjrs.org/ojstatbb/crime/JAR\\_Display.asp?ID=qa05201](http://ojjdp.ncjrs.org/ojstatbb/crime/JAR_Display.asp?ID=qa05201). October 31, 2009. Adapted from Puzanchera, C. *Juvenile Arrests 2008*. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention.

Ohio Trend Data – All Juvenile Violent Crime



Source: Uniform Crime Reports, Crime in the United States, 1993 to 2004.  
Note: These are aggregate counts of juvenile arrests, each year, reported to the FBI by Ohio law enforcement agencies. They are not rates per 100,000. During the 17-year time period, the juvenile population of Ohio increased.

**Center for Innovative Practices/  
College of Public Health  
Kent State University**

Presented to: Senate Judiciary-Criminal Justice Committee  
Prepared by: Patrick J. Canary, Director,

June 15, 2011

Thank you Chairman Grendell, Ranking Member Turner and Senate Judiciary-Criminal Justice Committee members.

My name is Patrick Canary and I am the Director of the Center for Innovative Practices at the College of Public Health at Kent State University. I am here today to testify as an interested party on HB 86 in regards to proposed changes in Ohio’s juvenile justice system.

Our Center is a technical assistance, education, and training resource for counties, courts, public systems, and providers looking to identify and implement intensive and effective research and outcome based community interventions for Ohio’s most troubled youth and their families. These are youth who are typically involved in Juvenile Justice, Mental Health, Drug/Alcohol, and Child Welfare systems. Their young lives are often a litany of challenges from delinquency, school truancy, anti-social behaviors, substance abuse, and emotional disturbances. They are often referred to as ‘deep-end’ youth, those who have high needs, high service use, and high cost. Not all that long ago there was a belief that these youth were ‘beyond help.’ However, the last decade has shown us that there are indeed highly successful and cost effective interventions that do work for many of these youth.

Over the last few years we have seen Ohio’s juvenile justice system make significant headway in reducing youth incarceration rates. This is testament to policies and programs based on research that says diversion from state corrections and into treatment for these young people produces better and more sustainable outcomes. We have strong evidence that engagement in these programs will reduce recidivism rates and juvenile justice involvement, while increasing their odds for staying connected to their families and communities, completing school, finding employment, and staying out of the adult corrections system.

Several years ago the Departments of Youth Services and Mental Health entered a joint venture called the Behavioral Health-Juvenile Justice Initiative, or better known as BHJJ. It provides resources to the six largest counties to re-invent how their collective systems work with youth with delinquent behaviors, serious mental health, substance abuse, and emotional disorders. The initiative has an ongoing evaluation component that clearly demonstrates the extraordinary level of success this approach has achieved.

Recent BHJJ evaluation summary sites that: 1) of the 1035 youth enrolled in the project by the end of 2009, only 15 (1.4%) were subsequently sent to an ODYS institution; 2) workers reported that 57.2% of the youth were at risk for out of home placement at intake into BHJJ, but at termination, only 17.0% of the youth were judged to be at risk for out of home placement; 3) while in treatment, problem severity decreased significantly and functioning increased significantly (as reported on the Ohio Scales).

ODYS also provides incentives through Targeted Reclaim to Ohio's six largest counties to redouble their efforts to divert youth from state incarceration and instead, serve them closer to home, for less cost, and with better outcomes. These six counties reduced their admission rates by nearly 40% over the past few years.

The annual cost difference between incarceration at ODYS and community intervention is \$123,000 at ODYS compared to \$7500-9000 in BH-JJ projects. We would want this kind of return on investment at any time but given our state's economy, it is even more compelling. We can provide a detailed summary of the outcomes of both of these programs.

These two initiatives, fairly unique in the country, share a number of characteristics: 1) they fund only programs that have strong research behind them; 2) they produce data that shows their effects do not end when treatment ends; 3) they build on the strengths and the central role of the family (after all, 80-90% of the youth who are removed from their homes, return to those same homes); and 4) the outcomes they measure are 'real world' and important to public systems and communities: youth are living at home or in a home-like setting; attending and succeeding at school or work; substantially reducing contact with the juvenile justice system; reducing substance abuse, and increasing involvement with positive peers. All of our public systems that serve Ohio's youth can rally behind those kinds of outcomes and all of them benefit.

The very good news is that Ohio is successfully implementing a number of these practices around our state. The services include Multisystemic Therapy (MST), Intensive Home Based Treatment (IHBT), Multidimensional Treatment Foster Care (MTFC), and Functional Family Therapy (FFT), and Multidimensional Family Therapy (MDFT) and others. In addition, WrapAround, Trauma-informed Cognitive Behavior Treatment, and Strengthening Families, are being used in our state. I believe that most of the districts represented by this Committee have at least one of these practices being implemented and I think each of them would confirm the difference they have made.

For example, over the last two and half years, Ohio's MST programs have served over 1500 youth and families. Many of these youth would have been placed in residential treatment settings or DYS facilities. Recent data shows, 83% were living at home; 78% were attending school; and 74% had no additional arrests; under 10% of youth were placed — all within 5 months of treatment. The cost of MST per day is approximately \$70.00

compared to a \$338.00 per day cost at DYS or a \$250.00 per day cost in residential treatment. And while the actual number of multi-system high risk youth may be relatively low compared to other youth, they represent a higher percentage of usage of our collective public resources, so it makes sense that for our most complex and troubled youth, we should be implementing those practices that show strong research and real world outcomes. In addition, these interventions can disrupt the trajectory of these youth into the adult corrections system.

These approaches are the present and future of our systems. These projects provide critical leverage in helping ODYS transform its role from big institutional settings to more effective community based alternatives and interventions; but it requires other departments and systems to make it happen. For example, ODMH has committed to furthering the access of needed mental health services for youth by working to include Intensive Home Based Treatment to the state's Medicaid plan. While there will always be a need for strategic use of out of home placement and good residential treatment, over time as these evidence based programs become more accessible, we will see that increasing numbers of youth can be served in more effective, lesser restrictive (but higher intensity), and more cost effective ways.

A recent survey conducted by Kent State University, with support of the Gund Foundation, showed that 70% of key community stake holders, who work in the Juvenile Justice and Mental Health systems, indicated that diversion programs are seeing more mental health and substance abusing youth. 80% of the respondents said they see an increase over the last few years in treatment referrals of youth to community programs. That is actually helpful news because it means that we are identifying and diverting youth and that Juvenile Justice should not be the primary provider of mental health services for youth. However, the caution here is having the resources needed to serve these youth. 80% of the respondents expressed concern over resources, including not enough investment in evidence based programs. The investment of RECLAIM funds is an important strategy and HB 86 appropriately prioritizes research-supported, outcome-based interventions.

So the challenge is how we reform the system that we are while transforming it to the system we want. We have many of the tools we need to make this happen but they will be strengthened by the reforms in the bill before you.

I want to thank you again for the opportunity this afternoon to share this with you. I would be happy to try and answer any questions you might have and provide any follow up documentation you may request.

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## APPENDIX D: JUVENILE JUSTICE REFORMS IN HB 86 AND OHIO FY 2012-2013 STATE BUDGET (HB 153)

- Promotes research-informed practices with the RECLAIM program and reallocation of institutional savings into evidence-based community programs.\*
- Creates a uniform juvenile competency law.
- Increases judicial discretion in some instances and makes statutory changes to specific juvenile sentencing provisions, including a new limited reverse waiver option.
- Creates an Interagency Mental Health Juvenile Justice Task Force.

**1. HB 86 promotes research-informed practices.** Specifically, in reference to how RECLAIM dollars should be spent, it adds new language that states: "Research-supported, outcome-based programs and services, to the extent available, shall be encouraged."

**2. HB 86 adopts a uniform juvenile competency code that applies to all delinquency proceedings using a juvenile specific standard.** A juvenile is incompetent if, "due to mental illness, intellectual disability, or developmental disability, or otherwise due to or a lack of mental capacity, the child is presently incapable of understanding the nature and objective of proceedings against the child or of assisting in the child's defense." A child who is 14 or older who, "is not otherwise found to be mentally ill, intellectually disabled, or developmentally disabled," is rebuttably presumed to "not have a lack of mental capacity" (for purposes of determining mental capacity only). The law provides significant detail on procedures for identifying experts, conducting competency evaluations, addressing youth found incompetent, etc.

**3. HB 86 extends juvenile court authority to allow for judicial release throughout a youth's term of commitment.** Under this reform, judges maintain jurisdiction to consider early release opportunities throughout a youth's commitment, including juvenile's serving mandatory sentences.

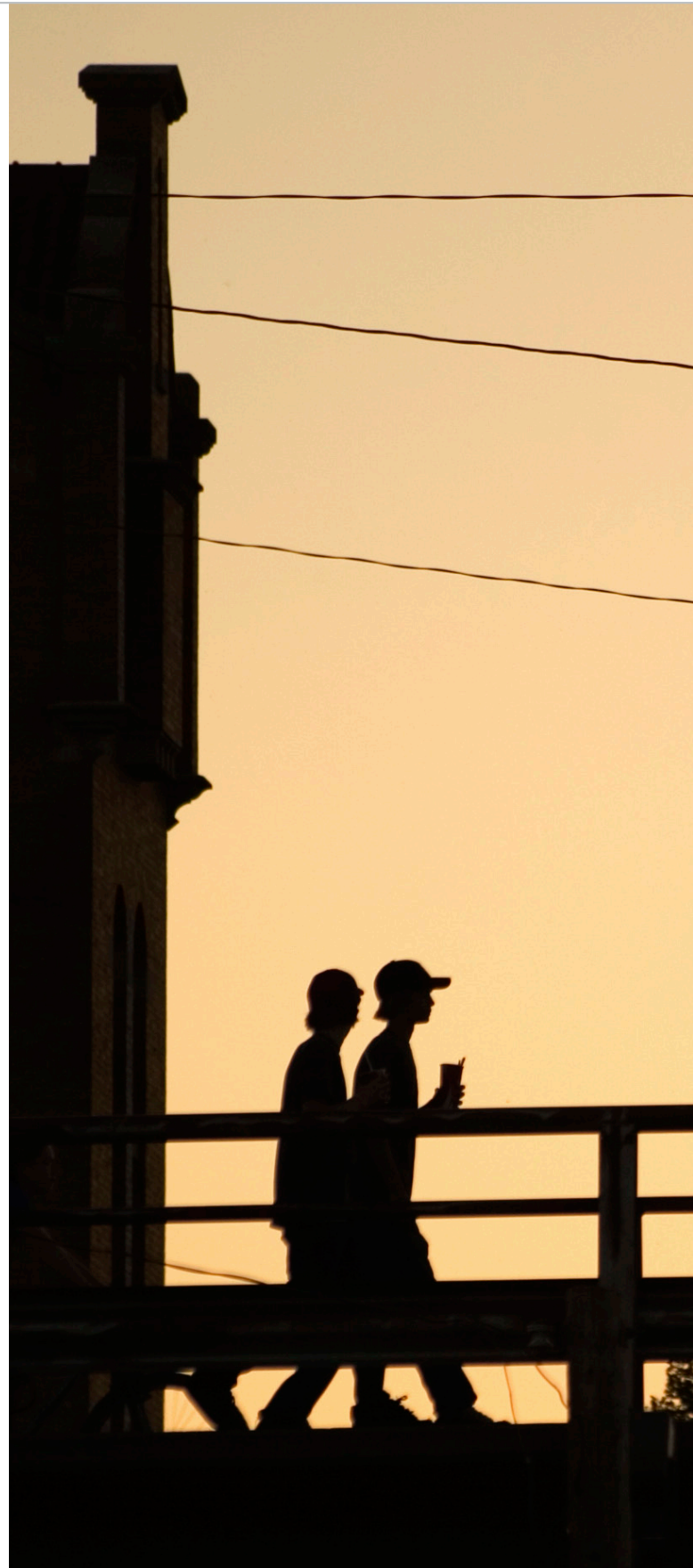
**4. HB 86 revises four of the existing mandatory sentencing specifications involving a firearm to allow for judicial discretion in instances where the youth was not the main actor.** Specifically, juvenile judges have more discretion in sentencing for youth accomplices (complicity) under certain conditions where the youth did not furnish, dispose of or otherwise use the weapon.

**5. HB 86 creates a narrow reverse waiver provision for youth automatically transferred to adult court (mandatory bindover) that would permit transfer back to juvenile court.** This reverse waiver procedure would only apply in those circumstances where a youth is convicted of an offense that would not have originally qualified as a mandatory bindover offense. The case would go back to juvenile court for juvenile sentencing or an amenability hearing to consider the appropriate sentence.

**7. HB 86 creates an Interagency Mental Health Juvenile Justice Task Force to address the challenges of delinquent youth who "suffer from serious mental illness or emotional and behavioral disorders."** The six month Task Force has representation from the state Supreme Court, the Governors office, the House, the Senate, ODYS, ODMH, juvenile judges, public defenders, child development experts, prosecutors, academic institutions and others. It must submit a report with findings and recommendations to the Legislature by March 31, 2012.

\*The final state budget (HB 153) states: "For purposes of implementing juvenile sentencing reforms ... the Department of Youth Services may use up to forty-five per cent of the unexpended, unencumbered balance of the portion of appropriation item 470401, RECLAIM Ohio, that is allocated to juvenile correctional facilities in each fiscal year to expand Targeted RECLAIM, the Behavioral Health Juvenile Justice Initiative, and other evidence-based community programs."

HB 86 was signed by the Governor on June 29, 2011 and is effective September 30, 2011.





A photograph of a bridge railing against a sunset sky. The sky is a warm, golden-orange color, and three power lines stretch across it from left to right. The railing is dark and consists of vertical posts and horizontal bars. The text "the bridge to somewhere" is overlaid on the sky.

the bridge  
to somewhere



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