

POSITIVE POWER:

Exercising Judicial Leadership to Prevent Court Involvement and
Incarceration of Non-Delinquent Youth



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INTRODUCTION

Juvenile and family court judges play a critical role in the lives of youth and families who come into contact with the courts. When you spend time with juvenile judges or their client families, you generally hear of lives turned around, children who are sheltered and supported, lives improved and in some cases lives saved; you will learn about the high level of dedication to children, youth, their families and communities that juvenile and family court judges hold at the core of their practice. Yet, judges and other officers of the court may also be called upon to intervene in the lives of children and families even when their experience and evidence tell them that judicial intervention may make matters worse.

Changes in law and in the expectations of parents and the public increasingly press judges and juvenile courts to address a range of issues that did not fall within the purview of the delinquency court in the past: family disruption and dysfunction, children acting out in school and children running from home or placement for reasons of fear or emotional need. At the same time, judges and courts face complex challenges as a result of laws that allow youth, by virtue of their minor status, to be charged in juvenile court for “status offenses,” i.e., actions that are not illegal at the age of adulthood, including curfew violations, possession of alcohol and tobacco, running away and truancy. All too often the court’s involvement in the lives of such youth and families does not yield positive outcomes, particularly when youth charged with status offenses have their liberty restricted and lives disrupted by incarceration.

This brief describes the work of nine juvenile and family court judges who have established alternatives to court involvement and confinement for youth engaged in behaviors identified to the courts as status offenses. While some changed their approach to status offenses because of legislative mandates, others acted on their own initiative

when they realized that confinement was at best ineffective, and at worst harmful to the very children they were seeking to protect. All of the judges profiled in this brief are dedicated to ensuring that youth who have unaddressed needs are protected from stigma, marginalization and exposure to delinquency and criminalization. By diverting them away from the courts and detention, they seek to ensure that vulnerable youth are given access, at home and in their communities, to the resources they need to live healthy, productive lives.

DEFINING THE ISSUE: FIRST DO NO HARM

At a time when research demonstrates the deleterious impacts of incarceration on young lives, it is critically important to cast a spotlight on the thousands of youth who have not committed any act of delinquency, yet may be placed in harm’s way when the court intervenes with an order to lock them up. Placing children and youth who commit status offenses in locked detention jeopardizes their safety and well-being.ⁱ Too often, detained youth are held in overcrowded, understaffed facilities—environments that can exacerbate unmet needs and breed social tension or even violence.ⁱⁱ Yet, of the estimated 150,700 status offense cases annually petitioned to the courts, nationwide, nearly 10 percent are placed in locked confinement at some stage between referral to court and disposition.ⁱⁱⁱ In addition, nearly 20 percent of non-delinquent youth, including status offenders, youth charged with technical violations of court orders and non-offending youth detained for “protective custody,” are placed in living units with youth who have killed someone.^{iv}

Detention/incarceration does not address the underlying causes of status offenses and is not a deterrent to subsequent status-offending behavior.^v In fact, because child abuse, neglect, poverty, family disorganization and trauma are closely associated with status offenses, locking up a child may worsen behaviors and actions associated

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with status offenses.^{vi} Detention isolates youth from their families and communities, and precludes families from developing the strong social supports necessary to successfully raise youth to adulthood.^{vii} Research has shown that family-connected and community-based responses – keyed to the developmental differences between children, teens and adults – are far more effective and cost-efficient in both the short- and long-term.^{viii}

In this spirit, the Deinstitutionalization of Status Offenders (DSO) core requirement of the federal Juvenile Justice and Delinquency Prevention Act (JJDP)^{ix} has long held that youth charged with status offenses, and non-offenders involved with the dependency court, may not be placed in secure detention or locked confinement. The DSO core requirement strives to ensure that youth who have not committed a delinquent or criminal offense are not incarcerated, but instead receive the family-centered and community-based services needed to address and ameliorate the root causes of their behavior.

While the DSO prohibition against locked detention of status offenders has stood since 1974, since 1984 the valid court order (VCO) exception to the DSO core requirement has allowed detention of adjudicated status offenders, under certain conditions, if they violate a VCO or direct order from the court.^x These orders can be as general as “stop running away from home” or “attend school regularly.” Almost half of the U.S. states and territories prohibit use of the VCO exception in statute or do not actively utilize the exception.^{xi} In 30 states where the exception is used, it is typically used by a single court or a small number of judges, at times to excess.^{xii}

EXPLORING A SOLUTION: JUDICIAL LEADERSHIP ON DSO

There are, however, a growing number of judges who refuse to use locked confinement as a sanction for status offenses in jurisdictions where the VCO

exception is allowable. These judges leverage their access and influence to convene practitioners, providers, parents, families and others to build community-based and family-centered responses to the needs of the children and youth identified with troubling, non-delinquent behavior. Like their colleagues in states and jurisdictions that long ago ended the practice of detaining youth charged with status offenses, these judges recognize that courts are ill-equipped to independently identify and address the unmet and often complex needs that may lead to status-offending behaviors.

The examples of judicial leadership highlighted below vary: these judges are from all regions of the United States; from a mix of rural, suburban and urban populations; in states that permit use of the VCO exception and states that do not. There is diversity among the judges themselves in terms of gender, age and race; whether they were appointed or elected to the bench; and how long they have served. Some of the judges profiled readily acknowledge that they once believed that confinement for youth charged with status offenses was a viable and valid option. Others never saw the value of placing status offenders in locked confinement. These varied examples illustrate how efforts to deinstitutionalize status offenders can overcome geographic, demographic and ideological barriers. Four noteworthy elements of effective judicial leadership emerge from these judicial profiles:

1. **Demand for Evidence-Based Approaches.** Each judge recognizes that locked confinement does not result in a decline in the number of status-offense cases petitioned to their courts, and is determined to change judicial practice in a manner consistent with the best available data of what produces favorable outcomes for youth, families and communities.
2. **Balancing of Interests.** While each judge is motivated to identify effective alternatives to detention and supportive options for youth

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charged with status offenses and their families, they also take preservation and protection of community safety into account.

3. **Reliance on Partnerships.** Each judge recognizes the value of bringing judicial and non-judicial partners together to develop community-based, family-connected continuums of care for vulnerable youth.
4. **Use of Judicial Convening Power.** Each judge proactively leverages his/her statutory and inherent powers to convene and/or participate in cross-system collaborations designed to identify and overcome barriers, and continuously explore new options.

DENVER, CO

THE HONORABLE KAREN ASHBY

Judge Karen Ashby's efforts to reduce incarceration of youth charged with status offenses did not begin as soon as she took the bench but rather evolved over time. In 2004, a new state law, Senate Bill 03-286, capped the number of detention beds to be funded across Colorado, making it essential for juvenile judges to be more deliberative when determining whether a youth should be placed in locked confinement.

As a member of a statewide advisory board charged with allocating funds and locked placements across the state under the new law, Judge Ashby began examining data about youth ordered into detention. What she learned surprised her: most youth identified as status offenders and ordered into locked detention were deemed to be a risk to no one but themselves. Yet, detention offered limited or no services to address the risks of self-harm, and could in fact escalate those risks. Seizing upon an opportunity, Judge Ashby transformed her work on the advisory board into a vehicle for change by helping to craft an allocation formula that prioritized detention for youth evaluated as public safety risks, and emphasized non-detention treatment alternatives for youth charged with status offenses.

Judge Karen Ashby was appointed to the bench in 1998 and is the presiding Juvenile Court Judge in Denver, Colorado. The Denver Juvenile Court is a constitutionally separate court from the rest of the state circuit court system with



jurisdiction over dependency and neglect, truancy, delinquency, paternity and child support cases. "In all that I do," says Judge Ashby, "my goal is to identify what is really best practice, not just what seems reasonable or intuitive or feels good or feels right - particularly in crisis situations."

On the local level in 2004, Judge Ashby initiated the Denver-based Creative Options Committee, a collaborative effort between court-appointed guardians ad litem, public school leaders and staff from the Mayor's office designed to identify alternatives to detention for youth charged with truancy. Although Colorado law permits the use of the VCO exception, Judge Ashby also instituted a policy that prohibits detention for chronically absent/truant students brought before Denver's juvenile court. Instead, the Denver Department of Human Services assigns a liaison to attend all truancy matters, to identify children and families in need and deploy social services to assist them as quickly as possible.

Most recently, Judge Ashby helped facilitate Denver's participation with the Breakthrough Collaborative/Crossover Youth Practice Model developed by the Center for Juvenile Justice Reform at Georgetown University. First established in 2007, the Model currently works with local system actors in 21 jurisdictions across 11 states to prevent and better address the needs of youth who have a

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history with the child welfare system due to abuse and/or neglect, but have been petitioned to the juvenile court for a delinquency offense.^{xiii}

JEFFERSON COUNTY, KY THE HONORABLE JOAN BYER

The Jefferson County Family Court, where Judge Joan Byer serves as Presiding Judge, follows the “One Family, One Judge, One Court” approach, and has jurisdiction over dependency and neglect, delinquency, divorce, domestic violence, child custody and paternity cases. However, this unified approach to dealing with family matters does not always translate into a reform-focused agenda for dealing with youth charged with status offenses. Not only does Kentucky allow for use of the VCO exception, some Kentucky counties rank highest in the nation for the number of youth incarcerated using the VCO exception, according to data reported by the federal Office of Juvenile Justice and Delinquency Prevention.^{xiv} Yet, under Judge Byer’s leadership, Jefferson County seldom incarcerates youth charged with status offenses.

After her election as a family court judge in 1996, Judge Byer quickly recognized that bringing youth petitioned as truants before her court failed to improve their academic performance or attendance. According to Judge Byer, there was no short or long term benefit found in “embarrassing kids or their families,” so she pursued a community-based solution to truancy. She started by identifying juvenile justice stakeholders who shared her interest in diverting truant youth away from the courts. Those stakeholders included the court-school liaison, whose job it was to gather information about status and delinquency cases, and the principal of a local middle school that generated a significant number of truancy cases. Initial discussions led Judge Byer to convene a working group that included the court-school liaison, the school superintendent and other family court judges. All stakeholders who participated

recognized the need for wraparound services that target the underlying reasons for chronic absenteeism.

Judge Joan Byer has served as a Circuit



Court Judge in the Family Division since 1996. Named Louisville Bar Association Judge of the Year in 2002, Judge Byer has received numerous recognitions as a jurist and community leader. Judge Byer

*previously served as President of the National Truancy Prevention Association, a non-profit organization dedicated to the needs of challenged school-aged youth. Among her published articles is “A Model Response to Truancy Prevention: The Louisville Truancy Court Diversion Project,” *Juvenile and Family Court Journal*, Winter 2003.*

The resulting strategy is the Jefferson County Truancy Diversion Project,^{xv} an ongoing initiative to divert youth charged with truancy away from the juvenile court system and engage schools in school-based and family-based responses to high-need youth. School personnel identify students in need of attendance interventions, work with the students to set and monitor progress toward small, achievable goals, and conduct home visits to encourage family involvement in the program. To maintain confidentiality yet share relevant information, all parties – the school, agencies and parents – sign a memorandum of understanding that outlines the scope of information to be shared and with whom.

Support for the Truancy Diversion Project comes from a mix of public and private resources,

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including in-kind contributions. Family court judges volunteer their time to preside over an informal, school-based truancy court. Rather than create new programs or services, partners in the collaborative work together to reallocate existing funds and coordinate existing services. Families also receive multiple services through a local provider that plans and coordinates needed resources and interventions, such as Medicaid, mental health, counseling and drug treatment. Often families are already eligible to receive these supports, but have not been connected to them.

WASHOE COUNTY, NV THE HONORABLE FRANCES DOHERTY

Judge Frances Doherty credits three separate yet related catalysts with reforms that Washoe County has implemented in support of youth charged with status offenses.

The first catalyst was the Juvenile Detention Alternatives Initiative (JDAI) of the Annie E. Casey Foundation.^{xvi} As a member of the Nevada State Advisory Group chartered under the JJDP, Judge Doherty was part of a delegation that traveled to Oregon in 2002 to see one of the original JDAI sites in Multnomah County. She came away from that experience impressed with the way JDAI analyzes the decision points that cause youth detention, and challenges the philosophy that detention is an appropriate intervention for troubled youth.

The second catalyst was the leadership of Washoe County Juvenile Services, which oversees probation, committed services and prevention/early intervention services for court-involved youth. Since a Washoe County statute empowers the presiding Family Court judge to appoint the Juvenile Services Director, the court and juvenile services have a unique working relationship that allows for systemic policy and practice changes. According to Judge Doherty, the Juvenile Services Director had JDAI on his radar before she did. “[Juvenile Services] live and breathe detention

reform to reduce statewide and county detentions,” says Judge Doherty.



Judge Frances Doherty is presiding judge of the Family Court of the Second Judicial District in Washoe County, Nevada. The Second Judicial Family Court has jurisdiction over delinquency cases. Judge Doherty was first appointed a Master with jurisdiction over juvenile delinquency cases in 1997, and elected to the District Court in 2003.

Finally, there was an emerging and shared desire among system stakeholders to reduce detention rates in Washoe County. The county had recently built a new juvenile detention center, with a 72-bed capacity. The former facility had capacity for 60 beds, but regularly housed more than 100 youth. Stakeholders were determined not to let the new facility become overcrowded.

These three factors provided the impetus for the Washoe County court and Juvenile Services to begin implementing JDAI in 2003. They created a stakeholder group that included four law enforcement agencies, prosecutors, defenders, nonprofits and school districts. Using JDAI principles, the court services personnel and judges triaged the cases that came before them. In 2006, the group adopted a targeted focus on female status offenders. With the assistance of Fran Sherman, a visiting professor at Boston College Law School and a specialist on girls in the juvenile justice system, the Washoe County court evaluated its programs and decision points with a specific focus on the needs of girls. The evaluation revealed

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higher detention rates for girls for lower level offenses than boys, and showed that girls charged with status offenses remained on probation longer than boys.

To address girls' issues and broaden detention reform efforts, the court revised its detention risk assessment instrument, and implemented a "no exception to the 'no detention' rule" for youth charged with status offenses. The risk assessment instrument serves to advise rather than mandate decisions, and the court retains its power to make final decisions about whether or not to detain. Since the revision, overrides when risk assessment findings recommend no detention have decreased by 50 percent. The court also contracted with a nonprofit provider for non-secure beds as a placement alternative to detention, and established a protocol with local law enforcement agencies to "cite and release" youth alleged to have committed status or low-risk offenses. In the event that an officer is not comfortable taking a child home, they have the option to take the child to a non-secure placement.

After eight years, JDAI is a central part of the fabric of broader juvenile justice system reform in Washoe County and around the state. The JDAI stakeholder group meets every other month and is working with other sites to institutionalize reforms statewide. As of August 2011, Washoe County was using only 39 of 72 available detention beds and had closed a unit.^{xvii}

JEFFERSON COUNTY, AL THE HONORABLE J. BRIAN HUFF

Judge Brian Huff has long been concerned about the detention of youth charged with status offenses in Alabama, where the VCO exception is still actively used. He has witnessed firsthand the downward spiral that can be triggered when a youth is placed in locked confinement. Judge Huff has found that detention often produces harmful outcomes, including disengagement

from family, school and positive community support, and increased risk of delinquency. Unlike other states, where judicial convening power is exercised by practice, Alabama confers judicial convening powers by statute. Judge Huff has utilized this convening power to establish Reclaiming Our Youth, an initiative to improve the local juvenile justice system, from intake to disposition. Reclaiming Our Youth promotes

Judge Brian Huff is Presiding Judge of the



Jefferson County Family Court in Birmingham, Alabama. Judge Huff was appointed to the bench in 2005 and elected to his first full term in 2006. Jefferson County Family Court has jurisdiction

over dependency and neglect, delinquency, paternity and child support cases. Judge Huff presides over several specialized dockets, including Truancy, Juvenile Drug Court, Gun Court and the Return to Aftercare Program (RAP).

positive youth development, restorative justice and family involvement through collaboration with school officials, law enforcement, service providers and families.^{xviii} Among other things, the initiative has developed an alternative response to youth charged with ungovernability/incorrigibility.

Historically, parents in Alabama have been allowed to file a complaint directly with the court alleging a child to be ungovernable or incorrigible. Realizing that counseling was often court-ordered as a remedy in such cases, Judge Huff and his colleagues developed a court diversion protocol that mandates that youth and their parents and/

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or guardians must first undergo at least five family counseling sessions before filing in juvenile court. If the child refuses to go, the parent must develop a treatment plan with a counselor. To accommodate low-income parents, Judge Huff also worked with local providers to offer counseling sessions at little or no cost to the parents/guardians.

Implementation of this relatively simple protocol has dramatically reduced youth placements in locked confinement for ungovernability/incorrigibility charges in Jefferson County, and reduced the number of status offense cases filed before the Jefferson County Court annually by approximately 40 percent (from 4,000 to 2,500).^{xix} Importantly, the protocol has also empowered parents and families to address difficult, yet non-delinquent behavior with their children without juvenile justice system intervention.

STATE OF CONNECTICUT THE HONORABLE BARBARA QUINN

Judge Barbara Quinn's efforts to respond to the needs of youth charged with status offenses in Connecticut were inspired by the passage of legislation in 2005 that eliminated use of the VCO exception in the state. The new law gave Judge Quinn and her colleagues two years to align court practices and processes to serve the best interests of youth and families, in compliance with new mandates. In addition, because Connecticut operates a unified court system, as chief administrative judge for juvenile matters Judge Quinn was also in the unique position to facilitate uniform policy and practice changes in courts across the entire state.

Understanding the dynamics that often play out when a youth violates a direct order of the court, Judge Quinn worked with her judicial colleagues as well as juvenile justice advocates to craft additional legislation to divert youth charged with status offenses from the court system altogether. The statute, Public Act 07-4, mandates that youth

Judge Barbara Quinn is currently Chief Court



Administrator for the State of Connecticut, responsible for the administrative operations of Connecticut's judicial branch. Prior to this appointment, Judge Quinn served as chief

administrative judge for juvenile matters from 2005-2007, where she oversaw the division responsible for hearing Connecticut's juvenile justice and child protection cases. Prior to that, Judge Quinn was assigned to the Regional Child Protection Session of the Superior Court for Juvenile Matters in Middletown, CT, serving as its presiding judge from 1999-2001.

charged with status offenses – including truancy, running away and ungovernability/incorrigibility – would be diverted in the first instance to community-based programs if identified as low-risk, or, if identified as high-risk of truancy, into the state's new system of Family Support Centers (FSC). In addition, through the efforts and leadership of Senator Toni Harp and Representative Toni Walker of the Connecticut General Assembly, important funding for community-based centers was secured to support the legislative changes.

Through this new network of ten FSCs throughout the state, youth and families receive case management, 24-hour crisis intervention, family mediation, educational advocacy, group or one-on-one therapeutic sessions, and when necessary, respite care for up to two weeks. A formal status offender petition is filed in juvenile court only if a child's behavior escalates, or if the child and family experience repeated crises during an FSC

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intervention. As a last resort, judges retain the authority to order that a youth be placed in staff-secure, not locked, facilities.

Prior to 2007, courts in Connecticut processed 4,000 status offense cases each year. In the first six months following the enactment of the new law, the number of status-offense referrals to court fell by 41 percent.^{xx} Further, prior to implementation of the FSCs, Connecticut averaged 300 status offenders in secure detention each year.^{xxi} In the year following implementation of the FSCs, there were none.^{xxii} In 2010, 423 status offense cases were referred to probation departments, yet less than 25 percent became matters for the court.^{xxiii}

STARK COUNTY, OHIO

THE HONORABLE DAVID E. STUCKI (RET., 2011)

Prior to his appointment to the bench, Judge David Stucki served as a prosecutor and local school board member. Aided by this diversity of experience and perspective, Judge Stucki partnered with his colleagues and proactively convened public and private organizations to create several court diversion and alternatives to detention programs in Stark County, Ohio. Three of the programs specifically target youth who would otherwise be formally charged with status offenses and possibly subjected to locked confinement under Ohio law, which allows for use of the VCO exception.

The Unruly Diversion Program^{xxiv} is designed to intercept complaints from parents about their child's behavior before they become formal charges of ungovernability/incorrigibility. When a parent contacts the court and requests intervention, intake supervisors are empowered to call both the parent(s) and the child into their office, conduct an off-the-record hearing, engage in problem-solving, and develop a behavior contract between parent and child. Parents may also be offered direct support, such as parent-to-parent mentoring and counseling. Only if the child does not comply with the contract may his/her violation result in a formal

Judge David Stucki retired in 2011 as Senior Judge of the Family Court in Stark County, Ohio, where he served for 19 years. The Stark County Family Court has jurisdiction over dependency and neglect, delinquency, paternity and child support cases, as well as juvenile traffic violations. Judge Stucki was first appointed to the family court in 1992 and elected to his first full term in 1994.



petition.

More than a decade ago, Judge Stucki recognized that Ohio law does not provide for many non-detention responses to truancy. Therefore, Judge Stucki and his colleagues created the Truancy Mediation Program,^{xxv} designed to reveal the root causes of a child's chronic absenteeism and link the child and family to necessary services in the community. Conducted in partnership with the Community Mediation Center of Stark County, the program deploys intake officers to review the record and conduct an investigation upon receiving a referral from a school guidance counselor or principal, and before a formal complaint is filed. Once the investigation is complete, the court assigns a trained mediator to conduct one or more sessions between school officials, the child, the parent(s) and any relevant court officials. A recent study of the program revealed that the average number of absences for children identified as truant dropped by 51 percent following mediation.

Judge Stucki and his colleagues have also developed a Teen Court Program,^{xxvi} which has operated in cooperation with the schools, the court and the United Way of Greater Stark County since 2005.

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Teen Court handles first offense and misdemeanor cases, including minors in possession of alcohol that now make up a significant portion of the Teen Court “docket.” To participate in the program, youth must first admit to the offense. The case is then submitted to the Teen Court, where a jury of youth peers conducts a hearing to determine what disposition is appropriate. Dispositions may include writing essays, restitution and community service. Other sanctions, such as secure detention, are not available to the Teen Court. As long as the youth complies with the Teen Court’s disposition, formal charges are not filed in Family Court. The program’s recidivism rate is extremely low, and each year the Teen Court closes about 500 cases through the efforts of staff and 150 student volunteers.

CLAYTON COUNTY, GA THE HONORABLE STEVEN C. TESKE

While Judge Steve Teske agrees that youth misconduct warrants a response, he strongly believes that many behaviors and low-level delinquency offenses are more appropriately handled outside of the courts. This belief was reinforced when school-based offenses in Clayton County, Georgia rose sharply beginning in the mid-1990s, jumping from 46 incidents in 1995 to more than 1,200 in 2003. The rise in referrals coincided with the assignment of sworn police “school resource officers” to the county’s middle schools and high schools. Distressed by the explosion in school referrals to court and the increasing number of youth thereafter placed in locked detention, in 2003 Judge Teske spearheaded a process to create an alternative to court protocol. The aim was to better manage referrals to court of youth alleged to have committed status offenses and/or misdemeanor delinquent offenses, and to keep them in school and out of the judicial system altogether.

Using his credibility with the community and judicial convening powers, Judge Teske brought

together all essential stakeholders in Clayton County, including educators, police, social service and mental health counselors, parents and students, local civic groups and churches. He even went so far as to place an advertisement in local newspapers to identify people interested and motivated enough to participate. Judge Teske invited representatives from each stakeholder group to join a working group that would collectively design and implement an alternative response to youth at risk of being charged with status offenses and low-level delinquent offenses.

To ensure that the eventual outcome of the working group would be effective and embraced, Judge Teske and early members of the working group:

- identified key stakeholders to gain their input and perspective;
- identified a neutral moderator to lead the

Judge Steve Teske is Chief Judge of the Juvenile



Court in Clayton County, Georgia. Judge Teske was appointed to the juvenile bench in 1999 and became Chief Judge in 2009. The Clayton County Juvenile Court has jurisdiction over delinquency, dependency and

neglect, paternity and child support cases. “When sitting on the bench or deciding diversion and informal adjustment policies for the court, I look back on my own childhood,” says Judge Teske. “Adolescents sometimes do stupid things, and I did plenty of stupid things as a teenager. But I was never arrested or referred to juvenile court, and today I am a judge.” He adds, “Why is it that most of the cases referred to my court are kids . . . who were never arrested or referred in my day?”

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group and develop principles and guidelines for drafting the new protocol;

- educated stakeholders on best practices for low-risk youth; and
- mandated cross-training for law enforcement, counselors, school staff and juvenile intake officials to ensure understanding of how to use the protocol before it was put in place.

After a nine-month process, the working group settled on two alternatives for low-level offenses. The first was a School Referral Reduction Protocol to address misdemeanor delinquency offenses, including: 1) fights; 2) disorderly conduct; 3) disruption; and 4) failure to follow police instructions. The second was a multi-system integration approach, called the Clayton County Collaborative Child Study Team. The Study Team directs various service providers to receive and respond to status offense referrals from schools and other agencies, before a petition is filed in juvenile court. As a result of these combined efforts, school referrals to juvenile court decreased by more than 73 percent between 2003 and 2011. The high school graduation rate in Clayton County rose more than 24 percent during that same period.

In 2012, Judge Teske took these two initiatives from practice to policy by working to pass a consolidated administrative order to provide that no petition can be filed against a truant student or runaway until the youth has been referred to the Study Team, and that under no circumstances may a child be securely detained as a status offender. The consolidated order also incorporates a detention protocol modeled on JDAI to prevent the detention of low- to medium-risk youth. Judge Teske's efforts to reform his system and the attendant results have garnered national recognition, as other jurisdictions seek to replicate the Clayton County outcomes and interrupt the school-to-jail/prison pipeline.

SUMMIT COUNTY, OHIO

THE HONORABLE LINDA TUCCI TEODOSIO

With a background as a substitute teacher in the public school system, Judge Linda Teodosio came to the bench believing that youth charged with status offenses do not belong in detention. Rather, she strongly believes that detention should be reserved for youth who pose a risk to community safety, or for whom other sanctions have not proven successful. Judge Teodosio also believes that youth do better when served in the home and that "once they go to detention, we lose the benefit of that."

Judge Teodosio spent her first year on the juvenile bench engaging and educating local residents about status offenses, and receiving valuable feedback on how they believed the community should address the needs of youth so charged. From these discussions came the Responder Program, an initiative created by state and local stakeholders in partnership with the John D. and Catherine T. MacArthur Foundation's Models for

Judge Linda Tucci Teodosio is the only



juvenile court judge in Summit County, Ohio. She has jurisdiction over dependency and neglect, delinquency and child support cases, as well as juvenile traffic violations. Judge Teodosio was first

elected to the municipal court in 1998, and then to the juvenile court in 2003. Summit County does not utilize locked confinement for youth charged with status offenses. In 2010, Judge Teodosio was honored with the Models for Change Champion for Change Award from the MacArthur Foundation.

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Change Initiative. Models for Change supports, accelerates and replicates promising and effective juvenile justice reform efforts.

In the Responder Program,^{xxvii} if a child who would otherwise be arrested and charged with a status offense presents with a mental health issue, schools have the option to call in a “responder” who conducts a mental health screening and assessment. If a mental health need is identified, the child is diverted from the juvenile court and into mental health services. If the child and family comply with the service plan, the case never reaches the court. The program has served approximately 100 youth and families since the 2009-10 school year and Summit County officials estimate that 85 percent of the cases have been closed successfully without juvenile court intervention.

Even prior to the partnership with Models for Change, Judge Teodosio’s orientation was to reach out to parents and empower them in ways that divert youth from the juvenile court system. To that end, she helped establish a Family Resource Center in the Summit County juvenile courthouse to provide parents with a place to find help before involving law enforcement or the court. The Center takes drop-ins/walk-ins, and parents are given a list of agencies as well as help to make their initial appointments and navigate billing and payment processes if needed. Under Judge Teodosio’s leadership, Summit County is currently developing a truancy mediation program for the juvenile court.

When asked, Judge Teodosio says that she has never faced community criticism for her “off-the-bench” outreach and collaborative efforts. She has waited for it, but it has not come. She recognizes that some judges fear that if they pursue alternatives that do not rely on detention they will receive push-back from the community. “But,” she says, “that doesn’t happen when you take the time to involve the community from the beginning and to ensure the community understands what you are trying to do.”

Judge Teodosio also adds, “Victims may come in [to the court] angry, but when they finally see the kid, they want the kid to get help.”

BENTON-FRANKLIN COUNTIES, WA **THE HONORABLE DENNIS YULE (RET., 2009)**

During his first year on the bench, Judge Dennis Yule regularly received detention recommendations for youth charged with truancy. However, as time went on and he educated himself about detention, he became increasingly concerned. Then, in 1995, the Washington State Legislature passed the “Becca Bill” (RCW 13.32A.010) which, among other things, mandates that schools file a truancy petition after a student has seven unexcused absences in one month or ten unexcused absences in an academic year. Washington law also allows judges to securely detain youth charged with status offenses, including truancy, and requires a contempt motion against youth who fail to comply with the juvenile court’s order.

Anticipating a flood of truancy petitions with the potential to increase detention rates for youth charged with status offenses, Judge Yule and Juvenile Court Administrator Sharon Paradis went to work to craft a solution. His juvenile division reached out to schools in Benton-Franklin Counties and worked with them to develop early interventions for youth charged with truancy offenses before they entered the juvenile justice system. Some schools were initially reluctant, seeing the Becca Bill as a way to transfer responsibility for chronically absent youth to the juvenile court system. Others were more receptive to the court’s outreach, and even proactive in their outreach to the courts. For almost a decade, the Benton-Franklin juvenile division, under Judge Yule’s leadership, convened meetings and conferences with school districts to develop an “alternative to petition” process. The court organized cross-training sessions to help schools understand what courts need and to help courts understand what schools need. The result

Judge Dennis Yule was appointed to the



Washington State Superior Court for Benton-Franklin Counties in 1986 and re-elected every four years until his retirement in 2009. During his tenure, Judge Yule served as Supervising Judge for the court's

juvenile division, where he was responsible for setting policies and procedures, overseeing three court commissioners dealing with delinquency and dependency cases, and working closely with the juvenile court administrator. Reflecting on his former practice of detaining youth charged with status offenses, Judge Yule says, "I began wondering if I was more a part of the problem than the solution."

is a two-pronged strategy designed to: 1) identify a child at high risk for truancy before a petition is filed, and 2) provide early intervention immediately after a petition is filed to avoid a scenario that could trigger use of the VCO exception to detain the child. The strategy is supported by memoranda of understanding and court-management policies designed to limit use of the VCO exception and change a system-wide culture that previously operated on the assumption that it was appropriate to detain youth charged with truancy.^{xxviii}

In 2005, Washington State was chosen as a site for the John D. and Catherine T. MacArthur Foundation's Models for Change Initiative. With the support of Models for Change, Benton-Franklin Counties have continued to focus on alternatives to formal processing and locked confinement for youth charged with truancy.

EXPANDING JUDICIAL LEADERSHIP ON DSO

The judges featured in this brief are not alone in their efforts. There are many more examples of proactive leadership on DSO – both in states that allow detention of status offenses pursuant to the VCO exception and in those that do not. These few examples, however, demonstrate the potential for judges to use their inherent judicial powers, including the power to convene diverse parties with seemingly competing interests and to fundamentally transform court culture and practice and policies and programs that serve youth and families. The examples also highlight the value of community-oriented and cost-effective measures to meet the needs of youth at risk of being charged with status offenses, without court contact, formal adjudication or locked confinement.

CJJ offers the following recommendations for judges seeking to harness their leadership to more effectively respond to the needs of youth who engage in behaviors that place them at risk of being charged with status offenses, without formal court involvement and use of confinement:

1. **Make full and creative use of inherent or statutory powers to identify and convene** parents, youth, prosecutors, defenders, law enforcement officials, policy makers, community leaders, social service agency staff and service providers, each of whom has wisdom, expertise and resources beyond the court, as well as a stake in the final outcome of each individual case.
2. **Consistently and continually seek out and respond to educational peer-to-peer and expert-to-practitioner opportunities** that increase knowledge, understanding and application of established and emerging science on what does and does not work, including information on adolescent brain development, the dangers of detention,

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culturally appropriate responses, mediating family conflict and gender-responsive approaches.

3. **Become aware of, and seek to establish, partnerships** with national organizations on the cutting edge of juvenile justice reform, such as Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI), MacArthur Foundation's Models for Change Initiative, and the Crossover Youth Practice Model at the Center for Juvenile Justice Reform at Georgetown University.
4. **Work with system and community stakeholders to leverage private funds and repurpose/reallocate public funds** in ways that de-emphasize or prohibit locked confinement and prioritize alternatives to detention and diversion from court.
5. **Build consensus and institutionalize collaborative partnerships** through formalized protocols, policies and programs that delineate each party's contributions and responsibilities, and that comport with best, empirically supported approaches.

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- xiii. More info. at <http://cjjr.georgetown.edu/pm/practicemodel.html>.
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ABOUT THE COALITION FOR JUVENILE JUSTICE

The Coalition for Juvenile Justice (CJJ) is a nationwide coalition of State Advisory Groups (SAGs) and allies dedicated to preventing children and youth from becoming involved in the courts and upholding the highest standards of care when youth are charged with wrongdoing and enter the justice system. CJJ envisions a nation where fewer children are at risk of delinquency; and if they are at risk or involved with the justice system, they and their families receive every possible opportunity to live safe, healthy and fulfilling lives.

ABOUT THE PROJECT

The CJJ Safety, Opportunity & Success: Standards of Care for Non-Delinquent Youth Project (“SOS Project”) is a multi-year partnership that engages CJJ members and other key stakeholders to:

Highlight and broadly educate about policies and practices aimed at eliminating the use of locked detention for status offenders and other non-delinquent youth; and

Highlight and broadly educate about policies and practices to divert these youth and their families from the court in the first instance to connect them to family-centered and community-based systems of care to more effectively meet their needs.

The SOS Project builds on more than two decades of CJJ leadership to advance detention reform and promote detention alternatives that better serve youth involved with the courts, including youth charged with status offenses – or those offenses that would not be crimes for adults, such as ungovernability, running away, truancy, curfew violations and minors in possession of alcohol and tobacco.

The SOS Project is made possible with the generous support of CJJ’s more than 1,800 members nationwide and the Public Welfare Foundation.

Coalition for Juvenile Justice

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