

JUVENILE JUSTICE

Vision Statement

All Indiana youth in the juvenile justice system, and youth facing waiver or who have been waived to the adult criminal justice system, are entitled to a judicial proceeding that: ensures fair representation; ensures that youth not waive their rights to an attorney without appropriate consultation; enforces the rights of youth and their parents; and provides rehabilitative and reentry services in the least restrictive and most appropriate settings.

THE CHILDREN'S COALITION OF INDIANA WILL SUPPORT AND ADVOCATE FOR THE FOLLOWING:

Advocacy

- ◆ Limit the number of youth- especially those who are low-risk - transferred to detention facilities, in recognition of the 2006 national report "The Dangers of Detention."
- ◆ Ensure that children who are detained in correctional or other private, secure facilities are held in accordance with the Juvenile Justice & Delinquency Prevention Act of 2002.
- ◆ Establish a full continuum of services that includes effective, community-based programs, rehabilitative reentry and aftercare, and guarantee treatment for youth with special education needs, mental illness, and/or chemical dependency.
- ◆ Support the implementation of the Juvenile Detention Alternatives Initiative (JDAI) in all major metropolitan areas within the state.
- ◆ Create statutory authority for the Department of Correction, Division of Youth Services to monitor detention facilities through the office of the State Jail Inspector, and authorize the State Jail Inspector to report violations to the Commissioner of the DOC, who would have authority to place sanctions on detention facilities that did not meet minimum standards. All correctional and detention facilities would be required to utilize best practice research regarding adolescent mental and physical development in program planning and implementation.

Legislative Action

- ◆ Ensure that the juvenile court system and the Indiana Criminal Justice Institute assess and address the nature and extent of the over-representation of children of color within all points of juvenile justice.
- ◆ Ensure that every child's rights are protected by providing competent representation in all legal proceedings and instituting a non-waivable right to counsel for every child under 15 years of age charged with an offense.
- ◆ Amend the juvenile code to provide a standard process for the determination of competence to stand trial, and include a mandatory evaluation for all children facing waiver to adult court.
- ◆ Amend the juvenile code to ensure compliance with the Federal Office of Juvenile Justice and Delinquency (OJJDP) Prevention Act of 2002.
- ◆ Implement the recommendations outlined in the Commission on Disproportionality in Youth Services report.

Administrative Action

- ◆ Create a system of certification for juvenile detention centers, including graduated penalties for centers not in compliance.
- ◆ Provide child specific legal training to public defenders assigned to juveniles.
- ◆ Endorse the principles of "A Blueprint for Juvenile Justice Reform" as the strategic guide for policy and practice in Indiana.
- ◆ Create a mechanism by which the Indiana Department of Correction-Division of Youth Services can deny admission to severely impaired youth for whom incarceration is inappropriate, so that appropriate referrals may be made by the Courts.

Implications of Non-Action

- ◆ An increase in the overuse of waivers and direct filings to adult court.
- ◆ An increase in the violations of children's rights within the juvenile justice system.
- ◆ An increase in inappropriate detentions for low-risk youth, such as status offenders.
- ◆ Loss of Federal funding under the OJJDP Prevention Act of 2002, leading to an escalation in both State and County financial responsibilities for the detention and incarceration of juveniles.
- ◆ Missed opportunities for prevention and rehabilitation of young Hoosiers.

Rationale: Juvenile Justice

THE JUVENILE JUSTICE SYSTEM IN INDIANA

- ◆ The statutory purpose of Juvenile Courts is to provide social and rehabilitative services for youth. Youth who are adjudicated in Juvenile Court are not entitled to bail or bond, nor are they eligible for trial by jury.
- ◆ Juvenile Courts and County-operated. Detention Centers are under the jurisdiction of the Juvenile Judge, but may be contracted to for-profit companies. Detention centers are audited annually by the State Jail Inspector, but the Inspector has no power to issue sanctions when detention centers fail inspections. There are currently 23 detention centers in the state; per diem charges range from \$85 to \$130.
- ◆ The Department of Correction operates juvenile incarceration facilities. Youth are to be remanded to DOC facilities only when all other attempts to rehabilitate them in the community have failed. The average age for youth entering DOC facilities is 15 ½, and the average length of stay is one year. One year in a DOC facility costs the taxpayers over \$45,000. The State of Indiana general fund bears the entire cost of incarcerating youth.
- ◆ The Commissioner of the Indiana Department of Correction created the Division of Youth Services in 2009. The Division should explore moving to the model developed in Missouri, which operates small, therapeutic facilities, and has reduced the youth recidivism rate to below 15%.
- ◆ The Juvenile Detention Alternatives Initiative (JDAI) assists jurisdictions in devising procedures to identify those youth truly in need of detention. JDAI has been shown to be a cost-effective, community-based alternative which has resulted in lower recidivism rates, lower rates of disproportionate minority contact, and lower rates of youth moving from detention to incarceration. Millions of taxpayer dollars have been saved annually in communities that have adopted JDAI.

THE NINE PRINCIPLES OF "A BLUEPRINT FOR JUVENILE JUSTICE REFORM"

- ◆ Reducing institutionalization
- ◆ Reducing racial disparity
- ◆ Ensuring access to quality counsel
- ◆ Creating a range of community-based programs
- ◆ Recognizing and serving youth with specialized needs
 - Creating smaller rehabilitative institutions
 - Improving aftercare and re-entry
 - Maximizing youth, family, and community participation
 - Keeping youth out of adult prisons.

NON-WAIVABLE RIGHT TO COUNSEL:

A statewide study conducted by the Indiana Juvenile Justice Task Force, Inc. and the National Juvenile Defender Center demonstrated that it is common practice for Indiana children to go through delinquency proceedings without legal representation.

The study also showed that parents tend to waive their child's right to counsel based on the belief that there will not be serious consequences, even though delinquency proceedings often result in children being placed out of their home for extended periods of time.

COMPETENCY TO STAND TRIAL:

Every child has the constitutional right to be competent to stand trial, determined in delinquency proceedings. There is no current standard or process in place in Indiana regarding competency determinations or what should happen when a child is found to be incompetent.

TRANSFERS OF YOUTH TO ADULT CRIMINAL COURT:

The direct filing of a youth to adult criminal court, or the process of prosecutor's requesting that a juvenile be waived via hearing to adult criminal court, should be used only in circumstances where a youth has been alleged to have committed a serious, violent act, or has been chronically committed to secure juvenile facilities with no positive outcomes. For the past ten years, independent agencies and agencies of states and the federal government have investigated the results of waiver, and all have come to the same conclusion, as stated in the 2007 report by the Centers for Disease Control and Prevention: "The practice of transferring juveniles to the adult justice system fails young offenders and society at large. Now that we have the facts borne out by every scrap of data on the subject, let's turn our attention to fixing a flawed strategy." And a 2010 report by the UCLA Law School concluded: "Transfer policies have demonstrated no proven deterrent effect and have caused sharp increases in recidivism across several jurisdictions."