The State of the Multnomah County Juvenile Justice System:

A Report to the Policymakers and Citizens of Multnomah County

Crime Victims United of Oregon

2008

“We’re Not Law Enforcement”

Multnomah Juvenile Services, The Annie E. Casey Foundation, and The Juvenile Detention Alternatives Initiative

“My grandfather would be very disturbed to see the system in its present condition.”

Mitch Copp, Portland Police Officer and Grandson of Donald E. Long, the namesake of Donald E. Long Home; Juvenile Detention Center for Multnomah County.

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Dedication

This report is dedicated to the memory of Davonte Lightfoot, a troubled but talented and articulate 14 year old on probation. Davonte was murdered on the streets of Portland after his mother begged that he be detained but was refused.

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EXECUTIVE SUMMARY

For over a decade, Multnomah County Juvenile Services has made assertions that it has greatly reduced juvenile crime while reducing the need for the use of secure detention and commitments to juvenile correctional facilities. A careful examination of these claims, however, shows them to be unsubstantiated. Such is the conclusion of this report which is based on over a year of investigation. The report examines in detail the philosophy behind those claims and the effect it has had in practice in Multnomah County.

This comprehensive document explains that Juvenile Services has come to fully embrace the philosophy of the well-funded and influential Annie E. Casey Foundation which in 1992 started the Juvenile Detention Alternatives Initiative (JDAI). Since adopting that initiative, Juvenile Services has gradually stopped viewing itself as being part of law enforcement, hence the title, a quote from Dave Koch, Assistant Director of Multnomah County Department of Community Justice—Juvenile Services Division. This was at the same time that a significant change in state law made it quite clear that the juvenile justice had an important role in protecting the community and holding youth accountable. Instead of complying with the purpose of the Oregon juvenile justice system, Juvenile Services has adopted the Casey philosophy which is based on their prior work with abused and neglected children. As a result, detaining youth, many of whom have committed serious crimes, is seen as being ineffective, too damaging to the youth and too expensive to the community. In fact, holding youth accountable for their crimes in almost any meaningful way is frowned upon for the same reasons. The report provides many pages of extensive analysis and corroborating statistics and charts, as well as specific examples to refute those claims. It includes the heartbreaking story of a mother who begs Juvenile Services, unsuccessfully, to detain her child and put him somewhere safe before he meets his death on the street. As a symbol of how the current philosophy puts youth at risk by obstinately refusing to use all tools available to it, this report is dedicated to the slain fourteen-year-old.

The report discusses other serious concerns about Multnomah County Juvenile Services. It has alienated police officers, those who see youthful offenders in their daily lives. It plays misleading games with numbers, such as failing to compare its mildly declining recidivism rates with a statewide average, which is declining at a significantly higher rate. Juvenile Services has virtually made it legal for Multnomah County youth to use alcohol and marijuana by refusing to take any action to hold the offenders accountable, as would happen in other counties. Juvenile Services leadership discourages its employees from expressing opinions which are not consistent with the Casey philosophy.

The report includes the results of a survey of police officers on the street toward the juvenile justice system in Multnomah County. Over 250 officers completed the survey. The results are troubling, especially considering the number of surveys returned. Less than one half of one percent of the officers rated Juvenile Services as being good. Only 8% considered it to be fair, and the remaining 92% called it poor. Another example: only

2% said that it was easy to get a youth lodged in detention. Many officers volunteered additional comments and examples in the margins and on the back of pages. One mentioned a case in which four juveniles charged with assaulting two young adults were released almost immediately and were later given probation without additional time in detention.

A comparable questionnaire given to those who work in detention, yielded similar sentiments, though only just over one quarter of the workers completed the surveys. According to some of those who work in detention, there was considerable pressure to not criticize current policies. For those who did complete the survey, the results of a question about their general impression of the effect of the Casey-sponsored JDAI is dramatic: very favorable 0%, neutral 19%, somewhat negative 31% and very negative 50%.

The report raises serious issues about the functioning and mission of Juvenile Services that need to be addressed by responsible management and political authorities.

The report ends with general conclusions and with specific recommendations for change. If adopted, those recommendations would fundamentally change the direction of Multnomah County Juvenile Services from a de facto child welfare agency to a functioning part of the law enforcement system.

Introduction

The title of this report refers to a statement made by Dave Koch, the Assistant Director of Multnomah County Department of Community Justice—Juvenile Services Division (referred to in this report as Juvenile Services). During a tour of the Donald E. Long Home with members of Crime Victims United, he was asked whether Juvenile Services inquired about the immigration status of those lodged in detention. Since only the most serious crimes qualify for detention, this seemed a reasonable question. Mr. Koch answered no, that they do not ask about immigration status. When pressed as to why, he answered, "We're not law enforcement."

Mr. Koch's statement seemed to accurately reflect the nature of our concerns about Juvenile Services—that it has been designed far more as a child welfare agency than a juvenile justice agency. Through hundreds of hours of reading documents and talking with those involved in juvenile justice in Multnomah County, it has become apparent that there is significant conflict between the policies and practice of Juvenile Services and the letter and spirit of Oregon law. Further, it has been our experience that the public's expectation is that its juvenile justice agency would not only offer youth appropriate treatment, but would also make decisions that hold youth accountable for their behavior and protect the community. Unfortunately, the public's expectations have not been met by Juvenile Services.

The current state of juvenile justice in Multnomah County is the product of an administration which has wholeheartedly adopted the model proposed by the Annie E. Casey Foundation. The Casey philosophy and model will be discussed during the first part of this report. The Casey Foundation has done admirable work with abused and neglected children and has run a system of foster care which truly is a model for others to follow. As it started into the area of criminal conduct by juveniles, however, the Casey Foundation has viewed juvenile justice as merely an extension of the child welfare system which it espouses for needy and law-abiding children. This approach assumes that needy children and delinquent youth have the same problems. It ignores the fact that delinquent youth have given themselves permission to violate the rights of others in a criminal manner; needy children have not. Changing that criminal behavior takes a far different and more intensive effort. While the circumstances of needy and abused children are traumatic and damaging, the serious criminal behavior of youth represents values which need to be replaced. This is a challenge far different from the nurturing and support so necessary for the abused and neglected.

The model adopted by the administration of Juvenile Services has left little room for staff input. While we understand that no department can be run by vote, there seems to have been no avenue for staff who do the every day work of the department to have their opinions heard and their expertise considered. This top-down implementation of change seems encouraged by the Casey Foundation, which appears to view staff as an impediment to their recommended changes. While we had great difficulty getting staff input due to their stated fear of retaliation, the input we have received is unanimous in

stating that direct-service staff were not consulted prior to the changes, nor have their opinions been sought in any significant manner. In fact, there are statements on the Casey website which criticize the attitude of direct-service staff—at least prior to the implementation of the Casey reforms. This failure to appreciate the opinions of direct service staff creates a problem for both the political and appointed leadership of the county in getting an accurate reflection of staff opinions and ideas. Even if staff views were solicited, there is little indication that it would lead to a candid conversation due to the pervasive fear of retaliation and isolation in the workplace.

This report was originally intended to deal solely with the issue of when and how detention is used. As we investigated the scope of the Casey model and the policies of Juvenile Services which implemented that model, however, it became clear that we were dealing with a system-wide philosophy of working with the criminal merely as the needy. The model eventually adopted by the administration of Juvenile Services prescribes extraordinary steps to minimize accountability throughout the system from beginning to end. From the intake of cases, through court proceedings and probation, delinquent youth are given few credible reasons to change. Effective enforcement of court-ordered mandates is scarce to non-existent. Use of residential treatment or youth correctional facilities is discouraged by policy and philosophy, even though those options are part of the continuum of services which provide youth the advantages and protection of a juvenile justice system.

One result of this under use of the juvenile justice system is that Multnomah County has an overabundance of older, violent youth going into the adult court system through Measure 11 offenses. While Crime Victims United cannot prove a causal link between Juvenile Services' lack of accountability at the front end and the over representation of older Multnomah youth engaged in seriously violent crime, the correlation between the two should be a matter of great concern to the citizens of the county, and the subject of further study.

During our investigation, Crime Victims United has been accused of being confrontational. That was not our intention. On the contrary, we believe that we have conducted this investigation in a discreet and professional manner. We have met with the administration of Juvenile Services on two occasions. We met once with the Chair of the Multnomah County Commission and the Director of the Department of Community Justice. The administration of Juvenile Services was provided an early draft of our report. There have been no leaks of damaging information; nor have we selectively released some of the more troubling aspects of this report. We believe that the criticism of our approach was based on the fact that we did not expect this to be a consensus report. We had no requirement to satisfy the various interest groups.

Government reports can often be the product of a watering-down process, wherein strong statements are softened to gain support and minimize opposition. Such exercises are

valuable, and it would be our hope that our report might lead to further investigation and a consensus report for significant change. We did not, however, engage in that sort of process. After only a few months of investigation, it was quite apparent to us that we needed to start the discussion by releasing a report that was written from the viewpoint of community safety, offender accountability and a realistic view of what juvenile offenders require for behavioral change.

This report is organized into a number of distinct parts. Part 1 is a discussion of the Casey Foundation philosophy of reducing detention population, its view of delinquency as largely a child welfare issue and the way it deals with dissenting viewpoints. National and state realities which contradict the Casey philosophy are discussed in detail. There is an extended discussion of the methods used to lower detention admissions, all of which have been implemented in Multnomah County.

Part 2 deals specifically with the implementation of the Casey philosophy in Multnomah County Juvenile Services. Information presented includes a discussion of the low rate of incarceration, and the lack of timely enforcement of court mandates. The specifics of the Risk Assessment Instrument, which is the primary vehicle for restricting detention admissions, are presented. Cases are discussed and scored according to the Risk Assessment Instrument to give the reader an accurate view of just how restrictive the instrument is. The issue of Juvenile Services' very high cost per youth in detention is discussed and related to the lack of use of available detention resources. This section ends with an analysis of Multnomah County's higher rate of recidivism as compared to other large Oregon counties in particular and a statewide average in general.

Part 3 summarizes police officer's response on the functioning of Juvenile Services. It could and perhaps should have been the basis for a full report. Two hundred and fifty-five police officers from Portland, Gresham and Troutdale completed our survey, an amazing response. The Portland Police Association said that it got a larger response than had been received on any issue in a long time. As important as the number, however, is the fact that over 90% of the surveys had written comments. Several officers wrote a whole page of comments separate from the survey. Clearly, the survey touched on a very important issue for the officers. There were far too many comments to include all of them; however, a number of comments are used throughout the report. These are not the official views of their agencies, but the views of individual law enforcement officers who deal directly with Multnomah County youth and Juvenile Services. Their opinions should be a matter of concern to those who view the police as a crucial link in the justice system. Far too often, the term "cop mentality" is viewed as a pejorative term. This minimizing of the role of police occurs when a part or parts of the justice system see a fundamental difference between enforcement and treatment, rather than viewing the two as fundamental parts of a whole system. To Crime Victims United, the "cop mentality" is the first and most crucial step in protecting the public and getting help to delinquent youth.

Seldom do police officers on the street have the opportunity to give their opinions for a substantive report. We tried to reverse that trend. The opinions of police management are critical in the process of deciding on fundamental change in the Multnomah County

juvenile justice system. Those opinions will be most helpful when a multi-agency team works on a consensus report.

Part 4 involves a discussion of the views of a number of custody staff in the Donald E. Long Home who completed a survey prepared by Crime Victims United. This in itself took some courage, as the administration of Juvenile Services had already complained about one of our questionnaires to the county commissioners' office. The commissioner's office then made an inquiry to the union, which was helping with the distribution, but did not take a position in the investigation. As we had made clear to the union that we did not want to get it involved in a county vs. union conflict, the distribution of probation officer questionnaires was suspended immediately. Custody staff, however, did their own circulation. The results and their comments are discussed in detail. Concerns about a lack of accountability and growing concerns about discipline within the facility are apparent in the results. Also quite clear is the generally negative view of the Casey Foundation and the risk assessment instrument (RAI). The recommendations of custody staff are quite revealing. The willingness of custody staff to give their views despite the obvious opposition of management and a realistic fear of retaliation represents a degree of professionalism and concern for the community that is in the best traditions of public service.

Part 5 is the story of Davonte Lightfoot, the young man to whom this report is dedicated. His story provides a tragic example of what happens when philosophy trumps reality. His is an illustration of how the philosophical need to maintain a low rate of commitment to state correctional facilities became more important than the moral and legal mandate to use the full continuum of juvenile justice alternatives to help youth change their behavior.

Part 6 is the conclusions reached after investigating these issues for just over a year. The conclusions are presented as clearly and unambiguously as possible.

Part 7 contains Crime Victims United's recommendations for fundamental change of the juvenile justice system in Multnomah County. These recommendations are contrary to the recent history of the juvenile justice system in Multnomah County and call for very significant change from the current system to one far more in tune with the legislative mandate for the juvenile justice system which is written into state law.

Originally, this report was also planned to deal with a number of Eastern Oregon counties which appeared to have adopted the Casey model. After meeting with those counties, our concerns appeared to have been at least partially addressed. See appendix C for a more detailed discussion of this issue.

We have undoubtedly left out issues which ideally would be explored. We lacked sufficient contact with some direct-service staff, especially probation, to make the sort of firm statements of their views which would have been helpful to the report. Due to concerns of employment safety for our sources, we were unable to make contact with other persons, such as probationers and their parents, whose personal stories would have added depth to this report. A logical extension of this report would be an examination of

the judiciary's contribution to the current system. That was an addition to the report which we chose not to make.

On balance, however, we believe that the report provides an accurate view of the philosophy adopted by Juvenile Services and the current state of juvenile justice in Multnomah County, when considered from a community safety viewpoint. This viewpoint has been ignored by the administration of Juvenile Services but not by those who must live with the consequences of these well-meaning but unfortunate and counterproductive policies.

Ken Chapman
May, 2008

PART 1: THE CASEY FOUNDATION AND THE JUVENILE DETENTION ALTERNATIVES INITIATIVE

In l992, the Annie E. Casey Foundation expanded its mission and scope. Where it had previously been associated with foster care and advocating for the needs of abused and neglected children, they moved into the field of juvenile justice through their Juvenile Detention Alternatives Initiative (JDAI). The Casey Foundation was quite clear that it saw detention as something which was inherently harmful and that it should be used in only the most serious of cases. Articles on the Casey website discuss the need to have "objective criteria" determine detention admissions, the expense of juvenile detention, the negative effects of juvenile detention, and the correlation of JDAI reforms with lower crime rates.

There are four stated objectives to Casey's JDAI program: (1) Reduce "inappropriate" detention admissions (2) reduce the incidence of Failure to Appear and further criminal conduct, (3) redirect money to more "responsible" programs than detention, and (4) monitor and evaluate detention programs for their level of offender care.

Even after only a brief time of reading material on the Casey website (www.aecf.org), it would be impossible not to read about the unparalleled success of its "model sites," which include Multnomah County. They are the "learning laboratories" for other jurisdictions. Further, their success has "…saved their jurisdictions millions of dollars…" (see Casey's document "Preface to Pathways 14").

Phrases such as "extraordinary progress," "pioneering work," and "impressive results," chronicle the relentless progress of what can only be called the Casey Enlightenment.

The Casey Foundation in its latest updates of the JDAI program, Pathways 14, continues the assault on the use of detention, railing against the confinement of "misbehaving children." The trivialization of juvenile crime is a continuing theme in their publications. After citing anecdotes of abuse perpetrated on youth in detention, the Director of Casey's Program for High Risk Youth, Bart Lubow, questions "….whether the profound challenges inherent in trying to operate safe, humane (dare I add 'effective') secure juvenile facilities are actually surmountable."

Having questioned the moral basis to incarcerate any youth offender, the Casey Foundation has put itself in clear and stark contrast with Oregon law.

DIFFERING MISSIONS

The Casey Foundation and Oregon law have radically different visions of the purpose of the juvenile justice system. Prior to 1995, however, those visions would not have been so dissimilar. While the Oregon juvenile code did not have a written purpose clause prior to l995, a reasonable interpretation of its various provisions could lead to the conclusion that

it was essentially a child or youth-offender welfare system in which the best interests of the child (both a dependent youth and a delinquent youth were referred to as a child) and "least restrictive" requirements were the guiding principles. Giving further credence to that assumption, the state juvenile justice agency was operated through the department dealing with child welfare, the Oregon Children's Services Division.

Following the soaring crime rates of the 1980's and early1990's, Oregon's decades-long failure to build enough prison space to stay up with crime and population growth, and the resistance of the Oregon juvenile justice system to make changes to deal with violent offenders, voters approved Measure 11 by a substantial margin in November of 1994. Measure 11 made the most serious and violent crimes punishable in adult court for all defendants 15 years of age and older. While adult minimum mandatory sentences are part of the measure, for those sentenced prior to their 18th birthday, the sentence is generally served in a juvenile correctional institution, up to the age of 25. An attempt to repeal the measure was overwhelmingly defeated in 2000.

Measure 11 precipitated a further significant change in the Oregon juvenile justice system with the passage of Senate Bill 1 in 1995. This major overhaul of juvenile justice in Oregon changed the purposes of the system to (1) protection of the community, (2) reduction of crime, and (3) reformation when it could be done "within the context of public safety." The Oregon Youth Authority was created as the statewide juvenile justice agency, replacing the Children's Services Division.

Most striking was the purpose clause added to the very beginning of the Oregon delinquency code (ORS 419C):

> **" 419C.001 Purposes of juvenile justice system in delinquency cases; audits.** (1) The Legislative Assembly declares that in delinquency cases, the purposes of the Oregon juvenile justice system from apprehension forward are to protect the public and reduce juvenile delinquency and to provide fair and impartial procedures for the initiation, adjudication and disposition of allegations of delinquent conduct. The system is founded on the principles of personal responsibility, accountability and reformation within the context of public safety and restitution to the victims and to the community. The system shall provide a continuum of services that emphasize prevention of further criminal activity by the use of early and certain sanctions, reformation and rehabilitation programs and swift and decisive intervention in delinquent behavior. The system shall be open and accountable to the people of Oregon and their elected representatives."

Compare the Oregon purpose clause with the mission statements that are mentioned on the Casey website. The most common is:

> **"Helping to build better futures for disadvantaged youth"**

or this one:

"Helping vulnerable kids and families succeed"

These are admirable goals, but hardly adequate as the basis for a justice agency which deals with the aftermath of criminal and violent conduct. There is no mention of safer communities, victims protected, accountability, swift and certain sanctions, etc.

To see how far Juvenile Services has gone to adopt the Casey model, consider their own mission statement printed in bold on their website:

"We are invested in continuing to develop, implement and provide efficient and effective services that are customer focused, culturally competent, and based on best practices to reduce recidivism rate, to increase high school completion and to increase good government."

In another document on engaging the police and developing a reception center for youth, Juvenile Services talks about developing community capacity to "…protect and serve the rights of youth within the constructs of the Juvenile Detention Reform Initiative."

How about operating within the constructs of Oregon law? These are obviously not the statements of an agency which sees itself as part of the law enforcement process. As with the Casey statements, there are no references to protection of the community, restitution to the victim, accountability, or the other elements of the Oregon juvenile delinquency purpose clause. The only hint in their statement that Juvenile Services works with crime is the use of the word "recidivism." Even this statement doesn't fully address the issue of crime reduction. There also is no indication that "customer focused" includes anyone other than the youth offenders.

In this view of juvenile crime, there appears to be no room for victims. Victims of crime or the citizens of the community, in general, who must deal with the reality of crime are seldom mentioned. In the world according to Casey, when victimization is discussed, it is usually to portray young offenders as victims of their social circumstances or the juvenile system which is attempting to deal with their criminal conduct.

A tour of the Annie E. Casey website and more specifically their publication "The JDAI Story—Building a Better Juvenile Detention System" shows that the term "juvenile detention alternatives" refers most obviously to not detaining as many youth. Looking for other alternatives, the articles mention settling cases earlier, lowering or eliminating time spent in detention for probation violations, day reporting centers, court schools and youth advocates. They state that most alternatives come under the general description of house arrest or home confinement. Sometimes these restrictions are strengthened by electronic monitoring.

One program mentioned has an "expediter" calling victims who might object to the release of a youth offender to reassure them of the strict conditions that would be imposed and soliciting their approval of the release.

None of these alternatives are particularly groundbreaking nor are they exclusive to jurisdictions adopting the Casey model of lowering detention admissions, with the possible exception of the "expediter" mentioned above.

To make their view of detention as clear as possible, the document "Consider the Alternative," by Paul DeMuro (Casey website publications, page 13) gives as one of the "guiding principles" of juvenile detention alternatives, that they should "reduce detention admissions" and not be used to "widen the net". Therefore, juvenile detention alternatives should not be viewed as a way to more efficiently and appropriately use detention, but simply as a tool to reduce detention admissions.

The Multnomah County document on the Juvenile Detention Alternative Initiative, Section 9 "Risk Assessment Instrument", has a glossary that lists several programs that would be alternatives to detention, such as house arrest, electronic monitoring, and community detention (see Part 2). These alternatives sound far more formidable than they are in reality since none of these alternatives have a significant and timely enforcement mechanism. Those who deal with delinquent youth in Multnomah County, by practice, policy and tradition, are not allowed to use the police powers granted in ORS 419A.016. Youth who violate conditions of release are warned, and even if found in chronic violation are just given a summons to appear in court at a later date.

The lack of timely enforcement of conditions of release seems to be specifically endorsed by the Casey Foundation and Mr. DeMuro when he states on page 16 of "Consider the Alternatives":

> "When a youth violates a condition of home detention, he or she need not automatically be returned to secure detention. Staff can first consider increasing the level of supervision**…..In Cook County a youth is liable to be returned to secure detention if he or she is not available on 3 occasions when the probation staff do a home visit."** [Emphasis added]

Notice the lack of consistent or credible consequences in the Casey model. This is a 3-strikes-and-maybe-you're-out philosophy. Even after 3 documented violations, the offender is only "liable" to be detained. There is plenty of wiggle-room in that statement to allow for even more violations. Further, a lack of credible supervision resulting in a violation of home detention is followed by even more "supervision" lacking credibility. Cook County, by the way, is one of the "model sites", which along with Multnomah County is touted as being such a success.

The lack of enforcement which permeates the Casey model is made even clearer as it endorses the use of private, non-profit agencies to make the contacts with youth, a practice adopted by Juvenile Services. Those personnel would specifically lack the authority to take enforcement action. In effect, they monitor rather than supervise. One wonders whether the "expediter" mentioned above is giving false assurance to victims who are unaware of the reality of minimum enforcement and maximum offender advocacy.

The differing priorities for the juvenile justice system are also shown in the different ways that the State of Oregon and the Casey Foundation justify pre-adjudicatory detention. In "Controlling the Gates—Effective Admission Policies and Procedures," the Casey Foundation states: "….effective admissions practices should be based upon the principles of using the least restrictive alternative necessary to ensure that the youth appear in court and remain arrest free pending adjudication."

Oregon law, however, is significantly different. It gives a description of crimes which are subject to pre-adjudicatory detention (weapons crimes, assaults and any felony), states a preference for a return home when possible, and then gives the two additional conditions for detention: ORS 419C.145:

(2) (a) No means less restrictive of the youth's liberty gives reasonable assurance that the youth will attend the adjudicative hearing; or

(b) The youth's behavior endangers the physical welfare of the youth or another person, or endangers the community.

The Casey Foundation implies that the "least restrictive" requirement applies to their two approved reasons for detention: to ensure appearance in court and remain arrest-free. Oregon law, however, uses the "least restrictive" language only to apply to appearance in court. Section (2)(b) "The youth's behavior endangers the physical welfare of the youth or another person, or endangers the community," has no least restrictive requirement. This section also allows detention based on the seriousness of the behavior alleged, and is not dependent on an assessment of the risk of rearrest.

A failure to consider the dangerousness of the behavior alleged could lead to some rather disturbing decisions. If the "risk of rearrest" standard were to be adopted, it would seem that those charged with homicide would be the first released, since there is a low rate of recidivism for that crime. Generally, the more serious a crime, the less frequently it is committed. The most prolific rapist or armed robber is not nearly as active as the most prolific thief. Refusing to give weight to the exponentially increased level of trauma caused by serious crime is just another example of the JDAI reforms' failure to look at interests other than that of the offender.

DIFFERING PERSPECTIVES

The very first justification for the Juvenile Detention Alternatives Initiative, (Annie E. Casey website, Juvenile Detention Alternative Initiative, About JDAI) is labeled "Crowding Crisis." The discussion continues by stating that by the beginning of the 90's, "two out of every three youth admitted to secure detention was (sic) entering a place that was crowded…" They give one instance in New Jersey where "…a youth detention

facility designed for 37 was home to 90 to 100 juveniles." (Casey website , JDAI in the News). No one could seriously dispute the destructive effects of such crowding.

The two-thirds figure is out of date, at the very least. The Juvenile Residential Facility Census, 2000 (Office of Juvenile Justice and Delinquency Prevention), states that 39% of juvenile facilities have had more residents than standard beds at some time during the previous year. This figure does not appear to differentiate between occasionally and chronically overcrowded facilities.

In Oregon the sort of egregious example cited by the Casey Foundation simply does not exist. Juvenile detention facilities have operated on a general policy that when a facility is full, a new admission leads to a fairly rapid release. In Multnomah County, until very recently, there have been a significant number of available detention beds. Overcrowding simply does not occur.

Another perspective of the Casey Foundation which differs from a community safety approach to detention is its general view on law violations which is contained in the "Crowding Crisis" mentioned above: "Less than a third of the youth in detention were charged with violent crime. Indeed, as many youth were in detention for violating rules (e.g. technical probation violations) as were there for violent crime."

This passage contains at least three assumptions: (1) that a detention admission for other than a violent offense should always be suspect, (2) that non-violent offenses such as residential burglary, theft, and drug dealing do not endanger or degrade the community and (3) that probation rules are guidelines rather than court-ordered mandates, which should not--or should seldom-- be enforced through the use of detention. These assumptions are consistent with a philosophy where mandates and requirements are replaced by goals—worthy targets which we hope to reach sometime in the future.

Also in "Controlling the Front Gates," the Casey Foundation makes a number of assertions that are not true in Oregon and that reveal a view of juvenile crime which is not supported by Oregon law. For instance, it is stated that "…an effective juvenile justice system does not use detention as a sanction" (page 10). Their view clashes with an important element of Oregon juvenile law that authorizes court-ordered detention, and evidently criticizes a sanction which is used hundreds of times a year by….Multnomah County judges. It is further stated in the same publication that 33.9% of those in detention are admitted for "status offenses and technical violations." Technical violations are violations of court ordered conditions. The use of the word "technical" therefore seems intended to minimize the seriousness of violating a court order. Further, status offenders, such as runaways or those who have violated curfew, have not been lodged in Oregon for over 30 years, except for a very small number of runaways having out-of-state warrants.

Even the short term use of detention, which generally has more support than long-term incarceration, is reason for criticism in the view of the Casey Foundation. For instance in the Preface to Pathways, page 14, it is stated that the majority of youth, "…were released

within five days." This leads to their conclusion that "Locking up so many alleged delinquents for low-level offenses" represents a waste of resources and is a seriously negative experience for the youth. They also state that "temporarily mischievous youth" might be inappropriately labeled. In another publication (Preface to Pathways 14), Casey continues its attempt to view crime as just another typical rite of passage by referring to detention as the "sometimes arbitrary exercise of power by adults frustrated or angered by misbehaving children."

The terms "temporarily mischievous youth" and "misbehaving children" are examples of minimizing serious crime. The terms might properly apply to minor vandalism or low-level theft, neither of which qualify for pre-adjudicatory detention in Oregon. When used as they are by Casey in justifying its JDAI, they are more in a long line of examples showing disdain for interests other than lessening consequences for the offender.

A BENIGN VIEW OF JUVENILE CRIME AND DELINQUENCY

One of the most serious flaws of the Casey philosophy is what can only be characterized as the trivialization of crime. The implied message of the Casey Foundation is that a very significant percentage of juveniles who are likely to be locked up in detention are minor offenders who do not belong there.

Crime Victims United can actually agree with the Casey Foundation that the clear majority of juveniles referred for a criminal offense do not need formal court intervention or the use of detention. Those cases, however, are <u>not</u> the cases which result in detention. We would also agree that harsh punishment is not effective. We do not, however, define "harsh" as appropriate periods of confinement for those who were involved in dangerous or chronic criminal behavior or who failed to live up to court-ordered mandates.

When the Casey Foundation uses phrases such as "misbehaving children," "temporarily mischievous children," "non-violent crimes," or "technical violations," it conveys the message that many if not most juvenile offenders are neither dangerous nor particularly non-compliant. They are, in the Casey perspective, just "children" needing more compassion and patience. The use of the word "children" seems particularly manipulative, with its image of rascally but loveable little munchkins.

The use of such benign words and phrases can only be done by those with little interest in or contact with the victims of serious crime, whether it be property or violent crime. To imply equivalence between law-abiding and delinquent juveniles is to insult one group and misjudge the other.

But even if we were to agree that juvenile offenders are "children", we wonder what behavioral theory or evidence demonstrates that setting limits, but then enforcing them only with constant reminders rather than credible sanctions, is helpful to a child?

Crime Victims United believes that the vast majority of delinquent youth can be helped to make significant behavioral change, but that change is not facilitated by a view which fails to acknowledge the seriousness of crime and the thinking which precedes it.

Contrary to the "there-but-for-the-grace-of-God-go-you-or-I" argument, not all disadvantaged juveniles have it in them to commit serious crimes. Perhaps nearly all juveniles could commit a minor crime or offense such as stealing a small item, drinking alcohol, smoking marijuana, breaking curfew. Few juveniles, however, are capable of entering a house, removing the property and then selling it. Few juveniles are willing to possess a firearm and use it to intimidate or injure another person. Few juveniles can commit a predatory and unprovoked assault. Very few juveniles are willing or able to commit a sex offense.

Most of us feel badly if we treat someone in a rude or harsh manner. We can't even imagine how we would feel if we intentionally hurt someone or stole something of significant value. That projected guilt, which Psychiatrist, William Gaylin, calls "the guardian of goodness", deters the vast majority of people young or mature, advantaged or disadvantaged, from serious crime. When that deterrent doesn't work, it will take far more than repeated admonitions to change the behavior.

Serious criminal behavior represents a value system fundamentally different than those who do not engage in such behavior. Dealing with delinquent youth allows us to intervene before there are decades of repeated criminal behavior, however it still involves the hard and time-consuming work of deterring old behaviors and encouraging new ones. Breaking the criminal cycle takes consistent and credible action—treatment and enforcement working together as a team. Advocacy of such action is absent in the Casey publications and the practices of Juvenile Services.

Dr. Stanton Samenow, the author of Inside the Criminal Mind has a memorable phrase which describes the difference between working with the needy and the delinquent: "Our job is not to comfort the afflicted, but to afflict the comfortable." Making seriously delinquent youth consider changing their thinking, values and behavior is hardly facilitated by making them comfortable before they change.

HOW DANGEROUS IS DETENTION?

There is a general perception that juvenile detention is extremely dangerous. More specifically, Casey Foundation publications and the entire Juvenile Detention Alternatives Initiative are unambiguous about their belief that it is far better for delinquent youth to be living with their families and in their communities. This is undeniable for the vast majority of youth. For seriously delinquent youth, however, it is appropriate to make a sober assessment about the offender's home, community and peer group. What is often overlooked is that the juveniles placed in detention or other facilities, learned their criminal behavior while living in their communities and with their families and peer groups. Adolescents spend far more time with their peer group than with their families. When trying to deal with serious or chronic criminal conduct, a

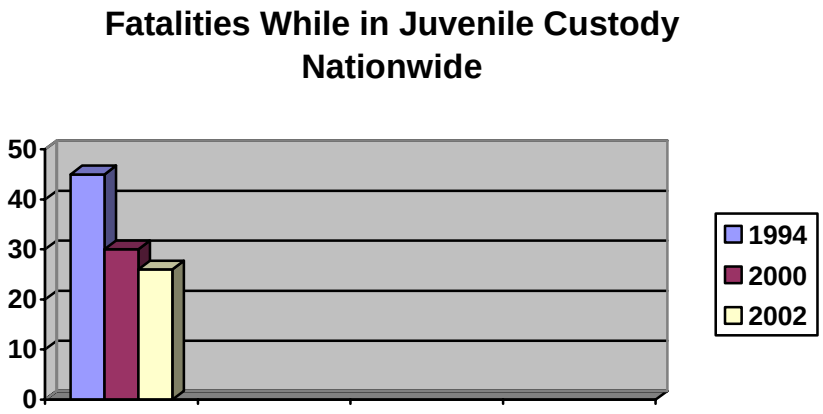
family that lacks effective controls on the youth's behavior, for whatever reason, and a peer group which supports criminal behavior hardly represent a prudent alternative to detention. An unexamined and unrealistic view of family and community is unfair to both the family and the youth.

Casey publications play up sensational and tragic examples of abuse and death while in a juvenile facility. In their most recent publication, Pathways 14, examples of sexual abuse, inadequate medical care and suicide are mentioned. We don't doubt that the incidents took place, however, context is everything. What is the rate of sexual abuse, inadequate medical care and suicide for out-of-control delinquent youth who are not in a juvenile facility? Casey continues with its shrill hyperbole, stating that **"…persistent and flagrant violations of human rights in juvenile detention and corrections are simply far too common to be rationalized as the exceptions to rules of basic decency**." [emphasis added]

This statement indicates that Casey believes that many of those who run juvenile detention institutions lack basic decency, and that to say otherwise is to engage in rationalization. Given the Casey preference for charts, especially when it buttresses their position, you would think that such an inflammatory statement would be backed up by some data showing that detention is dangerous. You would be disappointed. Further, the broad and encompassing designation of problems in detention as being "persistent and flagrant violations of human rights" is an escalation in rhetoric which should embarrass the Casey Foundation. In this statement, the Casey Foundation has made the transition from advocacy to zealotry, and in the process has impugned the integrity of those who supervise youth in secure settings. Worst of all, this insulting statement has no factual basis. We believe that the Casey Foundation owes detention workers across the country an apology.

Juvenile detention is hardly a benign environment. A delinquent youth should stay in custody only as long as is necessary to insure public safety or fulfill the requirements of a court order. Further, we agree that poorly run facilities can have long-lasting, negative effects on a delinquent youth. It has to be acknowledged, for instance, that the exposure of chronic abuse in the Texas Youth Commission gives Oregon even more reason to vigilant about background checks, staff training, oversight of facilities and prosecution of adult offenders. The relative danger of juvenile facilities nationally, however, has been:

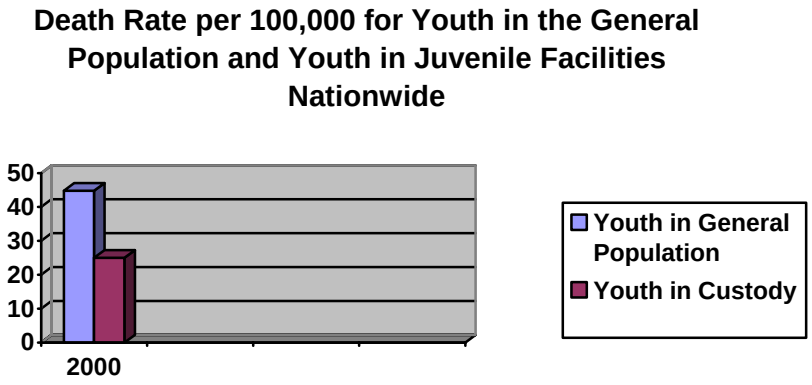
Figure A



greatly exaggerated, as shown in Figure A, which is based on information from the Office of Juvenile Justice and Delinquency Prevention residential census. Of the 30 fatalities in juvenile facilities in the United States in 2000, only 4 were homicides. **None** of those occurred within the facilities, and none were committed by those in custody. The homicide figures for 2002 were even less. Two homicides occurred, none of them while inside the facilities, and none committed by those in custody.

Even more to the point, the danger faced by youth in juvenile facilities should be compared to the danger faced by youth in the general population. Using figures provided in the OJJDP Census for 2000, the death rate per 100,000 for those in juvenile facilities was about half that experienced by the general population of youth. The OJJDP Bulletin for June, 2006, states that in 2002, if youth in juvenile facilities faced the same rate of mortality as youth in the general population, there would have been 60 deaths. This would make the death rate in juvenile facilities less than half that of the general youth population.

Figure B



What these data do not show is the death rate of delinquent youth who remain in the community in an endless cycle of catch and release.

Fortunately, however, the Robert Wood Johnson Foundation co-funded a study to compare the death rates of delinquent youth and youth in the general population. Its conclusion is shown in the summary on their website: "**Delinquent Youth Die at Rates Four Times Greater Than General Population."** Since we know that this disproportionate death rate did not occur in a juvenile facility, we can conclude that it took place in the communities and homes that Casey is so quick to embrace as an alternative to detention.

Despite all the problems alleged by the Casey Foundation, juvenile facilities are obviously doing a good job (with some undeniable exceptions) of protecting the physical safety of juveniles in their custody, and they are getting better at it. That safety record would tend to argue more for detention than for alternatives to detention, for the chronic, serious, and/or out-of-control offender.

In addition to the admirable safety record in detention, school attendance should be mentioned. All facilities housing youth in custody in Oregon must, by law, have an accredited school program. Whereas many, if not most, youth in custody have had poor to non-existent school attendance, school attendance while in custody is mandatory and enforceable.

REDUCTIONS IN CRIME?

The Annie E. Casey website displays charts showing the reduction in crime in the counties which have implemented its risk assessment instruments. Specifically, it cites a statistic claiming that from 1994 to 2000, felony arrests were down 45% in Multnomah County, implying a connection with the Juvenile Detention Alternatives Initiative. During this time, however, juvenile crime was dramatically down throughout the country and the State of Oregon. In addition, the charts do not compare other counties to the Casey Foundation sponsored counties during the same period of time.

While the data supporting such claims are not easily retrievable (the citation is for JDAI Reports, 2005), there are reliable data through the Oregon Juvenile Justice Information System covering all 36 counties during the period of 2002-2005. Arrest rates vary from county to county based at least in part on the tolerance of crime, and the availability of law enforcement. For the purposes of this analysis, the data involving homicide and robbery will be used, as they tend to be universally reported, whatever the level of police protection.

The following chart shows statewide totals for juvenile homicide and robbery arrests, the totals for Multnomah County, Multnomah County's percentage of the state homicide and robbery arrests and Multnomah County's percentage of the state population during the four listed years.

Figure C

Year	*Juvenile Homicides State*	*Juvenile Robberies State*	*Homicide Multno.*	*Robberies Multno.*	*% of Statewide Homicides Multno*	*% of Statewide Robberies Multno.*	*% of Statewide Population Multno.*
2002	28	259	8	102	29%	39%	19%
2003	32	232	14	89	41%	41%	19%
2004	31	258	10	110	32%	43%	19%
2005	34	216	12	95	35%	44%	19%

Sources: OYA data and evaluation reports, 2002-2005, Oregon Employment Division

These data, tracking the most serious and violent offenses in one of its model sites, fail to support the implied claims of the Casey Foundation of crime reduction as a result of reductions in detention use. Throughout the period, Multnomah has continued to have a disproportionate level of violent crime as compared to its share of the population. These data cover a period of 8 to 11 years after Multnomah County adopted the Casey model, which would seem to be a reasonable period of time to show to significant improvement vis-à-vis the other 35 counties in Oregon. That period of time is certainly sufficient to back up some of the more breathless pronouncements of progress that are periodically issued by both Casey and Juvenile Services.

Other indications of a lack of progress as opposed to other Oregon counties will be discussed in Part 2 of this report.

A representative of the Casey Foundation, Stephanie Vetter, when shown an early draft of this report, denied that the intent of the Casey Foundation was to show a correlation between detention reduction and a reduction in crime or to imply a cause and effect relationship. The reader is free to peruse the Casey website on Juvenile Detention Initiatives and make an independent decision. Crime Victims United, however, believes that the information provided by Casey when not paired with information from other counties is inherently misleading.

RISK ASSESSMENT INSTRUMENTS—THE ESSENTIAL ELEMENT OF JDAI

Significantly reducing detention admissions would be impossible without the implementation of the various risk assessment instruments sponsored by the JDAI. While there are always exceptions, most personnel working at the street level in any justice system will respond to the need for community safety. If left unchecked, this desire for a safer community will inevitably lead to a robust use of incarceration. To accomplish the desired reduction in detention admissions, it is necessary to have a system which takes away decision making power from direct service staff (one Casey article laments the fact that too many people have “keys to the facility”, meaning that a number of staff can decide who is admitted) and gives such decision solely to a matrix designed

to reduce admissions and a supervisor who must decide on any exceptions—"overrides"—to the decision mandated by the risk assessment instrument.

The basic premise of the instruments, from the Casey perspective, is to substitute "subjective judgments" of risk with objective, "data-driven" decisions. Of course, there is nothing objective about the underlying philosophy of reducing detention admissions at all costs. That is a highly value-driven judgment.

The specific risk assessments instruments used by Multnomah Juvenile Services will be discussed in detail later in this report. Copies are included in the appendix. While the specific format of the various Casey sites might differ in some respects, the general outlines seem essentially the same. The heart of the instrument-- and the heart of the issue-- is the scoring for those possible admissions which are not automatically detained. In all of the instruments the screener goes through the list of offenses to score the number of points assigned to the crime, and then goes through other sections, assigning points for the youth's current legal status, prior offenses, etc. The instruments have sections that add points for aggravating factors such as being on probation and deduct points for mitigating factors, such as going to school. Based on the total score, the youth is detained, released unconditionally, or released with conditions barring a decision to override.

All of the instruments have automatic admissions. For Juvenile Services they include Measure 11 offenses (serious, violent crimes committed by a youth at least 15 years of age) intentional homicide, out-of-state warrants and court orders. Decisions per the risk assessment instrument can be overridden either way—to detain or not detain, or release with or without conditions. Overrides, however, have to be approved by a supervisor. The person screening the case is not allowed to make such a decision. The Casey Foundation provides a good many perks in the form of free travel for managers to training, publicity and praise for being a model site which has reduced detention admissions. It is clear where the default setting is for deciding on detention admissions and overrides.

According to Juvenile Services, its policy on overrides includes detention for gun offenses and generally for sex offenses, although for sex offenses they also provide for an almost immediate release if a "safety plan" can be worked out. This "safety plan" seldom, if ever, involves a home visit or any meaningful attempt to get the information which is normally received over the phone from a parent or guardian.

Juvenile Services had been working with roughly the same version of the risk assessment instrument for several years. It made the detention of serious offenses difficult, to say the least. For instance, it took a score of 12 to lodge a juvenile. The only crimes which immediately received enough points to detain were intentional homicide and Class A person felonies involving the use of a weapon or physical violence. For all other crimes, the youth had to have other aggravating factors to be lodged, or an override had to be approved.

After Crime Victims United began this investigation, we became aware of plans to revise the risk assessment instrument. During the summer of 2007, the Juvenile Services website posted a study of the existing risk assessment instrument, which concluded that detention admissions could be safely reduced another 40% by eliminating any scoring for the offense which the youth was arrested for, or any scoring for the fact that the youth was on a warrant, which is a document signed by a judge authorizing the arrest and detention of a youth (this new instrument will be discussed in detail in Part 2 of this report). The only scoring for an offense is now on crimes that had already been filed in juvenile court. While there are two aggravating factors--whether the youth was currently on supervision or had runaway from home or placement in the past year--there are three mitigating factors:

- Whether the youth is attending school or employed
- Whether the youth's first offense occurred when the youth was 16 or older.
- Whether the youth's instant offense is the youth's first offense.

Detaining a youth without supervisory approval would take a score of 6.

This new risk assessment instrument was adopted in late October of 2007. It is therefore likely that a youth arrested in Multnomah County for a serious offense, for instance Robbery III (the use of force without a weapon in committing a theft), a felony, would be scored as follows. If the youth had numerous prior charges, but none of them were awaiting court action, he was not on probation and was attending school; he would have a score of -3. He had no points for a crime, since none were active at the time of his arrest, and he received credit of -3 for being enrolled in school. No points would be scored solely for prior offenses. Unless overridden, the youth would not only be released, but be released without conditions.

Having decided that the current crime of arrest is irrelevant to the issue of community protection in most situations, Juvenile Services has obviously attained a level of understanding of crime and delinquency that has eluded the rest of us, and even the rest of the Casey model sites.

OTHER ASSESSMENT INSTRUMENTS

It is not enough to restrict admissions to detention for new offenses only. Under the Casey model, it is important to restrict admissions for the two other significant sources of detention admissions: probation violations and warrants.

Juvenile Services has dealt with these issues through specific policies which will be discussed in Part 2 of this report. The general trend of JDAI, however, is to minimize probation violations by calling them "technical violations" and recommending that detention use be subjected to the "least restrictive" requirement mentioned earlier in this report. Casey does not acknowledge the need to credibly enforce what is mandated.

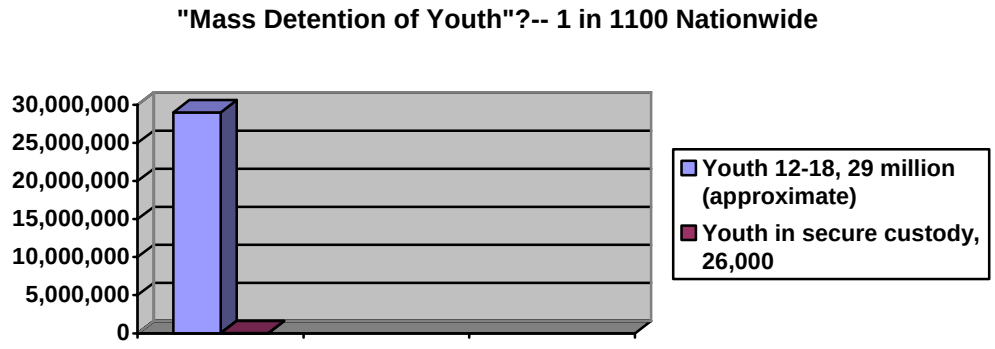
Evidently if a probation requirement, such as community service, were given as an alternative to detention, the failure to meet that requirement is no reason for the youth to spend a few days in detention.

Warrants, which mandate the incarceration of the youth until brought before a judge, are diminished by increasing the requirements on the probation officer or group monitoring the youth. As mentioned earlier, Casey endorses a Cook County, Illinois, procedure in which a youth on conditional release has to be in violation on three occasions before he is subject to being detained and even that figure does not appear to be firm. In Multnomah County, probation officers must meet specific criteria which are not required by law, prior to getting a warrant. There is something wrong when the lack of compliance on the part of an offender results in more requirements for the supervising personnel than for the offender.

ADVOCACY AT THE EXPENSE OF ACCURACY

The Casey Foundation talks about the need for reasoned dialogue. The Casey website, however, contains numerous statements that seem designed to provoke emotions rather than reasoned discussion. For example, they use a quote from the Justice Policy Institute (an anti-incarceration advocacy group) which states "…it is not clear whether the **mass detention of youth** (emphasis added) is necessary." (Casey website, JDAI in the News). Mass detention of youth? With approximately 26,000 juveniles in secure detention on any given day in the U.S--the figure given by Casey-- and with approximately 29 million youth aged 12-18, there is in rough figures, one youth in secure detention for every 1100 youth. There can be a discussion over whether that is too many, or for that matter too few, but it is hardly "mass detention". The phrase, however, is eye-catching, alarming and disingenuous. Perhaps just as eye-catching, but far more accurate would be to put these figures into a chart showing just how <u>few</u> youth are detained at any one time.

Figure D



The chart can barely even show the number of youth in secure custody. Any implication that the country is following a "mass detention" strategy regarding youth is simply false.

In reporting on resistance to the Casey initiatives, one supporter, a Deputy District Attorney, commented that initially "the macho, kick-ass prosecutors….refused to make use of community based alternatives..." (Casey Website, publications, The JDAI Story—

Building a Better Juvenile Detention System, p 6) The idea that those "macho, kick-ass" prosecutors could actually have been concerned about community safety rather than just preening and flexing their prosecutorial muscles seems not to have occurred to the Casey Foundation, or to the Deputy District Attorney who was quoted. We also have to wonder what the reaction of the Casey Foundation would be if proponents of its initiatives had been described with less than complimentary female stereotypes.

The implication of over-zealous "kick ass" prosecution in the Oregon juvenile system is inaccurate, to put it mildly. In 2005, of all referrals received by juvenile departments, 46% were neither formally charged nor diverted through a behavioral contract. Only 20% of the referrals resulted in adjudication. Of those cases that were adjudicated, less than 800 of 5570 adjudicated cases were sent to the Oregon Youth Authority, and only 354 of those were sent to closed custody. The figures for Multnomah County are even less accurately described as "kick ass". Sixty-nine percent of all referrals received no action whatever in 2005 and only 11% of all youth referred were adjudicated. In 2006, those figures were 75% receiving no action and 9% being formally adjudicated. .

While the phrase "data driven" shows up frequently in Casey literature, many claims are often more rhetoric driven than data driven. For instance, as mentioned previously, in the Preface to Pathways 14, the statement is made that the model sites (Multnomah County, Cook County, Illinois and Santa Cruz, California) have "….saved their jurisdictions millions of dollars…" Reading on further, however, the only data given are from Multnomah County, which does not document money saved, but only money "redeployed", i.e. money spent differently.

The Preface also makes another irresponsible claim that "School-based zero tolerance policies and practices" are making detention centers "the dumping ground for high-need youth who ought to be served in other systems." That statement makes a number of unsupported claims, but what follows is what might be described as the antithesis of "data driven". Casey concludes that the continued filling of juvenile detention centers with "…youth who pose minimal risks…" is the result of the school-based polices, "**with many jurisdictions now reporting that a sizable percentage—in some instances, a majority—of court referrals originated in schools, many for minor misbehaviors that previously were the responsibility of the education system."** (emphasis added).

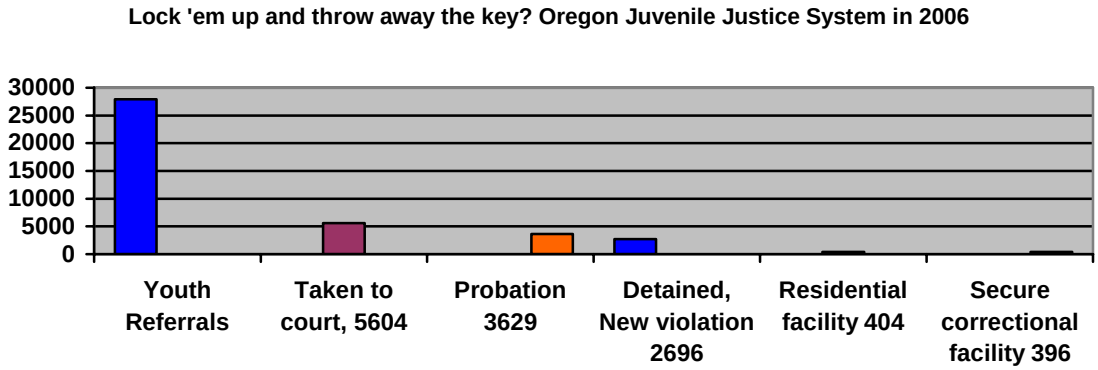
Casey's views elicit many questions. How many unsupported conclusions were made in just that one statement?

- How many jurisdictions?
- They report to whom?
- What is a "sizable percentage"?
- What jurisdictions reported a majority of court referrals being school based?
- What were those "minor misbehaviors"? Drug dealing? Drug possession? Assault?

No data accompany such inflammatory statements. Add schools to the list of those the Casey Foundation owes an apology.

The Casey Foundation also uses an old cliché when it quotes one of its own authors and consultants, Paul DeMuro. In discussing a reduction in detention admissions, Mr. DeMuro states: "I think there's been more an abatement of the lock 'em up and throw away the key philosophy" (Casey website, JDAI in the News). With 35 years in the juvenile justice system, I have yet to meet anyone whose juvenile justice philosophy can accurately be described as "lock 'em up and throw away the key." The statement is frequently used, however, to put someone on the defensive. It may be good politics, but it is poor scholarship and hardly leads to the sort of healthy, community dialogue which is promoted by the Casey Foundation in its advocacy for abused and neglected children.

Figure E



Source: JJIS data and evaluation reports.

The Casey Foundation mentions that some original sites have dropped out of the JDAI. When that happens, the Casey Foundation seems not to reflect on whether the model was appropriate for that jurisdiction or whether the model had serious flaws. The response is to blame a diminishing of "political will", the rush for politicians "…to prove they were tougher on juvenile crime than their opponents" and administrators who didn't want to be seen as "soft on delinquents." (Controlling the Gates, p 8). This is a familiar theme in the Casey publications on juvenile detention—the thoughtful proponents of reducing detention admissions versus the shallow, reactive opponents of change with their "simplistic law and order rhetoric" (Pathways 14, p 27). Any consideration that a local politician or administrator could be acting out of principle and concern for both public safety and delinquent youth is abandoned for the portrayal of weak and pandering officials apparently lacking the courage and commitment of the Casey proponents.

Although Casey projects a flaccid response to juvenile crime, it is hardly lacking in verbal aggressiveness when it comments on its policy opponents.

In their publication "The JDAI Story—Building a Better Juvenile Detention System" (p 10) the Casey Foundation highlights the following quote:

> "It is probably fair to say that no area of domestic policy—not even welfare—has been so thoroughly abandoned to misinformation, oversimplification, emotion and disregard for consequences as has the arena of juvenile justice."

To the extent that this statement is true, it is unfortunate that the Casey Foundation has contributed to the problem rather than to the solution.

PART 2: MULTNOMAH JUVENILE SERVICES JDAI IN PRACTICE

When Casey's JDAI began in the early 90's, Multnomah County was one of the five original sites. Several years later, two of the sites had dropped out of the program, leaving Multnomah as one of three of the original sites. As a site with over thirteen years of implementing the Casey model of matrixes replacing individual judgment, and with a number of years of Casey financial grants, it seems accurate to say that Multnomah County Juvenile Services is Casey in action. Juvenile Services continues to have at least one staff member, Rick Jensen, paid for by a grant from Casey. Mr. Jensen's title is listed simply as "Detention Reform"[1]. There is at least one other staff member listed under the umbrella of "Annie E. Casey and Multnomah County Detention Reform Initiative". This person is a half-time consultant, paid for by the Casey Foundation, but listed in a staff chart of Juvenile Services.

The administration of Multnomah Juvenile Services is highly committed to the Casey model and appears to have implemented, at least in theory, all elements of JDAI which are mentioned on the Casey website. In addition, Multnomah County is a site which provides tours for those wishing to adopt the Casey model. The connection to Casey is so strong that when a member of Crime Victims United asked for a tour of Donald E. Long Center, the juvenile detention center, she was initially refused by Kathy Brennan, Custody Services Manager, who stated that tours were only for those wishing to adopt the Casey model. It took letters to various officials, including the Chair of the Multnomah County Commission, before Crime Victims United was granted a tour of the facility.[2]

With at least two staff members whose duties appear to be solely the implementation and continuation of Casey policies, with management personnel reportedly screened for adherence to the Casey catechism and with Casey seeing Juvenile Services as being appropriate as a pilgrimage site for possible converts to the JDAI philosophy, it seems safe to assume that the policies of Juvenile Services are a fair reflection of the Casey vision.

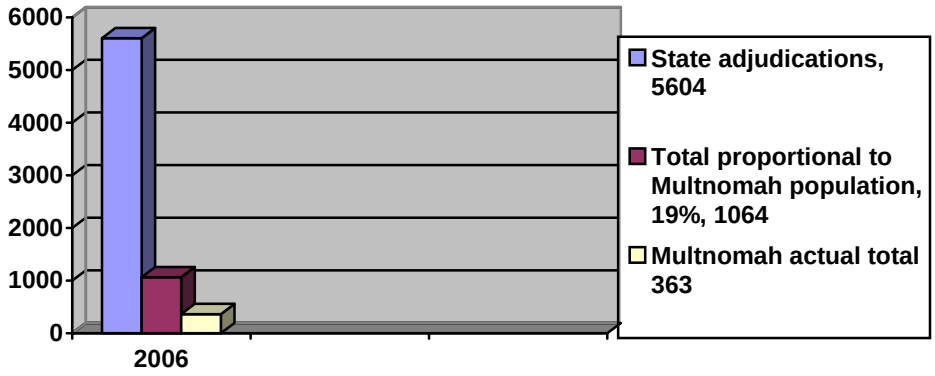
From the very beginning of the process, there is a concerted effort to limit the number of youth being brought into the Multnomah juvenile justice system. If it is possible to

[1] After a minimum of 13 years in JDAI, it is fair to question whether "reform" is the correct word. It offers the panache of change, of living on the edge, but what might be new to others is institutionally quite conservative within Juvenile Services. Restricting admissions is old news, not breaking news.

[2] If there is any question just how connected Juvenile Services is with the Casey Foundation, the Juvenile Services website link to "Juvenile Detention Reform" is instructive. In that link, Juvenile Services gives instructions for those thinking of adopting the Casey model and wishing to visit a "model site." In those instructions, Juvenile Services states that "we will provide you with hotel, transportation and tourist information to help make your stay in the beautiful Pacific Northwest more enjoyable." In effect Juvenile Services volunteers to act as a concierge for Casey pilgrims from all over the country. Contrast this level of courtesy with that offered to Crime Victims United and its three members who requested the tour, all of whom live in the metro area.

greatly reduce the number served in the system, it is far easier to restrict detention admissions generally. This is done to a rather remarkable level in Multnomah County. As seen in the following chart, the rate of juvenile court adjudication, 9%, is less than half the statewide average of 20%. Having a low adjudication rate is important because the only way the juvenile court or Juvenile Services can compel an action, such as attending treatment, or attending community service is by taking the youth formally to court for adjudication. Drastically cutting the rate of adjudication automatically reduces the pressure for use of detention through the court's initial sentencing orders or probation violations.

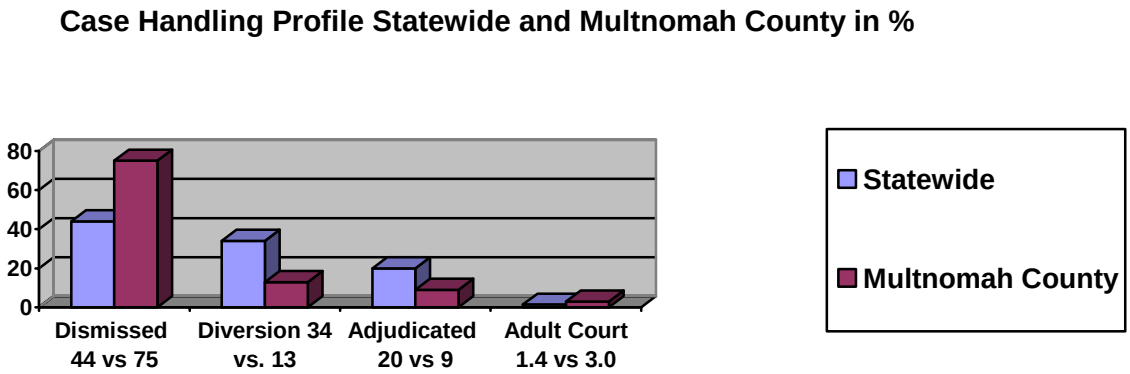
Figure F



Source: JJIS data and evaluation reports

With 19% of the state's population, Multnomah County accounts for just over 6% of the state's juvenile court adjudications.

Figure G



Source: JJIS data and evaluation reports

It is not clear why the adjudication rate is so low. At the higher levels of crime, the rate of adjudication does not seem disproportionately low as compared with the statewide average. At the lower levels of crime, however, it is quite low. Juvenile Services handles

misdemeanors and C Felony property crimes such as Theft, Unauthorized Use and Burglary II. Unless there is a referral to the District Attorney's Office for adjudication, these cases are handled informally. For an example of how Juvenile Services handles less serious offenses, see Figure Q.

It is easier to restrict the number of adjudicated cases, however, when the potential cases for adjudication have been reduced to a remarkable degree. In 2006, 75% of all cases were listed under the category of "dismissed, not petitioned, not adjudicated." Essentially, that means that no action was taken. The entire profile for case handling in Multnomah County shows that the effect, if not the intent, is to reduce the number of cases that take any staff or court time. Even diversions, which would seem to be a natural choice for Juvenile Services, are only used at a rate which is less than 40% of the statewide average.

The single most important action which has restricted admissions to detention is the Risk Assessment Instrument, or RAI. (Appendix A). The most recent version was implemented on October 19, 2007. It is a significant departure from the previous version, as it does not give a score for the instant (crime of immediate arrest) offense, but only scores for any offense which was pending at the time of the arrest. It also does not penalize a youth for being on a warrant or add points for being in possession of a firearm, as was previously the case.

The reason a new version of the RAI was necessary is not particularly clear, but in the document "Validating Multnomah County's Juvenile Detention Risk Assessment Instrument", written by a private consulting firm, "One in 37"[3] there is a discussion that many (and by implication, too many) detention admissions were being made by overriding the RAI score. In fact, at a meeting between Crime Victims United and Juvenile Services administration, we were told that which approximately 50% of admissions were due to overrides. When we asked how an instrument which was overridden so often could be considered useful, we received no direct reply. The administration obviously had some of the same concerns, though their solution was hardly one that we shared. The new RAI, as recommended by One in 37, projected to reduce admissions by 40%, largely by ignoring the instant offense, or the presence of a warrant.

[3] "One in 37 Research" is a private consulting firm. It explains on its website that the figure, 1 in 37, represents the approximate number of people who have been in prison. They further explain that they provide services to justice agencies "focused on serving the unprecedented numbers of people entering and exiting the criminal justice system each year." While Crime Victims United in no way questions the integrity of the researchers, we do have some question about the perception of objectivity in a report regarding incarceration written by a group which has already advertised its feelings regarding incarceration. The name seems more appropriate to an advocacy group than a research firm. We have to wonder how likely it would be that the following fictitious firm would have gotten the validation contract: "One in 12--the approximate number of persons victimized by crime each year—dealing with the unprecedented number of victims being produced by adult and juvenile offenders."

In the validation study, it is explained that those who commit serious crime tend to have a rearrest rate less than those who commit less serious crimes; therefore, scoring the crime is negatively correlated to the risk for reoffending.

This conclusion, and the resulting action to ignore the instant offense, would seem to be a cruel joke, except that it actually happened. The validation study does not differentiate between the trauma of a sex offense, a car theft or a drug deal. Only the risk of reoffending while awaiting court, or the risk of not showing up for court, is considered. This makes little sense to most people in law enforcement, or, we suspect, the public at large. As Multnomah County Circuit Court Judge Keith Meisenheimer put it, "I would rather lock up a sex offender with a 5% chance of reoffending than a thief with a 50% chance." We agree. A theft is a burglary is a rape, is hardly the sort of equivalency that most citizens would understand.

As stated earlier in this report, the more serious the crime, the less often it is committed. The most prolific rapist or bank robber can't compare in frequency to the crimes committed by a serious shoplifter. That is the risk of reoffending. The differential risk to the community and to victims by serious crime, however, is ignored by the RAI, which is to be expected from an agency which is focused on minimizing consequences to the offender.

The decision to eliminate firearms as an aggravating factor seems equally well … aggravating. Here is a summary of the rationale in the report: Most of those with firearms are lodged due to other circumstances. Of the 30 youth scored for this factor and released, "only" 6 reoffended. Due to small numbers, and "only" a 20% reoffense rate, the matter was evidently considered to be trivial and therefore dropped from the RAI. Many of us, however, believe that a 20% reoffense rate might be of particular interest and concern when it involves a juvenile committing a detainable offense and being found in possession of a firearm who then commits another offense.

As of early April of 2008, it appears that Juvenile Services will soon put out yet another version of the RAI, at least partially in reaction to some of the more inexplicable aspects of RAI-4, such as failing to score the instant offense and failing to score for an existing warrant.

As long as the RAI precludes admissions to detention whether space is available or not, however, the instrument will continue to be fatally flawed. Any new version which continues the pass/fail criteria for a crime and which requires supervisory approval for an override, will merely continue the decade-old practice of layering policy on top of state law.

USE OF THE RISK ASSESSMENT INSTRUMENT

To further illustrate the use and effect of the instrument, four cases of ascending dangerousness will be scored on the RAI-4 (see appendix A). A fifth case is presented to

show the effect of not considering the presence of a warrant. These are cases handled during my career as a juvenile probation officer and supervisor of probation officers in Jackson County, Oregon. They were scored as if they had occurred in Multnomah County. When they actually occurred, all of the offenders were placed in detention in Jackson County.

Here are the RAI scoring thresholds, subject to an override in either direction.

6 or greater	Detain
0 to 6	Conditional Release
-9 to -1	Unconditional Release

CASE 1: A 16 year old male stole a car from a parking lot and then drove erratically down a major highway. When the police attempted to stop him, he led them on a high speed chase. He abandoned the car and was apprehended after a brief foot chase. An unloaded, stolen handgun was found on the driver's seat. The youth was charged with Unauthorized Use of a Vehicle, Theft 1 (firearm), Unlawful Possession of Firearms, Eluding, and Reckless Driving.

At the time of the incident, the youth was on a Formal Accountability Agreement (diversion) for Unauthorized Use of a Vehicle. He was attending an alternative school in the morning and worked three afternoons a week at a fast-food restaurant. He lived with his mother.

Scoring:

Most serious instant offense, Class C Felony:	Not scored
Formal Accountability Agreement	1
Most serious filed offense	0
School Attendance	-3
Total Score	-2

RAI Decision: Unconditional release

CASE 2: When a citizen returned from a three day vacation, he found his home stripped of most of the electronic equipment, a rifle, jewelry and cash. Two days later, a 15 year old male was arrested along with an 18 year old male when they attempted to fence the jewelry at a pawn shop. The firearm was not recovered. The youth was charged with Burglary 1 and Theft 1.

The youth was on probation for a similar burglary, which occurred 18 months prior to the instant offense. He had other misdemeanor thefts which were reviewed and closed with no further action. No prior probation violations are reported. The youth had lived with his 25 year old brother for the prior 4 months. He was attending a shortened school day.

Scoring:

Most serious offense, Class A felony	Not scored
On probation	2
Most serious filed offense	0
School attendance	-3
Total Score	-1

RAI Decision: Unconditional Release

CASE 3: The mother of a child in day care reported that her 4 year old son asked her to "hold my pee-pee like Jimmy does." When the police investigated, they found a total of 6 victims, ages 4-7, who had been sexually abused and orally sodomized by the 14 year old son of the day care provider. One of the victims lived across the street from the offender. No force had been used during the offenses; however, one victim reported that the offender had told him after one assault that if the victim ever told anyone, that the victim would be in big trouble. The youth was charged with 6 counts of Sodomy 1, and 6 counts of Sexual Abuse 1.

The youth lived with his biological parents. He attended school regularly and made average to above average grades. He has no prior law or status referrals. He had one, older sibling.

Scoring:

Most serious instant offense, Class A person felony	Not scored
Legal status	0
Most serious filed offense	0
School Attendance	-3
First law violation referral	-3
Total Score	-6

RAI Decision: Unconditional Release

Sex offenses can be subject to an override of the RAI score; however, if the youth qualifies for unconditional or conditional release per the RAI, the youth is subject to an "**automatic** conditional release" if a safety plan is approved (more on safety plans later in this section). The youth would be brought in and released as soon as the agreement is signed, which is usually within a few hours.

CASE 4: A 14-year-old was apprehended at a school dance after he assaulted a teacher/chaperone. After pushing the victim, the offender hit him several times in the face. The victim immediately noticed a lack of vision in one eye and despite treatment,

never recovered the vision in that eye. The offender was visibly intoxicated at the time, though not in medical distress. He fought with the police and bystanders, threatening specifically to kill the victim. He was charged with Assault II, Assaulting a Public Safety Officer, Resisting Arrest, Assault IV (2 counts) and Minor in Possession (by consumption).

Youth lived with his biological parents. He had a referral for Assault IV at age 12, which resulted in a warning interview. He was in a behavioral management classroom at the time of the offense. Though the youth often left home in the evening, he always returned home during the night and had never runaway.

Scoring:

Most serious instant offense, Class B person felony	Not scored
Legal Status	0
Most serious filed offense	0
School Attendance	-3
Total Score	-3

RAI Decision: Unconditional Release

CASE 5

A 16 year old with a history of violations and misdemeanor offenses was eventually charged with drug dealing, which involved selling methamphetamine to an 18 year old. He was initially detained in detention, but was released to his mother to await his adjudication hearing. Prior to the hearing, he ran away from home and a warrant was issued. Several months later he was apprehended and detained pursuant to the warrant.

The youth had been out of school for over a year, and although he had not been reported for other runaways, he led an independent lifestyle. He could be gone for days or weeks at a time, more or less staying in touch with his family along the way.

Scoring:

Most serious instant offense, None	Not scored
Legal Status	0
Most serious filed offense (B felony)	5
Total score:	5

RAI Decision: Conditional Release

In a case such as this, the RAI makes it quite clear that a juvenile held on a warrant who qualifies for conditional release "**Must** be released with a summons to a preliminary hearing." [emphasis included in the RAI document]. This would release a youth who had

been on the run for several months, trusting that he would show up for court the next time, though he had failed to do in the past.

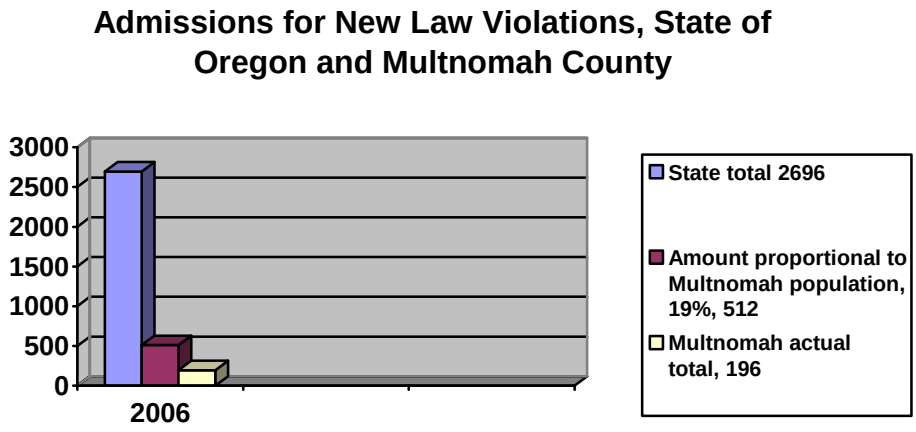
The RAI document does not penalize for the runaway or the subsequent warrant, since the standard is 2 or more runaways within 6 months, or one runaway and one run from a court-ordered placement.

Rick Jensen, Manager for Detention Reform, and Dave Koch, Juvenile Services Assistant Director, were provided an early draft of this report. At a meeting in May of 2007, both the Casey representative and those of Multnomah County stated that in the examples above, the RAI decision would have been overridden and the youth lodged. These statements were made based on the previous version of the RAI.

There was no explanation, however, when asked why, if such cases would be detained, the RAI scores them as not being detained. Why have a risk assessment instrument which scores serious crimes so low if the intent is not to lower detention admission whatever the crime? What is clear is that unless brought to the attention of a supervisor, most serious crimes would not result in the youth being lodged.

The effect of these restrictive policies on detention admissions has been dramatic, even before the implementation of the new RAI. While Multnomah County has 19% of the state's population, it has only 7% of the admissions for new law violations. This is despite the fact that it has the highest concentration of population and the largest number of violent crimes. If Juvenile Services had been detaining youth at the same rate as less violent counties, many which lack their own detention facility, they would have detained over 500 for new violations. In actuality, they only lodged 196. To put this number in perspective, 288 youth were referred for the following offenses: homicide, sex offenses, arson, robbery and weapons offenses. Adding burglary and assault would bring the number up to 1068. Yet only 196 youth were detained for a new offense.

Figure H



Source: JJIS data and evaluation reports

Even considering the very high threshold for entering detention, however, Multnomah youth are far more likely to be released quickly. Statewide, less than half of preadjudicatory lodgings are released within 3 days. In Multnomah County, just fewer than 70% are released within 3 days. Juvenile Services makes it harder to get in and easier to get out of detention.

An example of how a serious case gets released quickly occurred on a day when Marnee Widlund of Crime Victims United attended preliminary hearings. One of the cases involved a gun offense. The youth had not completed a "gun assessment" as is required by department protocol. According to the notes, this was due to the attorney advising the youth not to answer questions. Despite the lack of a gun assessment, the placement coordinator recommended release. The Deputy District Attorney strongly objected. There will be more about this case in the Probation section of Part 2.

OVERRIDES

When asked about the apparent tendency of the RAI to release serious offenders, the administration of Juvenile Services most often will state that the RAI is only one element in the decision making process. In our view that is like saying that the Constitution is only one document. The RAI is the controlling detention document. Intake workers in detention must follow the procedures dictated by the RAI, and would face employment sanctions if they did not. Either Juvenile Services or Casey paid for a lengthy and detailed validation study whose purpose was to "improve" the RAI (the study did not seem to be concerned with the other steps in the process). That "improvement" was accomplished in large part by limiting the discretion and choices of the intake workers making admission decisions. This should be no surprise, as when given any discretion, most personnel in Juvenile Services would opt for accountability and community safety to a far greater degree than the department's administrative personnel.

When considering whether the RAI is just "one element in the decision making process", consider the following, which was included in the department's press release announcing the new RAI in October 2007: (emphasis added)

> **Chief [**Multnomah County] **Juvenile Court Judge Nan Waller said, "The RAI allows us to make rational and responsible decisions about how we use the expensive and limited resource of juvenile detention."**
>
> **Multnomah County is the only county in Oregon to use a research tested risk assessment at juvenile detention. Many jurisdictions in Oregon and nationwide do not use any objective risk analysis at all, but that is changing as a result of Multnomah County's pioneering work**. [emphasis added]

In stating that detention decisions are a multi-step process, the administration appears to be referring to the override process, which allows youth to be lodged when the RAI score indicates otherwise. It is important to note, however, that the worker in detention most familiar with the details of the case cannot make that decision. Only a manager can sign off on an override. Since managers are part of an administration which prides itself on its "pioneering work" in the development and validation of the RAI and the department's designation as a "model site" for the Casey philosophy, it is easy to question where a manager's priorities might be.

When it takes the stroke of a pen to release serious cases, but a manager's approval to detain, there should be no question what is more important—minimizing offender accountability or maximizing community safety—Juvenile Services' "pioneering work" notwithstanding.

In addition, the input we have from detention workers is unanimous that they would face everything from mild pressure from their supervisor to problems on their evaluations if they asked for every override they believed was appropriate due to community safety concerns.

The override exceptions also place a rather heavy burden on department personnel (and the community) to show that the youth poses a danger. Remember, these are all youth who qualify by Oregon law for pre-adjudicatory detention. Any other requirements are not mandates of law, but strictly of Juvenile Services.

So, for instance, the examples given in Juvenile Services policy for an override because the intake worker believes that the youth will not show up for court include the following. (Recently, the department added the language "there may be other examples," however, it did not include other examples which would show a less stringent standard.)

- **Multiple recent warrants/runaways** [emphasis added]
- It is clear that a **very recent Failure to Appear** was due to noncompliance rather than a lack of information [emphasis added]

Most of us would conclude that a person having been on one warrant, one runaway, or who had failed to appear previously one time would present a risk of failing to appear in the future, but most of us would be wrong according to Juvenile Services.

Or how about this as the only reasons given for an override due to "strong indications of imminent violence":

- Recently released on violent charges and has now returned on new violent charges, or
- The youth states his intention to physically injure or kill another person **and** releasing the youth would give the youth access to the threatened person.

Once again, recent language states that there may be other examples, but does nothing to lower the threshold of the exemption. The default setting continues to be release rather than admit.

The idea that these circumstances should require supervisory approval for detention is demeaning both to the employee and the community, which should not require supervisory approval to be appropriately protected.

The requirements for an override for "strong indications of imminent violence" probably provide the most telling example of how far Juvenile Services has gone to minimize consequences for offenders, and, conversely, how little consideration there is for community safety. Just look at the number of steps necessary to receive an override for imminent threat of violence:

1. Prior arrest for a violent crime
2. Lodged for that violent crime (as we have seen, that is hardly automatic)
3. **Recently** released from detention on that charge. Although "recently" is not defined, the need for the department to protect the offender is so obvious, that it is likely to mean a period of 4-6 weeks, at most. Also, assuming the offender had been placed on a conditional release, why should an override be necessary?
4. Rearrested
5. The new crime is a detainable offense
6. The new crime is a violent offense **OR**
7. The youth is arrested for a detainable offense
8. The youth is threatening to kill or injure another person
9. If released, the offender will have access to the person being threatened.

Earlier in this report, there was a discussion about how the Casey model implies a benign view of juvenile crime and offenders. This is an example of that philosophy in action. It simply does not occur to an administration which is steeped in the Casey philosophy that a violent person who is arrested again for violence is by that circumstance alone an unreasonable risk to the community. Nor does it seem to understand that an offender arrested for a detainable offense who is a stated danger to someone might be a danger to anyone. The only purpose of these requirements is to, in a phrase used by Juvenile Services and previously quoted, " protect and serve the rights of youth within the constructs of the Juvenile Detention Reform Initiative."

SAFETY PLANS AND CONDITIONAL RELEASE

Safety plans are used when a youth is released on a sex offense, fire- or explosive-related charge, or for domestic violence. It is a prudent requirement if a youth with a significant potential for danger to others is being released to the community. Safety plans consist of a number of printed conditions that are specific to the type of crime. The form allows other conditions to be added as necessary. It is signed by the youth, a parent or guardian and the staff involved in the release of the youth.

Conditional Release also uses a pre-printed form which can be customized, but it can be used for any detainable offense, not just the three types listed above. It is considered a less stringent requirement than a safety plan.

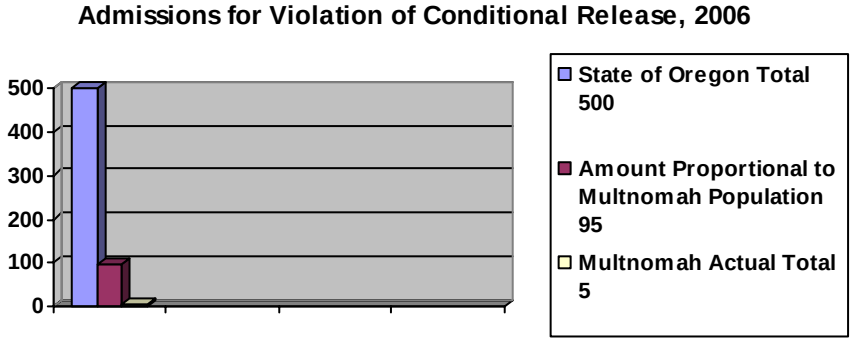
The term "safety" on a safety plan implies more than just the words on a piece of paper, and a conditional release implies that continued release is conditional on meeting certain requirements. That is not the case with Juvenile Services. First of all, there is no credible attempt to verify information other than over the phone or with a parent/guardian appearing at detention and merely signing the agreement. The agreements are most often prepared and signed by custody staff who must stay in the building. For instance in a "safety plan" for a youth released on a fire or explosives charge, the youth and parent/guardian must agree that there will be no possession of any incendiary devices. No one, however, goes to the home and makes sure that the signature signifies anything other than the desire to stay out of detention. Does the youth have lighters, lighter fluid, or gunpowder in his/her room? Juvenile Services simply doesn't know. It might be possible to know this information if the policy were to detain the youth and then conditionally release after a home visit, room search and the verification of the terms of release.

While the conditions listed in the Juvenile Services safety plans and conditional release agreements are appropriate, though incomplete, and the verification of conditions non-existent, the most glaring inadequacy of the pre-trial release system is what happens after the youth signs an agreement and is sent home.

Previously, it has been discussed that by policy and practice, Juvenile Services does not allow their juvenile court counselors to exercise the arrest powers granted by state law. Conditional release and safety plans, therefore, have no effective enforcement, despite the serious crimes of those placed under these theoretically restrictive conditions. Conditions are monitored by a non-profit agency which would obviously lack enforcement powers. Violations are reported to juvenile court counselors. Lacking enforcement powers themselves, the juvenile court counselors can only summon a noncompliant youth into court, which hardly qualifies as timely intervention for either the youth or the community.

The following chart demonstrates the lack of consequences for violating terms of release in Multnomah County. This lack of enforcement damages the credibility of both conditional release in general and safety plans in particular.

Figure I



Source: JJIS data and evaluation reports

With 19% of the state population, Multnomah County accounted for only 1% of the state's admissions for violation of house arrest in 2006.

To put this statistic into perspective, Multnomah County Juvenile Services, with the state's most restrictive policies on detention admissions for new law violations, puts seriously delinquent youth on conditions of release under the most meaningless supervision in the state. If they were detaining violators at the same rate as other counties, which had detained more youth for new law violations initially, it would have had 95 admissions, instead of 5.

From the standpoint of community safety and accountability, we would have to conclude that there is little difference between unconditional and conditional release.

COMMUNITY DETENTION

Community Detention is another step up in the continuum of Juvenile Services' alternatives to detention. Just looking at the term "community detention," however, it is apparent that something is wrong. Most people understand that detention means to stay in detention, and that house arrest means to stay in the house. So does "Community Detention" mean to be confined to the community? Well, yes it does. The youth must call in several times a day; however it can be from anywhere or any phone. In fact, the call could be made during a time-out while committing or planning another crime. It simply doesn't matter as long as a call is made. And as we have just seen, the odds of the youth being violated are miniscule.

Beyond the requirement to phone in, those on community detention are also subject to contact by the same employees who supervise conditional release. Those employees are supposed to monitor compliance to community detention at a higher level than conditional release without community detention. If violations continue to occur, contact is made with the juvenile court counselor who will make the decision about whether to issue a warrant or a summons to a future hearing, based on the restrictions imposed by policy (see warrants section below). As we have already seen, the chances of the youth being arrested on a warrant and detained at a hearing for these violations are nearly non-existent.

ELECTRONIC MONITORING

Electronic monitoring is the highest level of conditional release and its very name gives the aura of precision and high-tech enforcement. The youth wears an ankle bracelet which will provide notification if the youth goes out of range, which generally means away from his home. A notification of being out of range, however, hardly becomes the

basis for immediate action. The monitoring program is run by a private contractor who cannot take immediate action other than to check and see if the notification alert is accurate and warn the youth if they are not home when the check takes place. Normally, notification of a violation doesn't get communicated to a juvenile court counselor for days. Even then, the response would be to schedule a court hearing, rather than take the youth into custody or file a warrant.

The lack of public protection or offender accountability was accurately portrayed in an article in the Oregonian, which reported on the murder of Davonte Lightfoot, a young man who had been placed on electronic monitoring 3 times and who was murdered while on the streets with the monitor still around his ankle. According to the article written by Maxine Bernstein, Robb Freda-Cowie, identified as a county spokesman, said "It's not like the adult system where a [probation officer] would be immediately notified and issue a warrant and all that stuff."

Without adequate enforcement, electronic monitoring offers only the illusion of protection for the public and consequences for the offender. When used repeatedly on someone who has not responded well to such restrictions in the past, it becomes irrelevant.

RECEPTION CENTER

As with many other programs started by Juvenile Services, the reception center makes sense in concept, but fails in policy and practice.

The stated reason for the reception center was to have a place for the police to take a youth who was placed in custody for a non-detainable crime. This kept the police from having to baby-sit the youth until parents arrived. It also kept the police from dropping the youth off at detention when they could not legally be detained. So far, so good.

The problems with the reception center idea are due mainly to the anti-incarceration philosophy of Juvenile Services which leads to very limited use of detention and extensive use of detention alternatives. If the reception center dealt with only minor offenders, who were dropped off until picked up by parents, there would be little controversy. There might, however be some question as to whether the benefit outweighs the cost, which is $281,000 to pay a private contractor to staff a reception center 24 hours a day.

The limitations of a reception center are the very reason it is not a detention center. At a reception center, there is no power to make a youth stay until parents arrive. Only a detention facility can be locked for both entry and exit. In all other youth care facilities, doors must be left unlocked from the inside. A youth can be as uncooperative as possible, and then just leave. On the other hand, they can have snacks, a slice of pizza, watch TV, play games and then leave—which certainly teaches a lesson, but not necessarily one that is likely to reduce crime.

The upside of a reception center was on display in a very positive article in the Oregonian on January 14, 2008. Showing the department's knack for public relations, the headlines announce "Unruly Teens get a Hand, not a Slap. The Reception Center has become a national model for youths who commit minor crimes." (There is that "national model" again!) That story highlighted the benefit of dealing with arrests for minor crimes through a reception center, and gave the clear impression that minor crimes were the mandate and the reality of reception. The story did not include a discussion of the serious crimes that can be brought to reception. Criticism by some that reception is too much "milk and cookies" was dismissed by one police officer, who said "I don't think they realize that in other states, there are no alternatives….There's no perfect solution. It's working." His apparent assessment is contradicted by the overwhelming views of the police officers responding to our questionnaire (see Part 4). In those questionnaires, 91% felt that reception was not an appropriate alternative to detention, as opposed to 3% who felt that it was appropriate. Additionally, 5 of the 8 officers indicating a positive view of reception said that it was appropriate only for minor offenders As it turns out, the officer giving the supposedly positive review of reception also had an important condition which was not printed in the paper. When interviewed by phone, the officer said that he did in fact support the reception center for status offenders and those arrested for minor offences. He did not, however, support the reception center for use with felonies or youth on probation.

There is at least a plausible argument for having a reception center for minor offenders. The controversy involves its use for more serious offenders. The Memorandum of Agreement with a private contractor to provide for a 24 hour reception center states that probation youth may be admitted. Thus a youth on probation (remember the very small percentage of offenders who get placed on probation) who commits something other than a violent felony, or who is found outside late at night can be taken to a place where he can just walk away. This situation would fit in with the Casey and Juvenile Services view of juvenile crime as generally benign, but it is appalling to many who are attempting to change the behavior of seriously delinquent youth.

This problem is not just theoretical. Davonte Lightfoot, the young man to whom this report is dedicated, was on probation and violating it constantly. One evening, when he had failed to return home, his mother got a call from the reception center. Her son had been picked up by the police. Detention refused to take him and he was taken instead to reception. His mother told reception that her son was violating probation constantly and needed to be in detention at least overnight. Not long after the call, Davonte showed up at home, having been given a bus token by reception and sent on his way. Once again a lesson was learned which was counter-productive to both the youth and the community.

The controversy over reception, however, involves more than just probation youth. While the agreement which became operative in August of 2007, states that youth charged with felonies or any other detainable offenses are not appropriate for the reception center, the provision is often ignored by Juvenile Services. According to our police questionnaires, 32% of the officers had been directed to take a youth with a felony arrest to reception. Those who provided details indicated that it was usually for drugs or

property felonies. In one memorable anecdote, however, an officer wrote that he had been directed to take two youth charged with a Class C felony to reception. They were uncooperative and made it clear that they would just leave. But, despite all of this, the staff made the two promise that they would stay out of trouble.

The most common assessment of the reception center by the officers responding to our questionnaire was that it was a "joke". Taking probation violators and felony offenders to a voluntary reception center simply tells them that their behavior is not being taken seriously. As one officer put it: "[Reception] has zero credibility with crooks, who realize they can go there, get a slice of pizza and walk away."

A significant minority of the officers commented on the anti-law enforcement bias of the reception facility staff. Pamphlets are available telling youth how to file a complaint against a police officer. Dozens of officers commented on their frustration in dealing with the anti-law enforcement bias of reception center staff, but being called later by reception when they needed help.

A reception center for non-detainable youth might very well be appropriate, but probation violations, misdemeanor assault, firearms possession and all felonies are legally detainable. It is demonstrably wrong and more than a little patronizing to show so little concern for serious crime and the probation violations of those who have already committed serious crime.

PRE-TRIAL SUPERVISION PROGRAM (PSP)

PSP is a program for Measure 11 youth who have been released pending trial and sentencing. This program is somewhat unusual as most youth in Oregon charged with Measure 11 offenses, remain in detention or jail, if they are over 16, as the offenses all involve serious violence and normally bail is set at a very significant level.

Under the PSP program, youth attend a program from 9-3 on weekdays and 8:30-3 on weekends (through the GOALS program, which is for probation violators), evidently on the theory that when seriously delinquent and violent youth are kept busy during low-crime hours, they are less likely to commit crime during the high-crime hours of late-afternoon and evening.

As with other programs listed as alternatives to detention, the information we have on PSP is that it is poorly supervised and enforced (this is one of those chicken or egg scenarios—the lack of enforcement makes supervision next to impossible). Youth can call in sick or show up late with no credible investigation as to the legitimacy of the excuses. Disrespect to staff is also listed as a problem. To aggravate the matter, the non-compliant youth tend to be continued in the program, rather than being detained for the violations. If there are very lax standards to continue in the program, there is very little incentive to abide by the stated rules. If the program dealt with minor offenders in a diversion program, this would be a different matter, although the basic principle of

enforcing a contract would still remain. In this case, however, the issue involves youth charged with seriously violent crimes who are being prosecuted in adult court. We suspect that even if there are a variety of opinions about a non-incarceration program for Measure 11 defendants, there would be little disagreement that those granted the privilege of remaining in the community should be expected to strictly abide by the requirements of the PSP program.

Information about the PSP program was received from custody workers who responded to our questionnaire and others who have worked in or with detention. When asked whether the supervision of PSP was poor, acceptable or good to excellent, 80% responded poor and 20% acceptable. No one characterized the supervision as good to excellent.

One person who works in detention put it this way, "I can't imagine trying to explain the PSP program to a person who had been the victim of a rape, robbery or serious assault."

WARRANTS

Warrants are a legal document, signed by a judge, which authorizes a youth's detention until brought before a judge. Generally, the reason for a warrant is the belief that the youth will not show up for a scheduled court hearing, therefore warrants for Unable to Locate or Failure to Appear are the most common. However, in Multnomah County, with the juvenile court counselors not being allowed to use their police powers[4]—they can only issue a summons for a court hearing at a later date-- warrants are the only means to effect a reasonably timely enforcement response. Therefore, warrants for probation violations or violations of conditional release are also possible. Figure G documents the miniscule chance that violations of conditional release will result in a warrant and detention.

Juvenile Services proudly advertises the fact a warrant does not mean that a youth will actually be detained. Prior to the issuance of a warrant, however, the case has already gone through a gauntlet of conditions and matrixes that guarantee a low rate of warrants will be issued:

- Case classification: This term refers only to those cases which are considered serious enough to result in a petition being filed and the matter being scheduled for court. Since the Multnomah County juvenile justice system's rate of charging juveniles is less than 50% of the statewide average, the resulting cases are all significant.

[4] I once asked a supervisor at Juvenile Services what would happen in the following scenario: a juvenile court counselor observes a juvenile sex offender on probation loitering near an elementary school in violation of his probation. What immediate action could be taken? The answer was that other than warn the probationer and tell him to leave, the juvenile court counselor would have to prepare a warrant, get it signed (after, presumably, getting it approved by a supervisor), and then get the police to pick him up.

Within that restricted group, there is a classification system which ranks the relative risk as high, medium or low. The higher the level of risk, the greater the chance that a warrant might be approved by a supervisor.

- A time consuming and lengthy list of requirements for the juvenile court counselor to document, which guarantee that enforcement will hardly be encouraged. Here for example are the requirements to get a warrant when a youth cannot be located, fails to show for court or for "Youth…who repeatedly violate release conditions:"

    1. Attempt telephone contact at home, parents' place of employment or with relative or friend
    2. Send an appointment letter by U.S. mail
    3. Attempt civil service of summons.
    4. Contact other agencies familiar with the youth and family
    5. Contact the last known school or school police for a current address
    6. Contact the defense attorney or trial assistant.
    7. Conduct a home visit to the last known address. Attempt contact with a neighbor if it appears that the youth has moved.
    8. Check databases at the Department of Motor Vehicles, Circuit Court, Department of Corrections and Portland Police Bureau.

Due process is guaranteed by law. Offender advocacy is guaranteed by department polices which insure that at every step of the process, offender accountability is restricted through time-consuming and unnecessary procedures whose effects are to make it far easier to not take action, than to protect the public and give a youth offender credible reasons to change his/her behavior.

Once a warrant is actually issued, if the juvenile turns himself in, the warrant is recalled and the youth has the warrant removed from his record. If another warrant is necessary, it will be considered to be the first time he has had a warrant. The legal record of that youth would be same as for a youth who had been totally compliant.

Juvenile Services proudly states that the effect of instituting such requirements is the reduction in outstanding warrants from 600+ outstanding warrants prior to the requirements and 75 outstanding warrants in 2006. That reduction, however, does not appear to correlate with either a reduction in crime or recidivism. (see figure K)

The lack of respect shown for warrants is dramatically illustrated in an agreement that Juvenile Services made with the Homeless Youth Continuum (one of the agency members of the Homeless Youth Continuum also runs the reception center). In that document, dated October 2005, Juvenile Services agrees to provide information on whether a homeless youth or young adult (up to age 21) has a warrant and the allegations underlying the warrant. In return, the Homeless Youth Continuum (HYC) has one obligation under the agreement. This obligation is so insulting to community standards of accountability and safety, that I have placed it in bold:

> HYC staff agrees to alert law enforcement if a youth is found to have a felony arrest warrant for murder or manslaughter related charges.

Just to make it clear, if HYC placements have youth in their program with warrants for the following crimes-- and others—HYC staff are under no obligation to report those youth to the police:

- Theft
- Burglary
- Drug Dealing
- Assault
- Robbery
- Weapons Violations
- Sex Offenses

It is also the practice, and is certainly implied by the agreement, that although Juvenile Services staff has been informed of the name and location of youth with warrants, the HYC agency is to have sole discretion on whether the police are contacted. This is a practice which clearly illustrates the extent to which Juvenile Services is not law enforcement, although they have some of the privileges of law enforcement, such as access to warrants.

In effect, Juvenile Services has sanctioned the existence of safe houses for fugitives whose crimes involve all but the highest levels of homicides. The policy doesn't even obligate notification for a warrant for Criminally Negligent Homicide, nor does it include sex offenders. Measure 11 suspects, both young adults and juveniles, could presumably enjoy the benefits of the facilities without worrying about HYC staff reporting their presence. These scenarios seem to have been implicitly approved by Juvenile Services. More importantly, they are recognized by the youth.

A final step in assuring that few warrants will be issued or result in detention is removing as much judicial discretion as possible. There used to be a box on the warrant form which a judge would check if there was to be no release prior to a court hearing. That box has been removed. In fact, Juvenile Services states in documents that there is "No *automatic* hold" (its italics). To make it even clearer: "Youth may be cited and released to return for a detention hearing."

This seems an unusual waiver of judicial power to Juvenile Services. Despite the voluminous number of agreements, polices and procedures on their website, I found no document where the judiciary delegates to Juvenile Services the power to decide which warrants will be honored. While only a judge may sign a warrant, Juvenile Services assumes the authority of deciding which warrants will actually result in detention and a court hearing.

PROBATION

During this investigation, there was only one brief interview of a juvenile court counselor; therefore, the conclusions about probation are drawn from policies, data and interviews with other persons working in the juvenile justice system.

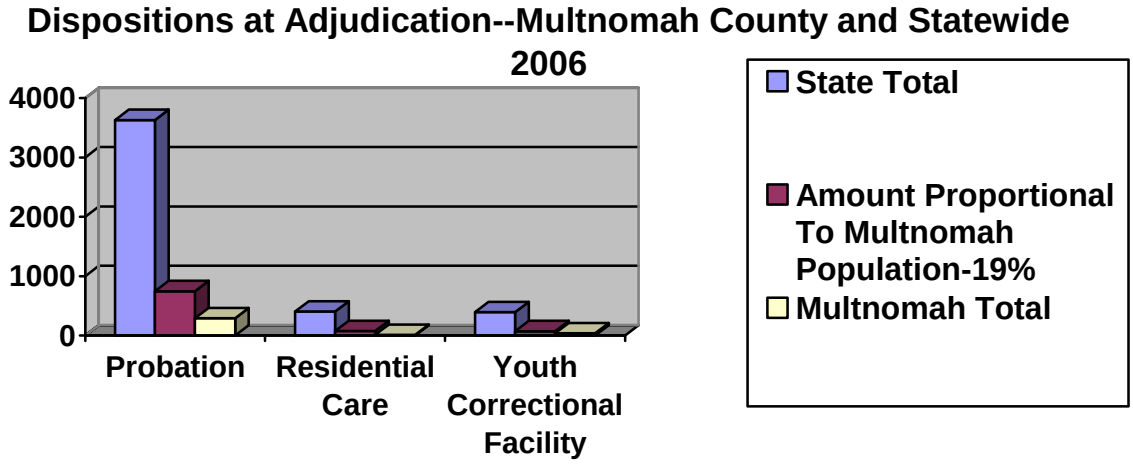
If a youth has committed a crime serious enough to be taken to court in Multnomah County, there is an 80%+ chance that the youth will wind up on probation.

Probation is the workhorse of the juvenile justice system. Probation involves an implied contract with the community: accept probationers, even those with very serious crimes, as long as those probationers live up to their legal obligations. If the probationers fail to live up to those obligations, the other side of the agreement is that appropriate and effective action will be taken to protect the community and give the delinquent youth a credible reason to behave responsibly.

Probation and parole are different. Youth are paroled from a secure correctional facility, such as MacLaren School and can be returned without a full judicial hearing. Youth are placed on probation instead of being placed in such an institution. They continue to have the right to the court process before they can be sent out of the community. Therefore, both the criteria for being placed on probation and the credibility of the supervision are important if community safety is to be an important priority.

Juvenile Services is well below the state average for youth placed on probation, youth placed into residential care and youth committed to youth correctional facilities. This last factor—youth correctional facilities—is a focus of the Casey initiatives, and Multnomah's decrease in commitments is displayed proudly in at least one chart on the Casey website. Given these facts, it can be safely assumed, therefore, that youth who might have been sent to some level of institutional care in other counties, remain in the community in Multnomah County. This fact alone puts far more responsibility on the juvenile probation system in Multnomah County than in any other county in Oregon.

Figure J



Source: JJIS data and Evaluation Reports

When a youth is recommended for probation by Juvenile Services, the constraints of the various matrixes are already quite evident. There is an obvious cookie-cutter quality to the recommendations, which demonstrates just how little discretion is given the juvenile court counselors who must sign their name to the recommendation made to the court. In my review of a number of cases and reports, there appeared to be a real attempt to give an accurate view of the youth's behavior, followed by an inadequate recommendation mandated by policy. The totality of the information would often argue for a much more appropriate recommendation than the one which ended up being made.

Under the Oregon Juvenile Delinquency Code, probation can be imposed for up to 5 years for any offense, which reflects the reality that criminal conduct didn't develop overnight, and certainly won't be significantly changed in just a few months. In recommending short periods of probation, however (see chart on next page), Juvenile Services has continued a pattern of putting the burden of proof for further action on its own employees and not the youth offender. While the court can extend probation, the matter must be taken back to court, an action which is restricted by a sanctions matrix. It makes far more sense to recommend a longer probation which can be shortened for good behavior, than a short probation which can only be extended for behavior sufficiently poor to justify court action on the sanctions matrix.

The following chart shows how in ten of the cases that were reviewed, a variety of criminal backgrounds and instant offenses often ended up with the same recommendation from Juvenile Services, either 12 or 18 months probation. Some of these cases involved a high degree of criminal behavior committed by youth with a large number of prior, adjudicated offenses. The number of prior offenses without significant action has been mentioned by a number of sources both in law enforcement and those who work with and inside Juvenile Services. In this case, the chart shows only adjudicated offenses, and not those dealt with informally, except for those marked with an asterisk.

These ten cases still represent anecdotal information considering the hundreds which are dealt with formally by Juvenile Services. They do, however, provide yet another reason to be concerned that the department's philosophy is in opposition to the reality of criminal behavior. Viewed from the Casey/Juvenile Services perspective of juvenile criminal conduct being relatively benign and juvenile offenders as being more victim than victimizer, they may make sense. For the rest of us, these recommendations make no sense.

Figure K

Juvenile Services Probation Recommendations for 10 Selected Cases

CASE	AGE	CHARGES	PRIOR ADJUDICATED OFFENSES	RISK PER JCP*	JUVENILE SERVICES PROBATION RECOMMENDATION
1	17	Firearms (x5), Theft Menacing	Prior probation, Theft, Menacing	High	12 months
2	14	Assault, Menacing(knife)	Assault, Out-of-state probation	High	12 months
3	15	Delivery of drugs	Theft	Med	12 months
4	14	Multiple felony thefts Possession of drugs	Theft	High	18 months
5	15	Delivery and Possession of drugs	Assault, Robbery, over 40 total priors*	Unk.	12 months
6	17	Delivery and Possession of drugs	Assorted misdemeanors, Robbery, 28 total priors *	High	12 months
7	16	Robbery, Theft	Assault, Theft	High	12 months
8	17	Burglary, Assault	Thefts, Assaults, two prior probation orders, probation violations	High	12 months
9	15	Robbery	Drugs, Firearms	High	18 months
10	17	Multiple Assaults, Theft, Possession of drugs	Thefts	High	12 months

*JCP is the Juvenile Crime Prevention risk assessment, which must be completed on all youth referred to juvenile department. It analyzes a number of both protective factors against and risk factors for further delinquency.

Is there anyone who actually believes that a youth committing a serious criminal offense or offenses with a number of prior criminal offenses and an assessment of being high

risk, can make significant and permanent behavioral changes within 12 or 18 months? How can a recommendation be made for probation when a youth has already been on probation or is already on probation in another jurisdiction and is arrested on additional, serious charges? Finally, do these recommendations give the youth a decent chance to make the necessary changes?

Many of these recommendations might more appropriately have been for either residential treatment or a secure youth correctional facility. The policy requirements which mandate the recommendations actually made, however, should be an embarrassment to Juvenile Services and an illustration of how out of touch policy makers are with the realities of criminal conduct. These recommendations are yet another example of how the benign and unrealistic view of criminal conduct serves neither the community nor the youth.

The problems with Juvenile Services making recommendations which were not appropriate for the crime and circumstances were highlighted by a phone interview that I had with Nathan Vasquez. Mr. Vasquez is a Deputy District Attorney in Multnomah County and previously served in the Juvenile Gang and Gun Crimes position. This position was funded by a federal grant under the Project Safe Neighborhood Program. He dealt exclusively with those sorts of crimes. In that job, Mr. Vasquez was regularly frustrated in bringing a case to a conclusion that appropriately balanced community safety and help for the youth. He made multiple recommendations for placement in a youth correctional facility, but the court regularly sided with juvenile department recommendations for less restrictive sanctions.

For those who were placed on probation, Mr. Vasquez, with help from a juvenile court counselor, tried to reinstitute a prior program that required gun crimes probationers to attend a class conducted by a trauma nurse. The purpose of the program would be to acquaint those probationers with the true consequence of gun violence. The supervisor of the gang unit at Juvenile Services, Kate Desmond, said that Juvenile Services was not interested in the program.

After the Davonte Lightfoot murder (see part 5), Mr. Vasquez started a program that required those who pled to gun crimes to take a polygraph to reveal the source of the weapons. This has been met with less than enthusiastic support by either Juvenile Services or the judiciary.

During his tenure on the gang and gun crimes position, Mr. Vasquez said that he was troubled by seeing repeat gun crimes defendants receive continued recommendations for probation. Further, there was the attitude on the part of Juvenile Services that possession of weapons charges was just a misdemeanor and; therefore, didn't require a more stringent recommendation.

While he enjoyed a good relationship with the juvenile court counselor who represented the department, it was not a relationship in which there was consultation on

recommendations. Mr. Vasquez, however, was aware that the juvenile court counselor was not in control of the department's recommendations to the court.

Mr. Vasquez was also aware of the issue of numbers in the use of detention. He had a sufficiently high degree of concern that he attended all preliminary hearings on gun and gang cases.

Once a youth manages to get on probation, there is another level of protection against facing consequences for further poor or illegal behavior. Requirements are placed on recommendations for use of detention due to probation violations and warrants for probation violations. These department-imposed hurdles have the effect, if not the intent, of making it even more difficult to hold youth accountable.

Youth on probation have already been adjudicated for a criminal offense. By law they can be immediately lodged for <u>any</u> violation of probation. Juvenile Services has made a choice to not use that element of the law.

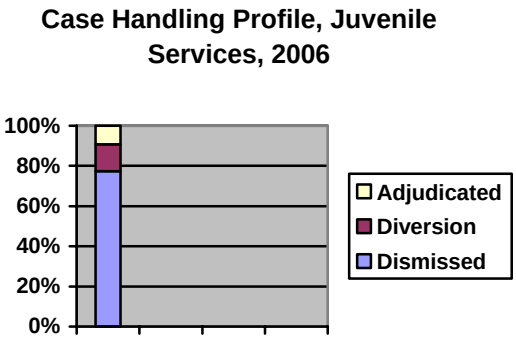
With the Casey philosophy firmly in place, allowing juvenile court counselors significant latitude to make sanction recommendations including detention was seen as subjective and not based on risk. It is no coincidence that allowing some degree of discretion almost invariably led to a degree of accountability that is unacceptable to the Casey Foundation and its adherents in Juvenile Services. Therefore, a sanctions matrix (Appendix B) was devised to put strict limits on the discretion of juvenile court counselors making recommendations regarding probation violations. For Rick Jensen, Juvenile Services Manager for Detention Reform, this was an intentional effort at "imposing structure and limiting the discretion of probation officers long used to acting autonomously." Evidently, acting autonomously means acting within the intent of law. Acting in a non-autonomous, structured manner means adhering to the philosophy of the Casey Foundation.

On the top of the sanctions matrix is the perceived risk of the youth on probation, low, medium or high. On the side of the matrix is the perceived seriousness of the violation, minor probation violation, moderate probation violation or minor law violation and serious probation violation or significant law violation. There are 9 squares in the matrix grid. Only 3 of them allow for the use of detention as a sanction.

Given the tendency to not take action (75% of all youth referred), any youth going on probation in Multnomah County is <u>not</u> a low risk offender. The offender may be lower risk than others on probation, but he/she represents one of the less than 10% of all youth referred by the police in Multnomah County.

So, to deal with the "low risk," issue it would be helpful to see this portion of offenders in perspective: The group that Juvenile Services believes is appropriate to categorize into low or medium or high risk is the smallest segment of those referred (in white in the following chart). The low and medium risk youth have long-since been screened out by the other layers of "objective" matrixes.

Figure L

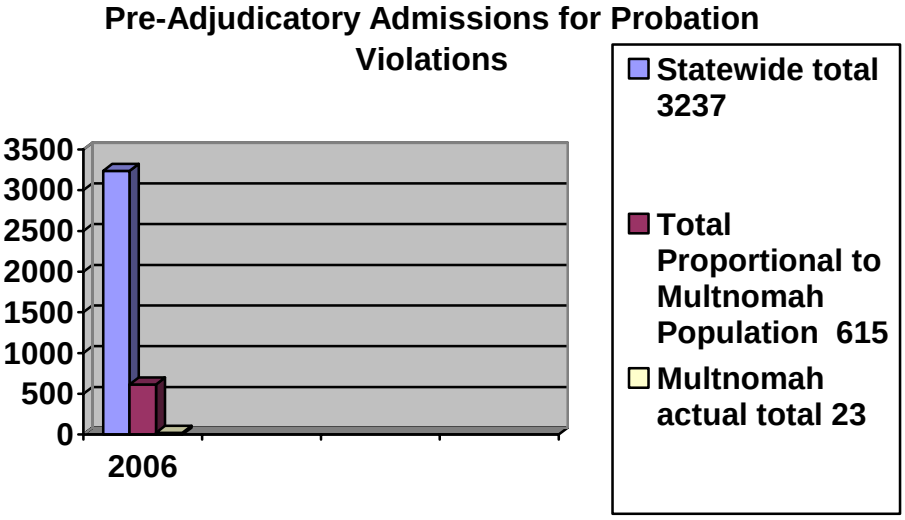


Source: JJIS data and evaluation reports

It represents something of an alternative reality to take the smallest and most serious demographic, and then rate it into low, medium or high risk. This is part, however, of the attempt to trivialize or minimize juvenile crime by talking about "risk-based" decisions even though "risk" has been considered at every step in the process.

Any crime can be judged on a continuum: there are some burglars more prolific than others; some robbers more dangerous than others; some murderers more vicious than others. None are "low risk". With 90% of all juvenile dispositions in Multnomah County not resulting in adjudication, all of those on probation represent a significant risk to the community, or they wouldn't have been taken to court in the first place.

Figure M



Source: JJIS data and evaluation reports

Multnomah's share of the statewide total for admissions due to probation violations is just **.7%** of the state total. This is, at least in part, explained by the fact that Multnomah County does not allow their Juvenile Court Counselors to arrest youth in violation of their probation and take them to detention immediately. Even when a motion for probation

violation is approved by a supervisor, the probationer who is violating will merely be summoned to appear at a later date. We are aware of no evidence suggesting that delaying action on a probation violation helps the probationer to change or the community be safe.

Juvenile Court Counselors are seldom authorized to use either the detention or correctional facility option (see Appendix B). Graphs shown in a number of Casey documents show the dramatic reductions in the use of detention and commitment to youth correctional facilities. In fact, Multnomah County despite its high rate of violent crime does not use the space available to it in those facilities. Each county is allotted a certain number of spaces based on population and amount of crime. This allotment is referred to as "the cap". Multnomah County perpetually underutilizes this option which still affords the advantages of the juvenile system to the most serious and chronic offenders.

There is another way that department policy affects the decision making abilities and recommendation from juvenile court counselors. When a youth is placed in detention, he/she is assigned a juvenile court counselor. The same is true for a juvenile who was released on the condition of returning for court. Juveniles who are placed in detention and are on probation already have an assigned juvenile court counselor. Those youth are required to have a preliminary hearing, which is the hearing required by law on the first working day following detention or conditional release. The person who presents the case for Juvenile Services, however, is not the juvenile court counselor.

The person presenting the case for Juvenile Services is called the placement coordinator. This person makes the recommendations at preliminary hearings and attends other meetings where placement decisions are being made. From the outside, this position appears to be one that enforces the orthodoxy of the Casey philosophy. To try to accurately report the department's rationale for this position, I sent an inquiry to Dave Koch asking him to explain why the person most familiar with the case, the juvenile court counselor, didn't present the case. He replied that the position was "…a case processing innovation designed to provide a consistently thorough analysis of youth's cases at the preliminary hearing." He did not explain why the assigned juvenile court counselor is not the most appropriate person to make that "consistently thorough analysis" and provide a recommendation.

Based on information from other sources, it appears that Juvenile Services believed that there was too much discretion being exercised by juvenile court counselors when they presented recommendations at preliminary hearings, and that there should be "one voice" which would make the recommendations. It seems a fair assumption that a need to rein in discretion is another way of saying that some juvenile court counselors were recommending holding a youth in detention whether or not it was called for by the various matrixes.

In theory, the juvenile court counselor and the placement coordinator are supposed to agree to the recommendation. In practice, the placement coordinator's recommendation

will prevail. Making the pecking order even clearer, the placement coordinator is paid at a higher rate than the juvenile court counselor. In some cases, the assigned juvenile court counselor will be seen sitting in the back of the courtroom listening to someone else present the case to which he is assigned. Even being present in the courtroom for these proceedings, however, is discouraged during the preliminary hearing phase of court proceedings.

A case mentioned previously in the Probation section, gives a good indication of the functioning of the placement coordinator. As stated earlier, a 16 year old youth was lodged on firearms charges. The placement coordinator stated that the youth had low to moderate scores, which presumably meant the Risk Assessment Instrument. He, therefore, was considered to be a low risk to the community and should be released on electronic monitoring.

The Deputy District Attorney had either done more checking on the youth or was less restricted in his presentation of facts. The Deputy District Attorney stated that the youth had been involved in a stolen car incident, eluding police, narcotics dealing and the gun offense. The youth had also previously been on probation in Georgia.

Although the court ruled against the Deputy District Attorney and released the youth, at least the District Attorney's Office had made an attempt to protect the community. Juvenile Services, as represented by the placement coordinator, was more than willing to give the court only information on the risk scores and a meaningless and inaccurate statement about the youth being a low risk to the community. The incomplete presentation of information in this case was repeated in the other hearings witnessed by Ms. Widlund of Crime Victims United. This corroborates other information we have received indicating that the placement coordinator is supposed to keep the presentation of facts to the instant offense, rather than also discussing past problems that may negatively impact a release decision, and more accurately reflect on community safety.

In one of its documents, Juvenile Services explains that a juvenile court counselor is the juvenile equivalent of a probation officer. Most would assume that a probation officer has a significant degree of authority to enforce court mandates. Juvenile Services, however, has limitations that give the juvenile court counselors very little authority. Here are those restrictions:

- Not allowed to use peace officer powers granted by state law.
- Not allowed to make dispositional recommendations which the juvenile court counselor believes to be appropriate.
- Not allowed to file a motion regarding probation violation without supervisory approval.
- Not allowed to make probation violation recommendations as deemed appropriate.
- Not allowed to file for a warrant without supervisory approval.
- Not allowed to present the facts of the case at a preliminary hearing.

When such restrictions are placed on the persons who in theory are supposed to enforce court orders, the resulting lack of emphasis on public safety becomes the sole responsibility of policy makers and not the individual employee.

SAVINGS?

The assessment of detention as being both ineffective and costly is central to the Casey philosophy as practiced in Multnomah County. It is undeniably expensive to safely house juvenile offenders in a secure setting. The expense, however, should not be examined in isolation. The best comparison would be to factor in other costs, such as the cost to the community of additional crime or deterrent value of using detention responsibly. While Multnomah's disproportionate rate of serious crime is well documented (see Figure C), an accurate figure for the cost of such crime is beyond the scope of this report. What is known and can be accurately reported, however, is the extremely high cost of detention in Multnomah County due, in part, to the philosophical objection to its use.

In 2006, the Multnomah County District Attorney's Office did an independent review of correctional facilities in the county. Senior Deputy District Attorney, Chuck French, and Special Counsel to the District Attorney, John Bradley, did an analysis of cost for the Donald E. Long Home which differed markedly from the cost submitted by Juvenile Services. The District Attorney's investigators figured costs by the actual usage of detention, not by its funded capacity. They also figured in the debt service cost of the capital construction bond which built the new facility. The figure cited in the report, based on actual usage was $401/day, which was more than twice the cost of detention in Marion County and almost 70% higher than Lane County.

In the 2008 budget document, the total for funding 80 detention beds is $10,738,000 (rounded to the nearest thousand), with offsetting funds of $1.7 million dollars from Clackamas and Washington Counties for their contractually obligated total of 28 beds. Subtracting the payments from those counties from the total budget for detention yields a figure of about $308/day for all 80 beds, the figure used by Juvenile Services.

Multnomah County, however, only gets the use of 52 beds for the approximately $9 million dollar general fund outlay. This figure would make the cost per youth per day for Multnomah County youth over $470. The efficient use of the facility, therefore is extremely important.

If the authorized space is not being used, the cost per youth increases. Until quite recently, there have been a significant number of beds not being used. Using Juvenile Services figures for cost-per-day, Figure N on the next page, shows the increase in cost per youth when the facility is not being used to its funded capacity.

This use, or more accurately lack of efficient use, of county money is an important issue. At a meeting with the Director of the Department of Community Justice and the Chair of

the Multnomah County Commission in November of 2007, Crime Victims United was told that there were financial realities and constraints on increasing the use of detention. We disagree—up to a point. That point is when the average population reaches 80—the limit of county funding for detention.

To get the most accurate figure for the average population in detention, an inquiry was sent to Kathy Brennan, Supervisor of Detention and, when no answer was received, to Dave Koch, Assistant Director of Juvenile Services. He responded that the figure is "more often than not" over the figure of 64 cited by the District Attorney's Review.

Figure N

Cost per Youth per Day at Various Average Daily Detention Populations*

Average Population	**80**	**75**	**70**	**65**	**60**	**55**
Cost per youth/day	$309	$330	$353	$380	$411	$449
% Change in Cost From Funded Capacity (80)		+7%	+14%	+23%	+33%	+45%

***Using Juvenile Services figure of $309/day at full capacity.**

In budget documents for the 2008 fiscal year, Juvenile Services stated that the 80 funded beds are utilized ".at almost 100% capacity each day." This does not correspond to the information available to either the District Attorney's Office, nor to Crime Victims United. Both Kathy Brennan and Dave Koch were asked to explain the discrepancy, but have failed to do so. Since that request for clarification was made, however, detention has often been used to the "almost 100% capacity" mentioned in their earlier document.

Another discrepancy arose when examining information on the Casey website and Department of Community Justice budget documents. On the Casey website, a graph is presented showing that Juvenile Services has "redeployed" a total of $17.6 million dollars since 1998. The graph also shows a steady figure of $2.4 million a year "redeployed" from 2001 through 2006.

Budget documents for the 2008 show Juvenile Services making the claim that $2 million dollars have been "saved" by using alternatives less costly than detention. Once again, a request was made to Dave Koch to explain whether money has been saved or merely spent differently, and how the various figures were arrived at. Mr. Koch replied that over 2,000 youth had been diverted from detention to alternatives, such as reception, which cost far less than detention. Further, there was no detectable rise in crime according to Mr. Koch. Given the fact that during that time there was significant unused space in detention, however, there appears to be no actual savings to the county.

Crime Victims United would agree that detention should not be used for the sole purpose of filling up available beds. Considering the types of crime that do not result in detention, and the lack of accountability after a youth has been taken to court, that is hardly an issue.

RESULTS?

> **We are invested in continuing to develop, implement and provide efficient and effective services that are customer focused, culturally competent, and based on best practices to reduce recidivism rate, to increase high school completion and to increase good government. -- Juvenile Services website.**

One of the more striking examples of Juvenile Services seeing itself outside the law enforcement system is the mission statement on its website, which is included for the second time (above). This mission statement almost totally ignores the issue of crime, focusing instead on a litany of the current buzzwords used so often in juvenile justice. All of those concepts are valuable. None of them, however, specifically address the issues of community safety and accountability.

It is instructive to highlight one of the more breathless statements that has been used in the marketing campaign to assert what is not true—that Juvenile Services in adopting the Casey model, has found a better and more effective way to reduce crime. Here is a statement made in the department's press release of November 1, 2007, announcing the new RAI:

> **Multnomah County's success in reducing juvenile crime…….is re-shaping the juvenile justice landscape across the United States.**

Such hyperbole may be appropriate for sports commentators or hucksters selling the latest miracle product, but it is hardly appropriate or accurate to use when discussing juvenile crime. Anyone with a background in dealing with crime knows that the correct attitude when discussing any claim of success in changing human behavior is humility and a willingness to wait for long-term results. When marketing trumps results, science has taken a back seat.

Figure C, which is repeated on the next page, shows that despite Juvenile Services' claims of "…reshaping the juvenile justice landscape across the United States," and having engaged in "pioneering work," somehow the evidence is not quite so breathtaking.

Figure C

Year	*Juvenile Homicides State*	*Juvenile Robberies State*	*Homicide Multno.*	*Robberies Multno.*	*% of Statewide Homicides Multno*	*% of Statewide Robberies Multno.*	*% of Statewide Population Multno.*
2002	28	259	8	102	29%	39%	19%
2003	32	232	14	89	41%	41%	19%
2004	31	258	10	110	32%	43%	19%
2005	34	216	12	95	35%	44%	19%

Source: JJIS data and evaluation reports

Absolute numbers have gone up and down, but the one constant has been the disproportionate number of violent crimes in Multnomah County considering its share of the state population.

The single crime-specific concept mentioned in Juvenile Services website is the mention of reducing recidivism. Since this benchmark is one by which Juvenile Services seems willing to be judged, it is important to look at its record in reducing recidivism.

A recent Casey document reported "… that repeat juvenile offenders dropped 31.4% between 1998 and 2004" in Multnomah County. As with previous assertions of a drop in crime, the repeat offender figure (recidivism) is not compared to other counties in Oregon, or to a statewide average, (Figure O, below). In failing to give comparative data for the state, the Casey Foundation also fails to accurately reflect Multnomah County's less than stellar performance in the eight years that recidivism figures have been available in JJIS. (See Figure P). Those figures show that Multnomah County has been a chronic underperformer in reducing recidivism, especially after the RAI had been in effect for several years.

These published recidivism figures for Oregon obviously fail to document any superior results of the Casey philosophy in one of its most celebrated "model sites". In fact, the data appear to show proof to the contrary.

Figure O

Recidivism* of the Five Largest Counties and Statewide in Percentages

	2003		**2004**		**2005**	
County	**Total**	**3+**	**Total**	**3+**	**Total**	**3+**
Multnomah	**36.9**	**9.9**	36.3	**9.4**	**36.0**	**9.4**
Clackamas	24.5	2.9	21.8	2.9	23.4	2.8
Lane	31.9	7.3	27.2	6.3	33.8	7.8
Marion	34.6	7.3	**36.4**	6.9	32.7	6.4
Washington	27.0	4.8	25.6	4.3	28.4	3.9
Statewide	32.0	6.8	31.3	6.3	31.5	6.2

*Recidivism is defined as the percentage of youth in the previous year who reoffended in the listed year. For instance, the 2003 figures represent the percentage of youth in 2002 who reoffended in 2003.

1. Total: total recidivism in percentages
2. 3+: Percentage of those who reoffended with 3 or more referrals in the listed year.
3. Numbers in bold represent the highest levels of recidivism for the given categories

As the above chart demonstrates, Multnomah County has had the highest rates of recidivism in 5 out of 6 categories during the last 3 years. Those years are 7-10 years after the Casey model began to be implemented. Most alarmingly, Multnomah County has always led in the category of recidivists reoffending at a rate of three of more referrals. This figure has consistently been over 9%. While Juvenile Services likes to assert that it targets high-risk offenders, the rate of reoffending does not seem to enter into the assessment of risk.

In the October edition of the department's on-line newsletter, Inside Community Justice, there is a headline for an article entitled "Juvenile crime up. Repeat Offenses down."[5] Well, (1) yes and (2) it depends on how you look at it. Juvenile Crime in Multnomah County, as measured by referrals, was up in 2006 (2.5%), and by a higher percentage than the statewide average (1.8%). The number of those reoffending actually increased. Due to the increase in crime, however, the percentage of those reoffending actually decreased slightly by three tenths of a percent.

The chart on the next page gives a longer range view of recidivism in Multnomah County and statewide. Rather than show a relentless march of progress as the Casey model was fully implemented, it appears to show just the opposite. As Casey "reforms" have substituted matrixes for a significant degree of human judgment, the difference between statewide recidivism figures and Multnomah County's recidivism figures have increased—and not in Multnomah's favor.

During the past 8 years, the rate of recidivism statewide has decreased twice as much as that of Multnomah County. In addition, the year-by-year difference between recidivism statewide and recidivism in Multnomah County has grown considerably. When community safety and accountability still had something of a foothold, the difference was fairly small.

[5] In a wonderful bit of irony, just under the "Juvenile Crime Up" headline is another headline: "**Detention Reform Spurs Positive Changes in Juvenile Justice** A new national report from the Justice Policy Institute cites Multnomah County, Chicago and Santa Cruz, as examples of jurisdictions that improved racial justice, family involvement and performance measures as a result of detention reform." We don't know about the first two factors, but about those performance measures….

Figure P

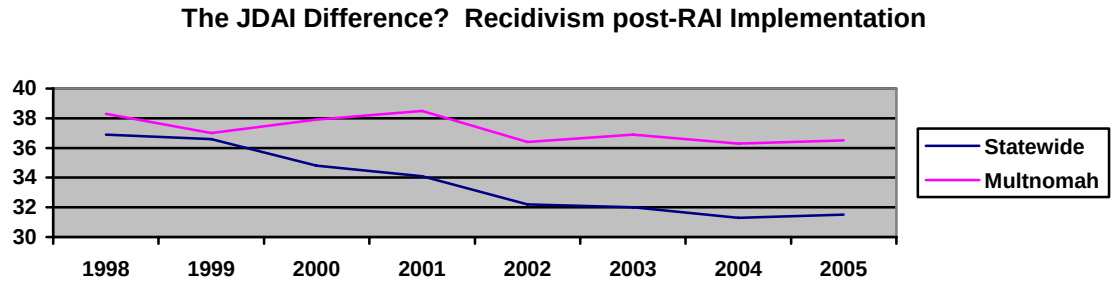
Eight year History of Recidivism, Multnomah County and Statewide

	1998	1999	2000	2001	2002	2003	2004	2005	Change in %
Multnomah	38.3	37.0	37.9	38.5	36.4	36.9	36.3	36.0	-2.3
Statewide	36.9	36.6	34.8	34.1	32.2	32.0	31.3	31.5	-5.4
Difference in %	+1.4	+.4	+3.1	+4.4	+4.2	+4.9	+5.0	+4.5	

Source: OYA statewide and county recidivism reports

The difference between statewide and Multnomah County recidivism is now quite significant as shown in figure Q, below:

Figure Q



Source: OYA statewide and county recidivism reports

This deterioration in comparative performance roughly correlates with the introduction of the RAI, version 3 which was implemented in 1998, and went through various revisions until replaced with the RAI-4 in October 2007.

As will be discussed again in Part 3, there is also reason to believe that juvenile crime at the lower levels is underreported, due to a lack of confidence by the police that such referrals will be dealt with appropriately. Such evidence is admittedly speculative, since it assumes that referrals would be higher if the police had more confidence in Juvenile Services.

There are data, however, that would provide some evidence of whether the police are merely lazy or responding to a demonstrated lack of action by Juvenile Services. I was reminded of this fact when going over two of the police surveys. The following comments stood out:

> "I haven't written MIP's [minor in possession of alcohol], Curfew, Tobacco, etc. for years."

And,

> "I do not believe they follow the ORS [Oregon Revised Statutes] for denial of driving privileges for drug and alcohol violations."

As mentioned earlier in this report, Oregon now has excellent juvenile crime statistics. Two of the statistics given are for Minor in Possession of Alcohol and Possession of Less than an Ounce of Marijuana. Both represent the sort of relatively minor public order offenses that police can often decide to write up or ignore. These referrals are especially helpful because though they are a non-criminal violation, (there is no possible detention time, a lower burden of proof and no right to court-appointed counsel) they carry a meaningful sanction—the suspension of driving privileges if taken to court. Most departments make heavy use of a provision in the law which offers diversion on a first offense. This allows a youth to attend drug and alcohol classes in lieu of suspension. Officers have reason to write the citations if they believe that any action will be taken. The number and disposition of such offenses gives a rough idea as to the confidence of the police that their time and effort will result in any action whatever. The five most populous counties were chosen as comparisons.

As can be seen in Figure R, next page, Multnomah has the fewest citations written even though having more population than any of the other counties. But there is good reason for the lower number of citations. Out of 563 citations written in Multnomah County, no alcohol or less than an ounce of marijuana citations were taken to court and only 19 were diverted, a rate of 2%**.** Juvenile Services has, in effect, legalized the use of alcohol and marijuana by minors, and yet again shown its disdain for the purpose clause of the Oregon delinquency code and its call for "early and certain sanctions".

Multnomah County spends over $ 1 million a year in general funds and $2.5 million in total public funds for a residential drug and alcohol program for drug dependent and delinquent youth. You have to wonder what twist of logic—or "data-drive decision"--allows the leadership of Juvenile Services to ignore the early warning signs involved in entry-level substance abuse referrals while spending $2.5 million to deal with significant drug and alcohol dependency. In fact, Juvenile Services seems to disagree with its own actions. In its 2008-2009 budget justification for the residential drug program, the department stated "…National reports increasingly underscore the need to intervene in juvenile alcohol and drug abuse." We agree, and urge Juvenile Services to follow its own advice.

Figure R

Number and Disposition of Alcohol and Marijuana Citations in 2006

	Combined Alcohol and Marijuana Citations	Number taken to Court	Number Diverted	Number with no action taken	Percentage with no action taken
Multnomah	563	0	13	550	98%
Clackamas	587	91	106	390	66%
Lane	659	116	389	154	23%
Marion	651	61	278	312	48%
Washington	685	18	453	214	31%

Source: JJIS data and evaluation reports

The survey of police officers (see Part 3) showed that 47% of them responded yes to the question: "Are there times when you don't write a report on a juvenile incident because you believe nothing will happen?"

In a phone interview, one Portland Police Officer told me that he was confused by the question, since it implied that contact had been made with the juvenile. He said that when contact is made he writes a report, however, he ignores a number of incidents such as alcohol and marijuana use or criminal trespass because he believed that there would be no action. It seems probable, therefore, that the figure of 47% is a conservative estimate.

PART 3: JDAI ON THE STREETS
THE POLICE PERSPECTIVE

"It seems like the community partnership is broken."-- Portland Police Officer

Every youth in treatment through Juvenile Services is there because of a police officer. That officer took a crime report, investigated, arrested a youth and wrote a report sufficient to sustain the charge. Police are not often acknowledged as the prime agents of change for delinquent youth, but they should be. Usually, the credit goes to the helpers--those who can speak softly and have the time to listen--those who didn't have to deal with the youth when he/she was violent, verbally aggressive and generally unpleasant. Those same people didn't have to take a crime report from a victim and deal with their trauma and anger. Those same people didn't have to do hours of paperwork which has to be so accurate that the officer must testify under oath to the accuracy of every detail. Those same people don't have to see the result of their work being the youth's almost immediate release to the streets. Finally, those same people don't do all that with little or no faith that the matter will be dealt with adequately.

These are the realities faced by the police officers in Multnomah County who deal with juvenile crime. Juvenile court counselors, custody workers, prosecutors, judges and therapists are all crucial to the process of getting help for a delinquent youth. They would, however, be out of work without the police. For their indispensable part in the process which results in youth offenders being placed into treatment programs, the police are too often portrayed as Neanderthals who know only force and who routinely violate rights. As one police officer told me during a phone interview "…You take a kid to reception, and they tell the kid 'it's all right. You're safe. We're not the police'."

Juvenile Services documents show that it is common to get the opinions of a number of persons, including family members, school personnel and those involved in providing treatment for a youth before making a recommendation to the court. What was totally lacking was any attempt to get the opinions of the police officer who arrested the youth. This is backed up by the survey results, where 96% of the officers said that they were not asked their opinion as to the dangerousness of the youth when they contacted detention for an admission decision. The person who started the process is the one person whose opinion is ignored. The officer is likely to be the only person who has seen the youth on the streets, where the youth displays the behaviors that have resulted in court action (see example on the next page). Failing to look at the police as a valuable resource for information about the youth is incredibly short-sighted and leaves out an extremely valuable viewpoint.

We did not ask for either the names of the officers or the youth they were talking about, but you have to wonder what happened with the following case, which illustrates the reasons for the frustration and disappointment felt by officers:

> My partner and I once arrested a young fellow who was throwing canned food at us and then yelled that he was going to go inside, get his gun and shoot the police. He ran inside the house, but we were eventually able to take him into custody. He fought us after being placed in cuffs and we had to put him in maximum restraints. He also fought us at the precinct and we almost could not get his fingerprints done. He peed on the floor of the holding cell. When we delivered him to JDH, he was released before we could complete our reports.

When given a chance to give an opinion, the vast majority of police will express the desire to see delinquent youth get help. Since they usually don't start their contact with youth in the more civilized setting of an office or courtroom, they do have a different perspective from others in the system. They see the need for the juvenile justice system to have credibility among those they deal with. They get immediate feedback from youth who have shown their lack of respect for a system which fails to take their crime(s) seriously. The officers who have responded to our survey cared enough about trying to improve the juvenile justice system that they took the time to fill out a survey, even though they probably believed that it would be an exercise in futility. One officer wrote at the end of his survey, "I'll bet I wasted my time on this survey!" We hope not.

The survey was distributed in Troutdale, Gresham and Portland. A response of 50-100 would have been adequate to get a sense of how the officers felt about the juvenile justice system in Multnomah County. The survey was never considered to be definitive, but was thought to be an important addition to the other information in the report.

When all of them had been returned, we had a total of 255 completed surveys. Two hundred twenty five of them were from Portland Police officers and the balance from Troutdale and Gresham. Even more impressive was the fact that over 90% had included written comments on the survey. Those comments were sometimes so extensive that they had to be written in the margins or on the back of surveys. Several officers included a full page or more of comments.

There was no difference in the responses from the 3 departments. All were conclusively negative toward the current practices of Juvenile Services.

The citizens of Multnomah County have every reason to be concerned when their police are overwhelmingly negative toward their county's juvenile justice system. Some of the negativity is undoubtedly due to a lack of contact with Juvenile Services personnel, which is inexcusable but easily corrected by Juvenile Services. The bulk of the problems, however, have to do with the police observing on the streets the negative consequences of Juvenile Services policies. More than a bit of cynicism can be expected when officers see the chaos on the streets being described in various media as a "national model". While police do not have the only legitimate viewpoint in this matter, any assessment of the problems of Juvenile Services which does not solicit the views of police officers and police leadership cannot be considered to be either serious or comprehensive.

Our questionnaires were distributed through the police officers' unions. I wrote the questions. There is little doubt that they would have been different if written by a specialist in polling. One officer, who did not fill out the questionnaire, but turned it in (this was the only time it happened in the 256 questionnaires returned), said that the questions amounted to a "virtual push poll". Push polls are meant to influence opinion not to register it. Although I accept the point that is was possible to write better questions, this most certainly was not a push poll. For instance question 15 asks, "If you are aware of reception, do you see it as an effective alternative to detention?" If written as a push poll the question might be, "Would your opinion of reception change if you knew that there was an anti-law enforcement bias on the part of some staff?" There are no such questions in the survey. It was entirely possible for Juvenile Services to have received glowing reviews on this survey. That did not happen. Surveys such as this do tend to bring out the highly motivated. There did not appear to be any on the positive side. This response was more typical:

> The juvenile system in Multnomah County appears from my perspective to have no interest in holding youth accountable for their actions. I frequently deal with parents who are as frustrated by the lack of support or correctional enforcement on youth in this county as police are. The bad reputation the juvenile system has is not restricted to street cops. --Gresham police officer.

There were dozens of such comments such as "I was an officer in [another part of the state] before my move to Portland and I am appalled by Portland's lack of addressing juvenile issues." Another officer summarized the views of numerous other officers with the following comment: "Most people would probably be outraged if they truly knew how little impact the system has on kids and how extensive a record they can have with no deterrence."

LAW ENFORCEMENT SURVEY

Based on 255 completed surveys.

Responses have been rounded to the nearest percentage.
Responses less than one percent have been rounded to the nearest tenth of a percent.

1. What percentage of your time is spent dealing with youth?

   0-20% _**35%**_ 20-30% _**44%**_ 40% or more _**21%**_

2. What is your general assessment of the juvenile justice system in Multnomah County?

   Good _**.4%**_ Fair _**8%**_ Poor _**92%**_

3. When you arrest a youth and then send in your report, what is your level of confidence that the matter will be dealt with appropriately?

   Good **.7%** Fair **11%** Poor **88%**

4. How hard is it to get a youth into detention?

   Extremely **67%** Fairly Difficult **31%** Easy **2%**

5. How often have you arrested a youth for a felony and had that youth released rather than detained?

   More often than not **54%** Occasionally **35%** Seldom **11%**

   Never **.4%**

6. How often have you arrested a youth for a felony who you believed to be an immediate risk to the community and had that youth released rather than detained?

   More often than not **30%** Occasionally **43%** Seldom **20%**

   Never **7%**

7. When you make contact with detention about a youth you have arrested, are you asked your opinion about the dangerousness of the youth?

   Yes **4%** No **96%**

8. When you make contact with detention, does your opinion about the dangerousness of the youth appear to make any impact on the decision regarding detention?

   Yes **3%** No **56%** Can't Say **43%**

9. What level of credibility does juvenile detention have on the street?

   Considerable **2%** Some **4%** Little or none **94%**

10. What level of credibility does juvenile probation have on the street?

    Considerable **1%** Some **16%** Little or none **83%**

11. What level of cooperation do you have from Juvenile Services as an agency?
    Considerable **3%** Some **53%** Little or none **43%**

12. What level of cooperation do you have with individual employees of Juvenile Services?

    Considerable **2%** Some **51%** Little or None **21%**

    Don't know any **26%**

13. How visible does juvenile probation appear to be on the street?

    Very **.8%** Somewhat **7%** Little or no visibility **92%**

14. Are you aware of the reception center where youth who are not being detained are to be taken?

    Yes **96%** No **4%**

15. If you are aware of the reception center, do you see it as an effective alternative to detention?

    Yes **4%** No **91%** Can't Say **5%**

    Note: Of the 9 respondents answering yes, 5 of them qualified the answer to say that it should only be used for status offenses and minor crimes.

16. Have you ever been directed to take a felony case to the reception center?

    Yes **33%** No **67%**

17. Have you ever been directed to take a youth on probation to the reception center?

    Yes **54%** No **46%**

18. Are there times when you don't write a report on a juvenile incident because you believe nothing will happen?

    Yes **47%** No **53%**

19. If the answer is yes, how often does that happen?

    Frequently **26%** Occasionally **61%** Seldom **13%**

In most cases, the results of the survey are quite obvious. There was an overwhelmingly poor assessment of Multnomah County Juvenile Services (92%), and the level of

confidence that cases would be handled appropriately (88%) poor. For the questions which asked about the perceived street credibility of juvenile detention and juvenile probation, the results are also quite unambiguous. Ninety-four percent said that juvenile detention has little credibility on the streets, and 83% made the same assessment of juvenile probation. In a question designed to get more information about the activity level of juvenile court counselors, 92% stated that juvenile probation has little or no visibility on the streets. Equally unambiguous was the response to question 15: "If you are aware of the reception center, do you see it as an effective alternative to detention?" Ninety-one percent answered no, and the question provided hundreds of comments. Most of those comments can be summarized by the following from a Portland police officer:

> [reception] is a useful tool for first-time offenders, but for repeat or serious offenders it is a waste of time. They can just walk out the door. I have taken kids to [reception] and then rearrested them on the same shift.

As mentioned in Part 3 of this report, a number of officers made comments about an anti-law enforcement bias on the part of reception personnel. Here are just a few that express the view that reception is a hostile environment for police:

- It's very anti-police.
- Not friendly to law enforcement.
- Adversarial to law enforcement.
- Some [reception] staff have treated officers with a lack of common courtesy in front of the juvenile.
- Staff show youth how to make an internal affairs investigation against officers.

Some of the comments can only be characterized as scathing. It was common on question 2, the general assessment of Multnomah juvenile justice, to get comments such as:

> "I only chose poor because a lower option wasn't available," or "juveniles generally don't have any respect for authority or police because they know the consequences for their actions are almost non-existent. They know the juvenile justice system is a joke."

On question 3, which asked for the level of confidence that cases would be handled appropriately, many officers provided cases which they felt illustrated the reason for their lack of confidence:

> "I am a detective working only Measure 11 crimes. I had a case where four juveniles violently assaulted 2 victims. I charged the suspects with Robbery II, Assault III and Intimidation 1. The juveniles did no jail time and received probation. They were out …the next day."

And:

> "I have arrested the same juvenile for auto theft and burglary over and over. It seems that nothing happens until they finally turn 18 and get into the adult system."

There were hundreds of comments on the surveys. They were too numerous to print them all. One short quote about Juvenile Services, however, seemed to summarize the vast majority of those comments:

> **"It is a system where philosophy does not match up with reality."**

Police opinions represent only one of a number of valid viewpoints. Police; however are the only segment of the justice system to have seen the offender on the streets where the crimes have taken place and in the context of his criminal behavior. Crimes seldom occur in probation offices, courtrooms or treatment groups, where too often the harsh reality of crime can be forgotten when a reasonably polite and well-spoken youth is sitting across the table or in front of a judge's bench.

PART 4: JDAI ON THE INSIDE
THE CUSTODY STAFF PERSPECTIVE

Custody staff work within the detention center. They are both staff who supervise the youth in custody and those who receive phone calls about possible admissions to detention. The intake workers are the staff who must use the RAI, and who have to give a litany of "no's" when asked by police whether a youth can be lodged. It is unfortunate, but inevitable, that the comments of police indicate that they believe that custody staff generally support the current low-incarceration strategy. Custody staff are often the only contact the police will have with Juvenile Services personnel, and that is often only by phone.

The staff responding to our questionnaire were all experienced and most had been with the department for a sufficient period to have seen the increasing imprint of the Casey model. Perhaps as a result, these staff were willing to take something of a risk in giving their opinion about a juvenile justice philosophy which has become more of an orthodoxy than an alternative view.

Custody staff have expressed concern over more than just the admissions policy. Staff show frustration about not being able to apply reasonable discipline within the facility. For instance, in the questionnaire there is a question about whether an assault of a youth or a staff member would result in the matter being reported to the police. The answers to the questionnaire are disturbing.

Such lack of accountability while in custody, and reports of lessened sanctions is what staff refer to as the lack of management backup.

Custody staff are also confronted with youth who are detained on a Failure to Appear warrant and then just given a new summons to appear before being released. They are the persons who do such releases based on the RAI and other policy. As stated earlier, Juvenile Services has emphasized that there are no "automatic holds" on warrants.

Other comments by custody staff involve such specific actions as giving youth in custody for Measure 11 offenses hand-held video games that can be taken back to their rooms, and more generally, the policy of not lodging probation violators for other than major crimes.

It is significant that in a question asking to what level current practices comply with state law as set out in the purpose clause of the juvenile delinquency code, not one of the staff who responded to the survey felt that their department was substantially complying with that law. Fifty percent said that there was marginal compliance. Twenty five percent said there was little to no compliance.

The concerns expressed range from policies inside the facility which seem counter-productive to behavioral change to general concerns about the safety of the community. Their recommendations are thoughtful and to the point.

Just over 25% of the full time custody staff filled out questionnaires. That was less than we had hoped, but more than we expected, due to management opposition. We will stipulate that the results as shown below should not be taken as the final or definitive word on custody staff views. These results, however, are the first chance for custody staff to offer substantive comments and criticism of present policies in a setting which offered protection from employment retaliation. A survey of all custody staff which is sanctioned and even encouraged by Juvenile Services management and by the county political leadership would be a logical next step.

Scoring and respondents' comments have been displayed in bold.

CUSTODY STAFF SURVEY

Based on 16 completed surveys out of 60 custody staff.

All results have been rounded to the nearest percentage

1. How long have you worked at Multnomah County Community Justice?
   Less than 1 yr. ___, more than 1 year ___, more than 2 years **100%**

2. What is your general impression of the effect of the Casey Foundation's Juvenile Detention Alternatives Initiative?

   Very Favorable ____, Somewhat Favorable ____, Neutral **19%**_____
   Somewhat negative **31%**, Very negative_**50%** Wasn't aware of it ___

3. If your impression is favorable, why do you feel that way? Check all that apply.

   Better use of resources _____

   Fewer youth in detention _____

   More alternatives to detention _____

4. If your impression is negative, why do you feel that way? (Check all that apply)

   Youth are not held accountable _**93%**__

   Youth are not given credible reasons to change behavior _**56%**__

Community is not adequately protected __**75%**__

Other written comments:

A. **Casey has had some positive influence, but they continue to interfere with the daily operations of detention.**
B. **Inadequate consequences to deter criminal conduct.**
C. **Casey uses money and to influence management. The [Casey] foundation is set up for alternative programs. It has no business inside the justice system.**
D. **Community safety and accountability need to be emphasized.**
E. **Some youth need more incarceration due to their crime.**
F. **Need more community and staff protection.**
G. **Fewer dangerous youth are being held.**

5. Were direct-service staff involved in the decision making process regarding the implementation of the Casey-sponsored changes?
Yes_____ No **100%**_

6. Has management ever sought out your opinions about the policies that are being implemented under the Casey initiatives?

Yes _____ No _**100%**

If the answer is yes, were your opinions sought before or after implementation of the Casey initiatives?

Before _____ After **100%**

The following is the mission statement of the Oregon Juvenile Justice system as written into law. It is at the very front of the delinquency code.

419C.001 Purposes of juvenile justice system in delinquency cases; audits. (1) The Legislative Assembly declares that in delinquency cases, the purposes of the Oregon juvenile justice system from apprehension forward are to protect the public and reduce juvenile delinquency and to provide fair and impartial procedures for the initiation, adjudication and disposition of allegations of delinquent conduct. The system is founded on the principles of personal responsibility, accountability, and reformation within the context of public safety and restitution to the victims and to the community. The system shall provide a continuum of services that emphasize prevention of further criminal activity by the use of early and certain sanctions, reformation and

rehabilitation programs and swift and decisive intervention in delinquent behavior.

7. Based on your experience, how well does Multnomah County Juvenile Services comply with 419C.001?
Substantial Compliance _____ Moderate compliance **25%**
Marginal Compliance **50%** Little or no compliance **25%**

8. How has the Risk Assessment Instrument (RAI) affected your job?
Positively **6%** Negatively **75%** No Effect **19%**

Written comments:

A. Fewer youth in detention make the job easier, but fewer youth are being held accountable.

B. Since so few are lodged, youth being held feel singled out.

C. The only effect is on population.

D. Youth not being held accountable. It is enabling the youth's criminal behavior.

E. Doesn't hold kids accountable. More delinquent kids are on the street.

F. Worried about releasing violent youth.

G. We still try to protect the public regardless of the [RAI] score.

H. More violent youth are on the street.

I. It's a shame how many dangerous juvenile offenders we won't hold. It does not protect the public. It does the opposite.

J. Doesn't hold youth accountable or protect the community. It enables youth's criminal behavior. There is conflict between the department and the police. Police won't arrest because we won't hold.

K. Can't assist police.

L. Too lenient to act as a deterrent.

M. Not holding kids we should.

9. Based on your experience and training, do you feel that detention is operated to maximize safety for youth and staff?
Yes **19%** No **81%**

10. If safety is a significant issue, what are the reasons? (check all that apply)
Staffing **37%** Number of inexperienced or part-time staff **81%**
Administrative Policies **87%** Lack of management support **81%**
Lack of appropriate training **37%**

11. Do you have the training necessary to deal with violent youth in an appropriate and timely manner?
Yes **88%** No **12%**

A. There needs to be a physical requirement for working in Detention.

B. Training is needed for dealing with violent youth.

C. Training needs to be on corrections, not detention reform.

D. We need timely decisions.

E. We need management that knows what they are managing.

12. Do you have the authority necessary to deal effectively with assaults of youth and staff by other youth?
Yes **54%** No **46%**
If not, what authority do you need to deal more effectively with violent incidents? Please explain.

A. Youth need to be held accountable in detention and dealt with in a timely manner. Staff should be able to make decisions, rather than waiting for managers, who are weak, to make decisions.

B. Discipline is too hard to get authorized. Supervisors are seldom on the floor.

C. Need to get management approval rather than taking immediate and decision action.

D. Managers fail to support staff decisions.

E. Not often allowed to use authority.

F. Management needs to trust staff.

13. Do you have the training and authority necessary to deal with disciplinary incidents before they become violent?
Yes **62%** No **38%**

A. We are not allowed to use the isolation room.

B. Training is adequate for passive-aggressive youth. If the youth is violent, some staff are afraid and/or concerned about a lack of support as management often reduces sanctions.

C. Management doesn't support disciplinary actions.

D. Poor and ineffective options.

E. We have the training, but lack the authority to move quickly.

14. When an assault occurs in detention, is it policy the police to be notified?
Yes **37%** No **56%**

A. No consistent policy.

B. Not unless it is a juvenile court counselor.

15. If a youth assaults another youth, how likely is it that he/she will be charged with a crime?
Likely _____ Unlikely **56%** Seldom, if ever **31%** Don't know **13%**

16. If a youth assaults a staff member, how likely is it that he/she will be charged with a crime?
Likely **25%** Unlikely **32%** Seldom, if ever **37%** Don't know **6%**

A. Told by a staff member that it is too expensive to follow through.

17. As a front-line worker, are you prohibited by policy or management directive from reporting violent incidents to law enforcement?
Yes **12%** No **88%**

A. But it is not encouraged.

18. Do you need management approval to report an assault to law enforcement?
Yes **38%** No **62%**

19. Are youth in detention ever released at any time during the day and then told to return at another time?
Yes **62%** No **25%**

If so, under what circumstances are youth given such a release? Please explain.

A. Capacity management

B. Community Service

C. Hospital or funeral, etc.

D. Passes

E. Court

20. Are you aware of the PSP (Pre-trial Supervision) program re: Measure 11 youth?
Yes **94%** No **6%**

If so, how would you assess the supervision provided?
Excellent _____ Acceptable **19%** Poor **81%**

A. **Too many problems to list.**

B. **Horrible accountability. A joke.**

C. **Youth often show up late or skip altogether.**

D. **Not held accountable.**

E. **Not held accountable and not being prepared for adult system when sentenced.**

F. **Poor supervision, and it's only from 9-3 PM.**

G. **Only 9-3 PM. No educational purpose or structure.**

H. **They should go to jail if they are not following rules.**

I. **Call in sick. Don't show respect for staff.**

21. Are you aware of youth being released from detention for social activities such as going to dinner?
Yes **38%** No **62%**

A. **Pizza parties. Use of commissary.**

B. **Treatment units have such activities, not detention.**

22. Current county policy is for gun-related charges to be held. How often do you see exceptions to that policy?
Never **56%** Sometimes **25%** Often ___ Don't Know. **19%**

23. If you could make 3 policy changes in detention, what would they be?

Almost all of the written recommendations by custody staff are included in this list, though some which are similar have been combined.

A. **Measure 11 youth need to be held accountable, and staff should be allowed to use effective discipline. There needs to be an appropriate ratio of male to female staff on male units.**

B. **Mandatory reporting of all assaults on youth and staff with clear accountability for PSP youth. Policies enforced consistently for staff and management.**

C. **Don't rely on outside providers and non-profits. Hold accountable. Fill the beds we have.**

D. **Fill all budgeted positions and increase programming on criminal thinking. All felony cases should be held until a preliminary hearing.**

E. **Management needs to be accountable for coverage requirements being met.**

F. **Change the RAI. Stricter accountability for youth in detention.**

G. **All youth on probation need to go to detention and <u>not</u> to reception.**

H. **Policies should be based on state law and accountability, not on Casey and JDAI.**

I. **Supervise PSP youth adequately, and get management backing for staff decisions.**

J. **Rewrite the RAI. Re-evaluate the purpose of detention.**

K. **Follow a policy of community safety being #1 when making placement decisions.**

L. **Get rid of the RAI. Trust staff. Management should be of benefit to the program or their positions eliminated.**

M. **There is conflict on the units between custody and non-profit personnel. Clarify the rules.**

N. **Probation youth should not go to reception. They should all come to detention.**

O. **Change the RAI. Get rid of Casey. Hold youth accountable.**

P. **All youth on probation should go to detention for a new law violation. 16 and over Measure 11 youth should go to jail.**

Q. **No more pizza parties or barbeques.**

R. **There are lots of managers on weekdays during the day. Few on the weekends and evenings. Schedule for the benefit of the program.**

S. **More victim awareness.**

T. **Get rid of the Gameboys and Nintendos. Make youth earn privileges.**

PART 5: DAVONTE LIGHTFOOT
THE COST OF JDAI

(This narrative was compiled from print and broadcast media reports, other documents made available to us and an interview with Davonte Lightfoot's mother, Tammorra Barnes. Dave Koch, Assistant Director of Multnomah County Department of Community Justice Juvenile Services, was asked about the case, but he refused to answer any questions, citing possible litigation.)

Davonte was the younger of two children born to his mother, Tammorra Barnes. During her pregnancy with Davonte, she moved from Chicago to Portland to be with her large and involved, extended family. Davonte was born without complications and met his developmental milestones on or ahead of schedule. He was bright and outgoing. Making friends came easy to him.

During childhood, the only area of concern for his mother was the tantrums which continued beyond the age when most children leave them behind. When he was 6, a teacher remarked on his anger, and recommended special help.

Academically, Davonte initially did well in the subjects he liked. When in 5th grade, he could read at the 8th grade level. He did not show the same achievement level in other subjects. By the time he got into junior high, his grades ranged from C's to F's, which his mother attributed to a worsening lack of effort.

At home, Davonte continued his pattern of anger, but he was also quick to apologize to his mother. Although he could be verbally aggressive to his mother, he was not physically aggressive, nor did he threaten her. Most of the time, he was well behaved at home. He was given chores which he completed without problems. He had a normal relationship with his older sister, with minor disputes that did not escalate beyond what is normal for brothers and sisters.

Ms. Barnes describes her son as often being sweet and loveable. He enjoyed argument and debate and the pleasure of good conversation. He also, however, could be sullen and moody, especially during the 3 years prior to his murder.

Ms. Barnes made every effort to keep Davonte involved in positive activities, from a mentoring program to athletics. Even during his last year of life, Davonte started out the school year trying to make the football team, but he was dropped due to his poor attendance.

During 2005, when he was 13 years old, Davonte's behavior took a significant turn for the worse, and his mother began to notice signs of gang involvement. During this time, he also was arrested for the first time. By June, 2005, Davonte had been arrested again, this time for Unlawful Possession of a Firearm, which involved a handgun He was detained and released on electronic monitoring due to his previous behavior. He was

back in court in July, 2005 and admonished by the court due to violations of his home detention. He was detained two more times, and placed again on electronic monitoring, prior to his dispositional hearing in September of 2005. At that time he was placed on 12 months of probation and ordered to complete 24 hours of community service.

In November, 2005, Davonte's behavior escalated significantly when he got angry at his mother. The incident escalated to the point where he threatened her. Although Ms. Barnes did not believe that it was serious threat, it was a degree of anger and threatening behavior that Davonte had not previously shown towards her. Ms. Barnes called the police and pursued criminal charges. Davonte was lodged, charged with Menacing and released the next day.

Davonte went to court on the Menacing charge and a new theft charge in February, 2006. He was placed once again on 12 months of probation, maintaining the status quo.

Less than 2 weeks after his court hearing, a probation violation was filed. By the end of the month a warrant for Failure to Appear was filed and shortly after that Davonte was charged with Carrying a Concealed Weapon, brass knuckles.

In March, 2006, Davonte was arrested but not lodged for an incident at a Tri-Met station. He was also found in possession of marijuana.

Another Failure to Appear warrant was issued in May, 2006.

During this period, Ms. Barnes reports that Davonte continued in chronic violation of his probation. He had been ordered to complete Multi-Systemic-Therapy, however he did not feel comfortable with the therapist. When Ms. Barnes asked if another therapist could be assigned, she was told that the therapist had just started and needed the clients.

While Davonte failed to show for the counseling sessions, Ms. Barnes attended regularly. She said that she was told that her standards were too high and that she needed to back off a bit, and be prepared to negotiate on behavioral issues. Ms. Barnes said that this evidently included such behaviors as cutting school, and chronic curfew violations. She was told that she was a good parent, but had to stop being so demanding.

Other counseling and mentoring mandates had been made, but Ms. Barnes reports that there seemed to be a constant change of personnel. Just when one person had been assigned, another person would take his place.

It became increasingly obvious to Ms. Barnes that no progress was being made while on probation, but there was no discussion by Juvenile Services of a placement in residential care or a youth correctional facility.

Ms. Barnes reports that there was a brief period of optimism during the summer of 2006, when Davonte got to spend an extended period with his father. He seemed to come back "refreshed". This did not last for long, however, as he was lodged in September, and released to his mother on community detention.

In the period between Davonte's release from detention in September, 2006 and his murder in January of 2007, his downward spiral escalated. A short period of calm was followed by a longer period of chronic non-compliance to both house and probation rules. He came and went as he pleased. On one occasion, he was picked up by the police and taken to reception. When his mother refused to pick him up, saying that he was on probation and should be lodged, Davonte was given a bus token and came back home shortly thereafter.

Ms. Barnes had conversations with Juvenile Services personnel during this time, asking them what else could be done to control her son and get him help. One supervisor told her that her son needed to be on medication. Ms. Barnes replied that Davonte would not take the medication. The supervisor said that Davonte could not be held accountable for his behavior if he needed medication.

In November, 2006, Davonte told his probation officer that he was in fear of his life and had been shot at. A meeting with juvenile authorities was subsequently held and Ms. Barnes asked whether there wasn't a longer term placement for Davonte where he couldn't run and would be safe. Davonte, however, asked to stay at home. Juvenile Services personnel agreed with Davonte and he remained at home. From that point forward, he was in almost constant violation of his probation.

On December 13, 2006, Davonte was arrested and lodged once again for firearms charges, which involved him being in possession of a concealed and loaded handgun. According to an article in the *Oregonian,* he was seen dropping a gun which was inside a glove. Davonte had the other glove when apprehended. The article quoted Deputy District Attorney Nathan Vasquez as saying, "Based on what I was seeing in his history, it was my belief that he was in danger of either shooting someone or being killed himself."

Despite the history of the past 18 months and the escalating pattern of out of control behavior, Juvenile Services recommended continued placement in the community. Deputy District Attorney's Nathan Vasquez argued strongly for placement in a youth correctional facility. The judge gave Davonte 18 months of probation and placed him on electronic monitoring for the third time.

After Davonte was released from detention, he continued his pattern of coming and going without regard for his legal and electronic restrictions.

On the afternoon of January 6, 2007, Ms. Barnes saw her son at home for the last time. Shortly after that he left home in violation of his electronic monitoring agreement. One day later, she received a call telling her that Davonte had been shot. When she arrived at the hospital a doctor told her that her son was brain dead.

Davonte had been shot at the same location where he had been arrested less than a month before on his second gun charge. The person later taken into custody for the murder was a 16 year old juvenile who also was on probation.

From the outside, it probably looked like Davonte was just another youth getting deeply involved in crime and violence. To the end, however, he retained many of the traits that others found so disarming—his mischievous smile, his affection for his mother, his ability to charm the ladies-- especially his relatives. He continued to show the flashes of insight that always led his mother to hope that this time he could turn his life around.

Nobody can say what would have happened to Davonte if Juvenile Services had taken his behavior more seriously. We know, however, what happened when they did not.

Almost a year to the day before Davonte's murder, when he was already in serious trouble, his mother had to go to the hospital. Davonte brought her a card. He had picked a sweet and sentimental card which read:

> "It's so nice to think of you—
> Thoughts of those we care about
> Can always make us smile
> Because the special times we've shared
> Make life seem more worthwhile
> And often on a day like this
> I wonder if you guess
> How many times a thought of you
> Has brought me happiness."

Davonte had added a note in his own handwriting:

> Dear Mom, It seems to me that we are so much alike that at times it may be hard to deal with each other. But I just wanted to say that all the things I've been through in the past and all the obstacles yet to come, you will always be there for me…..and that is my reason for you causing me so much happiness!!

And with a flourish and in large letters, he signed Davonte Lightfoot.

PART 6: CONCLUSIONS

At first, looking into the policies and practices of Juvenile Services was like looking through a thick fog. The shapes could be seen, but they were hardly distinct. The fog was provided by the well-written, initially persuasive (but bordering on deceptive), marketing campaign of Juvenile Services and the Annie E. Casey Foundation. After a while, however, the fog began to clear, thanks to a variety of sources who provided information and corroboration for information already received. Information by those who had worked in and around the juvenile justice system in Multnomah County was particularly helpful. Finally, the reforms of Senate Bill 1 in 1995 resulted in the implementation of JJIS, the Juvenile Justice Information Service. While case-specific information is not available to the public, there is a wealth of statistics available which have helped put Multnomah Juvenile Services claims into the context of the other 35 counties in Oregon.

Hearing what you want to hear has obviously been a problem for Juvenile Services, but it was a problem for this report also. It was important to seek as many sources as possible to make sure that what was being reported was an accurate portrayal of reality. A total of 29 individual interviews were conducted including current and former employees, those working or having worked closely with Juvenile Services and police officers. These interviews are in addition to the meetings held with the political and administrative leadership of Multnomah County.

During the closing weeks of the investigation, I was able to talk to a person who worked closely with Juvenile Services for a number of years, who was still involved with the juvenile justice system, and who corroborated almost all of the claims made by other sources. This person said that managers were expected to support the Casey program, but that the rank and file seemed very uncomfortable and frustrated by their inability to hold youth accountable for their criminal behavior. Despite the number of serious offenses, juvenile court counselors seemed to be unable to make recommendations beyond probation. Residential care facilities were seldom used, and the youth correctional facilities were being used less and less as Juvenile Services touted its success in reducing such placements. This person confirmed that the standard recommendation for probation was 12 months, regardless of the crime, unless it was a sex offense or, for a youth already on probation.

This person was also the one who recommended that Crime Victims United send a member to preliminary hearings, which all offenders have on the first judicial day after being placed in detention. This person said that it would be quite revealing. We did and it was.

After over a year of reviewing the policies and practices of Juvenile Services, I have concluded that they are based far more on the guiding principles of the Casey Foundation Juvenile Detention Alternative Initiative, than they are on the guiding principles of the Oregon Juvenile Delinquency Code. Polices and practices adopted by Juvenile Services

are far more sensitive to the perceived welfare of the offender than to the protection of the community, and in fact serve neither. There is little emphasis on personal responsibility or accountability. Most obviously, the legislature's mandate for the "prevention of further criminal activity by the use of early and certain sanctions, reformation and rehabilitation programs and swift and decisive intervention in delinquent behavior" would not be recognizable within the policies and practices of Juvenile Services. Early and certain sanctions are non-existent, which is shown most tellingly in the statistics for alcohol and marijuana violations. Swift and decisive intervention is also belied by the number of prior referrals on youth going to court and the less than decisive recommendations made by personnel hamstrung by the various sentencing matrixes.

It is impossible not to conclude that Juvenile Services is in violation of ORS 419C.001. This violation is not just occasionally, or often. It is written into policies and procedures which make it impossible for staff to adequately protect the public or hold youth accountable.

This investigation began with serious questions about how Juvenile Services dealt with chronic and serious juvenile delinquency. Those questions were certainly heightened by the assistant director's comment that "We're not law enforcement." Unfortunately this statement turned out to be far more accurate than we had anticipated. Juvenile Services lack of respect from police officers on the street and in the schools was striking, but predictable. From school resource officers to street officers to detectives, there was a very consistent statement that juveniles in trouble knew that little or nothing would be done about their behavior. When a probationer contacted by the police is merely taken to a reception center where he/she is free to walk away, there can be little question why neither the police nor the youth give the juvenile justice system significant credibility. The officer's statement that "It seems like the community partnership is broken," was both sad and accurate.

The current policies and practices of Juvenile Services offer seriously delinquent youth few credible reasons to change behavior. This is perhaps the most disturbing conclusion of this report. Youth who have shown a serious disdain for the law are too often treated as if mere reminders are sufficient for behavioral change. Consistent enforcement has been discarded for the honor of showing a dramatic drop in detention admissions and youth correctional facility commitments. While Measure 11 prosecutions, which are not controlled by Juvenile Services, are disproportional to the county's share of state population, all other measures of accountability, such as youth on probation or in other levels of care are far below what would be expected of the state's most urban and populous county. An example of not taking juvenile delinquency seriously is shown in the tragic case of Davonte Lightfoot.

A person working in a metro-area juvenile department put it this way:

> "We are often transferred [Multnomah County] youth who have extensive criminal histories and little accountability. Many of the youth have multiple felonies and have never been in court at all….We often hear from Multnomah

> workers about the RAI system and the difficulty of placing youth in detention for offenses or [probation] violations…They work with some of the hardest juvenile offenders in the state and it is appalling that they aren't allowed to hold them accountable."

Juvenile Services has shown in rather dramatic fashion that it will ignore entry level crime. This undoubtedly would be justified by stating that its policies call for "risk based" decision making. Not only does this conflict with state law calling for "early and certain sanctions," but it conflicts with all we know about dealing with problems before they spiral out of control. Ignoring entry-level crime is neither innovative nor progressive. It is simply a failure to deal with problems when they are more tractable.

This failure to deal with lower levels of crime is also a failure to deal effectively with victims. Almost all crimes have an identifiable victim, whether it is theft, menacing, assault or burglary. When Juvenile Services prefers to minimize the consequences for offenders, it also minimizes the protections offered victims by law. Having adopted a child welfare view of the juvenile justice system, there is very little room for the legitimate interests of actual victims.

Taken down to its essence, the policies and practices of Multnomah Juvenile Services are little more than old-school permissiveness with a good marketing plan. At every step of a youth's descent into delinquency, the overarching concern of the department is to minimize consequences for those viewed as being more victim than offender. Like every effort at correctional permissiveness, it is done with the best of intentions but the worst of assumptions: that delinquent youth are merely youth who are down on their luck due to their harsh circumstances and who will adequately respond to gentle suggestion rather than the brute force available to the justice system.

Although Juvenile Services wraps itself in the rhetoric of compassionate and innovative change, there is nothing compassionate about ignoring early criminal behavior, and there is nothing innovative about failing to take effective action when a delinquent youth is non-compliant. There is nothing pro-youth about failing to take criminal behavior seriously and offering no credible reasons to change.

Despite the periodic press releases which give the illusion that Juvenile Services has found a better way to deal with juvenile delinquency, Multnomah County Juvenile Services has consistently underperformed the rest of the state in reducing the most serious crimes, and in reducing recidivism. It has consistently underperformed the rest of the state in providing immediate protection to the community and accountability to delinquent youth. The citizens of Multnomah County, including its victims of crime, and its delinquent youth and their families are paying the price for Juvenile Services' well-intentioned but ill-considered policies.

PART 7: RECOMMENDATIONS

Before discussing our recommendations, it is important to acknowledge that Crime Victims United and Juvenile Services share a number of similar views. We both believe that a clear majority of youth being referred to the juvenile justice system do not need to be dealt with formally through the court nor do they need to be placed in detention. We both believe that the juvenile justice system offers many advantages over the adult justice system. We both believe that long-term incarceration should be reserved for dangerous offenders. We would both like to see offenders change while living in their own communities, when they can safely do so. Finally, we support all current efforts to provide treatment to youth offenders. In fact, a prime motivation in making these recommendations is to enhance the effectiveness of treatment by recognizing the realities of dealing with delinquent youth.

Despite these similarities, this report has highlighted the very significant differences that Crime Victims United has with the governing philosophy of Juvenile Services. Our recommendations, if adopted, would change that philosophy fundamentally.

1) Multnomah County should convene a top to bottom review of the policies and practices of Juvenile Services for their adherence to the purpose clause of the Oregon Juvenile Delinquency Code. This review should include the Commissioners' Office, District Attorney's Office, and leadership within the police departments of the county, the judiciary and interested members of the general public. There should also be representatives from custody and probation. This review would inevitably engage the issue of whether Multnomah County wants its juvenile justice agency to be a part of law enforcement, or an adjunct to the child welfare system, as too often appears to be the case at the present time. If the decision is to rejoin the law enforcement system as a true juvenile justice agency, major and far-reaching policy changes will be necessary.

2) Juvenile Services should eliminate the RAI, and replace it with an instrument which has a goal of community safety, accountability and efficiency, not a reduction in detention population. State law already significantly restricts the sorts of crimes which can result in immediate detention. Even with those existing restrictions, however, nobody would argue that all youth who commit a detainable crime should be locked up. On the other hand, a system, like the RAI, which requires a certain score to qualify for detention, acts as an extra layer of law. It is designed to lower admissions, not use available space more appropriately or efficiently. A more rational system would prioritize all legally detainable crimes and offenses such as probation violations and court warrants to guide detention decisions. Factors to be considered other than the crime would obviously include prior referrals, warrants, past and present, premeditation of the crime and trauma to the victim. The priority of the crime would then be applied to the available detention space. For instance, if detention is full, it would not be appropriate to lodge a youth for Burglary in the Second Degree. If space is available, however, it would be appropriate.

Staff should also be given discretion to make decisions based on other factors which impact public safety.

3) Treat front-line staff as an asset, give them the latitude to make discretionary decisions within broad policy guidelines, seek their opinions and ideas when appropriate and hold them accountable to state law, not JDAI philosophy. While phrases like "data driven" or "objective criteria" are used to dress up the lack of discretion allowed to juvenile court counselors and custody staff, they really amount to little more than old-fashioned micro-management and a lack of confidence in staff. Thirteen years after Juvenile Services started adopting the Casey model, there is still so little staff buy-in to that philosophy that it is necessary to seriously limit the professional judgment of those doing the day-to-day work of the department. That alone should make the county in general and Juvenile Services in particular rethink their current direction.

Juvenile court counselors should be allowed to make the recommendations which fit the youth and his crime(s), not the sanctions grid. They should also be able to make basic decisions about detention, motions and warrants. Matrixes should be guidelines based on state law, not strait jackets based on the Casey philosophy.

For its custody staff, Juvenile Services should also put both discretion and authority into the hands of those who receive the calls from police. Those personnel hear some of the details of the crime from the police officer. They should be making decisions about which youth are to be detained within the constraints of juvenile law, available space and a list of priorities when detention space is not available. Despite the fervent wish of Casey and Juvenile Services management, a matrix cannot and should not substitute for staff that are empowered to ask questions and make judgments consistent with public safety and offender accountability.

Within detention, Juvenile Services should be concerned that 81% of those answering the survey thought that detention was not be being operated to maximize safety for youth and staff. The disciplinary procedures should be reviewed to see whether they are proportional and credible to the offenses. Detention standards adopted by Juvenile Services make it necessary for youth to have unsupervised and free phone calls. Instead of spending so much time mandating privileges for the detained, management should spend more time defining appropriate and credible disciplinary actions that can be imposed by staff without supervisory approval, and overturned only in the exceptional case. A belief that their judgment and actions will be supported is crucial for staff morale. Staff who feel valued and supported are far more willing to accept responsibility and make positive contributions to the county.

If Multnomah County decides that its juvenile justice agency will be part of law enforcement, requiring management approval for such basic decisions as the use of detention, filing of a warrant, filing of motions, detention overrides for obviously violent, dangerous or chronic behavior and the imposition of credible discipline in detention would be like requiring a police officer to get permission to make an arrest. Staff should

be trained appropriately, allowed to exercise their judgment within broad policy guidelines and judged on the timely and appropriate execution of their duties.

4) Juvenile Services should utilize its full funded capacity in detention. The standard should be community safety, not adherence to the Casey philosophy. While Multnomah County provides funds to operate 80 detention beds, the average population has been far fewer. The District Attorney's Independent Review showed an average population of 64 in 2006. After 2006, the average population continued to go down, though in the last few months, as pressure for reform has increased on the department, the detention population appears to have gone up dramatically. Since mid to late February, detention has often been at capacity.

This has not been the general rule. More commonly over the past years, there has been significant unused capacity in detention which could be as many as 15-20 beds. Unless the current population is a reflection of a change in philosophy, the use of detention could decline once again if Juvenile Services believes that the pressure for more community safety and offender accountability has abated.

5) Juvenile Services needs to forge a positive, working relationship with police officers throughout the county. Instead of just informing the police that changes are being made, Juvenile Services should seek out the opinions of both police management and police on the streets. While the police are the single most important agent for providing help to delinquent youth, Juvenile Services shows little interest in their involvement in planning and implementation. Showing a willingness to listen to and respond to police concerns will lead the police to look more closely at the complexities of dealing with youth and their families, and allow them to see Juvenile Services as a part of the law enforcement team, rather than as an impediment to public safety.

Several immediate steps could be taken to show good faith and recognition of the importance of a good police/Juvenile Services relationship. Officers have complained about additional requirements when taking a youth to detention as opposed to jail. For detention, all reports have to be completed before the officer leaves the facility. At the jail, the reports have to be submitted by 9 AM the following day. Since both facilities have the same legal standard-- probable cause-- and both the police and Juvenile Services are represented by the District Attorney's Office, the difference seems arbitrary and aggravating to police who must baby-sit youth while completing their reports.

Second, officers don't know when they pick up a youth whether or not he/she is on probation unless there is a warrant. If the department put the names of probation youth in the law enforcement data system (LEDS), or simply issued a monthly list to Multnomah County police agencies giving the names of the youth, the charges which resulted in detention and the name and contact numbers of the juvenile court counselor, it would allow a more accurate screening of high-risk youth. This would be no greater courtesy to the police than that extended to the Homeless Youth Continuum which is informed of the warrant status of homeless youth without a corresponding duty to report those youth.

Juvenile court counselors would think nothing of checking with therapists, school officials or others working with probationers. The police, however, are seldom contacted. Juvenile court counselors who supervise a caseload should be known to the officers who patrol the areas where their probationers live. This can be done with an occasional drop-in at a precinct office. During that visit, the juvenile court counselors can leave the list of their probationers, any special concerns that they might have about those youth and contact numbers if their probationers have police contact or if the officers need to make contact with the juvenile court counselor. After a few months, the juvenile court counselors, if they respond to police inquiries and requests, might see the beginning of a more positive and trusting relationship with the police.

Juvenile Services should also consider instituting a policy that lets police know the disposition of the cases they submit. In the police survey, a number of officers referred to Juvenile Services as the "black hole" where reports go and are never seen or heard from again. Informing police of the disposition of a case seems a rather obvious courtesy, but one which has not yet been extended in Multnomah County. Instituting such a courtesy could be as simple as a form in triplicate which gives a case number, youth's name, officer, officer's department, offense and disposition. Given the current case handling profile, however, the results might be less than favorable to the department. A more aggressive stance, however, would inevitably lead to more credibility with police departments.

6) There needs to be a culture shift which recognizes that enforcement is necessary for treatment, and that treatment without enforcement is futile. Many non-criminal people are in treatment to help them have a better, more fulfilled life or to deal with trauma. Those are the voluntary clients, the persons Dr. Stanton Samenow refers to as "the worried well". It is entirely different, however, for criminal adults and delinquent youth. Truly voluntary clients for programs dealing with criminal behavior are non-existent. Therefore, looking at treatment with the same assumptions for the voluntary and/or traumatized client as for the criminal and traumatizing client is doomed to failure. Those whose value systems allow them to engage in serious or chronic criminal behavior don't initially attend treatment or other required activities because they believe it is good for them. If they attend, it is because they believe that the consequences of not doing so will outweigh the benefits. Any sex offender, violent youth, chronic thief, or addicted youth would prefer the freedom of the street to attending afternoon or evening treatment programs. When enforcement is minimal to non-existent there is little motivation to attend treatment as mandated by court order, and even less motivation to work hard in treatment.

The reason most justice systems have probation officers is to provide for enforcement of court mandates. When those personnel are not allowed to enforce in a credible manner, the justice system is seriously out of balance.

An officer's most immediate contact with Juvenile Services is usually through detention. This is where Juvenile Services must communicate the change of culture to its law

enforcement partners. Currently, the impression left with officers is similar to that expressed by a Portland police officer in one of the surveys:

> "I recently took a juvenile to JDH for Burglary I [burglary of a residence, a Class A Felony]. When I asked how long he would stay, the intake person acted like I had asked a ridiculous question. I was told he would be released to his parents immediately because this was his first offense and JDH's philosophy is 'rehabilitation, not incarceration'."

It is imperative that Juvenile Services correct the simplistic and incorrect view that detention is not an integral part of rehabilitation for seriously delinquent youth. Instead, it must communicate the more inclusive and holistic view that detention is an important ingredient of rehabilitation for serious criminal conduct.

It will be incumbent on the county's political leadership to make sure that Juvenile Services management is able to make such a culture shift, and then help lead its employees out of the 13 or 14 year period of indoctrination which saw incarceration as antithetical to rehabilitation.

7) Juvenile Services needs to recommend the use of the full range of alternatives available within the juvenile justice system. Juvenile Services seldom recommends the use of the youth correctional facilities such as MacLaren. Often, Multnomah County has 20-30 beds available in MacLaren which it does not utilize. Residential treatment facilities that are available through the Oregon Youth Authority are used even more infrequently. This leads to a vicious circle where youth who should be placed in more controlled settings remain on probation and those who should be on probation don't even make it to court.

One of the most persistent comments heard during this investigation was that by the time Multnomah County youth are sent to residential or youth correctional facilities, they are so delinquent and have so many criminal referrals that they have less chance to change than youth from other counties. Allowing a delinquent youth to chronically offend in the name of keeping them in community is inherently harmful to the youth and the community.

8) Juvenile court counselors need to be trained to use the enforcement powers granted by state law. Multnomah County has far too much crime to afford to give up powers that help provide control of juvenile offenders. Considering the lack of enforcement powers of a juvenile court counselor in Multnomah County, they have functioned essentially as caseworkers in a child welfare system. State law grants juvenile probation officers peace officer powers for those under their jurisdiction (ORS 419A.016). Juvenile Services has far too little credibility with youth to continue with its current child-welfare approach to serious delinquency.

The employee of a metro-area juvenile department, who was mentioned earlier in this report, also mentioned the "caseworker-mentality" of Multnomah juvenile court

counselors. A caseworker mentality is just right for a caseworker with a caseload of abused and neglected children. It is not appropriate when dealing with seriously delinquent youth. A probation officer is most appropriately a combination of caseworker and cop, blending support, direction and enforcement. The cop part has diminished to the point of irrelevance.

Under state law, those who supervise delinquent youth can be referred to as either juvenile court counselors or probation officers. Some departments have retained the old description of juvenile court counselor while mandating that those employees exercise the authority allowed by law. Juvenile Services seems to literally see their juvenile court counselors as counselors only, not probation officers. To make the change clear and unambiguous, it will probably be necessary to change the title of Juvenile Court Counselor to Juvenile Probation Officer.

A change to probation officers empowered to enforce court mandates is especially important in Multnomah County where youth who in other counties might be sent to residential treatment or secure custody are instead kept in the community. For the community to support juvenile probation there needs to be an assurance that all reasonable measures are being used to protect the public and hold the youth accountable. That assurance is not possible without the use of enforcement powers.

Adding enforcement to social work will take new training and a leadership which supports a more robust presence in the community and on the streets. This would most appropriately be done in stages, first by empowering juvenile court counselors to take the legal steps of enforcement, such as filing of motions, warrants, and authorizing the use of detention. The department should then have several personnel trained in defensive tactics and arrest procedures or perhaps contract with the Portland Police Bureau for training. Once the trainers are in place, personnel dealing with youth should be required to take the level of training necessary to make cooperative arrests, use handcuffs appropriately and transport restrained youth safely. The vast majority of arrests are cooperative, i.e. the youth is neither anticipated to physically resist, nor does he resist. When there is reason to believe otherwise, the police would still be used.

State law changed in 1995, making prime goals of the juvenile justice system the protection of the community and the reduction of juvenile delinquency. Juvenile Services needs to adapt to those goals, rather than cling to a newer version of the old, pre-1995 child welfare system.

9) Juvenile Court Counselors need to get out of the office, and spend more time on the streets and in the homes. A more visible presence in the community would involve probation officers/juvenile court counselors spending more time visiting youth in their homes, making their own patrols of areas where youth spend idle time and checking on youth in schools. This presence would be with the assumption that those doing the supervising are trained and prepared to take immediate enforcement action when necessary. Ideally, a youth on probation should never know when a supervising officer might visit and where that visit might take place. In the Davonte Lightfoot case, his

mother said that in 18 months of probation there was only 1 home visit that she could remember, though she was willing to say 2, just to be fair. Other information we have received confirms a lack of emphasis on home visits, especially those that are unscheduled. Homes and streets are where juveniles act out their criminal behavior. This is where those given the responsibility for supervision should be spending the bulk of their time.

10) Stop ignoring entry level crime. Though we did not get access to many files showing referrals received but not dealt with, the overall statistics available in JJIS make it clear that the police officers' complaints that their reports usually result in nothing but a warning letter to parents are unfortunately accurate. This is corroborated by Juvenile Service's failure to take any enforcement action on alcohol and marijuana charges. Allowing youth to conclude that crime is being ignored, or at least not taken seriously, erodes any future attempts to stop the escalation of criminal behavior. Any responsible parent can attest to the fact that if you deal with the small issues first, there are fewer larger issues in the long run. This runs contrary to Juvenile Services continual talk of "risk based" decision making, which gives the philosophical justification for ignoring early signs of criminal conduct.

11) Unless there is a significant change in the philosophy of Juvenile Services, the District Attorney's Office should consider rescinding the current case handling agreement. This agreement allows Juvenile Services to decide on the disposition of almost all misdemeanors and Class C property felonies. Although misdemeanors are the exception in court in any county, they do occur in fairly significant numbers in other counties. Class C property felonies include such crimes as Unauthorized Use of a Vehicle, Identity Theft, Theft I and Burglary in the Second Degree, which involves entering a building other than a residence and committing a crime inside. Adjudications for those offenses are common in other juvenile courts. A reasonable adherence to state law would lead to a significantly higher rate of adjudication, and one more in line with the state average.

12) Make probation a sanction, not just a word. Failing to detain probation youth who are contacted by the police in violation of probation rules or who are arrested on other than a major new crime, makes a mockery of probation in general. It should be no surprise that the word "joke" was used so often by police officers when describing the current juvenile justice system in Multnomah County.

Up to the extent of funded capacity, youth found to be in violation of probation, whatever the level of "risk" assigned to them by the department, should be lodged at least until the preliminary hearing. At the hearing, their level of risk and compliance would determine whether there was a recommendation for continued detention or release.

Although detention might just be until the preliminary hearing, it is crucial to disrupt the criminal mindset which allows a probationer to violate probation with impunity.

13) Resources are not the issue, at least not in the near term. Juvenile Services has funds for 80 beds in detention. Considering their contractual obligations to Washington and Clackamas Counties, Multnomah has the use of 52 of those beds. If detention space becomes an issue, Juvenile Services should look at whether Measure 11 suspects, who are 16 or 17, should remain in detention or be transferred to jail as allowed by law. In fact, the law actually specifies that 16 and 17 year olds shall be lodged in jail unless both the sheriff and the director of the juvenile department agree to house them elsewhere. There are normally 12-16 Measure 11 suspects in detention at any one time.

Additionally, a more appropriate use of commitments to a youth correctional facility (MacLaren) would also be likely to free up space in detention.

Avoiding the appropriate use of detention now because space is limited, is a direct contradiction of past assertions that detention space could be closed because it was not needed. If detention is being used appropriately and is, therefore, often at capacity, there is more justification for the political leadership of Multnomah County to increase the funded capacity of the Donald E. Long Home.

14) Be prepared for strong resistance from those philosophically opposed to dealing with delinquent youth according to current state law, those who benefit from the present system and the youth who expect few consequences for violating law and the orders of the court. If Multnomah County calls for a new direction for its old-line child-welfare-like system, there will be a need to make a number of scheduled transitions to change. Each will be painful for an administration, and some employees, who have been schooled in a system where community safety and meaningful accountability has been viewed as being harsh and punitive. While those invested in the present system may see their role as being in danger, a system based on the stated purpose of the Oregon Juvenile Delinquency Code, would still have the need for a healthy partnership with non-profit agencies which can appropriately provide services to youth involved in criminal conduct.

It would be naïve, however, not to acknowledge the fact that many of the current participants in Multnomah County's juvenile justice system would be vocally and strongly opposed to fundamental change in the system. Once a decision for change has been made, it will be important for the leadership of Multnomah County to decide which of the changes to implement quickly, and which to implement over a period of 12-18 months.

15) Acknowledge that the constituency of Juvenile Services is the entire citizenry of Multnomah County. All the citizens are impacted when a crucial part of the law enforcement system fails to take community safety and offender accountability seriously. Those citizens are not well served by a mission statement which fails to mention crime, community safety or offender accountability. The importance of mission statements can be overblown. For Juvenile Services, however, a new and more inclusive mission statement which seemed in harmony with state law could help the department make the changes which are so obviously needed.

APPENDIX A

MULTNOMAH COUNTY DEPT. OF COMMUNITY JUSTICE
JUVENILE SERVICES DIVISION
RISK ASSESSMENT INSTRUMENT (RAI) Version 4

This paper form is to be used when JJIS is unavailable. It <u>must</u> be entered into JJIS as soon as it is available.	
Date/time youth brought to Custody Services intake:	Date/time of Intake Screening:
NAME: DOB:	JJIS# Ref.#

AUTOMATIC DETENTION CASES (CIRCLE "DETAIN" IF ANY ANSWER APPLIES)		
☐ Adult Detainer ☐ Court Order ☐ Escape From Secure Custody ☐ Firearm/Destructive Device (not hoax) ☐ Immigration & Customs Enforcement Detainer ☐ Material Witness Warrant	☐ Measure 11 Charge or Warrant ☐ Other County Warrant ☐ Out-of-State Runaway ☐ Out-of-State Warrant ☐ Parole Violator with New Felony or Warrant	Detain

MOST SERIOUS INSTANT OFFENSE (NOT SCORED – INFORMATION ONLY – CHECK MOST SERIOUS)	
Intentional homicide (aggravated murder, murder)	
Attempted Murder or Class A Felonies involving violence or use or threatened use of a weapon (including Rape I, Sodomy I, and Unlawful Sexual Penetration I involving forcible compulsion)	
Class B Felonies involving violence or use or threatened use of a weapon	
Rape I, Sodomy I, Sexual Penetration I **<u>not</u>** involving forcible compulsion	
Class C Felony involving violence or use or threatened use of a weapon	
All other Class A and B Felonies	
All other Class C Felonies	
Misdemeanor involving violence, or possession, use or threatened use of a weapon	
All other Misdemeanors	
Probation/Parole Violation	
Other, e.g., status offense (MIP, runaway, curfew, etc.)	

LEGAL STATUS (CIRCLE THE HIGHEST APPLICABLE SCORE ONLY)		
Currently under Juvenile Justice/OYA or other State or County supervision:	**EITHER:** Probation / Parole / Commitment to YCF ☐	2
(If this section applies, score either 2 or 1, *not both)*	**OR:** Informal Supervision ☐	1

MOST SERIOUS FILED OFFENSE	**(CIRCLE MOST SERIOUS)**
Pending trial (or disposition) on a law violation/probation violation (petition filed). Score only most serious pending offense. No score for misdemeanor petitions over 6 months old, unless there is an outstanding warrant.	
Intentional homicide (aggravated murder, murder)	17
Attempted Murder or Class A Felonies involving violence or use or threatened use of a weapon (including Rape I, Sodomy I, and Unlawful Sexual Penetration I involving forcible compulsion)	12
Class B Felonies involving violence or use or threatened use of a weapon	8
Rape I, Sodomy I, Sexual Penetration I **not** involving forcible compulsion	7
Class C Felony involving violence or use or threatened use of a weapon	6
All other Class A and B Felonies	5
All other Class C Felonies	3
Misdemeanor involving violence, or possession, use or threatened use of a weapon	3
All other Misdemeanors	1
Probation/Parole Violation	1
Other, e.g., status offense (MIP, runaway, curfew, etc.)	0
SCORE RANGE FOR SECTION: 0 TO 19 **SCORE**	

MITIGATING FACTORS	**(CIRCLE ALL THAT APPLY)**
Regular school attendance or employed	-3
First Law Violation referral at age 16 or older	-3
First Law Violation referral (instant offense)	-3
SCORE RANGE FOR SECTION: -9 TO 0 **SCORE**	
AGGRAVATING FACTORS	**(CIRCLE ALL THAT APPLY)**
Reported history of runaways from home within past six (6) months (2 or more) **OR** 1 run away from home and 1 run from placement.	3
SCORE RANGE FOR SECTION: 0 TO 1 **SCORE**	
TOTAL RISK SCORE	

AUTOMATIC CONDITIONAL RELEASE CASES (CIRCLE CONDITIONAL RELEASE IF ANY ANSWER APPLIES)	
If RAI score and Automatic Detention Policy allow release, the following **Must** be released with a summons to a preliminary hearing, and if applicable, placement in a shelter or with Community Detention if court is more then 24 hours in the future. ☐ Domestic Violence With Safety Plan ☐ Sex Offense With Safety Plan ☐ Fire Charges With Safety Plan ☐ Warrant Youth	Conditional Release

WARRANT HISTORY (EXCLUDING TRAFFIC AND DEPENDENCY): (INFO ONLY - NOT SCORED)	
Number of warrants (excluding traffic and dependency warrants) during the past 18 months.	

DECISION SCALE/DECISION	OVERRIDE REASONS (CHECK ALL THAT APPLY)
RAI INDICATED DECISION Automatic Detention ☐ Automatic Conditional Release ☐ 6 + Detain ☐ 0 to 5 Conditional Release ☐ -9 to -1 Unconditional Release ☐ **OVERRIDE** Detain ☐ Up to Conditional Release ☐ Down to Conditional Release ☐ Unconditional Release ☐	**Detain Override Reasons:** Only allowed if there are no means less restrictive to protect the community or to reasonably assure court appearance. ☐ 36-Hour Hold ☐ DV - No Safety Plan ☐ Extradited Youth ☐ Fire Charge - No Safety Plan ☐ No Shelter Available ☐ Placement Interruption -No Appropriate Release ☐ Sex Offender - No Safety Plan ☐ Strong Indications of FTA ☐ Strong Indications of Imminent Violence - No Appropriate Release ☐ Youth in Serious Danger - No Appropriate Release **Override Up to Conditional Release Reasons:** ☐ Dangerous Behavior ☐ Family Placement Not Workable ☐ No Verifiable Community Ties ☐ Warrant/Runaway History Approved by:
Override Justification:	

SUMMONS

Preliminary Hearing Summons	Shelter Placement
(Summons to prelim if youth is being conditionally released) YES ☐ NO ☐	YES ☐ NO ☐

LEGAL BASIS TO DETAIN

A youth may be detained if automatic detention criteria apply, or if the youth meets grounds for pre-adjudication detention, or if the youth meets 36-hour hold criteria.

Grounds for Pre-Adjudication Detention: Reason to believe that <u>one or more</u> of the following exists:

- ☐ Fugitive from another jurisdiction
- ☐ Committed a crime involving infliction of physical injury to another person
- ☐ Committed Disorderly Conduct I (ORS. 166.023)
- ☐ Committed any felony crime
- ☐ FTA after summons, citation or subpoena
- ☐ Probation violation
- ☐ Violation of conditional release
- ☐ Possession of a firearm (ORS. 166.250)
- ☐ Possession of a firearm or destructive device (not hoax) in a public building or court.

AND

- ☐ No means less restrictive of the youth's liberty gives reasonable assurance that the youth will attend hearing;

OR

- ☐ The youth's behavior endangers the physical welfare of the youth or another person, or endangers the community.

THIRTY-SIX (36) HOUR HOLD (OVERRIDE APPROVAL REQUIRED)

Youth can be held 36 hours from the time first taken into police custody <u>to develop a release plan</u> if: they are brought in on a misdemeanor or felony law violation; a parent or guardian cannot be found or will not take responsibility for the youth, shelter is not available; and <u>the youth cannot be released safely</u> on recognizance or conditionally. What is the date and time of the police custody? _____ Release must be no later than (date/time): _____

REASON:

_____

_____

_____

Does youth meet statutory criteria for detention? YES ☐ NO ☐ (If no, youth MUST be released)

Notifications: (Check all that apply)

- ☐ Parent present at hearing
- ☐ Direct telephone contact
- ☐ Telephone message left for parent
- ☐ Message left by police

Person telephone message left with: _____

Police incident number (for visit to the home): _____

Attorney Contacted: YES ☐ NO ☐

APPENDIX B: SANCTIONS GRID, PROBATION VIOLATIONS

Seriousness of violation	**Low Risk**	**Medium Risk**	**High Risk**
Minor	Problem solving Written Assignment Court Watch Community Service Increased Contacts	Problem solving Written Assignment Court Watch Community Service GOALS Increased Contacts	Problem solving Written Assignment Court Watch Community Service GOALS Increased contacts Community detention
Moderate or minor law violation. File PV or law violation petition	Written Assignment Court Watch Community Service GOALS Home confinement-parental supervision Increased contacts FAA option	Community service GOALS Home confinement-parental or department supervision Increased contacts FAA Community detention	Community service GOALS Home confinement-parental or department supervision Extend probation **Detention** Increased contacts FAA Community detention Electronic monitoring **Commitment to correctional facility**
Serious or significant law violation. Refer to DA for adjudication	Community Service Home confinement-parental supervision Home confinement-department supervision GOALS Extend Probation Increased contacts FAA Community detention **Commitment to correctional facility**	Community service Home confinement-parental or department supervision GOALS Extend probation **Detention** Increased contacts FAA Community detention **Commitment to correctional facility**	Community service Home confinement-parental or department supervision GOALS **Detention** Extend probation Community detention Electronic monitoring **Commitment to correctional facility**

APPENDIX C: CEOJJC AND CASEY

On November 18, 2007, a meeting was held in The Dalles with Crime Victims United, and 5 juvenile department directors from the Central and Eastern Oregon Juvenile Justice Consortium (CEOJJC). One director was present by speaker phone.

The directors had been formally told of the concerns of Crime Victims United in August. A first letter sent to all of the counties was ignored. A follow-up letter sent to the District Attorneys and Chairs of the Commission or County Court resulted in a call for the meeting.

During the meeting, the directors made it clear that they represented counties which were very concerned with public safety and that it would be expected that all serious crimes result in the detention of those involved. Further, several said that they would not be able to live in their communities if they didn't detain youth arrested for serious crimes. Although all directors seemed to agree with this sentiment, one director argued that sex offenses, for instance, didn't recidivate at a high level and perhaps they didn't always need to be detained.

Crime Victims United had been given an early version of the CEOJJC Risk Assessment Instrument which was as permissive as the earlier version of the Multnomah County Risk Assessment Instrument. During the meeting, however, a new Risk Assessment Instrument was presented which was an improvement over the version which had been obtained by Crime Victim's United. Most crimes received a higher score which would result in more juveniles being scored for detention than would have been the case with their earlier version.

When discussing their participation with Casey, the directors said that they used the money gained from the grant to hire a consultant and pay for some data services. The Casey money replaced state money which had been cut significantly. One of the directors said "…no one else was offering us the money." Besides money for consultants, the directors also stated that they enjoyed the training and especially the out-of-state travel offered by the Casey Foundation which they would never be able to do with their own budgets.

During this discussion, one of the directors made a statement which seemed to accurately assess CEOJJC's embrace of the Casey grant money: "Look, Casey is like the guy you dated in high school because he had a really cool car." That statement represented an attitude of pragmatism by cash and resource-starved rural counties, rather than the philosophical buy-in which is so evident in Multnomah County.

Crime Victims United, however, remains concerned about any system whose intent is to substitute for state law. Rather than seeing which serious crimes should be detained due to risk, it would seem more appropriate to prioritize crimes and probation violations based on available detention space.

Several days after that meeting, we received a document which indicated that accountability might be taking second place to offender welfare. In the minutes from CEOJJC's July meeting, the following quote was noted:

> **"…. the committee {probation violation incentives and sanctions committee] experienced a paradigm shift after it realized that the reason why a probation violation (PV) occurs is probably because something is not working correctly in the case plan."**

The report of the committee went on to state the importance of incentives, including the statement that they worked on a "full-page table….listing various incentives."

We can think of no clearer illustration of a lack of accountability. Evidently, when a probation violation occurs, instead of holding the youth accountable, the CEOJJC committee saw the need to find the flaws in the probation rules. In looking at the "case plan" as the crucial element in success, rather than the youth's compliance, CEOJJC seems to see treatment rules like a doctor sees medication-- if one doesn't work, try another. Of course, there is absolutely no evidence that any behavioral treatment program is as precise and effective as an approved medical protocol. And the CEOJJC statement appears to view the youth as being responsible for neither his violations, nor, by extension, his progress, since the responsibility is vested in the "case plan." In the CEOJJC statement, the element of personal responsibility seems to be totally forgotten or ignored as irrelevant.

Crime Victims United would look at a probation violation as a common occurrence from a youth whose disregard for rules and laws is the very reason for his court involvement. Probation violations, far from being an indication of a problem with the "case plan" might more appropriately be looked at as an indication that the youth continues his disregard for legal obligations and that consequences must be imposed. Non-compliance must be met with "early and certain sanctions" (ORS 419C.001), rather than an adjustment of the rules. Conversely, rules so unchallenging that they can be easily complied with show nothing other than the desire to dismiss the case as quickly as possible.

The folly involved in the statement of the CEOJJC committee can be seen by anyone who has raised children. If a child disobeys the rules, the parent hardly responds by concluding that the rules aren't meeting the needs of the child and, therefore, must be changed.

ACKNOWLEDGEMENTS

This report began over a year ago at the suggestion of a long-time colleague who suggested that I look in at the connection between the Annie E. Casey Foundation and the Multnomah County Juvenile Services. The initial investigation ended with a relatively short report relying entirely on easily available public information. During the summer of 2007 though, Crime Victims United was contacted by a person working within the juvenile justice system in Multnomah County. This person provided anecdotes which corroborated other information which had been little more than rumor. Every time we got information from this source, it turned out to be totally accurate. This person also provided the names of others in the system who might be willing to provide information for the report. This breakthrough resulted in the present report which is far more comprehensive than the initial report of May, 2007. If this report leads to significant and positive change in the policies and practices of Juvenile Services, this person will be the single most important reason for those changes.

The mother of Davonte Lightfoot, Tammorra Barnes, has shown courage, grace and a willingness to see positive change come from her personal tragedy. She didn't have to talk with us, but she did. I hope that she has been repaid with an accurate narrative about her son.

Many others contributed to this report. Sources working within the juvenile justice system cannot be thanked by name, but they know who they are. This report would not be as comprehensive as it is without their information and suggestions. These sources would often provide specific information, but just as often would suggest areas of inquiry or listen to what I was finding and tell me whether or not it was accurate.

The group that filled out the custody staff survey obviously cannot be thanked individually. They had the task of taking a hard look at how their jobs were structured by policy and answering candidly. Their comments show how seriously they take their jobs. They also work at the police/juvenile system interface, where the unexplainable is communicated to the unbelieving. It is too bad that on a day to day basis, policies which cause so much conflict don't become identified with those who wrote them. Instead, direct-service workers often become associated with policies that they don't support any more than the police do.

There are contributors to this report who can be publicly thanked. Steve Doell, President of Crime Victims United, was made aware of the initial inquiry and suggested that an expanded version would be an important and positive project for Oregon's largest victims' rights association. He used his considerable contacts to help improve the report and encouraged the writing of a report which was candid and unambiguous.

Howard Rodstein, Director of Crime Victims United, spent hours editing several versions of this report and making suggestions that resulted in significant improvements. He is

also the person who told me that I should look into the case of Davonte Lightfoot. That suggestion helped put a human face on what could have been a mere policy debate.

Jody (Darr) Block, a retired 33 year veteran of Juvenile Services, provided counsel and information for this report. Her 33 year career provided an institutional memory that was invaluable in contrasting the department pre and post Casey. She was motivated by a desire to bring Juvenile Services back to a place where community safety, rehabilitation and victims' rights were dealt with realistically and responsibly.

Marnee Widlund, a former juvenile probation officer who recently relocated to the metro area, was responsible for getting surveys to Troutdale and Gresham police department. She used her considerable interviewing skills with officers from those departments and participated in the tour of the detention facility that was mentioned in this report. It was her perceptive questioning which resulted in the quote which is the title for this report.

Martin Seim and Bob Scheelen also spent hours editing this report. Martin responded to my complaints that I couldn't write a good summary by writing it himself, and Bob edited that product. Their efforts were invaluable in providing a more readable report.

The Portland Police Association and its president and executive board agreed to send our survey to all of their members. This decision gave the report a unique and valuable viewpoint which seems to have been of little interest to the administration of Juvenile Services and is similarly ignored by the Casey Foundation. The Association also put us in touch with officers in the Gresham and Troutdale Police Departments. Due to contacts developed through the Portland Police Association, Marnee Widlund and I have conducted a number of interviews with officers who provided valuable and thoughtful insights into the difficulty of working with a dysfunctional juvenile justice system.

Mitch Copp contacted Crime Victims United after the survey request was presented and offered any help he could give. In the process, he gave us the quote which is on the title page. I couldn't have made up a better quote and a way to put the present system into focus.

Finally, I have to acknowledge all of the 255 officers who took the time to respond to our survey. Making the effort to fill out the surveys and include so many written comments shows a great deal of concern for the community and the youth they come in contact with. The feedback from the officers provides a perspective that will be hard to ignore. I am grateful for their efforts. Hundreds of officer comments couldn't be included in the report, but every one was read by me and every one helped shape the report.

I even appreciate the officer who questioned the survey and my ability to be objective (I'm not, but I hope that I'm fair). Criticism has a humbling effect and made me question and modify some of the statements that I had made.

ABOUT THE AUTHOR

Ken Chapman retired in 2006, after 35 years with the Jackson County Juvenile Department. For 30 of those years, he was a juvenile probation officer supervising a caseload of probationers. For the last 5 years, he supervised other juvenile probation officers. He has been involved in various legislative advocacy efforts over the years. Following retirement, he started volunteering for Crime Victims United.