

## Introduction

### *Re-visioning Youth Justice*

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*What did you do as a kid, and as a teenager? Who were you as a teenager?*<sup>1</sup>

Maybe you had a perfect childhood, in a perfect family, in a supportive community. More likely, there were ups and downs along the way, and if you were lucky, your parents and your community helped and supported you as you grew up. If you had learning disabilities, someone noticed and resources were brought to bear to help you. If you were distressed when your parents divorced, acted out in class and got in fights with classmates, teachers and counselors figured out what was going on and got you into therapy, or a coach took you under her wing. If you were the different one, the oddball, who did not really fit in, you nevertheless were protected from bullying and appreciated for your uniqueness. Maybe everything was not always perfect, but you knew that your family and your community had your back and that things could be worked out and problems solved. Ideally, you developed your talents and your dreams. But that is not the case for everyone.

*Did you ever get into trouble? Get kicked out of school? Get arrested? Charged? Locked up? If any of this happened, did it have a permanent impact on your life?*

If you did something that could have gotten you into trouble, you are part of the vast majority of people who engaged in behavior at some point while growing up that violates the law. When you are a teenager, all the usual criminal laws apply, and in addition, there are laws that only apply to you because you are a teenager. At the same time, the normal adolescent developmental pathway involves risk taking, poor judgment, peer influence, and other factors that create a perfect storm for engaging in misbehavior. If you were a teenager who got in trouble, the conse-

quences often could get you into more trouble. Probation conditions include curfews, not missing school or misbehaving at school, not hanging out with particular friends, and being respectful to teachers and parents. The chances are great that a teenager will not be perfect at complying with these conditions. Probation violations may trigger even more serious consequences even if the original offense was nothing serious.

So what happened to you? Likely that depends. You simply may never have been caught. And if you were, if you come from a family with resources, you have a pretty good shot even in the worst circumstances of escaping relatively unscathed—avoiding arrest, not being charged or incarcerated, not having a record, or only having a record that did not pose a major hurdle for you to continue your education or get a job. If you are white and if you are female, you would likely have been treated differently by those who work in the juvenile justice system. But if you are a person of color, if you are a male, and if you come from a low-income family, or if all three of these factors converge, then you may have experienced different and more severe consequences—consequences that may have had a significant impact throughout your life. Your race, gender, and class factors make it much more likely that you will be caught. You might have come into contact with police and the juvenile justice system not only on the streets but also possibly at school. If you did not already know, you soon found out that the juvenile justice system did not help; it hurt. It did not give you a second chance but instead marked you in a way that made everything that followed more challenging. Instead of putting you on the right track, it started you down a difficult path in which your past mistakes affected all of your future choices.

Our goal for all youth should be support, opportunity, and success. Their well-being is our well-being. The welfare of all is essential to who we are as a society, as a nation. Yet we have a juvenile justice system that in large part is a failure. It disserves youth, increases criminal conduct and threats to public safety, functions in a racially and ethnically biased way, and harms the youth that come within its doors. The services that are available to children in the juvenile justice system are not commensurate with the risks and the needs posed by each individual child. Furthermore, the fact that this system most heavily burdens disenfranchised and historically subordinated communities threatens to reinforce

structures of subordination along enduring divides of race, class, gender, sexuality, and nationality. The existing system does not serve society, and it does not serve the youth who come into contact with the system. The parents of youth with resources quickly realize this and mobilize resources to get their children, who may have significant needs, out of the system as quickly as possible. Low-income parents and high-risk kids, and disproportionately kids of color or kids with mental health needs, are not so lucky.<sup>2</sup>

Many have criticized and critiqued the current system—including judges, prosecutors, public defenders, defense lawyers, advocates for youth, teachers, and scholars. Judged solely on its outcomes (with pockets of exceptions), it is a failed system. The critique and analysis of the old is critical to building a different system. But critique can also be a quagmire where it seems impossible to imagine a different framework, and reform is cabined into tinkering with a bankrupt structure. Devotion to critique and amassing more data about the problems do not necessarily show us a way forward and may perversely act as a roadblock to moving beyond this failed system.

This volume is focused on re-visioning the system. Collectively this project represents an effort to envision a system of support for young people that works to ensure their development as engaged, productive citizens and that simultaneously serves the community's legitimate goals of public safety by reducing crime, particularly serious crimes. The insights and challenges of the authors come from a diverse group that includes academics, advocates, policy drafters, and workers in the trenches, from the statewide director of the juvenile justice system to the public defender in a major metropolitan area.<sup>3</sup>

Grounded in practice, empirical data, and multidisciplinary knowledge, the contributors suggest both macro-level principles and micro-level programs and policies. Identifying strategies, programs, reforms, and principles to improve outcomes for kids, they by no means cover every aspect of a re-visioned juvenile justice system, but its outlines and operating principles are clear.

Armed with that vision, the authors suggest immediate, concrete steps to achieve a reoriented juvenile justice system that aims to serve and support youth, to enhance their opportunity for success as adults, and to encourage their connection to the community. It would be a sys-

tem that evaluates needs, solves problems, demands accountability from youth, and serves public safety. It would be a system that would be held accountable to achieve well-being for youth, to act fairly and equitably, to improve public safety, and to serve and partner with the communities within which it functions. There is no doubt that kids must be held responsible for their conflict with the community's norms and laws. The goal of a reframed system must be public safety as well as youth well-being. Those goals are in harmony, not in opposition.

The task to which the authors in this volume set themselves in re-visioning the system revolves around three core ideas: (1) to ask how the ideals of equality, freedom, liberty, and self-determination can transform the juvenile justice system; (2) to improve the odds that children who have been labeled as “delinquent” can make successful transitions to adulthood; and (3) to contribute to reforms focused on locking up fewer youth, relying more on proven, family-focused and community-based interventions, and creating opportunities for positive youth development.<sup>4</sup>

What would a re-visioned system look like? In brief, it would be the systemic, institutional manifestation of what happened to those of you who, as kids, needed support, rehabilitation, and guidance to take responsibility and reorient from bad decisions and bad behavior. Systemically, it would ensure such support for all kids. Essential resources would be provided without differentiation driven by biases or stereotypes, recognizing differences among youth. All youth would benefit because their support structure would be strengthened, and necessary services would be available. The key systems of education, mental health, health care, and child welfare would be the primary component parts of a reframed youth justice system aimed at preventive interventions and early diversion, evaluation, and problem solving tied to the particular needs of each child. Actions and behavior in school, on the streets, or at home would trigger an assessment of needs linked to these systems as well as programs, policies, and practices designed to rehabilitate youth. Such a system would not demand less of youth; rather, it would demand more. But it would also give more, support more, when youth were identified with underlying needs, and when youth would take responsibility for behavior and engage in restitution or other appropriate means to be accountable for harms caused. It would also redirect the bulk of youth

currently in the existing system to more appropriate and successful family- and community-centered programs to serve their underlying needs.

Systems would act collaboratively. They would be particularly attentive to youth patterns that signal heightened needs, and systemic failure to meet those needs or exacerbation of harm. For example, kids crossing over from foster care to law breaking and juvenile justice involvement, or, the framing of misbehavior in school as law breaking necessitating suspension, expulsion, or police/judicial action, would be treated as evidence of unmet needs and of systemic failure requiring immediate action to reverse those outcomes. Where misconduct is not tied to an underlying issue, such as mental health issues, substance abuse, or family dysfunction or rejection, but to typical adolescent behavior, the pipelines and trajectories would lead to opportunities for a second chance and lifetime success.

Detention and incarceration, which produce serious harm and little good, would not be the hallmark of this system. Rather, within this revised system, detention and incarceration would be a last resort, an outcome dictated by either the seriousness of the youth's conduct, the youth's inability or unwillingness to rehabilitate, or the failure of other options to ensure public safety and a positive outcome. This rejection of incarceration would bring us into harmony with the practices of the rest of the world, which bases rejection of incarceration not on cultural differences from the U.S. or unrealistic and unsupported assumptions about youth but rather on the hard empirical evidence that incarceration is extremely costly, diverts scarce resources, and increases recidivism rather than enhancing public safety.

To be sure, there are related, broad issues beyond the scope of the juvenile justice system that need to be addressed as well. At the top of the list are systemic racism and poverty. But at the very least, the system of juvenile justice should be held to function without reflecting or exacerbating class privilege, racial and ethnic disparities, or other subordination based on other identity characteristics, including gender and sexual orientation. Every child deserves that guarantee of opportunity; our systems cannot justifiably function any other way if we are true to our most fundamental principles.

A juvenile justice system dedicated to children's well-being and public safety would be accountable for achieving those goals by means that

respect the humanity of all youth and contribute to the humanity of us all. This volume is divided into five parts that flesh out this new vision.

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James Bell sets the agenda in Part I for all that follows in “Child Well-Being: Toward a Fair and Equitable Public Safety Strategy for the New Century.” As Bell powerfully argues, the current system has utterly failed youth and society, and the ills of that system rest on children and communities of color. The failure of the system to help kids is demonstrated by the persistence of recidivism without making the community more secure. As Bell demonstrates, this failure is inextricably tied to our “incarceration addiction,” as incarceration is singularly unsuccessful as a tool to achieve child well-being or community safety. It is also linked to the use of the juvenile justice system to solve youth issues for which it is poorly designed and ineffective, including mental health and substance abuse issues.

Just as significantly, the pervasiveness of racial and ethnic disparities condemns the system as indefensible based on our principles of equality and justice. Race is the elephant in the room in the juvenile justice system, an inescapable demonstration of structural inequality and institutional racism. Bell links our current system to its historical origins in blatant racial differentiation that excluded black children as undeserving of public concern for child well-being.

Bell sketches out the principles and form of a new youth justice system grounded in a core principle: the cure for the ills of humanity is more humanity. Humanity means dedication to child well-being. Consistent with that core principle, Bell argues we should (1) eliminate incarceration as a permissible outcome for virtually all youth and recommit to rehabilitation of youth with a system characterized by diversion programs and targeted resolution of the underlying issues causing youth to violate the law; (2) aggressively develop community-based and family-based solutions aimed to support youth development and designed to address youth issues and problems; and (3) support and demand better outcomes from those systems that can help youth, including education, mental health, and health care. The juvenile justice system that Bell envisions is characterized by practices and outcomes that are restorative, are equitable, and increase child well-being.

The chapters that follow reflect, elaborate, and expand on Bell's vision. Focusing on some of the core components of Bell's agenda begins in Part II, with Bart Lubow's exploration of the task of breaking our incarceration addiction. In "A Silent Sea Change: The Deinstitutionalization Trend in Juvenile Justice," Lubow chronicles the recent downward trend in incarceration in the juvenile justice system. Significantly, Lubow points out, deinstitutionalization has not changed at all the stark pattern of racial and ethnic disparity in the juvenile justice population. As Lubow also makes clear, while the reduction is dramatic, the U.S. rate of institutionalization remains grossly out of proportion to the rate of other nations. The American pattern is not explained by anything other than underlying assumptions and failed practices, not by higher rates of crime or more difficult youth behavior. As he concludes, our goal should be to aggressively reduce the use of incarceration not only because no other country has found the practice useful, not only because research demonstrates its ineffectiveness, but because our kids deserve better. Incarceration is an option that perversely forecloses effective responses to the problems of children and youth while simultaneously damaging them and limiting their opportunities.

Tim Decker literally challenges us to consider "Starting from a Different Place: The Missouri Model." Decker provides a comprehensive picture of what the juvenile justice system can be, using the example of reforms in the Missouri juvenile justice system. He emphasizes the critical role of leadership, culture, and values. Decker reminds us that the vision of a different system is not unrealistic, impossible, or impractical. According to him, however, it cannot be done simply by a top-down mandate of programs without a deep, meaningful commitment at the human level to real, local change and reorientation.

Although the juvenile justice system was founded with the core principle of rehabilitation, it is now mired, Decker argues, in punishment. System change requires nothing less than system transformation. Decker identifies culture as the critical component. Beliefs and assumptions drive "what we do around here," and so it is the culture that has to change. For Decker, the key to that cultural change is for policy makers to answer the question, "What if your child was the next one in the door?" His goal is not simply to identify policies, practices, and pro-

grams that would work. Rather, more fundamentally, he challenges us to make all children our children.

Decker articulates core components of culture change and its manifestations in the Missouri system. Families and communities are critical partners, and the orientation of the system is localized and responsive rather than hierarchical and frightening. The power of Decker's chapter is its rich theoretical perspective linked to the practical, pragmatic application statewide to a single system that has become a national model.

Peter Leone highlights education as the "third rail" of needed reform, in the sense of both no longer funneling disciplinary problems into the juvenile justice system and, more broadly, providing meaningful education that assures youth real opportunity as adults. In "Doing Things Differently: Education as a Vehicle for Youth Transformation and Finland as a Model for Juvenile Justice Reform," Leone argues that academic insufficiency is just as significant as disciplinary criminalization as failures of the existing educational system. Reorienting this integral part of a youth support system is consistent with a different system of juvenile justice. Leone's approach is proactive, targeted at known risk factors and support for success.

What Leone adds is a specific concrete example of a seismic national shift in thinking and goals that led to a re-visioned juvenile justice system that functions in this dramatically different way. He outlines the transformation of the Finnish system from a harsh Soviet model to a system geared to provide support and reorientation for youth. Leone unpacks the constituent parts of this reframed system, including the dynamic that brought it about. As he points out, the reformed system is grounded on the perspective that delinquent conduct or youth misbehavior is a *social* problem. His example reminds us, just as Decker's does at a state level, of what is possible and the critical importance of literally how we think about youth.

Integral to a re-visioned system as set forth by Bell, Decker, and Leone is the removal from the juvenile justice system of populations of youth who belong elsewhere because they have problems that are not dealt with by the core function of the juvenile justice system as that system is presently constituted. Simply removing youth from the juvenile justice system is not enough; rather, services are essential in a setting of

support and care. One of the largest component groups of youths who fit this profile is those who have mental health issues.

David Katner focuses on this group in the last chapter in this section, “Delinquency, Due Process, and Mental Health: Presuming Youth Incompetency.” Katner details the number of youth who have mental health issues and exposes the inadequacy of current systems to provide them with help. Mental health issues constitute the other elephant in the room of the existing system: like racial disparities, mental health disparities significantly skew the system. Both issues mirror the toxic environments and systemic subordination by race and class that affect youth. Fundamentally wrongheaded is the location of mental health issues in the existing juvenile justice system. Misbehavior due to mental health issues requires treatment, not confinement. Katner argues that the extent of mental health issues and their link to misbehavior that triggers contact with the current juvenile justice system should, consistent with due process, mean that youth are assumed not competent when they become entangled with the juvenile justice system. He suggests this approach as a way to divert youth to support and help for mental health issues.

Katner’s vision of the place of mental health with respect to youth is proactive services, rehabilitative services providing high-quality care, and intervention either through diversion to a well-functioning mental health system or the incorporation of such a system within a reimagined juvenile justice system.

The next part of the volume shifts to exploring essential perspectives and thinking about juvenile justice. In Part III, the authors remind us, just as Decker and Leone pointed out, how important are our thinking and assumptions, our values, and what we use as guiding principles. Mark Fondacaro provides a critical perspective on the emerging developmental orientation of juvenile justice in “Why Should We Treat Juvenile Offenders Differently than Adults? It’s Not Because the Pie Isn’t Fully Baked!” Fondacaro reminds us that we should remain skeptical and open to revision of principles that we might collectively embrace for a new juvenile justice system. While recent U.S. Supreme Court cases have begun to build on a perspective that justifies treating youth differently because of their developmental differences, making them less

culpable and more amenable to rehabilitation, Fondacaro challenges us to consider what more recent research is telling us. According to Fondacaro, that research tells us that *adults* also are not developmentally unchanging, and therefore that research challenges the increasingly punitive orientation of the adult criminal justice system. He cautions, therefore, that we not separate the two systems in a way that preserves untenable assumptions based on myth rather than current scientific realities. This is particularly critical while the ability to transfer and charge youth as adults remains part of the system applied to juveniles.

Fondacaro challenges some of the most basic assumptions about mental state and criminal responsibility that are foundational to a retribution model. He argues instead for a forward-looking model to prevent recidivism, using collaborative interdisciplinary teams and knowledge to achieve the best individualized results.

Richard Redding focuses on the disconnect between evidence-based policies and practices and the failure to utilize them, in “Lost in Translation No More: Marketing Evidence-Based Policies for Reducing Juvenile Crime.” At the outset, Bell reminded us that it is our values, assumptions, and beliefs that have confounded change; Decker and Leone also focus on the key role of culture to accomplish change. Redding pushes more deeply into our attachment to punishment and skepticism about rehabilitation. These responses persist even in the face of contrary evidence that shows that punishment, particularly incarceration, correlates with recidivism and engaging in more serious criminal acts, not deterrence.

Redding outlines a way to market evidence-based policies by using evidence-based persuasion techniques. He suggests using these principles to create a narrative that emphasizes reducing crime, increasing public safety, and increasing cost effectiveness, along with the rightful place of punishment.

The last two chapters in this part remind us that issues of gender and sexuality are critical to re-visioning as well and, just as with race, cut across all aspects of a new juvenile justice system. In “Building on Advocacy for Girls and LGBT Youth: A Foundation for Liberatory Laws, Policies, and Services for All Youth in the Juvenile Justice System,” Barbara Fedders examines two critiques of the existing system, by advocates for girls and for LGBT youth, which have focused on the claim that the juvenile justice system was created for boys and thus not

only renders these groups invisible but also is biased against them and does them unique harm. The outcome of both critiques has been to call for gender-responsive programming intended specifically for girls and LGBT youth. Fedders questions the underlying assumptions of these solutions and whether a more universal approach would be better. In addition, she calls for a critique of the juvenile justice system's assumptions about boys, the acknowledged focus of the system. Challenging whether the system serves boys and young men is essential to ensuring that any re-visioned system keeps in mind the gender and sexual orientation, as well as intersectional identities, of all youth and questions the implicit goals of such as system in relation to societal gender norms.

What emerges from this analysis is a fascinating challenge to the categories themselves as essentialist, rendering invisible the importance of intersectional identity. Fedders also reminds us that class is as important a difference in outcomes for youth, whatever other identities they embrace, as class generally impacts outcomes for any youth problem or misbehavior that brings them into contact with the juvenile justice system.

Shannan Wilber focuses in a different way on LGBT youth, calling for a more radical reform agenda that aims to keep these youth out of the system entirely, by calling attention to why they end up there in the first place, in "Invest Upstream to Promote the Well-Being of LGBT Youth: Addressing Root Causes of Juvenile System Involvement." Much like those who want to dismantle the school-to-prison pipeline, Wilber wants to dismantle the pipeline from schools, and an equally important one from families, that drives the disproportionate presence of LGBT kids in the juvenile justice system. Even more significantly, she aims to tackle structural inequality and lack of support and instead provide the resources and support for all youths to be able to freely express who they are without the challenges of bias and worse.

Part IV focuses on critical actors in system change. Each of these chapters resonates with the developmental insights explored by Mark Fondacaro and others in this volume, calling for the full infusion of what we know of adolescents in a reformed system. The chapters in this part call for prosecutors, public defenders, police, judges, and legislators all to become critically competent in this knowledge and to incorporate its insights for the benefit of youth and the community.

One of the hallmarks of the juvenile justice system is discretion and the potential to use that discretion to keep kids out of the system, to get them services when they need it from robust helping systems, to divert them when they engage in misbehavior to programs and services that will put them back on track. One critical component of discretion is exercising this power in a fair and just way. In “Correcting Racial Disparities in the Juvenile Justice System: Refining Prosecutorial Discretion,” Kristin Henning focuses on the pervasive racial disparities in the existing juvenile justice system and the role of prosecutors as key actors to eliminate this scourge from the justice system and to support good outcomes for all children.

Henning sets out the most recent data that adds to the enormous compilation of scholarship on the presence of racial and ethnic bias in the current juvenile justice system. This developmental data shows that the developmental arc does not vary by race or class. Perceptions and stereotypes render the same conduct differently by the youth’s race or ethnicity. The dismantling of racial bias at a social/cultural level is demanding and complex. But Henning argues that concrete, achievable steps can be taken by prosecutors that will have a significant impact on this issue, and she particularly focuses on the charging phase. She sets out specific guidelines and calls for the tracking of decision making by race and neighborhood in order to assure that youth of color have the maximum opportunity for positive outcomes. She critically examines the National District Attorneys’ Association National Prosecution Standards and suggests revisions to incorporate multidisciplinary developmental research on adolescents to inform charging decisions and maximize the rehabilitative potential for youth. Second, she calls for the close monitoring of decision making to change the prosecutorial culture about bias. Third, she reminds us that for most youths, age is the factor that most affects a change in behavior: they develop, grow, and behave differently as they become more mature. Interventions focused on fostering that process require, as she puts it, knowing what works, and knowing what does not, and using those criteria to inform dispositions. She also calls for strong community involvement and partnership, again echoing a core component of Bell’s agenda that we confront our negative stereotypes about the communities of youth of color and utilize

their strengths instead of assuming weakness. Broad-based prosecutorial conceptions of their role would mean a broad community-based partnership that would target structural inadequacies that are toxic to youth and contribute to misbehavior.

Equally important for youth as fair prosecutors are strong advocates should they have to navigate the juvenile justice system. Clearly this is the case with the existing system, but the role of advocates for youth would be just as critical in a re-visioned juvenile justice system. Carlos Martinez, in “Helping Adolescents Succeed: Assuring a Meaningful Right to Counsel,” provides a view from the trenches in this essay arguing for a robust, well-supported, highly trained public defender as critical to youth achieving an outcome that can lead to their eventual successful rehabilitation.

The need for strong representation is critical both currently and in a re-visioned system. It is particularly important at present because the potential consequences are so drastic, affecting youths’ futures in substantial and life-changing ways. Equally as significant, inadequate, poorly trained, overburdened public defenders are another point of systemic, structural bias that contributes to pervasive racial bias in the juvenile justice system. The support of low-income youth and kids of color who we know are the targets of bias requires strong advocacy.

Martinez exposes in great detail how structural bias works to create a perfect storm of underrepresentation that is nevertheless cloaked as “adequate” and therefore constitutional. Because the consequences are so severe and the biases are so significant and pervasive, the role of the public defender is critical. Martinez’s model of robust, effective advocacy based on well-trained lawyers with reasonable caseloads within the existing juvenile justice system equally serves as the model for a re-visioned system because the same robust advocacy would be a critical component to ensure the healthy functioning of a system with a different culture, policies, practices, and partners. In Bell’s broad agenda, as well as those of Decker, Henning, and Lubow, the public defender plays a critical but quite different role, to ensure that collaborating systems are available to youth and that appropriate diversion occurs; to partner with police to that end; and to provide support and assist in decision making to exhaust alternatives to incarceration or to foster the best outcomes

for the limited number of youth for whom incarceration is appropriate. In the transition away from our addiction to incarceration, the public defender clearly would play a critical strategic role.

A particular decision that implicates not only prosecutors but also judges and legislators is the decision to transfer youth from the juvenile court system to the adult criminal justice system. The widespread process of transfer has been much critiqued, yet it persists because of the persuasiveness of assumptions about public safety and the necessity of punishment, despite the data indicating that transfer not only does not serve those goals but actually leads to counterproductive results. Richard Mora and Mary Christianakis, in “Fit to Be T(r)ied: Ending Juvenile Transfers and Reforming the Juvenile Justice System,” bring us the voices of youth they work with, reminding us what the existing system tells them—of their failure, worthlessness, and bleak prospects. Under their re-visioned system, transfer would end, as it is glaringly inconsistent with developmental research and the underlying core value of rehabilitation. A new system would be reinvigorated with a vision of services and meaningful demands of youth to achieve successful outcomes as adults.

Finally, Lisa Thureau and Sia Henry focus on police—in the particular instance of questioning youth and whether *Miranda* warnings should be given but, more generally, examining police questioning, custody, and interaction in the context of adolescent development. In “Applying *J.D.B. v. North Carolina*: Toward Ending Legal Fictions and Adopting a Model for Police Questioning of Youth,” they present a case study of appellate decisions since the U.S. Supreme Court decided *J.D.B.*, in which the Court held that police must take the age of youth into account when determining if *Miranda* warnings are required. They find significant differentiation and underutilization of this opinion. As they point out, a stronger implementation of *J.D.B.* would encourage erring on the side of youths’ lack of developmental maturity and treating youth fairly but also not taking advantage of their developmental immaturity. They point to the ready availability of standards that incorporate developmental research into questioning of youth, under the standards of the International Association of Chiefs of Police and the Commission on the Accreditation of Law Enforcement Agencies.

In Part V, the authors further explore the critical component of Bell’s agenda that a re-visioned juvenile justice system would include well-

functioning systems of support for youth whether or not they had come into contact with the police but nevertheless were exhibiting behaviors needing assessment, attention, support, and services. Those systems function both separately and in collaboration with any juvenile justice system but particularly if the juvenile justice system is reconceptualized as one focused on child well-being.

Wendy Bach, in “What If Your Child Were the Next One in the Door? Reimagining the Social Safety Net for Children, Families, and Communities,” asks us to focus on the needs of the youth and families who currently dominate the juvenile justice population, low-income families and youth of color. Picking up on the question raised by Tim Decker—“What if your child was the next one in the door?”—Bach reminds us that that question assumes a middle- or upper-class child, whose parent would seek services and programs, such as counseling or substance abuse treatment, as needed for his or her child. The parent would try to determine whether what was going on with his or her child was youthful indiscretion or a manifestation of other issues that need to be addressed. Bach calls for providing that same level of available services and support for low-income families and children, to enable proactive intervention or diversion, if a child came into the juvenile justice system and needed services and rehabilitation. Class, like race and gender, is a critical thread to examine throughout the system.

Bach also reminds us that poverty policy has an impact on youth, by creating risk in their lives that is not experienced by kids and families with more resources. Rather than devise programs for at-risk kids, she calls for taking on the risks themselves and compares that approach to the substantial costs of instead dealing with predictable consequences. Bach calls for implementing a supportive state for poor youth to maximize their life outcomes in the same way that families with resources do for their kids. Just as critical in her view is an underlying assumption of the value of these families and treatment of them and their communities with respect and dignity, instead of monitoring, intrusiveness, and negativity.

Elizabeth Frankel reminds us that another segment of youth experience the criminalization and exacerbation of their situation by virtue of the interaction between the juvenile justice system and the immigration system, and therefore a re-visioned system must disentangle this malfunction and approach the situation of immigrant youth with ap-

preciation for the circumstances of their status. In “Immigrant Children: Treating Children as Children, Regardless of Their Legal Status,” she details how immigrant youth in the juvenile justice system are frequently reported to the immigration system, so that their problems are compounded. Involvement in the immigration system may complicate and exacerbate their disposition in the juvenile justice system, and they fail to get counseling and advocacy to deal with the issues they face in the immigration system. Frankel calls for a juvenile justice system that sees immigration status as another issue that needs services and support in order to achieve the best possible outcome for youth, including their independent right to legal status based on their dependency (because their parents brought them into the country or because they came for valid reasons and can qualify for a visa). Consistent with the goal of less incarceration, this would reduce or eliminate the incarceration of these youth in both systems.

Another intersecting system, child welfare and foster care, is similarly important to the functioning of a re-visioned juvenile justice system, as outlined by Robin Rosenberg and Christina Spudeas in “Crossover Youth: Youth Should Benefit When the State Is the Parent.” Youth in foster care and juvenile justice systems frequently become a crossover statistic, moving from one system to the other. Rosenberg and Spudeas argue that this outcome, and the policies that fail to address it, fundamentally misapprehend what the role of the state should be for a child removed from his or her family and placed in foster care. When the state stands as the parent, they argue, the child should benefit from an improvement in his or her situation, not further deterioration or failure to deal with the circumstances that brought removal, circumstances that may have consequences for the positive development of the child. The state should do what good parents do: intervene and provide support and resources aimed at rehabilitation and dealing with underlying problems, and not permitting misbehavior to have long-term serious consequences. Rosenberg and Spudeas focus on providing better support and training to caregivers, alternatives to calling police, and ensuring that all understand that services must be trauma-informed for this population of youth who have suffered abuse and neglect, in order to prevent crossover and to provide robust support for kids if they do become involved with the juvenile justice system.

The final chapters focus on education. In “Breaking the School-to-Prison Pipeline: New Models for School Discipline and Community Accountable Schools,” Kaitlin Banner reminds us that the juvenile justice system would look quite different if it was not receiving youth into the system from schools. Much like the foster youth focused on by Rosenberg and Spudeas, and David Katner’s earlier chapter on kids with mental health issues, kids who misbehave in school need interventions to solve their problems, not suspension, expulsion, and/or referral to the juvenile justice system. Not only does that require that when schools confront misbehavior, they *not* refer kids to the juvenile justice system, but it also means that school discipline must function differently. Reform requires not only in-school change but also that systems of support for youth be strongly funded and well functioning so that misbehavior tied to underlying issues can be addressed rather than trigger a punitive response that fails to provide needed services for learning disabilities, mental health issues, substance abuse, and so on. Banner identifies models for what schools should do and therefore what this restructuring would look like.

Equally as important is dealing with the educational needs of those youth who do enter the deep end of the current juvenile justice system and planning for the transitional needs of youth as they return to their communities. In “No More Closed Doors: Ending the Educational Exclusion of Formerly Incarcerated Youth,” David Domenici and Renagh O’Leary identify a different piece of the interrelation between juvenile justice and education, the issue of how formerly incarcerated youth complete their education, a critical goal for achieving competency and opportunity as an adult. Lack of educational opportunity for many system-involved youth is also related to the poor quality of schools they attended before they ended up in trouble. Incarcerated youth are often subject to minimal educational resources when imprisoned, exacerbating their low achievement levels. Domenici and O’Leary focus on the third piece of the education issue, educational exclusion. When youth exit prisons and detention centers, frequently their high school refuses to readmit them and sends them instead to an even more poorly resourced alternative school or an adult GED course structured for adults, not youth.

Domenici and O’Leary sketch a vision of educational inclusion that not only allows youth back into their public comprehensive high schools

but also addresses their educational issues in a way that will accomplish the goal of high school graduation and opportunity for further education. As they point out, education is the “third rail” of juvenile justice reform, essential to prevent kids from being unnecessarily involved in the juvenile justice system, essential to the opportunity of all kids, and even more essential for system-involved kids who respond positively to rehabilitation and then must be welcomed back into school and community.

Finally, Sue Burrell broadens the lens, in “Collateral Consequences of Juvenile Court: Boulders on the Road to Good Outcomes,” to consider whether juvenile justice involvement should have lifelong consequences. Currently the consequences of system involvement, as noted earlier by Martinez, can have a permanent impact on youth. Burrell tells us why and argues that this makes no sense because it undermines rehabilitated youth in ways that are punitive and retributive rather than focused on child well-being.

Burrell reminds us, as Bach does, that it does not happen this way for children of parents with resources, who minimize such outcomes by early intervention and support to prevent the triggers of arrest, charging, prosecution, or incarceration from generating a lifetime mark on the record of a young person. But for those (some with means but mostly those without) for whom that does not occur, collateral consequences affect education, employment, licensing for various professions, joining the military, adjusting their immigration status, or obtaining a driver’s license. The failure to seal records combined with the technology of the Internet makes obtaining this information easy and the misuse of the information common. Burrell’s pragmatic solutions would limit or eliminate these consequences by, for example, restoring the practice of closing juvenile records. And as she reminds us, we need to recall who disproportionately is burdened when we do not do so and how that builds on other structural inequalities that render our commitment to equality for all ephemeral.

This volume is rich with ideas, experience, and knowledge. Most importantly, it is rich with passion, a passion for kids and for justice. This rich diversity of voice, experience, and focus, deliberately chosen, demonstrates that dialogue, sharing, learning, and growth are essential to making a new system a reality and moves in small, conscious steps in that direction.

## NOTES

- 1 These questions were inspired by similar ones asked by Sue Burrell at the workshop that generated this volume (Sue Burrell, chap. 19 in this volume).
- 2 See, generally, Nancy E. Dowd, ed., *Justice for Kids: Keeping Kids Out of the Juvenile Justice System* (New York: NYU Press, 2011).
- 3 See “About the Contributors” section.
- 4 The genesis of this volume was a conference organized by the Center on Children and Families at the University of Florida Fredric G. Levin College of Law in April 2013. Most, although not all, of the authors were part of a group of approximately 60 academics, policy makers, advocates, and workers in the juvenile justice system who brought their deep knowledge, skills, and determination to the task of engaging in intense debate and discussion on envisioning a new juvenile justice system grounded in these core principles.