

# Juvenile Courts Core Tenets Briefing Book



Prepared by:

Juvenile Justice Vision 20/20  
Strategic Focus Action Team 1:  
The Unique Purpose of the  
Juvenile Courts



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VISION 20/20

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- Linda Edwards-Brown – Co-chair – 22nd Circuit Court
- Kathy Flack – Co-chair – 9th Circuit Court
- Sandi Metcalf – Co-chair – 20<sup>th</sup> Circuit Court
- Hon. Michael Anderegg – 25th Circuit Court
- Jennifer Wood – 29th Circuit Court
- Paul Lindemuth – 20<sup>th</sup> Circuit Court
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## **Introduction**

Juvenile Justice Vision 20/20 is a statewide initiative that provides a forum for a collective voice on juvenile justice issues and implementation of the Strategic Plan while advocating for the preservation and support of the juvenile justice system in Michigan.

Within Juvenile Justice Vision 20/20, there are five strategic focus action teams working on priority projects. Strategic focus area action team 1 - the “Unique Purpose of the Juvenile Court” - is committed to educating the public about the role of the juvenile courts within their communities and advocating for the ultimate success of every young person who enters the doors of the juvenile court.

This briefing book is presented by Juvenile Justice Vision 20/20 Strategic Focus Area Team 1 – “Adequate and Sustainable Funding” – as a priority project. Its goal is to provide the reader insight into the unique attributes vital to the juvenile court in Michigan.

The Core Tenets Briefing Book is not intended to address issues related to the child welfare (neglect and abuse) system. Topics include the foundational core tenets on which the juvenile court predicated in the past; are supported in the present; and will guide decision makers into the future by providing intervention and services to youth who violate the law or otherwise come into the jurisdiction of the court. The intent of this document is to increase the reader’s understanding of the history of the juvenile court within Michigan and its foundational wisdom; to encourage discussion regarding the continued viability of its exceptional nature; and to make recommendations in light of recent and emerging trends toward treating juveniles as “mini adults.”

## **Executive Summary**

The Core Tenets Briefing Book is presented by Juvenile Justice Vision 20/20 with the goal of increasing the understanding of the history of the juvenile court in Michigan, to identify trends, threats and opportunities to the court, and to encourage discussion on the future of juvenile justice in Michigan. Identified are significant core tenets which are the principles on which this unique entity was founded and maintained since 1907.

Over the past 106 year history of the juvenile court in Michigan, one can see the effects on social and cultural changes. The court was founded on unique principles, but also reflected a paternalist approach which, for example, allowed that “boys will be boys,” but overreacted when girls misbehaved. Many changes were prompted by a greater understanding of childhood development and evolving research; other changes were reactionary and forced upon the court. Many of these changes were prompted by the expansion of due process rights in the 1960’s; the deinstitutionalization movement of the 1970’s; the “get tough on crime” emphasis of the 1980’s; and the victim rights expansion of the 1990’s. The last few years have seen a retraction on a few of the more punitive aspects of the changes with the removal of most juvenile sex offenders from the public sex offender registry, the increased ability of a juvenile to have his/her record set aside, and the introduction of competency guidelines to the juvenile court. However, more changes are needed.

The inclusion of trends and the implication of these trends are intended to serve as a platform from which policy makers and the public can begin discussions. By their nature, trends are dynamic, if a society fails to see what is happening and to learn from its history and discern what is important in relationship to that history, opportunities will be lost. In the case of the juvenile courts, these opportunities affect children and the community now and in the future. The Juvenile Justice Vision 20/20 team encourages the reader to ask this question: What can I do, given my better understanding of the juvenile court’s core tenets and emerging trends, to ensure I work enthusiastically and positively for the future of our children who are court involved?

There is little controversy regarding these tenets as citizens generally agree children are different from adults and in need of special attention. It is recognized all people have a stake in providing a healthy community in which children can grow and one that responds with great wisdom and understanding when faced with child-like or adolescent immature behaviors.

## Overview of the Core Tenets: An Historical Perspective

The first juvenile court began in Illinois in 1899. This court was distinct from criminal courts in that it:

- Differentiated between neglected and delinquent juveniles
- Established a system of probation for juveniles
- Created a separate court system
- Created a special set procedures for juveniles
- Separated juveniles and adults in the correction system
- Established a system of probation to assist the court system
- Gave the judge authority to act in place of the juvenile's parents
- Enlisted a system of child experts (e.g., psychologists and social workers) to help “diagnose” and “treat” the child.

Over the following twenty years, all states created a court to deal specifically with children charged with crimes or engaged in activities identified as threatening the child’s safety and character, e.g. running away from home, disobeying parents, being truant from school, etc.

In 1907, Michigan created the state’s juvenile court. The probate court was determined to be the best forum for the management and resolution of juvenile cases due to its history of overseeing many cases concerning children and its non-adversarial nature. In 1909, Michigan’s new constitution stated probate court “shall...have original jurisdiction over all cases of juvenile delinquents and dependents.” It was charged with exercising jurisdiction over delinquents under 17 at the time of the offense and for dependent cases under 18 at the time of the complaint. In 1998, jurisdiction of these cases moved to the newly-created family division of the circuit court.

During the formative years, juvenile court developed a perspective on what juveniles needed in order to be successful and what was necessary to maintain public safety. Many of the foundational beliefs and perspectives were embedded in the law and/or policy, and often, universally practiced across the United States. These have been identified as “Core Tenets;” they have stood the test of time and continue to impact the public’s perception of the juvenile court. Each tenet has been influenced over time by changing social conditions (e.g., civil rights), challenges to proceedings (e.g., expansion of due process rights via court decisions [Kent, Gault, etc.]), and concerns about public safety (e.g., victim rights). Despite this evolution, these tenets remain today as the “heart” and success of the juvenile court system.

## The Core Tenets of the Juvenile Court

### Core Tenet #1:

#### Children need special attention, different from that needed by adults.

#### Legal/Historical Basis:

- MCL 712A.1(2) “Except as otherwise provided, proceedings under this chapter are not criminal proceedings.”
- MCL 712A.15 and MCL 712A.16: A juvenile must be placed in the least restrictive environment that will meet the needs of the juvenile and the public.
- MCL 712A.16(1) when if a juvenile under the age of 17 is taken into custody or detained, “the juvenile shall not be confined in any police station, prison, jail, lock-up, or reformatory, or transported with or compelled or permitted to associate or mingle with criminal or dissolute persons.”

Impact: Children need special protection and the court must provide for that in terms of procedure, access to legal representation, investigation, physical placement of the child, and treatment.

Position: Juvenile court professionals ascribe to the understanding that children are different from adults and should be treated in a manner consistent with their age, gender and level of maturity. Rehabilitation and/or behavior remediation is critical to court-involved children and their families.

Summary: It has long been recognized that children have different needs than adults. Over the years with the advancement of technology, the juvenile court is aware of the impact of brain development on a child’s behavior, recognizing full development is not complete until approximately age 25. Thus, flexibility must be available for the juvenile courts to offer age-appropriate services and the court must resist pressure to treat children like “mini-adults.”

References: Michigan Compiled Laws (MCL) 712A.1ff. Michigan Court Rules (MCR) 3.900ff.

#### Status (*Issues and Trends*):

- Emphasis on legal procedures over social investigation and case planning
- Mental health parity
- Reduction of funding
- Transfer to criminal court (expanding of waiver procedures)
- Sex Offender Registration Act (SORA).

## Core Tenet #2:

### The court is required to take actions that are in “the best interest of the child.”

#### Legal/Historical Basis:

- *Parens patriae* doctrine: Evolved from granting absolute rights to the sovereign to one more associated with rights and obligations of the state and courts towards children and incapacitated adults.
- The best interest of a child is the first, single most important concern of the juvenile court. The first juvenile court in the USA included the “best interests of the child” concept (Illinois, 1899).
- MCR 3.932: Allows the court discretion in initiating proceedings, including denying authorization of the petition and referring a matter to a “public or private agency providing available services pursuant to the Juvenile Diversion Act.”
- Earliest efforts included juvenile court social welfare activities e.g. probation officers to identify what is in the child’s best interest (IL 1899); the probate court included re-hearings and other procedures (MI 1915), etc.

Impact: “Best Interests” is a subjective concept and is interpreted on a case-by-case basis; encouraging a disposition based on a wider array of factors than in criminal proceedings.

Position: Juvenile courts actively support the “best interest of the child” concept and consider it as foundational to the work of the courts.

Summary: Over the past two to three decades, legislation that has increased the number of juveniles moved to the adult criminal arena has threatened this core tenet. One change gave the prosecutor the authority to bypass the juvenile court processes and automatically waive a juvenile. These movements shift the requirement of doing what is in the “best interest of a child” to supporting what is thought to be in the best “interests of the public. Although it may not be able to solve all the challenges juveniles involved in criminal activity present, the juvenile court has the expertise to successfully assess and address the individual needs of court-involved juveniles, providing it has ample resources and support from the community.

References: MCR 3.932.

#### Status (*Issues and Trends*):

- Conflict with victim rights: i.e., the Crime Victim Rights Legislation requires the court to put the victim first in considering diversion, informal or formal proceedings.
- Use of Consent Calendar (informal docket) has been challenged.
- Modifications to the waiver procedures in 1996 altered the factors to be considered by the court from juvenile-focused to offense and record focused.

### **Core Tenet #3:**

#### **The age of criminal responsibility as defined by English Common Law.**

##### Legal/Historical Basis:

- English Common Law and the “defense of infancy” concept:
  - A child under the age of seven was presumed incapable of committing a crime.
  - Children aged seven to fourteen were presumed incapable of committing a crime but the presumption was rebuttable.
  - Children fourteen and older were presumed capable of committing a crime.
- Evidence for this in Michigan Law:
  - 1855: House of Correction for male juvenile offenders. Significance: “Reform School”; Boys under 15; forerunner to the later Boy’s Training school.
  - 1879: House of Correction for female juvenile offenders. Significance: Established a “Reform School” for girls between the ages of 7 and 20 who were convicted of a crime.
  - 1923: Waiver of Jurisdiction set at 15 and older (changed to 14 and older in 1996).
  - 1879: Probate court given original jurisdiction in matters concerning children
- The probate court was determined to be the forum for juvenile cases, due to its history of overseeing some cases concerning children and its historical non-adversarial nature.

Impact: A clear picture of what a child is exists and history provides recognition that children are different from adults.

Position: The juvenile court understands, as a child matures, his/her ability to grasp the concept of right and wrong also matures, therefore, the juvenile must be held accountable on an age-appropriate basis. The court has also learned that, for most juveniles, it is more efficient and effective to treat each juvenile in a community based program or through community based treatment than to place the juvenile in a residential facility.

Summary: In the United States, each state has the autonomy to determine the minimum age at which that state believes a child should be held responsible for criminal behavior. Only fifteen states have set a minimum age (ranging from six to twelve years old). States without a minimum age generally rely on common law (age seven). While Michigan has not set a minimum age, 2012 PA 541 established the first age limit in that a child under 10 is presumed incompetent to proceed in a delinquency case. In 1998, the juvenile court was moved from the probate court to the newly created, family division of the circuit court. An unintended consequence to this change diverted attention away from the juvenile court concept and the court lost the unifying name, “juvenile court.” This has reduced the understanding of what the juvenile court is to not only court staff, but also to the public. Using different names to identify each juvenile court across the state is confusing. .

References: MCL 712A.18n. "Children in the US Justice System", Amnesty International USA; "Old enough to be a criminal?" UNICEF United Nations Children Fund.

Status (*Issues and Trends*):

- Designation procedures allow for the conviction as an adult of a juvenile designated (by the prosecutor or by the court) for an offense committed at any age. The rules include the option of a prison sentence for a youth convicted of an offense committed prior to the youth's 14th birthday.
- Modifications in the waiver proceedings (see also C.T. #7).
- Personal Protection Order (PPO) and contempt of court provisions allow for the jailing of an individual who is over 17 at the time of the violation, but under 17 at the time the case was initiated or the offense occurred.
- PPO laws: The decision to issue a PPO against a minor may be initiated through various divisions of the court system.
- Over the past decade, the juvenile court has focused on the development of local treatment services rather than utilizing residential facilities for treatment. Although there will always be a need for residential facilities to treat a juvenile who is perceived to be a threat to public safety or for those who have severe mental health disorders affecting his/her behavior. The juvenile court has witnessed greater success and fiscal efficiencies by developing a wide range of local, community-based, treatment programs to address the individual needs of the juveniles in the court

#### **Core Tenet #4:**

##### **Due process rights are important for children accused of crimes.**

#### Legal/Historical Basis:

- Included in statutes and in court decisions from the time before juvenile courts were created. Example: 1893—Special commitment procedures for children to be sent the Coldwater Institution. Significance: required the filing of a petition in probate court. The probate judge had to notify the parents of the proposed commitment, hold a hearing, and explain the rights of the parents, including the fact that termination might be an outcome.
- *Kent v United States* 383 US 541 (1966) the United States Supreme Court held that a juvenile must be afforded due process rights (Miranda rights).
- *In Re Gault*, 387 US 1 (1967): Noted in many other laws and court decisions.

Impact: Children are valued human beings and protection of each child's rights is critical to society.

Position: Children represent a vulnerable population. Thus, the court's focus on the due process rights of children is especially important given that children often come to the attention of the court for behaviors and situations, which are frequently different than those that bring adults to court, and because children have a limited understanding of the ways in which they can protect their rights in a court setting.

Summary: Court-involved juveniles represent a vulnerable population because of their minor status. It is imperative that each juvenile is informed of his or her rights and that each juvenile is assisted to make certain that those rights are understood. Further, due process in the juvenile court includes not only the juvenile, but also the parents of the juvenile who have a significant role to play throughout the court process.

References: MCL 712A.1ff; *Kent v United States* 383 US 541 (1966); *In Re Gault*, 387 US 1 (1967);

#### Status (*Issues and Trends*):

- Juvenile competency has recently being defined in 2012 Public Act 541.
- School safety laws require zero tolerance in some school-related incidents.
- Other legislation (requiring detention in domestic violence cases) is criminalizing juvenile behaviors.
- Proposed changes in indigent defense attorney oversight may affect, and has encouraged discussion regarding the level of legal representation given a juvenile.

## Core Tenet #5:

### **Treatment provided by the juvenile court is to be home-based or home-like if the child cannot be maintained in his/her home.**

#### Legal/Historical Basis:

- MCL 712A.1(3) states: “This chapter shall be liberally construed so that each juvenile coming within the court's jurisdiction receives the care, guidance, and control, preferably in his or her own home, conducive to the juvenile's welfare and the best interest of the state. If a juvenile is removed from the control of his or her parents, the juvenile shall be placed in care as nearly as possible equivalent to the care that should have been given to the juvenile by his or her parents.”
- The court must proceed in a manner consistent with the law and with attention to individual rights (due process), but at disposition, the juvenile court must take the juvenile's individual needs into consideration.

Impact: Treating a juvenile in his or her community (whenever possible) helps the youth remain connected to the community and allows the parents and family to be involved in the rehabilitative or treatment efforts.

Position: Juvenile delinquency is not only the juvenile court's “problem.” Rather, it is an issue in which the community must be involved to resolve. This core tenet recognizes the importance of the family, both for the good of the child and for society.

Summary: Models for Change (MacArthur Foundation) public surveys indicate the public prefers community based treatment for juvenile offenders over residential placement and/or waiver to the adult system. Over the past decade, the juvenile courts in Michigan have diligently worked to create local continuums of care through which community-based services are provided. Research continually reflects that these services reap the optimum outcomes over more expensive residential placements. The only exception is when the juvenile's behavior mandates placement outside the community to protect public safety.

References: Michigan Compiled Laws 712A.1 ff. Models for Change, Systems Reform in Juvenile Justice, <http://www.modelsforchange.net/index.html>.

#### Status (*Issues and Trends*):

- Adjudication for the use of a firearm requires detention.
- The court must increasingly mandate parent compliance and or participation in treatment due the parent's inability to provide a “home-like” environment.
- The reduction in the number of foster homes available to take adjudicated juveniles, particularly girls.

## Core Tenet #6:

### A juvenile's file and case information and identity are confidential.

#### Legal/Historical Basis:

- Prior to 1988, all juvenile cases were kept confidential. That year, court hearings, and the "legal" portion of a child's file were opened to the public. The "social" part of the file remained confidential, and the court can restrict access to some hearings. Historically, the priority of the juvenile court was to protect the identity of children subject to court proceedings. The "get tough on crime" movement in the 1980's focused on public safety and sought a change to a system it said ignored the concerns of the public. As a result, access to juvenile court proceedings and files was increased.
- As noted in Michigan Juvenile Court: Law and Practice, by William Downs, 1963: "The purpose of (confidentiality) is to protect the juvenile from unwarranted notoriety (and) to permit the juvenile to forget his mistake because the public does not remind him of it."

**Impact:** The inability to set aside charges, expunge records and retain confidentiality of records of a juvenile interferes with a juvenile's ability to move forward and become a productive member of society.

**Position** Currently, juvenile legal records are open to the public and juvenile crimes and dispositions must be reported to the Michigan State Police's Criminal Justice Information Center and other state organizations which retain the data in various databases. When the court moves a record it to a "nonpublic" status, these outside agencies may not be required to do the same. Thus, potential employers and others can obtain the legal records of juveniles from sources outside the court, even though the record at the court may be restricted. Opening the records to the public in this manner is problematic as the juvenile may have done everything correctly, including making the victim whole and living his/her life crime-free since being released from juvenile court supervision. The real effect on thousands of young people is that the individual is barred from good employment, housing, an optimal career choice, college admission and enlistment in the military. A juvenile should not be eternally punished for an action that occurred prior to the age of maturity because of the release of record information to the public. The individual should be allowed the opportunity to proceed in life without legal barriers and the court must be the keeper of the records, releasing them according to law.

**Summary:** Research and anecdotal experience shows that the public understands childhood and adolescence is a time when mistakes will be made; the hope is the juvenile will learn from a mistake and do what can be done to make the victim whole.

Support for juveniles to have a second or even a third chance is prevalent. Each juvenile should have an opportunity to make amends, learn from his or her mistakes and have a sense of peace that if he/she has completed their responsibility to the victim(s) and the court, their record will not continue to hinder them into adulthood.

References: MCR 3.925ff; Downs, William T. (1963). *MICHIGAN JUVENILE COURT: LAW AND PRACTICE*, p. 16; Michigan Juvenile Justice Benchbook, section 20.14(B).

Status (*Issues and Trends*):

- Electronic record keeping threatens confidentiality.
- Case dispositions are required (for many offenses) to be submitted to the Michigan Secretary of State (traffic, drug adjudications) and to the Michigan State Police Criminal Justice Information Center. Records are kept by the MSP until the individual turns 99 and may be open to the public. Public access to case record information is more available, as a result.
- The list of offenses required to be reported to MSP has grown from a dozen or so in the 1980's to hundreds of offenses.
- Decentralization of court records from the "juvenile court" to the county clerk's office opens other opportunities for record disbursement.
- Effective December 28, 2012, 2012 PA 527 amended MCL 712A.18e(3) to decrease the waiting period for filing an application to set aside a juvenile adjudication; a person may now file an application one year (rather than five years) following imposition of a disposition or completion of a term of detention for the adjudication, or when the person becomes 18 (rather than 24) years of age, whichever occurs later.

## **Core Tenet #7:**

### **Public safety must be considered by the juvenile court.**

#### Legal/Historical Basis:

- Waiver (or “transfer”) procedures began in 1923, giving the juvenile court the option of removing a dangerous youth from society.
  - The Michigan Juvenile Code of 1948 included provisions regarding waiver. Section #4 provided authority for the court to waive jurisdiction to the court having general criminal jurisdiction. The child must be at least 15 years old, accused of a felony and a motion filed by the prosecutor.
- Some of the earliest criteria used to determine if the minor should be waived included the nature of the offense and whether it was of an adult character; the court’s previous use of other available dispositions; and the physical and mental maturity of the minor that reflects the minor is unwilling to accept treatment within the juvenile court.
- The laws and court rules have been dynamic, since the earliest days of the juvenile court and have evolved as follows:
  - Waiver was defined by appellate court decisions to specify the age of the minor on the date of offense; previously, it was the minor’s age when petitioned.
  - The age of waiver was reduced from 15 to 14.
  - Waiver proceedings were expanded to include a prosecutor discretionary waiver (“automatic waiver”).
  - Designation proceedings were established in 1996 which allowed either the prosecutor to “designate” a case or request the court designate a case as one that will be processed as if the juvenile is an adult.
  - In both automatic waivers and some designated cases, other than certain “specified offenses” which (upon conviction) require an adult sentence (MCL 769.1(1), the court must still consider the nature of the crime and the character of the juvenile prior to imposing sentence. These procedures allow for juvenile disposition, under specific criteria, retaining some of the other tenets of the juvenile court.

**Impact:** Society recognizes that some children have been, and may be a danger to others.

**Position:** While the court must be mindful of its responsibility to consider public safety when crafting dispositions in juvenile cases, it must also respond to the concerns of the community and support the use of the waiver process in limited situations. The waiver process was designed to hold juvenile offenders accountable, protect public safety and deter future criminal activity by the juvenile, but experience and research does not support that it is effective in accomplishing these goals. When it is necessary, there must be efforts made, in the adult criminal arena, to take the juvenile's age into consideration in sentencing, rehabilitation and parole.

Summary: In Michigan there currently are a significant number of offenders in prison who were waived to the adult system, or designated an adult after committing a crime when they were less than 17 years old. These individuals are incarcerated in prisons with limited services and receive no special attention despite their age. If they get out of prison, educational and vocational training opportunities have been lost. As a result they often return to criminal behaviors to survive. In addition, young offenders in prison are often threatened and abused by gangs and other powerful inmates. These young offenders often end up in solitary confinement for their own protection. Waiving juvenile offenders to the adult system is not a preferable method of responding to criminal behavior of juveniles, rather, there needs to be resources developed or accessed within the existing juvenile court for the express purpose of rehabilitation for these offenders.

References: Michigan Juvenile Code of 1948; MCR 3.950; MCR 3.951; *Miller v. Alabama* and *Jackson v. Hobbs*

Status (*Issues and Trends*):

- The growth in the number of youth sentenced to prison for offenses committed prior to the youth's 17th birthday.
- The U.S. Supreme Court ruled in June 2012 that juveniles convicted of murder cannot be subject to a mandatory sentence of life imprisonment without the possibility of parole.

## Trends in Juvenile Justice (As Identified in the Strategic Plan, 2011)

Many trends will affect Michigan's juvenile justice system in the years ahead. The Strategic Planning Oversight Team (SPOT) of the Juvenile Justice Vision 20/20 initiative reviewed and analyzed several social, economic, policy/political, technological and justice system trends as well as juvenile court caseload trends as part of the planning process. After discussion, SPOT members identified what they believe to be the most significant implications of these trends on the future of Michigan's juvenile justice system. The analysis revealed the need to be proactive in addressing the effects of the trends on the juvenile justice system and for juvenile justice leaders to actively work to shape a more positive future.

Below is a brief summary of key trends and the projected future implications of these trends on the juvenile justice system.

External trends data show the following.

- According to KIDS COUNT, the number of teens between the ages of 16 – 19 who are not in school or who are high school graduates rose 6% between 2008 and 2009. In addition, 44% of Michigan's children live in low income families; and 23% live in poverty.<sup>1</sup> (Note: The most recent Kids Count report published in January, 2013, reflect these statistical trends worsening in 2012)
- A national public opinion poll conducted in 2007 by Belden, Russonello and Stewart (on contract with the Center for Children's Law and Policy) identified that the public believes juvenile offenders have potential for change; support funding community based programs over incarceration; and prefer the courts offer treatment, supervision and services as effective methods of rehabilitation.
- A few of the most significant policy and political trends affecting Michigan's juvenile justice system include declining state and local budgets, depleted financial reserves, increasing fiscal realignment, increasing scrutiny on how public tax dollars are spent, performance measurement requirements, demonstrating accountability, ongoing tension between increasing expectations for government solutions and the call for less government involvement in personal lives, increasing legislation for specific crimes (e.g. sex offender), and unfunded mandates.<sup>2</sup>
- Several identified key technological trends include the continuation of the wireless revolution; rapidly developing telecommunications and information technology which increase expectations for access to information and ability to do business with all types of organizations from remote locations 24 hours a day;

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<sup>1</sup> Data Across States – KIDS COUNT Data Center. (2009, April). *Home – KIDS COUNT Data Center*. Retrieved September 20, 2011, from <http://datacenter.kidscount.org/data/acrossstates/Default.aspx>.

<sup>2</sup> Martin, John A. and Brenda J. Wagenknecht-Ivey (2011). "It's a New Day: Future Trends Require Revolutionary Changes in Courts," *Future Trends in State Courts 2011*, pp. 135-139. Williamsburg, VA: National Center for State Courts, Editors: C. Flango, A. McDowell, C. Campbell, and N. Kauder.

and an increased need to share appropriate information with justice system partners but continuing system integration challenges privacy and confidentiality issues.<sup>3</sup> Technology also impacts juvenile justice in that juvenile offenders, e.g. gang members, are often very technologically savvy, having the ability to communicate more effectively than do those within the juvenile court system.

- Several important justice system - specific trends include an increased number and changing composition of court users (e.g., more non-English speaking and those self-represent); a decline in budgets at federal, state and local levels; increased numbers of litigants with mental health and/or addiction problems; increased consolidation of courts and court services challenges; a decline in court infrastructure (e.g., facilities, technology, equipment, security); increase challenges between creating and maintaining specialty courts (to achieve better outcomes and resolve cases expeditiously) and inability to fund them; and an older than average workforce leading to a loss of institutional knowledge when Baby Boomers retire.<sup>4</sup>
- Michigan State Court Administrative Office data, internal juvenile court caseload trends and performance on time standards reflect juvenile delinquency filings declined 31 percent from 2002 to 2010 and 28 percent since 2006. Designation proceeding filings declined 36 percent from 2002 to 2010. (Designation proceedings are those where a juvenile is tried as an adult in the Family Division of Circuit Court.) Felony juvenile (waiver) filings increased 25 percent between 2002 and 2008, and 17 percent from 2008 to 2009. The number of juveniles supervised by the courts declined 42 percent from 2002 to 2010 (18 percent in the last five years). The number of delinquent juveniles supervised by Michigan DHS declined 70 percent from 2002 to 2010. Finally, the total number of juveniles supervised in Michigan declined 40 percent from 2002 to 2010.
- The decline in supervised youth is misleading, however. Although the number of delinquent juveniles supervised by the courts throughout the state has significantly declined since 2002, the cases being referred to the courts are more complex, requiring more supervision and manpower. For example, the courts have been flooded with youth who are on multiple psychotropic medications for multiple diagnosed mental health disorders. Such types of conditions are difficult to manage. To address the individual needs of youth, more rigorous treatment approaches are needed. Residential placement options for these youth are limited and cost-prohibitive. In addition, as a result of the settlement agreement between Children's Rights and DHS, the courts' budgets have been stretched to the point where residential treatment is seldom an option. Thus, managing these cases in the community requires significantly more time to obtain positive outcomes and protect public safety.

## **Projected Implications of Trends on Michigan's Juvenile Justice System**

All trends are occurring simultaneously, interacting in a myriad of ways. The impact of the trends on the Michigan's juvenile justice system will likely be great in the years ahead. SPOT members analyzed the trends and believe the following are the most significant effects of the trends on the juvenile justice system. The potential implications are as follows:

1. More instability in families due to economic stress (e.g. low income, higher poverty levels).
2. A decline in funding for the courts and juvenile services due to a depressed economy, declining caseloads, etc. There will be less funding for prevention. Courts may be able to provide only those services mandated by the state. The caseload and workload data may be misinterpreted and lead to false assumptions and conclusions.
3. Continued uncertain, fragmented and unequal funding for the juvenile justice system across the state.
4. A reduction in the number of staff providing early intervention and treatment services means fewer services will be available for juveniles, families, and communities. The well-being of children involved in the court system will be at risk. Services for low-risk juveniles will not be available. Courts will struggle to adequately supervise juveniles and keep communities safe.
5. There is mixed support and concern about the potential impact of a reduction in the number of juvenile judges. Based on judges' workloads, a reduction in the number of judges may be a cost-efficient, proactive approach, making the workloads more equitable. There is also some concern, however, that this approach may result in an increase in delay, less specialization and expertise in handling complex juvenile matters, which may have negative impact outcomes for juveniles and communities.
6. A growing need for a comprehensive, community-based continuum of juvenile services to achieve effective outcomes. New types of rehabilitation and treatment approaches may be embraced.
7. A growing need for specialized juvenile services (e.g., gender specific services, treatment for mental illness, substance abuse, sex offenders, etc.).
8. A decline in the availability of local and community-based placements (e.g., foster homes).
9. More opportunities to collaborate with community partners. Community-based programs may increase (e.g., prevention, diversion, faith-based, etc.).

10. An increasing need to demonstrate results and achieve effective, measurable outcomes. The courts will need good data to make effective programming decisions and will need to use best and evidence-based practices to help juveniles and families succeed and to reduce recidivism.
11. A need for juvenile courts and other organizations to critically review their workloads, services, and use of existing resources. Juvenile courts and other organizations may need to provide services differently (e.g. repurpose detention centers, consolidate services, provide regional services) in the future.
12. A need to train, educate, and develop staff (e.g. equip them with the knowledge, skills, and abilities to succeed in the future).
13. A need to keep pace with technology and modify court rules and procedures accordingly. Also, a growing need for more technology funding and statewide efforts to improve technology (e.g. case management system, system integration, etc.).
14. A need for succession planning/talent management programs to prepare for the retirements of many juvenile justice leaders across the state.