

Priorities *for* New Hampshire's Children 2011

Handling Youth Misbehavior In Schools not Courts

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Issue Overview

Children are our future. They need to learn and grow to be tomorrow's leaders. We all benefit when our children stay in school. Nationwide, law enforcement personnel have ensured children's safety at school. However, a concerning trend has developed with an increased reliance on the court for discipline issues. This has been particularly true for youth with mental health problems and learning disabilities, as well as those in foster care or involved with child welfare agencies.ⁱ These youth belong in school, not the juvenile justice system.

Current research demonstrates that the nationwide pattern of increased reliance on the juvenile justice system for ordinary school discipline problems fails to effectively address children's underlying issues. If youth involved in delinquent behavior are not successfully engaged in the education system, their delinquent behavior will likely escalate, rather than decrease.ⁱⁱ Similarly, youth whose behavior problems are a result of learning disabilities, if not successfully diagnosed and treated, are likely to become delinquent.ⁱⁱⁱ Premature referral of school children to the juvenile justice system often triggers the following negative consequences:

1. Out-of home placement due to technical violations of probation;^{iv}
2. Lasting psychological harm, including decreased sense of competence and aspirations for the future, leading youth to gravitate to deviant peers;^v
3. Harsher treatment for future offenses, causing youth to quickly spiral deep into the juvenile corrections system;^{vi} and
4. Significantly increasing the odds of dropping out of school, lowering standardized test scores, and reducing future employment prospects.^{vii}

Proposed Solution

Currently, the Child in Need of Services (CHINS) statute requires that when schools file CHINS petitions, they must first certify that the school district has sought to resolve the expressed problem through available educational approaches, has sought to engage the parents or guardian in solving the problem, that the problem remains, and that court intervention is necessary.^{viii} This statute has prompted courts and schools to ensure that, in the first instance, children's needs are met through collaboration between parents and schools, preventing the stigma and negative consequences of a juvenile court referral.

The goal of this proposal is to take a similar approach in delinquency cases, except in circumstances where a child's safety is at risk. Children are not mini-adults; some amount of misbehavior is an expected part of the growing process. However, when kids commit ordinary disciplinary offenses, schools are in a unique position to work with the parents and use available resources to evaluate the underlying reason for the child's actions, determine whether the action may be a manifestation of a deeper learning or psychological disability, utilize educational approaches and counseling to address the child's behavior, and hold the child accountable for his or her actions through the school disciplinary process. This type of proactive and collaborative approach will

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empower schools and parents to help kids make positive choices, without unnecessarily stigmatizing the child through a juvenile court referral.

Call to Action

Nationwide research is clear that kids belong in school. Unfortunately, some youth are referred to the juvenile justice system unnecessarily. The youths' needs are best addressed by schools, which are better positioned to serve them.^{ix} Because New Hampshire does not have a mechanism in place to track school based delinquency referrals, it will be crucial for juvenile service delivery personnel, including educators, school administrators, mental health professionals, juvenile probation and parole officers, defense attorneys, prosecutors, juvenile court judges, and parents to testify about their experiences with these youth and engage in legislative advocacy. We all need to inform legislators of our experiences with school-based referrals to the juvenile justice system. We have to express our willingness to support a collaborative approach between parents and schools enabling youth to stay in school and to become productive members of society.

Find out More

The *New Hampshire Legal Assistance (NHLA)* is the NH CAN partner for this Priority. NHLA is a non-profit law firm offering legal services in civil matters to seniors and eligible low-income persons. NHLA provides high quality legal services to vulnerable low-income people, ranging from simple legal information and advice to vigorous and thorough representation in all of New Hampshire's courts and before many of the local, state and federal agencies which play large roles in the lives of low-income people. In providing legal services to the poor, NHLA helps balance the scales of justice for all citizens. For more information regarding this 2011 NH CAN Priority contact Michelle Wangerin at mwangerin@nhla.org.

References

ⁱ The Annie E. Casey Foundation, *A Road Map for Juvenile Justice Reform*, 2008 KIDS COUNT Data Book, available at http://www.aecf.org/~media/PublicationFiles/AEC180essay_booklet_MECH.pdf.

ⁱⁱ National Council of Juvenile and Family Court Judges, *Juvenile Delinquency Guidelines: improving Court Practice in Juvenile Delinquency cases*, Summer 2005, available at <http://www.ncjfcj.org/images/stories/dept/ppcd/pdf/JDG/juveniledelinquencyguidelinescompressed.pdf>.

ⁱⁱⁱ Id.

^{iv} Supra, note i.

^v Id.

^{vi} Id.

^{vii} American Civil Liberties Union, *Policing In Schools: Developing a Governance Document for School Resource Officers in K-12 Schools*, August 2009, available at <http://www.aclu.org/racial-justice/policing-schools-developing-governance-document-school-resource-officers-k-12-schools>.

^{viii} RSA 169-D:5, V.

^{ix} Supra, note i.