



Public Welfare Foundation

MARCH 2016

Program Newsletter

Getting Youth out of the Adult Criminal Justice System

In the past decade, the Campaign for Youth Justice and other Public Welfare Foundation grantees have secured significant policy changes in many states, resulting in fewer youth in adult courts and adult facilities.

Around 11:30 pm on December 31, 2008, Tyrone and a friend were heading to their respective homes in Baltimore to watch television as the ball dropped in New York's Times Square. They cut through a familiar park and planned to make a quick stop at a convenience store.

But a block away from the store, they were confronted by policemen, who were looking for two young black men who had allegedly robbed a white man at gunpoint.

At the time, Tyrone and his friend were 16-year-old sophomores on the academic track at a local high school. Neither had a gun, but they were arrested and charged with armed robbery. Under Maryland law, that charge automatically put them in adult court and they were ordered to be held in Baltimore's adult detention center.

Tyrone spent a month in a cell with a man twice his age who was charged with rape. Although he was not assaulted, he was put in

solitary confinement for his own protection and spent about three months locked up alone for 23 hours a day before his case was finally resolved in court.

Despite the lack of any concrete evidence and the failure of the alleged victim to show up at the hearing, Tyrone was persuaded by the prosecutor and his public defender to take a deal that would send him to the juvenile system and put him on juvenile probation.

After complying with all the conditions that were imposed on him for two and a half years, Tyrone was released from probation and, after another six months, his record was expunged. Now 24, he is still trying to find "normal." He received a GED, but it has been difficult to find work. Some potential employers, "never looked me in the eye," he recalled. "I was a regular statistic to them – another young black man who committed a crime. They didn't care [that] I didn't do anything," he lamented.

Recently, Tyrone has become certified for work in construction, lead abatement and compliance with Occupational Safety and Health Administration (OSHA) standards, with help from Community Law In Action (CLIA), a Public Welfare Foundation grantee. In addition to helping directly with youths like Tyrone through its Just Kids Campaign, CLIA has been working in Maryland to end the automatic prosecution of youth in adult courts for certain crimes. Since Tyrone's release, the state has passed a law that keeps most young people in juvenile detention centers instead of adult jails while they are waiting to be tried in the adult criminal justice system.

Despite significant progress in Maryland and other states across the country, it is estimated that 95,000 children spend time in adult jails and prisons each year. On any given night, the U.S. Department of Justice estimates that 5,000 youth (under age 18) are locked up in adult jails and 1,200 more in adult prisons. And, while those numbers represent a 62 percent decline from a decade ago, the potential harms of locking up kids with adults, as well as the disproportionate representation of youth of color among those who are tried and incarcerated in the adult system, still persist.

The Campaign for Youth Justice, a Public Welfare Foundation grantee that is marking its 10th anniversary in 2016, has been a national leader in efforts to reduce the number of youth prosecuted in adult courts, seeking a return to the principles that led to the establishment of the first juvenile court in 1899. CFYJ's push for change has been aided by a number of state-based reform advocates who are also supported by the Foundation.

In the past decade, CFYJ has provided technical assistance to state-based campaigns, increased awareness and political will among key decision-makers, engaged youth, parents and families that have been affected, and educated legislators, media and others to encourage policy changes related to its key focus of keeping youth from being transferred into the adult system.

As CFYJ has long pointed out, the transfer issue is important "because the consequences aren't minor." Research and studies show that youth who are tried in adult courts or held in adult facilities are more likely to be abused or assaulted, are more likely to commit suicide, and more likely to commit more crimes after they are released than those kept in the juvenile justice system.

Among the reforms gained during the past decade, due to the partnership between CFYJ and state advocates:

- A total of 30 states have passed laws making it more difficult to prosecute children as adults. Nearly half the states have passed two or more legislative reforms.
- In 12 states, laws have been passed that remove youth from adult jails and prisons, or allow them to remain in the juvenile justice system until the age of 18, or at least pending trial.
- Nine states assign criminal responsibility to children under age 18, leaving them in the adult system. Two of those states — New York and North Carolina — set criminal responsibility at age 16. Still, this is the lowest number of states to set the age below 18 in more than 30 years. And, in all but one of the remaining states, efforts are underway to raise the age. In 2013, Foundation grantee Citizens for Juvenile Justice helped push to raise the age of juvenile court jurisdiction from 17 to 18 in Massachusetts. Grantee Connecticut Juvenile Justice Alliance supported passage of a law in 2007 that raised the age in that state from 15 to 17. Now, Governor Dan Malloy wants to set a new standard by raising the age of criminal responsibility to 21. Legislation to raise the age to 21 has also been introduced in Illinois, where grantee Juvenile Justice Initiative of Illinois has educated stakeholders about the issue and where the age was already raised from 17 to 18 in 2013.

- There have been challenges or modifications to direct file statutes, making it more difficult for prosecutors to transfer youth to adult court or making it easier for youth to be waived back into juvenile court. Colorado, where direct file reform efforts began in 2010, has seen the number of children prosecuted in adult courts, as well as the number of children held in adult detention centers pending trial, drop by more than 90 percent from 2010 to 2015. Foundation grantee Colorado Juvenile Defender Center (CJDC) issued a [report](#) on the impact of the reforms. In another significant move, Governor Jerry Brown of California is supporting a ballot initiative this year that would eliminate direct file in that state.
- Standards in federal laws, such as the Prison Rape Elimination Act, have been strengthened to help keep youth under the age of 18 separated from adults in jails and prisons.

Marcy Mistrett, executive director of CFYJ, is right to applaud such progress. “The past decade has shown us that when you put youth and families in the center of reform amazing things can happen,” she said. “In addition, sharing effective tools among advocates helps educate policymakers and recruit champions much more quickly. Being part of a movement that recognizes that we can meet the needs of youth while preserving and even improving public safety also has helped build reform upon reform.”

Still, given the experiences and struggles that Tyrone has faced, Mistrett recognizes that there is more urgent work to be done by CFYJ and its partners.

As she put it, “We are at a critical moment where the stars really seem to be aligning. The reduction in youth arrests, paired with system reforms that cut the youth detention population in half, and the recognition by the right that these reforms are common sense means we can win this fight. However, we must insist on addressing the racial and ethnic disparities, continue to invest in community-based alternatives, and persist in helping any youth who has committed an offense get back on track and reclaim the ability to lead a successful life.”

Those are worthy goals for the next decade.

(Cover) In 2015, Governor Larry Hogan signed Maryland’s new law that keeps most youth in juvenile facilities while they await trial in adult courts. Among those looking on are young advocates associated with Public Welfare Foundation grantees Campaign for Youth Justice and Community Law In Action (Just Kids Campaign).

Photo credit: Executive Office of the Governor.

ABOUT THE PUBLIC WELFARE FOUNDATION

The Public Welfare Foundation supports efforts to advance justice and opportunity for people in need. These efforts honor the Foundation’s core values of racial equity, economic well-being, and fundamental fairness for all. The Foundation looks for strategic points where its funds can make a significant difference and improve lives through policy change and system reform. For more information, visit www.publicwelfare.org.

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