

Summary of Juvenile Justice Reform Session at the 2015 Access to Justice Conference

The Vision Statement for our Court states that we strive to be a place of healing. This does not mean that we are not a Court in the traditional sense. Rather the aspiration to be a place of healing is consistent with the principles of therapeutic and restorative justice. Further it acknowledges that in the realm of Juvenile Justice our judges have a responsibility that is different than judges presiding in other courts.

In Juvenile criminal cases Family Court judges have two basic responsibilities. The first is that they must act as the trier of fact. The second responsibility, assuming the minor is adjudicated (found guilty), is the most important of the two and is fundamentally different than adult court. The judge focuses on ways to help the child and to provide the child with services that help the child to become healthy. This is never done at the expense of the safety of the public.

The reality is that approximately 5,000 kids are brought to our Court every year. The majority of these kids have suffered some kind of trauma which can include sexual abuse, physical abuse, neglect, psychological abuse, the loss of a loved one, and so on. The key to understanding and helping these children is that we needed to become more therapeutic and less punitive. For example 10 years ago children were being incarcerated for status offenses and for misdemeanors, not to punish but to supposedly keep the child safe. This was and is unacceptable in light of the fact that research has shown that locking kids up causes more harm than good in a variety of ways.

As such, approximately eight years ago the Family Court decided to become a leader in Juvenile Justice reform. First, our Court applied and became a Juvenile Detention Alternative Model Court sponsored by the Annie E. Casey Foundation. The Casey Foundation provided our Court with technical assistance, model site visits, mentoring and other assets to begin our reform process. In 2010 our Court issued a memo that we would no longer allow status offenders to be incarcerated. In addition to this step many other measures were taken to reform the system which are too lengthy to detail.

By 2013 our Court began to see the results of our efforts. Secured detention admissions were reduced by 43 percent. The number of youth committed to the Hawaii Youth Correctional Facility was reduced by 68 percent. The data also showed that the reform had been implemented without any detriment to community safety. This fact was demonstrated by a 62 percent decrease in the number of felony petitions filed.

Although these reforms were important, some fundamental Access to Justice issues relative to youth within the Juvenile Court System were being ignored and had been ignored for years. To understand the above statement one must understand that Juvenile Offender Access to Justice issues are not the same as the issues faced by adults.

For juvenile offenders the fundamental issue is the lack of available and accessible services to assist the Court in its duty to help the youth. This is self-evident when one considers the fact that 80 percent of the youth offenders are in need of drug treatment and often residential treatment and yet there is really only one residential treatment center for youth in the State. More than 60 percent of the youth suffer from mental health maladies. Despite this fact there is a very limited array of mental health services for our children which leads to children who need more intensive care being sent to the mainland.

To this point the Juvenile Justice Reform Commission whose members were appointed by the Governor, Chief Justice, President of the State Senate and Speaker of the State House issued a report. In said report the most important finding by the Commission was that Judges and Probation Officers lacked the necessary services to help children – and that our children were being harmed because State monies were more invested in incarceration facilities than treatment programs.

Contemporaneously with this finding the Pew Foundation was instrumental in assisting the Commission in writing and introducing legislation to address other system issues and to provide monies for the Court to assist youth. In 2014 this legislation was enacted into law as Act 201 and the legislature approved a \$1.26 million appropriation to help our children.

Despite this progress there still exists a great need to reform the delivery of mental health services for our youth. We came a long way but we have so much farther to go. How we treat and care for children defines us as a community and as an individual. We continue to strive to educate people that investing in our kids on the front end of our Juvenile Justice System is fundamentally better for all of us rather than simply resorting to incarcerating them. It is a struggle. But one that is necessary and one that is consistent with our desire to ensure Access to Justice to our most vulnerable.