

Sustaining Momentum

Assessing and Mitigating Threats to the Fourth Wave of Juvenile Justice Reform

ModelsforChange

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TOWN HALL FORUM

How Do We Anticipate and Limit Threats to Fourth Wave Reform?

Fourth Wave reform has made remarkable progress in the past two decades so that juvenile justice looks much different today than it did in the 1990s. There is still work to do, but the reform has taken hold. A developmental perspective in juvenile justice has become dominant in today's policies and practices—in law-making both legislative and judicial, in federal and state policies, and in local practices. But, can this reform be sustained?

The Four Waves of Reform

To start, we need to remember why the current reform is called the “Fourth Wave.” That's because during the juvenile justice system's 115-year history, the present reform was preceded by three others. We need to be concerned because all of those earlier reforms flourished and then faded to be replaced by another.

First Wave – A Separate System

The first reform was the creation of a system of justice for juveniles separate from the criminal justice system—a late 19th century recognition that youth were dependent, still growing, and therefore could be guided. The court would be the kindly parent who directs youth away from crime by meeting the youth's needs. But by the 1960s, our courts concluded that this model failed to provide what it promised. It had too often abused its paternal discretion by merely locking kids up without benefit.

Second Wave – Due Process

It was replaced by a second-wave reform, marked by the 1960s *Gault* decision. This reform required due process. Juveniles would have the same rights as adults when faced with prosecution, defense attorneys, pleadings, and procedural rules. The first wave was not entirely lost—the system would still be charged with rehabilitating young people, but they were given adult-like rights.

Third Wave – Punitive not Rehabilitative

The third wave reform came in the late 1980s and through the 1990s, when a national rise in lethal youth violence created a public and legislative panic. Laws were changed to respond to kids with penalties that were more and more like criminal court sentences. It did not replace the second wave's due process requirements, but it decimated the first wave's rehabilitation objectives.

Many of the laws and practices put in place during the punitive third-wave reform are still with us. But the Fourth Wave has made considerable progress in replacing them with developmentally-relevant legislation and policy.

PART 1: Threats to the Fourth Wave

Will the Fourth Wave go the way of other reforms? Perhaps the inevitable realistic answer is “yes,” based on science, history and wisdom, this reform, too, will pass, to be replaced by another. Given that reality, what do we need to do to assure—even if a fifth reform evolves—that the legacy of a developmental perspective continues to influence juvenile justice policy and practice far into the future?

One way to address this is to consider what threatens the Fourth Wave’s future:

- What key things could erode its progress?
- Does the reform—its principles, its network of advocates, its initiatives—have weaknesses that make it vulnerable?
- Can we foresee social conditions that could exploit those weaknesses?
- And if we do foresee such things, what can we do to avoid or minimize their impact?

For your consideration, here are a few *places* we might look for the most likely and important threats to Fourth Wave reform in the next 10 years.

U.S. Demographics

The nation is always changing, in terms of demographics, economics, politics and values. Technology advances. Crime rates rise and fall. What changes of this type could threaten the reform? For example, one of the greatest demographic changes underway in the U.S. today is cultural diversity created by immigration and refugees from hundreds of cultural backgrounds. What challenges might that present to the Fourth Wave reform? Similarly, the U.S. continues to struggle with its engrained racial bias. How might that struggle impact the future of Fourth Wave reform?

Other Child-Serving Systems

The juvenile justice system functions alongside other child-serving systems—mental health, education, child welfare. Those systems also evolve and change, and sometimes they have different objectives than juvenile justice. For example, one of our credos is keeping kids out of juvenile justice as much as possible. But what happens to the diverted, if there are poor community mental health services? If our education system has inadequate alternatives to juvenile justice intervention? How could this impact the Fourth Wave’s future?

Conflicts Between the Fourth Wave Programs

We have created many, many initiatives and programs. How do things we promote in one program potentially cause challenges for another? For example, if diversion programs are successful, only the most serious offenders will enter it. What might be the impact on detention centers, courts, and juvenile corrections? Does success of some initiatives threaten our success in others?

The Fourth Wave “Network”

The Fourth Wave reform has happened because of a network of advocates with a common cause. What can we foresee regarding the potential for that network to be weakened, especially with reductions in private funding?

Public Perception and Media

There is substantial evidence that social change is driven not only by facts, but also by how facts are perceived by the public and policy makers. Are there reasons to be concerned about the ways in which media could stir public discontent, dissatisfaction, and opposition to Fourth Wave reforms?

Opposing Forces

A common focus of threat assessments in other contexts—for example, terrorist threats or threats from commercial competitors—is the interests of others who oppose that which one seeks to protect. Are there such forces, and what is their potential to degrade the reform effort?

PART 2: Threat Mitigation

Now that we have identified your ideas about threats, we ask a second question: “What actions could be taken to mitigate those threats?” What could we do to reduce their likelihood, or to reduce their damage if they happen?

When considering mitigation strategies, you might think about some broad categories wherein actions could be taken.

Strengthening the Reform

You might have identified ways in which the reform itself is vulnerable. For example, ways in which the network of advocates is threatened. Or flaws in its relationship with other child-serving systems. Are there ways we could strengthen the reform itself? What could we do to decrease these vulnerabilities? How could we strengthen its roots to make it less vulnerable to erosion and hard times?

Making the Reform More Adaptive

For the “social change” threats you have identified, what could we do to adapt to national changes? How could we increase our ability to identify those changes when they arise, to address them, and to modify the reform to better deal with them?

Dealing with Opposition

For “public opinion” issues and threats from “opposing forces,” what preemptive actions could be taken to reduce their potentially negative effects on the sustainability of the reform?

Notes

