

Lessons from Five Years of Accelerating Change

INTRODUCTION

“The Campaign was a game changer in [our state]. Prior to the Campaign, reform legislation stalled . . . with the Campaign, we could get things done and prevent bad policies from being enacted.”ⁱⁱ

The National Campaign to Reform State Juvenile Justice Systems (National Campaign) demonstrated the effectiveness of augmenting the efforts of passionate juvenile justice reform advocates with the institutional knowledge and political skills of government relations professionals. This combination dramatically accelerated the pace of state policy reform during the past five years.

After two decades of funding cutting-edge research on adolescent behavioral and brain development and pioneering new juvenile justice practice models, the John D. and Catherine T. MacArthur Foundation decided to reinforce those successes with a more direct approach to promoting systemic policy reforms. The Foundation recruited like-minded funders, formed a funders’ collaborative and launched the National Campaign in November 2010.

The National Campaign worked with state-based advocates, public defenders, judges and lawyers, and retained experienced

lobbyists to accelerate the adoption of new juvenile justice policies, practices, regulations and laws. It did not specify a reform agenda; local stakeholders in each state decided which reforms to prioritize and then collaborated with the National Campaign to retain professional staff.

This approach helped reshape the juvenile justice landscape and contributed to what has come to be known as “the Fourth Wave of juvenile justice reform.”ⁱ Some of the most significant wins were in large and influential states—California, Texas, Ohio and New York and also in smaller states, such as Nebraska, New Hampshire, Nevada and Rhode Island—increasing their potential to inspire change elsewhere.

The National Campaign succeeded in helping advocates and state elected and appointed officials to replace ineffective and harsh juvenile justice policies with ones that treat youth fairly, enhance public safety, reduce costs to taxpayers and improve outcomes for youth and their families.

HOW THE NATIONAL CAMPAIGN WORKED

When the National Campaign launched in late fall 2010, M&R Strategic Services, Inc., (M+R), a campaign consulting firm, was retained to manage day-to-day operations and use its campaign experience to strengthen state-based juvenile justice reform efforts. The National Campaign quickly assessed policies, programs and opportunities for reform and at the same time assessed political landscapes in a small number of states. Based on those assessments and local needs, staff assembled teams of seasoned government affairs professionals, communications experts and policy analysts to support the agendas developed by state advocates.

This effort built on the work of others and took full advantage of a climate increasingly open to changes in the criminal and juvenile justice systems. The evidence accumulated through the MacArthur Foundation's system reform initiative Models for Change and other research and reform efforts fostered bipartisan support for more rehabilitative and less punitive systems. A growing recognition of the need for mental health and substance abuse treatments, federal regulations barring the placement of youth with adults, and the U.S. Supreme Court's 2012 ruling eliminating mandatory juvenile life without parole sentences, even for homicide, combined to make legislators more receptive to calls for reform. The National Campaign, free of any political agendas of its own, helped advocates seize the opportunity to reach out to new conservative allies while continuing to work equally well with progressives.

Campaign Against Indiscriminate Juvenile Shackling

The success of the National Campaign's approach inspired a similar single-issue campaign to end the practice of automatically shackling children in juvenile courts. The National Campaign collaborated with the National Juvenile Defender Center (NJDC) to launch the Campaign Against Indiscriminate Juvenile Shackling (CAIJS). The National Campaign provided strategic guidance, funding and used its communications and lobbying professionals to assist advocates seeking to end indiscriminate shackling.

Shockingly, jurisdictions across the country routinely place leg irons, handcuffs and belly chains on all youth for court appearances, regardless of their offense or behavior. This practice humiliates, stigmatizes, and traumatizes them, while interfering with their right to counsel and due process rights. NJDC, judges and others had raised concerns about automatic shackling for years, but progress in ending it was slow.

CAIJS worked with state-based advocates, public defenders, medical and mental health professionals, judges and others in more than 30 states and territories seeking to enact laws, regulations and/or statewide court rules to end the automatic shackling of children in juvenile courts. To date, these efforts have secured nine professional affidavits detailing the developmental harm and violation of due process inherent in shackling children, as well as resolutions condemning the indiscriminate use of shackling from prominent national organizations, including the American Bar Association and the National Council of Juvenile and Family Court Judges.

In its first year focused on the issue, CAIJS helped end indiscriminate shackling in seven states and the District of Columbia, and the National Campaign on its own had been instrumental in securing reforms in three states in 2014. There are at least a dozen other states readying legislative campaigns or seeking judicial orders to end shackling in 2016.

Because juvenile courts are closed to the media in most states, the public generally did not know that indiscriminate juvenile shackling was widespread. Coverage secured by CAIJS in *The New York Times*, *The Washington Post*, MSNBC and in many other news outlets helped educate the public. When CAIJS reached out to judges, public defenders and advocates in various states, it began receiving feedback that "people are starting to talk about juvenile shackling because of all the media coverage. This is a good time to propose reform."

<http://njdc.info/campaign-against-indiscriminate-juvenile-shackling/>

Role of State-Based Campaign Communications

The National Campaign also supported state-based communications firms to educate the public and use positive media messages to maximize public support for reform campaigns. Campaign messaging emphasized broad public safety and cost-saving benefits rather than seeking sympathy for the plight of children caught up in a dysfunctional system. Opinion research showed that positive messages engaged the public. Preferred messengers were law enforcement professionals and public figures regarded as politically right of center. These messengers offered cover for legislators fearful that might appear as “soft on crime.”

For example, New Hampshire’s successful campaign to raise the age of criminal court jurisdiction from 17- to 18-years-old requested and placed an op-ed written by a conservative lawmaker who had played a role in *lowering* the age of adult jurisdiction in the mid-1990s.

In Connecticut, professionals with an understanding of the media and an ability to obtain strategic coverage helped advance the campaign to end juvenile life without parole sentencing. In 2015, as the legislative session wound down, the Second Look bill passed the Senate, but stalled in the House. In a single week, the National Campaign’s communications consultant placed four op-eds written by a psychologist, the director of a reentry program, a Catholic priest who was a university president and a youth services director. The Connecticut House of Representatives in short order passed the Second Look bill with time to spare before the session closed.

“We were able to engage a lobbyist group that had great relationships with legislators...at a time when the [Republican] party dominated the legislature for the first time since Reconstruction. We would have been dead on arrival without this help. It would have been catastrophic if M+R had not been there.”^{vi}

WHAT THE NATIONAL CAMPAIGN ACCOMPLISHED

During its five-year lifespan, the National Campaign grew steadily, working in seven states in 2011, 13 in 2012, 18 in 2013, 25 in 2014 and 31 in 2015. During the five years, the National Campaign directly supported reform efforts in a total of 37 states. Its staff helped state advocates achieve 127 victories, ranging from the defeat of punitive proposals to the passage of omnibus juvenile justice reform bills. To accomplish this, the National Campaign retained 54 government relations firms, 41 policy experts and state campaign coordinators, 16 communications professionals, and invested in six research and polling projects.

The National Campaign helped advocates score notable victories. A measure was passed in California mandating parole hearings for individuals sentenced as youth to long indeterminate sentences. With no date certain for a parole hearing prior to this win, these individuals faced the de facto equivalent of a life term (e.g. two 30-year sentences). In the first eight months after enactment, more than 100 inmates won their freedom, thanks to this new law, and more than 400 had hearings. In a total of 18 states, the Campaign helped ensure that young offenders would be treated as such by making sure that their competency to stand trial was evaluated, that age and developmental maturity became factors in sentencing, and that more youth were charged as juveniles rather than as adults.

There was also success in less populous states. Despite fierce opposition from prosecutors, advocates in Colorado eliminated prosecutors’ right to direct file youth into the adult criminal court.

The same team of advocates established a right to counsel at detention hearings and first appearances for all youths. This reform now mandates that youths, who would previously have had no access to legal advice, now have a public defender representing them. Colorado is one of nine campaign states where legal proceedings for youths are now fairer because of increased access to counsel and improved court process.

The National Campaign supported successful efforts in 14 states to increase diversion and community-based programming while decreasing juvenile incarceration. Texas closed three secure juvenile prisons for adjudicated youths and approximately 45 cents of each dollar saved by these closures stayed within the juvenile justice system for mental health, substance abuse and other treatments. Ohio and New York also reinvested money saved by closing youth prisons and used the savings to provide needed treatments.

In New York state, the National Campaign helped drive an effort to close down multiple staff-secure youth facilities in upstate New York that housed New York City youths far from their homes and families. The initiative brought them back to the city by opening facilities closer to their homes enabling them to maintain family and community ties.

Some state campaigns were short-lived, yet very effective. In Utah, the National Campaign paired an advocate and lobbyist to work with a passionate state senator committed to improving Utah's juvenile justice system. During the course of a 45-day legislative session, the team convinced the legislature to pass a multi-part bill that narrowed the list of offenses that sent youth to criminal court. The bill also ensured their the right to counsel, limited their confinement to juvenile facilities,

Role of National Communications for the Field

M+R developed and implemented a national communications campaign designed to raise broader awareness of juvenile justice, both the problems that remain and the positive new procedures underway.

The communications campaign had two primary strategies:

The first was a creative, primarily online storytelling project called Mistakes Kids Make, which used social media and other online channels to drive awareness among the target audiences—young people 18- to 24-years-old and parents—that the mistakes kids make should not ruin their lives.

The second strategy was a more traditional media relations approach that used products and content from advocates in the field to raise visibility of the specific problems in juvenile justice, as well as ways to solve them. The campaign emphasized that good solutions save taxpayers money, improve public safety and help youth and their families who are in contact with the juvenile justice system.

<https://www.facebook.com/MistakesKidsMake/>

“It was a unique opportunity. I liked the autonomy to name the issues, rather than being told what to do. Setting the agenda together really created buy-in. It led to us feeling like we can fix the problem and we are the team to do it. It was nice that it was locally driven. It was organically developed at the state level, rather than being preordained. That facilitates relationships and momentum.”^{vii}

created a formal process for waiver of counsel and established a presumption against shackling in juvenile court—an amazing set of accomplishments in just six-weeks.

The National Campaign managed a much more extensive state campaign in Nebraska that fundamentally changed the state’s juvenile justice system. Beginning in the 2013 legislative session, the Nebraska campaign team supported five separate bills and tracked them through multiple committees. Four made it to the Nebraska Chamber for a vote. The speaker then combined them into a single omnibus bill, which passed with a large majority. The combined bill increased aid to counties for diversion services by \$5 million a year for two years, restricted use of incarceration and generally reoriented the juvenile justice system toward rehabilitation and community responses.

Subsequent efforts in Nebraska in 2014 and 2015 produced equally significant results. These included increasing original juvenile court jurisdiction to apply to most 16- and 17-year-olds, permitting school districts to opt-out of referring truant youth to county prosecutors, significantly restricting the circumstances in which a youth adjudicated for a status offense can be placed out of the home, ending the practice of fingerprinting youth charged with status offenses, allowing jurisdictions to refer youth charged with status offenses to immediate crisis-response centers rather than to court and severely limiting the circumstances when a youth is to wear restraints in court.

Some state-based campaigns were notable because they challenged long-standing perceptions of what was possible. In South Carolina, the National Campaign supported work on two bills that passed

unanimously in consecutive legislative sessions. After Governor Nikki Haley signed an indiscriminate shackling reform bill, the South Carolina Bar Association passed and brought a resolution modeled on the legislation to the American Bar Association. It passed easily and became a foundational document for a national shackling reform movement. The following year, the South Carolina Legislature unanimously passed a second bill allowing the expungement of a juvenile record in certain cases. It too became law.

The National Campaign also sought to defeat bad legislation and stop policy efforts that would harm youth. In Maryland, the National Campaign supported advocates who spent years organizing to halt construction of a \$120 million youth jail backed by both the governor of Maryland and the mayor of Baltimore. By retaining the advocacy skills of a former Maryland Senate Budget Committee chair with expertise in state budgeting processes, the advocates succeeded in slowing down the construction planning process and ultimately convinced the state’s political leadership to abandon construction.

In Delaware, the National Campaign provided resources for lobbying and government relations to help local advocates defeat a bill containing mandatory minimum sentence enhancements in the criminal court based on an offender’s juvenile adjudication for a violent offense. Although the state’s politically powerful attorney general backed the legislation, the National Campaign team gathered compelling evidence from experts detailing why the proposal would not decrease violence—and would actually harm the community it purported to help. Sharing this information with legislative leaders, the lobbyist and advocates defeated the bill.

“I loved the [advocate-lobbyist] model. I felt like we had great resources at our disposal. We could call and have national contacts within minutes. M+R put together a good team of smart advocates that knew what to work on and pairing it with a lobbyist really worked.”^{viii}

LESSONS

The National Campaign helped produce change in three ways:

1. PROFESSIONAL CAMPAIGN ASSISTANCE.

The single most important lesson is the value of pairing passionate advocates with experienced government relations professionals. The advocates understand how the juvenile system works and know what is wrong with the system. Skilled government relations professionals know how to work with legislators to change the system. Knowledge and passion coupled with political know-how create a powerful force for change.

2. FOCUSED AND NIMBLE CAMPAIGNS.

Successful legislative campaigns are disciplined, focused and operate within the unique culture of the state. National Campaign staff assessed the landscape of each state before deciding whether it was viable to attempt to achieve reforms.

3. JUVENILE JUSTICE REFORM AS A BIPARTISAN ISSUE.

Even in today's hyper-partisan environment, there is common interest in improving juvenile justice laws and practices. Beware of outdated stereotypes. Those who adopted partisan or ideological approaches often missed the opportunity to enlist assistance from powerful allies.

CONCLUSION

The National Campaign succeeded in its mission of accomplishing state-level reforms in a majority of states and advancing juvenile justice reform across the country. The approach of applying professional government relations resources to local agendas and in partnership with local stakeholders is a powerful new model for legislative and policy advocacy in the juvenile justice arena. This approach to reinforcing local stakeholders could be applied to other issues and used as a defense of reforms already accomplished.

END NOTES

- i The first wave of juvenile justice reform is credited to the era that produced the first juvenile court in 1899 and that was marked by a rehabilitative approach that viewed children as less responsible than adults for their actions. The second wave came in the middle of the 20th century when the U.S. Supreme Court granted juveniles protection against self-incrimination and the right to counsel. The third wave was a negative a reaction to rising youth crime rates, when state passed a plethora of punitive laws, abandoning the rehabilitative approach of the first juvenile court.
- ii Evaluation Participation Quote; Evaluation of the National Campaign to Reform State Juvenile Justice Systems and Communications Effort: Interim Report 2015, Prepared for the John D. and Catherine T. MacArthur Foundation by Grassroots Solutions.
- iii Media Impact Funders: Communications Strategies that Fast Track Policy Change - <http://mediainpactfunders.org/fastrack/#NationalCampaign>
- iv Evaluation Participation Quote; Evaluation of the National Campaign to Reform State Juvenile Justice Systems and Communications Effort: Interim Report 2015, Prepared for the John D. and Catherine T. MacArthur Foundation by Grassroots Solutions.
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