On January 8, 2013 the Annie E. Casey Foundation and the National Center for Victims of Crime convened a one-day forum for representatives of the crime victims’ rights and juvenile justice system reform movements, as well as several prosecutors with expertise in juvenile justice, to describe the histories and achievements of both movements, perceptions of one another, perceived areas of conflict, and potential for common ground. The goal was to explore how to promote the best interests of crime victims, juvenile offenders, and society as a whole. The free-wheeling forum showcased the advocates’ passion for their causes and desire to meet the challenges that slow progress for both groups. The forum ended on a hopeful note, with participants having identified several areas of mutual interest and steps to advance the work conducted that day.

History and Achievements of Both Movements

Crime Victims’ Rights

Only forty years ago, crime victims had virtually no rights in the criminal justice system and were excluded from its processes, except as witnesses. Their lack of rights and the dangers and indignities they faced in testifying made victims increasingly reluctant to cooperate with law enforcement and prosecutors—thus threatening the operation of the criminal justice system. Awareness of such challenges, as well as the activism of victims and their advocates, launched the crime victims’ rights movement, which has produced substantial progress for victims.

In general, victims’ rights have become integrated into the justice system at all levels. Although these rights are not universal or evenly enforced, there is a nationwide understanding that crime victims have the right to be treated with fairness, dignity, and respect. They are seen as having a legitimate interest in proceedings, and they have the right to be notified of crucial events, to be present and heard when relevant, and to request restitution. In many states, they have the right to
be protected and to proceedings not being unduly delayed. These rights apply to all victims, not just the “innocent” victims who have no criminal history.

An evolving criminal justice system presents ongoing challenges to crime victims’ rights. Authorities must consider how to integrate crime victims’ rights into cases involving post-conviction DNA, for example, or in new types of courts (e.g. mental health, veterans’). In the juvenile justice system, the universality of victims’ rights generally applies to crimes equivalent to adult felonies, but victims of “lesser” crimes often have fewer rights (e.g., notification, to make a statement) than they do in most cases.

In addition, a nationwide set of victim services—funded in part by the Victims of Crime Act (VOCA) Crime Victims Fund—has evolved to help victims recover from crime. Domestic violence shelters, rape crisis centers, victim advocates in prosecutors’ offices, and other local services are available for victims in the aftermath of crime. Although only a small percentage of victims actually take advantage of these services, they are theoretically available to most victims of crime.

**Juvenile Justice Reform Movement**

Although U.S. jurisdictions had had special courts for juvenile offenders for more than 100 years, the last three decades have presented many challenges to juvenile justice reformers. The system was launched as a separate set of processes to protect juveniles from having criminal records and, ultimately, pursuing a life of crime. Especially in recent years, juvenile justice reformers sought to set up a protective zone for young offenders with separate juvenile court officials, designed ultimately to rehabilitate young offenders and guide them to a more constructive path.

The system that has developed, however, conflicted dramatically from its’ founders’ goals. Until the 1960s, juvenile court officials often lacked college degrees, much less law degrees. Elements intended to protect children—such as confidentiality—ended up being used to protect the system from public scrutiny of its failures. In most cases, the only “tool in our toolbox” for dealing with juveniles has been incarceration, and we have become a nation that locks up children at five times the rate of European countries, with shockingly deficient results. One of eight incarcerated juvenile offenders is sexually assaulted while in prison, and the recidivism rate of juvenile justice
institutions is 60-70 percent within three years. Yet incarceration costs more than $100,000 per year per juvenile.

Most juveniles are the products of circumstances over which they have little control (which is not to say they are not responsible for their actions). Disproportional numbers of young people in the juvenile justice system are economically disadvantaged minorities. The juvenile courts are underfunded and a low priority for the criminal justice system. Also in recent years, there has been a push to “transfer” juveniles from the juvenile justice to the adult system to be tried as adults. The fervor behind this movement came close to eliminating the juvenile justice system and undermining the effort to treat juvenile offenders differently.

Adult ambivalence toward—or downright fear of—adolescents compounds the challenge of devising fair juvenile justice policies. Virtually all adolescents are “delinquent” in some ways, as they defy authority and challenge boundaries in their transition from childhood to adulthood. Wise parents try to attenuate their responses to adolescent behavior and to guide their children safely through the throes of adolescence. But society appears to be much less tolerant of delinquent behavior from minority and disadvantaged youth, resulting in alarming numbers of young people from these groups in the juvenile justice system.

Some of these trends, though, are now receiving greater attention. Scientific research has shown that many offenders are also crime victims who have been severely traumatized. It has produced clear evidence that children are not miniature adults and—in general—respond at different developmental stages to specific incentives. The Supreme Court has ruled against capital punishment and mandatory life sentences for juvenile offenders. There is growing awareness of the racial disparities in juvenile incarceration and the need for more balanced, just policies. Juvenile justice reformers—most of whom are local activists—work to improve the system so that fewer juveniles victimize others and at the same time undermine their own futures and lives.

Perceptions about Advocates for Juvenile Justice and Crime Victims’ Rights

Both groups acknowledged some level of unfamiliarity with the work of the other advocate groups, as well as the existence of stereotypes about both crime victims’ rights and juvenile justice advocates. Crime victims’ advocates are sometimes viewed as overly emotional, burdened by personal experiences of victimization, and too focused on penalties for juvenile
offenders. Juvenile justice reform advocates, on the other hand, are sometimes seen as hiding behind data, supporting policies that put people at risk, unconcerned about victims, underestimating the danger posed by some offenders, and opposed to punishment. Both groups sometimes view the other as monolithic and systemically organized rather than loosely connected by virtue of their common goals. Both groups sometimes overestimate the impact of the other group on public opinion and the criminal justice system. These assumptions, one participant noted, “hang in the air” whenever the two groups interact.

**Challenges**

There was a strong sense that the way reforms have been advanced by both sets of advocates and the ways the groups have sometimes perceived and spoken about one another have impeded dialog and intensified mistrust. By analyzing each group’s rationale for their actions, it was hoped, this panel might lead to better mutual understanding and advocacy for better public policy.

The discussion yielded considerable concern about the impact of the criminal justice system and overall public policy on both crime victims and juvenile offenders. The lack of resources for victim services, the unfinished business of the nation’s duty to help crime victims recover, the absence of victims’ and juvenile offenders’ “voices” from policymaking forums, the failure to build policy on sound social science research, and even a judge’s recent declaration that “there are no victims until there is a conviction” reflect current public policy and criminal justice system practices—but not necessarily the will of the other group of advocates. The more one group overestimates each others’ impact on such practices, participants noted, the greater the potential for mutual misunderstanding. And the more unrealistic the expectations of the other group’s capacities, the less likely there will be any progress toward common ground.

**Dangerous Juvenile Offenders**

The two groups revealed clearly different perspectives on a range of issues. Victim advocates believe that “victims should not be discriminated against because of the age of their offenders.” Some of the strongest opinions from crime victim advocates concerned the need to identify dangerous and potentially dangerous juveniles, supervise them carefully, and hold them accountable (in developmentally appropriate ways) for their crimes. Several participants had lost
family members to homicides committed by juvenile offenders, at least one of whom had been granted early release from incarceration just before he committed the crime. Such advocates—and several of the prosecutors who were present—were concerned about light sentences, inadequate consequences, and other failures of responsibility in managing truly violent juvenile offenders. Many victim advocates see little evidence that juvenile justice processes recognize the needs and rights of victims—or even the importance of distinguishing between the most violent and other juvenile offenders.

Much discussion focused on the trend of trying serious juvenile offenders as adults, which has greatly expanded in the last several decades. Juvenile justice reformers stress that juveniles transferred to adult criminal court and prison may be victimized by adult offenders and lose their capacity for rehabilitation. Victim advocates emphasize that some crimes, by their severity, justify long, harsh sentences. Juveniles who commit terrible crimes, one participant suggested, should lose their right to be rehabilitated, except inside a prison.

While agreeing on the destructive impact of the small number of very violent offenders, the group reached no conclusions about how to deal with them. “What do you do with a 16-year-old who has committed murder twice?,” asked one of the prosecutors. “We do not give up on our children until they force us to,” he added. “We know that early intervention and prevention are clearly the best approaches if we have the resources, the talent, and the political consensus to make them work.” But the most violent young offenders cause untold damage and may undermine support for reforms that will work for the majority of youths. He also stressed that the victims of violent offenders—who usually have the same ethnic and racial backgrounds as the offenders—generally do not want young murderers and rapists back in their neighborhoods after serving only a few months for their crimes. Families of murder victims want the prosecution of offenders to be serious.

Teenagers are violent at extraordinary rates, said one juvenile justice advocate, yet most of them grow out of it. The two determinants of whether they do so are the capacities to gain a partner and a job—both of which have little to do with the criminal justice system. We have to ask ourselves whether it makes sense to remove many young people from the community, thereby disrupting their education and their opportunities to become functioning adults. Focusing too closely on the dividing line between violent and nonviolent youthful offenders obstructs the
effort to find practical interventions that would maximize positive outcomes for juveniles and responsiveness to victims. We need to develop more mechanisms—in addition to criminal sentences—to show society’s recognition of the harm done to victims by crime.

Juvenile justice reformers see their role as improving the system so as to avoid future offending, prevent victimization, and improve public safety overall. By finding ways to “turn around” as many offenders as possible, they aim to prevent society from writing off young people, even those who have committed serious offenses. Responsibility to the young offenders and to society as a whole—rather than to individual victims—appeared to be the primary focus of many juvenile justice reformers in attendance. They pointed out that many “graduated response” interventions with juveniles have prevented young offenders from escalating criminal behavior and victimizing more people. Testing and applying successful intervention models, they believe, will result in teaching young offenders accountability and reducing crime.

**Accountability**

Many of the crime victim advocates believe the juvenile justice system fails to hold young offenders accountable for their crimes, thereby encouraging further—and often more dangerous—forms of delinquency. If the juvenile justice system repeatedly fails to respond to acts of delinquency, one prosecutor observed, young people learn that crime has no consequences, and they may escalate their criminal behavior. Also, significant numbers of juveniles escape any consequences by being judged incompetent to stand trial. Recently in the District of Columbia, 47 percent of juveniles accused of crimes were placed in that category. This trend, often an attempt to avoid transferring juveniles to adult court, produces cynicism in young offenders and subjects the community to unjustifiable risks.

The failure to hold juveniles directly accountable to victims also particularly concerns victim advocates. Even though some states have integrated restorative justice into their juvenile justice systems, for example, young offenders are often required to perform only token acts of accountability to victims. Why not require young offenders to work and contribute earnings directly to victims, one advocate asked? When restitution is mandatory and real, offenders learn the impact and cost of their actions, and victims benefit from society’s recognition of the harm done to them.
Victim advocates stressed that advocates for juvenile justice, as well as juvenile offenders, should respect the harm done to victims of crime. One participant displayed a juvenile justice advocate organization’s flyer (opposing life imprisonment for juveniles) featuring photos of juveniles who were much younger than the average juvenile offender who commits very serious crimes. The flyer’s message was “children should not die in prison.” The flyer greatly offended the victim advocate, who viewed it as a dishonest attempt to elicit sympathy for juvenile offenders who commit terrible crimes.

Accountability to victims includes willingness to reassess policies—such as confidentiality—that may threaten public safety and even thwart effective prosecutorial practice. If even the prosecutors do not know the identity of a juvenile offender until a case is being called, how can they do their job? Juvenile justice advocates agreed on the need for more transparency and less use of confidentiality to shield institutions from exposure for questionable practices.

**Apportioning of Resources**

The victim advocates expressed great frustration about the dearth of resources directed to crime victims. Vast amounts of money are expended on the juvenile justice system, they pointed out, and almost nothing for victims. One participant advocated appropriating $10 million from funds now spent on the juvenile justice system for counseling and other services for the victims of juvenile offenders. Victim advocates also felt that some private, nonprofit resources now invested in juvenile justice reform might also be directed to victims. Juvenile justice advocates should ask themselves, “How can we improve and reform the juvenile justice system to improve services to victims, and what role can the foundations take in this effort?” Ideally, regardless of jurisdictions’ funding sources for victim services, victims should have access to court-ordered services to meet their fundamental needs.

Juvenile justice advocates responded that there is no monolithic system of juvenile justice reformers, and individual nonprofits do not control how resources are allocated and used. The resource allocation problem should be solved not by nonprofits but by the government. Crime victim advocates disagreed, insisting that equity for victims is everyone’s responsibility.
Common Ground

Participants also identified many areas of agreement and bases for action toward common goals. Both groups agreed that the forum itself represented a great advance, a first step toward seeing one another not as two “sides,” but as partners in seeking a more comprehensive and equitable system of justice.

Strength-based Approaches

Both groups expressed hope for agreement on strategies to improve outcomes for all juvenile offenders, especially the majority (dubbed the “99 percent”\(^1\) of “mid-level” offenders who are not responsible for the most violent crimes. Although documenting juvenile justice trends is difficult because so many jurisdictions do not report their best practices, participants reported having seen signs of progress and promising, equitable juvenile justice strategies in their areas. In his jurisdiction, one prosecutor noted, 80 percent of the juveniles convicted of crimes do well after they leave the juvenile justice system. A “strength-based” focus on such promising trends and the approaches used to produce them appealed to both groups.

Participants advocated studying successful (and victim-centered) approaches, sharing information about successes, setting up pilot programs, and replicating successful programs throughout the country. Experts have a significant data about graduated responses, timely and successful interventions, and programs that work. The groups agreed that gathering and implementing such information would help prevent crime and promote accountable responses when it occurs. Victim and juvenile justice advocates, as well as juvenile court prosecutors, could benefit greatly from such efforts.

Repeatedly throughout the forum, both victim and juvenile justice advocates stressed the importance of listening. Victims need a voice at the table when public policies affecting them are being considered. Listening and responding effectively to child victims may help prevent antisocial responses to victimization. Listening to adult victims, who so often feel marginalized and disrespected, can help support their recoveries. And listening to youthful offenders can empower them and lead to more constructive behavior. Although many solutions to the problems

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\(^1\) No participants cited actual statistics on the percentage of juveniles who commit serious, violent crimes.
addressed by the forum require considerable resources, listening is a too-seldom-tried response to the problems both groups care deeply about.

**Importance of Schools**

The fact that victimized children often become juvenile offenders was clear and important to both groups. Both stressed the pivotal role of schools, as well as the entire community, in protecting children from victimization and responding supportively when crimes occur. Schools can “give victims a platform,” one advocate suggested, by creating systems to record and document acts of aggression or actual crimes against children in school. They can create school-based programs for youth exposed to violence. Setting up such systems shows that the authority structure takes victims seriously and that victims have rights. Authorities can work to protect children from stigmatization and other negative consequences when they report what happened to them. “Zero indifference” to problems rather than “zero tolerance” for infractions, one participant suggested, would set the proper tone for school administrators.

Encouraging better collaboration between schools and law enforcement agencies might also serve the best interests of both groups. Harsh “zero tolerance” policies toward youthful infractions may have the paradoxical effect of creating a “pipeline” into the juvenile justice system. There should be a common understanding between schools and law enforcement about who handles what. Police do not want to handle discipline problems (and should not be expected to), and schools often seek to avoid responding to crime. Some schools submit reports of sexual abuse, for example, at the end of the year so they do not have to deal with the resulting complexities during the school year. But then the home (often the source of the crime) becomes the focus for addressing the problem. Neither group had concrete proposals for establishing more effective coordination between schools and law enforcement, but both seemed to recognize the potential usefulness of such efforts.

**Importance of Funding**

Although both groups ruefully acknowledged the lack of available funding to meet their goals, participants agreed that a more just system will require more—and more equitably distributed resources. Everyone recognized the low level of funding for victim services, the absence of a funding community for victims, and the political challenges of increasing the federal funding
stream. Nevertheless, advocating that Congress release more resources each year from the VOCA Fund seemed to most participants to be a reasonable step.

More funding is needed for restorative justice programs that can help victims heal and offenders take responsibility for their crimes. Jurisdictions may also benefit from innovative approaches such as justice reinvestment—which employs data and collaborative decision making to help lower crime, reduce criminal justice spending, and control growth in correctional populations. One state, for example, used justice reinvestment savings to fund a prison-based victim notification system. Although participants differed about ideal resource distribution, both groups seemed to acknowledge our responsibility to assess how we are using resources and find ways to grow and better distribute resources.

**Knowledge Is Power**

Although participants shared only a few specifics about successful approaches they have seen, both groups recognized that sharing information about how to promote public safety while seeking the best outcomes for juvenile offenders is highly desirable. Collecting more information about best practices and promising programs, sharing and interpreting hard data as well as the “voices” of all stakeholders, and building on such collective wisdom should lead to progress on many of the problems raised at the forum. The groups suggested more reporting on the communities being studied by the Casey Foundation, preparing fact sheets and “report cards” on jurisdictions’ juvenile justice programs, exploring evidence-based practices that have been shown to work, and mobilizing both sets of advocates to advance the knowledge shared in their dialog. Setting up victim-centered, juvenile justice demonstration programs, carefully analyzing the outcomes, and drafting principles and standards for ongoing reform should help clarify the best ways to enhance justice for all concerned.

Knowledge of victims’ rights and needs can help provide a strong foundation for any effort to advance victim-centered juvenile justice reform. Crime victims need safety (e.g., safety planning, protection orders, custody information, and safe shelter); healing (crisis counseling, medical care, spiritual support); justice (e.g., investigation and prosecution information and notice, participation rights); and the means to financial recovery (e.g., crime victim compensation, restitution, insurance, employer help). They have specific rights (e.g., to be
informed, present, heard, safe, and freedom to seek restitution), and share core values (e.g., victim involvement and services focused on victim, not offender, recovery); the need for access information about their case and offender; choices and opportunities to talk about their needs, and services even if their offender is not arrested or adjudicated. Victims’ recovery must be a societal priority, and offenders should be required to make meaningful contributions (e.g., by working for victims or victim causes) to the recovery of victims. Preparing a fact sheet on these needs, rights, and core values of victims for the Casey Foundation sites would provide a wealth of basic information on which to advance the work of the forum and to base any future reforms.

Next Steps

Both groups expressed a strong interest in continuing the work begun at the forum. Participants will share in preparing the report on the forum by reviewing the draft summary and adding insights they want to include. One participant offered to take the lead in coordinating efforts to move to the next step. The groups agreed that the Annie E. Casey Foundation conference in April would provide an excellent opportunity to continue the discussion through workshops and other vehicles. Conference activities should help clarify goals and objectives, leading to concrete steps to implement the work of the January 8 workshop.