The nation's juvenile courts faced daunting challenges as the twenty-first century approached. Many voices challenged the quality of care provided to abused and neglected children by agencies that worked with the courts. Nationwide frustration with foster care produced calls for a return to orphanages and other congregate institutions. Troubling distinctions persisted between the array of services available in metropolitan areas and the more limited array available in many rural areas and small towns. Concerns about racial, gender and economic bias punctuated public debate about all categories of juvenile court jurisdiction. In 1998, the president of the American Bar Association said that many juvenile courts themselves suffered from "badly overburdened and grossly underfunded conditions."1

Delinquency jurisdiction faced strident criticism, particularly in years when the violent juvenile crime rate rose. Some critics ridiculed the nation's juvenile courts for "coddling" violent youths at the expense of public safety, while other critics assailed the courts for imposing punishment in the guise of rehabilitation, without many of the procedural safeguards available in the criminal court. Supporters countered that the juvenile court's success stories "greatly outnumber its failures." "Most children who get in trouble with the law never reoffend," said one, "and most whose crimes are so serious that they are referred to the court never come back after court intervention."2

Amid the past generation's dialog about the state of juvenile justice, Missouri has assumed national leadership in several areas central to the lives of delinquent and dependent children.
The Division of Youth Services: “A Guiding Light For Reform”

Tyrone J. Flowers is director of the Jackson County Juvenile Court’s Night Light Program. He and his staff work all night to assure that high-risk inner city juveniles on probation are at home or work when they are supposed to be. The highly successful program enhances prospects for rehabilitation by providing mature adult supervision often lacking in the juveniles’ lives.

The troubled youths relate to the 32-year-old Flowers, a Kansas City native who grew up in an unstable inner city environment and suffered physical and emotional abuse in foster homes. As a teenager, he was labeled behavioral-disordered and learning-disabled. Adults told him point-blank that he “would end up either in jail or dead.”

How wrong these adults were. Committed to the Division of Youth Services at sixteen for being beyond parental control, he was assigned to the Sears Youth Center in Poplar Bluff. After a year at the Sears Center, Flowers attended community college on a scholarship and earned his undergraduate degree from the University of Missouri-Columbia. Then he climaxed his academic career by earning his law degree at the University. “I needed DYS,” he recalls.

The Night Light Program is only the beginning for Flowers. In 2003, he will leave the Jackson County juvenile court staff so he and his wife can devote their energies full-time to Higher Impact, an organization for high-risk juveniles that they founded in the early 1990s. Flowers distinguishes between high-risk juveniles (“bad kids living in bad neighborhoods”) and at-risk juveniles (“good kids living in bad neighborhoods”). Higher Impact is committed to teaching high-risk youths how to live in their own communities, and how to think for themselves. The organization also provides “good experiences for these kids, everything from bowling to camping to miniature golf, so they won’t lose their adolescence like I did.”

What motivates Flowers? “These high-risk kids have the potential and mental capacity,” he says. “It’s just a matter of reaching them and directing their talents in a positive direction. I love the challenge of seeing that light turn on in their heads when they realize they can do it. I know you can be sent to a DYS facility today and earn a law degree ten years later.”

Flowers entered the Sears Center in 1986, at about the time when budget cuts and DYS’ shift from large congregate institutions to smaller, more effective regional care facilities created a lack of bed space for children needing treatment. In 1987, the Department of Social Services assembled the Blue Ribbon Commission on Services to Youth to analyze the Division’s needs and
make recommendations for future development. The legislature's approach had changed since 1971, when the Missouri Law Enforcement Assistance Council's Task Force on Juvenile Delinquency said pointedly that "inadequate funding has . . . plagued the total State juvenile justice system for many years." Now the lawmakers responded to the Blue Ribbon Commission's call for greater appropriations.4

The transformation of DYS was guided by a 15-member, bipartisan Division of Youth Services Advisory Board comprised of respected judges, former legislators, officials and concerned citizens from all walks of life and all areas of the state. The board provided expertise concerning productive juvenile corrections policy and helped develop stable support for the Division's innovations. Because DYS treatment programs proved successful, the agency has enjoyed bipartisan support from governors and the legislature ever since, and a budget that has quadrupled from about $15 million to $60 million in fifteen years.5

DYS has divided the state into five regions with thirty-one residential facilities that provide intensive treatment to more than 1300 delinquent children committed by the juvenile courts each year. The agency treats offenders in the least restrictive program that meets the child's needs and provides necessary control. Tailored to the needs of rural and city children alike in an ethnically sensitive environment, the various programs permit most children to be treated within thirty to fifty miles of their homes so their families and other sources of community support can remain involved in their lives.6

Each of the five regions has a diverse range of residential facilities. DYS maintains group homes for ten to twelve youths under responsible adult supervision, proctor homes where youths live with college student mentor/role models, moderate care facilities that permit youths to interact with the community, and secure care facilities that provide the most serious offenders education, counseling and vocational guidance in treatment groups of ten to twelve. Day treatment facilities provide youths a minimum of six hours of education, counseling and community service activities before they return home in the evening. The agency's comprehensive aftercare program even helps youths find employment following their period of treatment. Effective aftercare is critical to rehabilitation because children well served in DYS facilities may resume their old ways if they return unsupervised to their old neighborhoods and the influences that led to their delinquency.

Prevention also takes a front seat. DYS provides juvenile courts nearly seven million dollars annually in Juvenile Court Diversion funds to help avoid commitment of less serious offenders to the agency's custody in the first place. This grant-in-aid program enables courts to develop local school programs, intensive probation, community group counseling and other early intervention and
prevention programs. The initial focus was on Missouri’s smaller circuits, whose treatment resources were more limited than resources available in metropolitan areas. Urban circuits have also joined the program, which now provides grants to forty-four of the forty-five circuits each year. The program has permitted some courts to reduce by as much as 40% the number of children they commit to DYS.7

Missouri has refused to compromise the success of DYS by following other states and establishing “boot camps” for delinquents. Since the early 1990s, boot camps have sought to instill discipline through military regimen, physical training, manual labor, education, vocational assessment, drug abuse education and life skills training. Boot camps have won public support in many quarters for appearing “tough on crime,” but the National Criminal Justice Association has called their efficacy “questionable at best.” One review article concluded that “boot camps have proven ineffective in reducing recidivism and controlling drug use,” a lesson Missouri learned a generation ago when it closed Boonville with its military regimen and manual labor.8

Missouri’s about-face since closing Boonville and Chillicothe has catapulted the state squarely into the forefront of effective delinquency services nationally. In 1994, the National Council on Crime and Delinquency recognized Missouri’s national leadership by presenting Governor Mel Carnahan with its Award For Excellence in Adolescent Care. The Annie E. Casey Foundation, which seeks to address the needs of vulnerable children and families, has named Missouri a model juvenile corrections system and has provided a grant to enable the state to showcase its program to other states. Bart Lubow, the foundation’s Director of Programs for High-Risk Youth, describes DYS programs as “brilliant, thoughtful, creative”—and successful.9

In 2001, Missouri’s emphasis on small residential community-based programs won lavish praise from the American Youth Policy Forum. The AYPF found that while spending one-third less than surrounding states on juvenile corrections, Missouri enjoys a recidivism rate one-half to two-thirds below that of most other states. Indeed, Missouri has the lowest juvenile recidivism rate in the nation, only about 11%. In some states, recidivism by youths released from training schools remains high, usually between 50% and 70% and sometimes greater than 90%.10

The AYPF called Missouri a “guiding light for reform,” and found that the state’s “unconventional approach—emphasizing treatment and least-restrictive care—is far more successful than the incarceration-oriented systems used in most other states.” The report concluded that Missouri’s approach “should be a model for the nation” because “[i]ts success offers definitive proof that states can protect the public, rehabilitate youth, and safeguard taxpayers far better if they abandon incarceration as the core of their juvenile corrections systems.”11
The Division of Youth Services has also caught the attention of juvenile court judges in other states. One is Judge Ramona F. John, who served on the juvenile court bench in Harris County, Texas from 1989 to 1993 after eighteen years representing children in court. In her new book on juvenile justice, Judge John calls DYS "a prime example" of a program "nationally recognized for ... excellence" in rehabilitating delinquents. She calls the low DYS recidivism rate "astounding," and lauds the agency for emphasizing education and job training, strong counseling and mentoring, family involvement and aftercare.12

Other states and localities now look to Missouri for guidance about effective juvenile corrections. In 2001, a Washington, D.C. mayor's commission toured DYS facilities to learn ways to improve that city's programs. A year later, on the heels of their settlements with the Justice Department, Georgia and Louisiana sent delegations of legislators, judges and juvenile corrections officials to inspect and study the DYS system and consider reforms. Georgia even hired a DYS staff member to help replicate Missouri's system.

Children in DYS custody are no longer called "inmates," as children had been at Boonville and Chillicothe. In some other states, juvenile corrections institutions still retain Boonville-style military regimentation, which has "inmates" calling the staff "sergeant," "general" or something similar. DYS staff reduce hostility and friction by remaining on a first-name basis with the youths in the agency's custody. Unlike their counterparts in many other states, DYS facilities have had little violence or gang activity and no suicides. "At the Division of Youth Services, we focus first on the goals of community safety and youth accountability, but we do so in a way that engages young people and brings out the best in them," says Mark D. Steward, DYS director since 1988 and a prime architect of the agency's programs. "Our low recidivism rates demonstrate that troubled youth can be reached before incarceration in adult prisons becomes inevitable." Barry Krisberg, president of the National Council on Crime and Delinquency, agrees. DYS "gives children a way to redeem themselves," he says, "and most of the kids do it."13

The result? According to the St. Louis Post-Dispatch, "something to brag about"—"the most successful statewide juvenile justice program in the nation."14

National Leadership in Permanency Planning

At the request of several Missouri juvenile court judges shortly after Congress passed the Adoption Assistance and Child Welfare Act of 1980, the state Supreme Court created the Task Force on Permanency Planning For Abused and Neglected Children. The task force included judges, social workers, teach-
ers, legislators and other citizens concerned with the quality of the state's foster care system. The chair was Supreme Court Judge Andrew Jackson Higgins, a nationally recognized children's law expert and former juvenile court judge. Judge Higgins served as chair until his retirement from the Court in 1991, when Judge John C. Holstein became chair and continued the task force's mission during the early 1990s.15

The Supreme Court's intimate involvement lent credibility and urgency to the task force's mission. The task force coordinated planning among courts, executive agencies, legislators and private and public organizations involved in the state's child welfare system. Officials from the three branches collaborated to produce promptness and efficiency in placing children, and the task force helped social service agencies create a tracking system to monitor children under juvenile court care throughout the state. All the while, the task force trained Missouri judges, juvenile officers and social workers about permanency planning through seminars featuring visiting lecturers and local speakers.16

Missouri's task force was the nation's first permanency planning task force, and its members helped the National Council of Juvenile and Family Court Judges conduct a national summit conference to develop strategies for implementing the 1980 federal act. When the summit convened in Washington, Missouri's task force became the standard for other states to emulate in convening similar bodies. Louis W. McHardy, the National Council's Executive Director at the time, depended on Missouri's leadership. "With its firm beginning and foundation in Missouri," he says, the task force concept "expanded to nearly every other state and became a model for progress and reform."17

Collaboration with the National Council, the nation's oldest and largest judicial membership organization, was a natural fit because Missouri judges had assumed leadership roles in the organization ever since its founding in 1937. Three Missouri judges have served as president of the National Council — Judge Henry A. Riederer of Kansas City (1961-62), Judge John M. Yeaman of Platte City (1985-86), and Judge Ninian M. Edwards of Kirkwood (1991-92). Other longtime Missouri leaders in this influential organization include Judges R. Kenneth Elliott of Clay County and Frank D. Connett, Jr. of Buchanan County, both of whom maintained national visibility while serving on the juvenile court bench for decades. Active participation in the National Council by Missouri judges and other juvenile justice professionals has enabled the state to profit from the collective wisdom of other states concerning challenging juvenile justice issues. As the permanency planning summit conference illustrates, Missouri has also influenced the National Council's ongoing efforts to effect meaningful nationwide reforms.
The House Committee on Children, Youth and Families

In 1983, Missouri's House of Representatives created perhaps the nation's first standing legislative Committee on Children, Youth and Families. Kaye H. Steinmetz, a leading child advocate in the House from 1976 to 1992, became the committee's first chair. She recalls that committee members from both sides of the aisle began immediately to "put the needs of kids first and make life better for children who have a hard life." Former Representative Mary C. Kasten, another active committee member, agrees.18

Before long, Missouri's new House committee was advancing significant legislation and developing expertise in children's issues, including ones vitally affecting the juvenile court. With encouragement from the National Conference of State Legislatures, other states followed Missouri and created standing legislative committees of their own, sometimes with advice and assistance from chair Steinmetz and other members of Missouri's committee.

Family Courts

When juvenile courts convened in the earliest years of the twentieth century, some voices questioned why these new tribunals should adjudicate children's cases—delinquency, abuse and neglect, status offenses and (in many states) adoption—but not other cases central to troubled families. Piecemeal justice, they said, disserved the best interests of children, families and the court system alike. In 1913, Harvard Law School Dean Roscoe Pound pictured "the juvenile court, passing on the delinquent child; a court of equity, entertaining a suit for divorce, alimony, and the custody of children; a court of law, entrenching an action for necessaries furnished an abandoned wife by a grocer; and the criminal court or domestic-relations court, in a prosecution for desertion of wife and child."19

In 1917, the National Probation Association urged creation of family courts with broad jurisdiction over most questions affecting distressed families. Four years later, the General Assembly created St. Louis City's Domestic Relations Court as two divisions of the circuit court. The two divisions handled all cases of divorce, separate maintenance and marriage annulments; all cases arising under the juvenile court act; and all cases arising under the child labor and compulsory education laws. Trials were informal and often held in chambers rather than in open court. In 1922, a St. Louis domestic relations judge reported that because the divisions' proceedings were closed to the public, "scandalous disclosures" common in the day's celebrated divorce trials already were
"kept from the press and the curious, scandal-loving individuals who were in the habit of attending hearings . . . for sordid motives."20

Discussion about family courts continued nationally and in Missouri legal circles. The Missouri Committee for the 1970 White House Conference on Children and Youth strongly recommended creation of family courts in the state's largest jurisdictions. In 1972, the Missouri Law Enforcement Assistance Council said family courts would "permit the bringing together of all domestic relations problems using all of the court's resources." In many circuits, Missouri's juvenile courts already acted like family courts by taking a "total approach" to a child's problems, even without family court legislation. Judges would seek to serve the best interests of a child referred for delinquency, for example, when it appeared that the child was also a victim of abuse, neglect or other family dysfunction.21

In 1993, the Missouri Task Force on Gender and Justice announced its firm support for family courts. In its statewide survey of lawyers, judges and court personnel, 66% of responding attorneys and 61% of responding judges said they believed family courts would improve justice. The Task Force stated that creation of family courts "would not only be an important, symbolic confirmation of the courts' central role in matters relating to the family, but also would insure that members of the judiciary, with a long-term interest and specialized expertise in matters relating to the family, would be assigned to the family law area."22

Calls for family courts have met firm resistance in a number of other states, but these specialized tribunals have become a reality in Missouri. With the support of the Missouri Judicial Conference and the House Committee on Children, Youth and Families, the General Assembly in 1993 created family courts in seven judicial circuits (those encompassing the City of St. Louis and Clay, Callaway, Boone, Jackson, St. Louis and Greene counties). The legislation also permitted family courts in other circuits that chose to create one by local rule.23

By establishing family courts in the largest circuits and permitting local choice elsewhere, Missouri maintains a flexible system of juvenile and family courts, grounded largely in local perceptions of local needs and practices. According to Chief Justice Ann K. Covington, the 1993 family court bill sought to "encourage specialization within the larger circuits" by having the same judge, working with social service agencies and other professionals, oversee a case for as long as it was in the system. Smaller circuits determine for themselves the most efficient and effective way to treat troubled children and their families.24

As Chief Justice Covington reported, the family court is grounded in the "one family, one judge" concept. Missouri's family courts decide not only actions
within the four traditional juvenile court categories, but also a wide range of other actions central to family life, including domestic relations cases, actions to establish the parent and child relationship (notably "paternity suits"), support actions, and adult abuse and child protection actions. Troubled children often come from troubled families, and frequently the juvenile justice system can provide effective treatment most efficiently when one tribunal responds to all related domestic dysfunction. Families and the judicial system save time, effort and resources when one judge remains abreast of the family's circumstances and resolves all family-related matters. The judge develops an intimate understanding of the family over time. Children and other family members are spared the ordeal and frequent embarrassment of appearing in multiple courts that determine frequently interrelated factual and legal issues.  

Guardian Ad Litem Standards

Before Gault, Congress and state legislatures paid scant attention to representation of children in juvenile court. As states awakened to the need for representation, the federal Child Abuse Prevention and Treatment Act of 1974 (CAPTA) appropriated funds for child protective agencies in states that enacted legislation assuring every child a guardian ad litem in child welfare proceedings. CAPTA's mandate did not require that GALs be lawyers, and Congress later amended the act to specifically allow courts to appoint lay persons.  

As of 2002, sixteen Missouri circuits (covering forty-three counties) use trained lay volunteers, rather than lawyers, to represent abused and neglected children. These volunteers—Court Appointed Special Advocates, or CASAs—are screened and then trained by local judges, lawyers, juvenile officers, social workers and other professionals in the field.  

The CASA program began in 1977 in Seattle and spread quickly from coast to coast. The American Bar Association endorsed the combined use of CASA volunteers and lawyers for children in abuse and neglect cases in 1989, and the federal Victims of Child Abuse Act of 1990 provided funding for CASA programs. The Missouri statutes formally recognize these volunteers, and the General Assembly has created the Missouri CASA Fund administered by the Office of State Courts Administrator. The fund holds all moneys appropriated to support CASA programs, and all moneys provided by federal or private sources.  

Missouri's CASA programs follow two models. Some circuits follow the "friend of the court model," which has CASA volunteers serve as non-party impartial observers, without the right to present a case or examine or cross-examine witnesses. The CASA conducts the court's investigation but speaks in
court only when called as a witness by the parties or the judge. The court appoints a lawyer guardian ad litem early in the proceedings, and often appoints the CASA only after adjudication and before disposition. The CASA acts as a factfinder, and then monitors the court order and facilitates compliance by all parties.

Under the “CASA as party model,” the CASA is a party appointed by the court as the child’s guardian ad litem. The CASA investigates the facts by interviewing all persons involved in the case and reading the case record. The CASA may prepare petitions and motions, submit evidence, and subpoena and cross-examine witnesses. The CASA makes recommendations to the court concerning the child’s best interests, monitors court orders to assure compliance and recommends modifications necessary to meet changed circumstances.

In 1996, the American Bar Association adopted Standards of Practice For Lawyers Who Represent Children in Abuse and Neglect Cases. As the name indicates, the ABA Standards apply only to lawyers who serve either as children’s counsel or as guardians ad litem. At the urging of the Missouri CASA Association and the Missouri Juvenile Justice Association, Missouri became the first state to fashion standards that speak to lawyer and nonlawyer GALs alike. Once the state Supreme Court approved the new standards in September of 1996, other states began using Missouri’s standards as a pattern.

Missouri’s standards specify that only licensed Missouri lawyers or, when authorized by law, CASAs sworn in as officers of the court may serve as children’s guardian ad litem in juvenile court, family court and domestic relations proceedings. The GAL must be guided by the best interests of the child and must exercise independent judgment on the child’s behalf. In this respect, the GAL’s role is distinct from that of a lawyer for the child, who represents the child’s preferences.

Missouri’s guardian ad litem standards reflect the indispensable role of CASAs in assuring vulnerable children competent representation: “The guardian ad litem should relate to the child according to the child’s stage of development and understand the child’s sense of time in relation to his or her age. The guardian ad litem should conduct regular face-to-face meetings with the child, which allows the guardian ad litem to observe the child’s physical, mental, social, educational and familial well-being and to form opinions concerning the underlying case of any developmental disturbances the child may exhibit. . . . The guardian ad litem should meet with the child in the child’s placement as often as necessary to determine that the child is safe and to ascertain and represent the child’s best interests.”

To reduce trauma to the child, Missouri’s standards specify that the GAL must explain the court’s processes to the child. The GAL must represent the child’s best interests at all proceedings, make recommendations to the court