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# Parental Involvement in Juvenile Justice: Prospects and Possibilities

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## Background Briefing Report

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# Parental Involvement in Juvenile Justice: Prospects and Possibilities

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## Background

In their National Center for Mental Health and Juvenile Justice research brief on involving families in juvenile justice, Osher and Hunt (2002) state, “the successful rehabilitation of youth in the system, and their sustained reintegration into the community rely upon the mutual support of juvenile justice systems and families in the accomplishment of their goals” (p.4). Education, mental health and social services systems increasingly promote parental involvement in their children’s system experiences, presuming that parents are key to the system’s goals for that child. The juvenile justice system has also turned its attention to the multiple ways in which parents can and should be involved in the justice process. Historically, the system has emphasized the importance of parental involvement in treatment and rehabilitation efforts. Yet, parents have been treated ambivalently by the system, sometimes as the cause of juvenile crime and sometimes as the cure (Platt, 1977). In fact, the legislative approach to parental involvement has focused almost entirely on parental responsibility through the use of sanctions, which is only one approach to parental involvement as a whole.

This brief provides an overview of the legislation and research on parental involvement in juvenile justice with particular attention to Washington, DC, Virginia and Maryland. We discuss the applicability of what has been learned in the field of education and consider potential barriers to parental involvement. We conclude with recommendations and future directions.

### Parental Involvement in Juvenile Justice

In dealing with youth delinquency cases, the juvenile justice system (JJS) has the unique challenge of balancing the interests of the child with the autonomy of the family and the goal of public safety. All three entities (the child, the family and the state) have a legal interest in how the process unfolds (Davis, Scott, Wadlington, & Whitebread, 1997). As in other areas, the law assumes that parents and children share the same goals, or interests, and therefore conceptualizes the role of the parent as a guardian and advocate. Unfortunately, parents often receive little guidance as to how they can effectively participate in the JJS process and few accommodations are made to include them. These practical barriers undermine parental efforts to become constructively involved in the system process.

One of the main barriers to establishing best practices or criteria for involving parents is the lack of a systematic approach. The lack of a systematic policy approach stems in part from the fact that juvenile justice systems are state entities and in part from the fact that policies and practices are implemented on an individual court level. There is no national body governing and no overarching philosophy dictating how parental involvement should be promoted. While this allows for flexibility and innovation, it mitigates against the establishment of common practices and the flow of information across systems. Thus, the way a system deals with parents often depends on the resources and philosophy of each individual court. It seems more likely that we would see courts reaching out to

families in jurisdictions with greater resources and a larger menu of programs targeted towards the rehabilitation of youth and involving families as well as the manpower to educate and seek participation from parents. Similarly, those that have a more rehabilitative rather than punitive focus may place more emphasis on involving parents. The potential for variation within as well as across states is huge.

Another unique element of parental interaction with the juvenile justice system is the potential for an adversarial relationship to develop between the parent and the state. Unlike with education or mental health, parents involved with the JJS may not share the same interests or have the same ultimate goals as the state. Since the era of due process reforms in the 1960s, the courts have approached parental involvement from two conflicting perspectives. In theory, the JJS perspective on parental involvement in the justice process is that parents should act as a guardian and advocate for their children and be involved to protect their children's rights, based on the assumption that children have not yet developed the capacity to proceed through the justice process on their own. Yet, at the same time, the court has viewed parents as a cause of juvenile delinquency arguing that it is the parent's responsibility to monitor and prevent youth from engaging in delinquent acts. In response to this, almost all states have implemented laws that hold parents liable for the delinquent acts of their children (Davies & Davidson, 2001; National Criminal Justice Association, 1997). In most jurisdictions, this is the main and sometimes only way that legislation directly addresses the issue of parental involvement. Ultimately, the court can proceed without parental involvement because a delinquent act is technically committed against the state, which has the authority to respond within the bounds of due process. Clearly, parents and the family are a critical component of any response to delinquency, but in practice the state and parents may be unsure how to engage each other constructively in this process.

### Barriers to Parental Involvement

Parents may be ambivalent about court involvement for a variety of reasons. Parents who see the system as intrusive and unnecessary will likely interact with the court in a more adversarial way than parents who see it as an avenue to needed services. Even for parents predisposed to involvement in the court process, a variety of factors can impede positive engagement by parents. One obvious example would be a language barrier. If parents do not speak English and the court does not make provisions for non English-speakers, parents may see interaction as very taxing if not impossible. Osher and Hunt (2002) identify both family- and system-level factors that serve as barriers to parental involvement including a lack of knowledge and/or resources to understand and participate, parental health or mental health needs, and a lack of a clearly defined role for family participation. In addition to these, through in-depth interviews and observations with judges, attorneys, probation officers, and court clerks in various parts of the country, the research team from the American Bar Association Center on Children and the Law uncovered the following factors as potential barriers to participation (Davies & Davidson, 2001):

- Judges' lack of statutory authority to order parents to participate.

- Work schedule conflicts and inability to take time off.
- Lack of transportation – for parents and children.
- Insufficient notice of the hearing.
- Lack of good parenting skills.
- Parental apathy toward dealing with their children.

In addition to the challenges they may face becoming involved with the juvenile justice process, parents are confronted with the possibility of being held legally responsible for the delinquent acts of their children and their inability to prevent them. We turn now to a discussion of parental responsibility legislation with an in-depth look at Virginia, Maryland and Washington, DC.

## State Legislation

### *Overview*

Renewed attention to parental responsibility in the 1990s grew out of a pressing need to deal with the increase in juvenile arrests for violent crimes (Graham, 2000; Scarola, 1997), which peaked in 1994 (Snyder, 2003). Beginning in 1995, a number of states implemented laws that held parents responsible for their children's crimes through a variety of methods including requiring them to pay for court fees and face serious consequences, even jail time, for failing to adequately supervise their children (Samborn, 1996). As Davies & Davidson (2001) summarized, legislation in every state outlines four mechanisms through which parents can be held responsible: 1) mandated procedural and substantive participation in court proceedings, 2) criminal penalties for the delinquent acts of the minor or their contribution to those acts, 3) penalization for failing to send their children to school and 4) civil liability for the torts of a minor.

Despite their widespread existence, parental responsibility laws continue to be somewhat controversial (Dimtris, 1997) and it remains unclear how often they are used, particularly those that impose punitive sentences (i.e. jail time). Proponents of the legislation argue that parents have the capacity to influence their children's behavior, that parental responsibility laws will ultimately save the government money that would be spent on housing incarcerated youth, that parents do have a certain responsibility to control their children, and that the government is faced with few viable alternatives. Opponents contend that parental responsibility laws are unconstitutional, difficult to enforce, divert funds for education and family support to prosecution, disproportionately affect women, and further burden struggling families, potentially taking away from the time parents have to spend with their children. Unfortunately, we have little if any data to determine the extent to which these laws are effective or even the extent to which they are being implemented. Though many parental responsibility laws have withstood constitutional scrutiny (Cahn, 1996), evidence suggests that they are rarely used in court (Davies & Davidson, 2001; Laskin, 2000; Scarola, 1997). The little evidence we have regarding their effectiveness is contradictory; some argue that they have done little to reduce juvenile crime (Chapin, 1997; Scarola, 1997) while others suggest that they have served as positive deterrents (Graham, 2000).

Although they are clearly a minority, it is important to note that a few states do explicitly provide for positive parental involvement. In their 2001 summary, Davies & Davidson identify two states that provide job protection for parents who miss work for a court related obligation (NC, NV), and two states that provide some other form of assistance for parents of juvenile offenders (SC, FL). South Carolina courts have the power to offer economic assistance such as food stamps while Florida courts can order services such as parent aid parent training for parents of justice-involved youth. The authors also note that quite often provisions are made for parental decision-making in diverted cases. Youth who are first-time offenders or have committed less serious offenses are often diverted out of the justice system to programs catered towards rehabilitation. Successful completion of a diversion program is often marked by a youth avoiding further court involvement. In almost every state, parents must agree to proposed diversion programs before juveniles can participate in them though the authors further acknowledge that most states impose the financial burden of such programs on the family.

States generally agree that parental responsibility is an important issue that must be addressed legislatively, yet there is extensive variation in the nature and scope of the approach to the issue. In this brief we have chosen to focus on our two neighboring states, Virginia and Maryland, as well as to outline the ongoing discussion on this topic within the Washington, DC City Council.

#### *Virginia and Maryland*

Virginia and Maryland address parental responsibility through state legislation. A review of each state's code indicates that both states employ parental responsibility in the areas of law addressed above, civil liability, criminal law, compulsory attendance and participation in juvenile court proceedings.

Both Maryland and Virginia have civil liability laws regarding juveniles, but Maryland allows larger damages to be assessed (up to \$10,000). Virginia also allows damages for permitting a minor under fifteen who is negligent from operating a motor vehicle.

In Virginia, one of the directives under the purpose and intent of the juvenile court system is to “emphasize parental responsibility and provide community-based services for juveniles and their families which hold them accountable for their behavior” (VA Code §16.1-309.2). The Maryland State Code lists as one of its purposes “to hold parents of child found to be delinquent or in need of supervision responsible, where possible, for remedying the circumstances that required the courts intervention” (MD Code CJ §3-8A-02).

Both states outline the responsibilities of parents regarding participation in programs and treatment, financial costs of services and attendance of court-related events. Juvenile court judges in Maryland and Virginia have the statutory authority to order parents to participate in programs, treatment and other rehabilitative services. Virginia may also order a parent who does not live with the child to participate in such services. The Maryland State Code specifies a holistic treatment service plan, with an evaluation of the child, child's family, environment, etc. and lists elements the plans must include. Both

states hold parents responsible for some costs. Maryland parents may be held responsible for the entire or partial court costs related to the case of as well as costs of supporting the child in the event that he or she is committed to the state. Virginia on the other hand holds parents liable for the cost of physical or mental examinations or treatment services; if the parent cannot pay, the Commonwealth covers the cost. Virginia will fine parents for noncompliance with treatment while in Maryland noncompliance is noted but fines are not imposed. Both states have compulsory attendance laws, but Virginia may order parents to participate in program designed to rehabilitate the parent and child. Both states fine parents for violation of the law, though in Maryland, a parent could also be imprisoned for up to 30 days.

#### *Washington, DC*

The Washington, DC City Council recently reassessed the issue of parental involvement in juvenile justice proceedings. The Omnibus Juvenile Justice Amendment Act of 2004, currently under consideration by the Council, includes several provisions to increase parental participation and accountability as part of a broader set of juvenile justice reforms. Councilwoman Kathy Patterson, in a report to Council members stated that the bill is “intended to strengthen the juvenile justice system by effectively balancing the competing concerns of the protection of public safety and the rehabilitation of juvenile offenders,” in part by “ensuring the greater accountability on the part of youth, parents, and caretakers.” This legislation is discussed in more detail later in this briefing paper.

When the Council did not successfully pass the Omnibus bill in the summer of 2004, parental involvement provisions were included in the Juvenile Justice Emergency Act of 2004; emergency legislation that immediately implemented a few key provisions of the Omnibus bill. The emergency amendments were enacted on July 19 of this year.

Section 2325.01 in chapter 23 of Title 16 of the DC code originally read:

- a) In any proceedings under this chapter, the court may enter an order specifically requiring a parent or guardian to participate in the rehabilitation process of a juvenile, including, but not limited to, mandatory attendance at a juvenile proceeding, parenting class, counseling, treatment, or an education program.
- (b) The court may, when the court determines that it is in the best interests of the child, issue an order applicable to a parent or guardian of a child and the person with whom the child resides, if other than the child's parent or guardian. The order shall require the parent or guardian and the person with whom the child resides, if other than the parent or guardian, to be present at any juvenile proceeding or court ordered program concerning the child.
- (c) A person failing to comply with an order of participation without good cause may be found in civil contempt of court.

The amended version now enacted reads as follows (emphasis added):

a) In any proceedings under this chapter, the court *shall* enter an order specifically requiring a parent or guardian to participate in the rehabilitation process of a juvenile, including, but not limited to, mandatory attendance at a juvenile proceeding, parenting class, counseling, treatment, or an education program, *unless the court determines that such an order is not in the best interest of the child.*

(b) The court *shall*, when the court determines that it is in the best interests of the child, issue an order applicable to a parent or guardian of a child and the person with whom the child resides, if other than the child's parent or guardian. The order shall require the parent or guardian and the person with whom the child resides, if other than the parent or guardian, to be present at any juvenile proceeding or court ordered program concerning the child.

(c) A person failing to comply with *an order issued under this section* without good cause may be found in civil contempt of court.

In the Omnibus bill, this same language is included in Section 1101, titled the Parental Participation and Accountability Act of 2003. In addition, this section would require parents or guardians to submit to drug testing and require participation in a drug treatment program if tests indicate drug use. The bill also amends section 2305 of the code to add a provision requiring the Child and Family Services Agency to open a neglect investigation against parents and guardians after the third delinquency petition filed against a child 13 years of age or younger. Further, if a parent or guardian fails to participate as mandated by the court, the Office of Corporation Counsel, the agency invested with prosecutorial authority, may open criminal proceedings against him or her.

At public hearings on the Omnibus Juvenile Justice Amendment Act of 2004, held in January of this year, several witnesses expressed concern and opposition to these provisions in the bill. Kristin Henning of the Georgetown Juvenile Justice Clinic at the Georgetown Law Center argued that parents who are charged under this new law may become resentful of their children, which would negatively impact the child's rehabilitation. Deborah Luxenberg and Michael Hays of the Council for Court Excellence testified that their organization opposes sanctions on parents because they will "further harm and arbitrarily punish poor families."

Testifying in favor of the legislation, Robert Spagnoletti, Corporation Counsel of Washington, DC, argued that parental participation is necessary for successful treatment and rehabilitation of juvenile offenders and that the provisions of the bill would increase this participation. Patricia Riley, Special Counsel to the United States Attorney, also testified in favor of the legislation, stating that parental participation is one of the most important factors affecting the successful rehabilitation of a juvenile.

The Omnibus Juvenile Justice Amendment Act was voted on and recommended by the City Council's Committee on the Judiciary on June 22, 2004. The Council is scheduled to vote on final passage of the bill on November 9, 2004.



## Research: The ABA Project

To address the lack of data on parental involvement, researchers from the American Bar Association Center on Children and the Law and the Consortium on Children, Families, and the Law undertook a broad study using multiple methods and information sources (ABA Center on Children and Law, 2001). Authors Howard Davidson and Heather Davies provide information on the practices of juvenile courts and probation departments across the country and recommend ways to increase the quantity and quality of parental involvement in court proceedings. The researchers gathered data using a variety of methods: a national mail survey of judges and probation officers, in-depth telephone interviews with judges and probation officers, on-site data collection and observation in six juvenile courts in three regions of the country, and a careful review of state laws addressing parental responsibility in juvenile delinquency cases.

### *Results*

Despite the lack of data, most juvenile court judges and probation officers surveyed by the ABA researchers believed there should be more parental involvement in delinquency proceedings and probation. Sixty-two percent of judges and 55 percent of probation officers responded that fathers should ‘usually’ or ‘always’ be more involved in their child’s delinquency proceedings. Fifty-five percent of judges and 57 percent of probation officers responded that mothers should ‘usually’ or ‘always’ be more involved in their child’s juvenile court proceedings.

When asked *why* they felt parents should be more involved in their child’s delinquency proceedings, judges and probation officers provided a number of reasons. Some of the most notable explanations cited:

- The relationship between the parent(s) and the child often contributed to the child’s delinquency. Unless this underlying issue is addressed, the child will continue having difficulty. Greater parental involvement can improve the parent-child relationship, or highlight the conflict so that the appropriate services can be provided to the family.
- The custodial parent may be able to provide important information about the child’s behavior that can assist judges and probation officers in conducting assessments and developing probation plans.
- Meetings with both parents can aid them in compromising and coming to agreement on discipline and other child rearing issues. This can improve their joint parenting skills.

One of the simplest measures of parental involvement in a child’s delinquency case is whether a parent attends court hearings. The survey response from juvenile court judges indicates that approximately two-thirds of parents ‘usually’ or ‘always’ attend their child’s first delinquency hearing. The majority of judge respondents also stated that a parent appeared at a juvenile delinquency hearing between 80 and 90 percent of the time. Davidson and Davies note the importance of a parent’s presence:

“Parental attendance is crucial at juvenile delinquency hearings, especially because judges may be reluctant to, or prohibited from, proceeding with a hearing if no parent of the juvenile, or other responsible adult caretaker, is present in court.” (p. 29)

The juvenile probation officers surveyed provided similar feedback regarding parental attendance at probation meetings. Two-thirds of respondents stated that a parent attended the meeting between 90 and 100 percent of the time.

When asked their opinion as to why parents did not attend court hearings, the judges and probation officers surveyed cited intentional choices by the parent (refusal), practical barriers (e.g. conflicts with work schedules, lack of transportation, and parental incarceration), and court issues (giving notice of the hearing or meeting and inability to locate the parent).

Survey respondents indicated a number of ways that courts and probation departments try to encourage parents’ attendance at hearings and meetings. These included sending written materials to the family’s home, court issuance of a legal process to compel parental attendance, phone calls from the court to inform parents of a scheduled hearing, making home visits prior to hearings and meetings, holding absent parents in contempt of court, and having court officials or probation officers bring the parents to the hearing or meeting.

Judges and probation officers cited similar measures when asked *how* they attempt to increase parental involvement. These included:

- Using court orders, summonses and subpoenas to explain the importance of attendance at hearings and meetings.
- Scheduling hearings and meetings during “non-traditional” hours to accommodate parental work obligations and transportation needs.
- Providing language interpreters for parents with limited English speaking ability.
- Asking parents for input and information about their child during hearings.
- Using sanctions, such as fines or incarceration, when parents were found in contempt of court.

Judges and probation officers were asked specifically about the use of sanctions and if they believed sanctions should ever be imposed on a parent. Respondents reported a range of sanctions used by their respective courts and probation departments, including payment of restitution to the victim of the child’s crime, payment of court or detention costs, parental incarceration, imposition of monetary fines, and parental community service. When asked if they believed sanctions should be imposed on a parent, 46 percent of respondents stated that it depended upon the particular circumstances of the case and the family. The arguments in favor of parental sanctions included:

- Believing that sanctions can contribute to increased parental participation in delinquency proceedings.

- Believing that by improving attendance and participation in therapies, sanctions can aid family rehabilitation.
- Noting that sanctions can be imposed on parents when they fail to cooperate with court orders or probation contracts (rather than as punishment for their child's delinquent offenses).

Respondents also cited several reasons for disagreeing with the use of sanctions against parents:

- Reluctance on the part of judges to sanction parents because they often feel they lack clear statutory authority to do so.
- A belief that parental sanctions can impose financial hardships on families that are often already struggling.
- A belief that courts should support and encourage parents rather than punish them.
- A belief that the child may be solely accountable for the delinquent offense. If so, many respondents felt that sanctioning parents would be unfair.
- A belief that parental sanctions may disproportionately affect minority and poor families.

#### Parental Involvement in Education: What We Can Learn

The ABA project represents a huge leap in our understanding as it provides the only empirical work thus far on parental responsibility and involvement in juvenile justice. Two important findings can be gleaned from this work: 1) judges and probation officers think that parents should be more involved and 2) they are somewhat reluctant to use sanctions for a variety of reasons, one of which is the belief that the court should take a more proactive, encouraging approach to involving families. If courts want to increase family participation but view legal sanctions as a last resort, perhaps the menu of alternative approaches should be reconsidered. Although the juvenile justice system is unique among most systems in its potential for coercive sanction, other systems that share the goal of parental involvement may have something to offer. In particular, the field of education has the most extensive research base on parental involvement and shares some important similarities with juvenile justice. First, increasing family involvement is a goal in both systems. Second, in both systems parents have the opportunity to advocate for their children. Third, parents in both systems face similar barriers, including a language barrier and a lack of procedures and training for reaching out to families (Center for Public Policy Priorities, 1999).

Research on parental involvement in education has uncovered some intriguing and helpful findings. First, parental involvement is positively related to achievement; the more involved a parent is, the greater the child's educational achievement (Cotton & Wikelund, 1989). Yet, it also shows parental involvement is complex and not solely defined by participation in events on school grounds (Finn, 1998). It appears that living in a home in which parents monitor and organize time and talk about school-related issues is more important than having parents who attend school functions and are

actively engaged on school grounds. This finding has interesting implications for juvenile justice and would suggest that compelling attendance at court proceedings may not be the most productive method of achieving active engagement. A second interesting finding is related to parent training, which is positively associated with student achievement, (Cotton & Wikelund, 1989). Programs that have intensive training components do not produce larger gains in achievement than less intense programs, and struggle with keeping parents involved and engaged. This is an important consideration to keep in mind when designing juvenile justice interventions.

Finally, a number of recommendations regarding culture and communication may translate well from education to juvenile justice. The National Staff Development Council offers an excellent summary in their online discussion of family involvement in education that could be easily translated to the justice system:

“Teachers who establish partnerships with the families or other caregivers of their students must understand the cultural backgrounds of their students and the unique challenges those families may be experiencing. Teachers must be able to communicate clearly and respectfully with family members and demonstrate a genuine interest in the welfare of the child and family. They must be skilled in conducting meeting with caregivers that create a sense of teamwork between the home and school as well as delineate appropriate and manageable ways for providing support for a student’s learning at home. In addition, teachers must demonstrate sensitivity to ways in which caregivers may be most appropriately involved in schools...” (NSDC, 2004)

### Conclusions and Future Directions

Advocates, legal professionals, and researchers tend to agree that parental involvement in the juvenile justice process is a goal that should be promoted. Key juvenile justice system personnel support this approach (Davies & Davidson, 2001) and research from related domains suggests they are correct (Cotton & Wikelund, 1989). It also appears that parents face a series of barriers to involvement including a lack of knowledge and resources to affect the system. In their final report, Davies & Davidson (2001) note that parenting education programs are not common, that resources to assist parents are inadequate and that courts rarely implement innovative efforts to engage parents. The authors make a number of recommendations that would positively promote involvement, only a few of which are highlighted below:

- Make a new institutional commitment within the juvenile justice system to the involvement and inclusion of parents in the process.
- Increase funding to juvenile justice agencies to enhance parental involvement.
- Provide funding for pilot programs that support greater parental involvement in juvenile court proceedings.
- Identify and implement creative mechanisms for encouraging parental attendance at court hearings and probation meetings.

- Consider filing child neglect petitions in cases where parents where parents show extreme antipathy toward their child, when there has been severe failures of parental supervision.
- Recognize and address the situational barriers that prevent parental involvement. Hearings and meetings might be held I evening hours to accommodate parent work schedules. Courts and probation officers should consider providing transportation and child care assistance to families.
- Revise state codes to provide explicit legal authority to judges and probation officers to compel parental involvement.

In their research brief, Osher & Hunt (2002) offer more specific guidelines for involving parents at various points in the justice process including immediately contacting and explaining the steps of the process to parents at the time of arrest, make sure that parents understand and have the resources they need to attend any court hearings, and consult with families and inform them about their opportunities to advocate for their child.

It appears that practitioners are taking these recommendations seriously and, despite the dearth of empirical evidence, are moving ahead with plans to reach out to parents. For example, in October of 2001, 125 professionals and parents attended a summit at the University of Richmond School of Law to discuss the state of children with disabilities in the juvenile justice system. One of the five areas of focus was titled, “Family Partnerships: What are the possibilities and opportunities for parents to be effectively involved on behalf of their children in the Juvenile Justice System” (Karp, 2002). The main finding of those working together in this area was that getting information to families is the key to effectively engaging parents. In that spirit, a Charlottesville, VA based project called JustChildren, headed by Andrew Block, has recently published a manual for parents that is “designed to give parents a general understanding of their children’s rights to receive financial assistance, medical assistance, and educational services...[as well as] explain a child’s rights in relation to disciplinary actions at school, encounters with the police, and confinement in detention facilities.” It provides a comprehensive, useful reference for parents with children in need and is a prime example of the effective implementation of a positive, proactive approach to increasing parental involvement. For a more thorough discussion of available materials, the American Bar Association provides a very useful list of resources for parents on their website: <http://www.abanet.org/crimjust/juvejus/parents.html>.

These are just a few examples of the efforts to promote parental involvement. They serve as evidence that the recommendations previously discussed are being implemented already and offer hope that court systems will continue to focus attention on proactively engaging families in the justice process. As advocates for their children, parents and families are central to both the prevention of delinquency and the rehabilitation of wayward youth. The increased attention to involving them in the justice process can only result in a more effective system in the future.

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