

# A Positive Youth Justice System



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## Executive Summary

Overwhelming evidence shows that involvement in the juvenile justice system in and of itself produces negative outcomes for young people (Aizer & Doyle, 2015; Gatti, Tremblay and Vitar, 2009; Hart, 2013). If we were creating the juvenile justice system from scratch with the intention of developing youth, supporting families, not doing harm, restoring victims, and increasing public safety, it is unlikely that system would have any resemblance to what exists today. Such a system would be rooted in communities, based in restorative justice practices, and make significant investments in the youth, their families, and the communities in which they live. The National Institute for Criminal Justice Reform (NICJR) is working on the design of such a transformed system. In the meantime, we offer this paper as an enormous step in the right direction, a comprehensive examination of what a fully reformed juvenile justice system looks like in the current context.

When the first juvenile court was established in Chicago in 1899, its purpose was to create a system separate from the criminal court to meet youth needs rather than punish their acts (Bell, 2015). Since, the juvenile justice system in America has failed to fulfill this vision. Instead, it is plagued by high recidivism rates, it often causes further harm to youth, and it carries enormous costs.

In the past fifteen years, there have been tremendous reforms made in the juvenile justice system, primarily in the reduction of youth in custody. National reform initiatives championed and funded by foundations, local reforms led by system leaders, state reforms fought for by advocates have all culminated in a sixty-percent reduction in youth

incarceration in the United States. According to data collected by the federal Office of Juvenile Justice and Delinquency Prevention, from 2005 through 2014, the number of delinquency cases declined 42% throughout the country (OJJDP, 2018). According to this data, there are still more than 450,000 youth in the U.S. on probation or ordered to out-of-home placement by the juvenile court.

Even with these changes, the juvenile justice system is still in need of transformation. Every point along a young person's matriculation should change, from the initial engagement all the way through incarceration and re-entry. Across the system, there are proven models that jurisdictions can implement. There may not be a fully reformed, beginning to end model, but examples from places across the country can be used to understand how a real, Positive Youth Justice System operates.

In a phrase, the juvenile justice system can be successfully reformed if we Reduce, Improve, and Reinvest. Significantly reduce the size and the number of youth in the system; thoroughly improve the conditions and services provided and improve the outcomes of the small number of youth who remain in the system; and use the hundreds of millions of dollars in savings from a massive reduction in the size of the system to reinvest in the youth, their families, and the communities where they live. This paper sets forth ten steps to transform the current juvenile justice system into one that both protects public safety and improves outcomes for the young people it serves. The ten steps to develop a Positive Youth Justice System that reduces, improves, and reinvests are:

**“The juvenile justice system can be successfully reformed if we Reduce, Improve, and Reinvest.”**



**1 Strive to keep youth out of the system.** Only engage/provide supervision to the small fraction of youth who are a genuine risk to public safety.



**4 Community based organizations should take the lead.** Treat the system as a broker of services and a quality assurance mechanism, leaving direct case management and youth engagement to community-based organizations.



**7 Keep youth in their homes and communities.** Use out-of-home placement, which usually means large, privately operated residential facilities, only when a youth has been determined to be a genuine risk to public safety and/or their home is proven unsafe.



**10 Reinvest.** With a significant reduction in the size and number of youth in the system, use the hundreds of millions of dollars in savings to reinvest in youth, their families, and the communities in which they live.



**2 Collaborate with youth and families.** Develop youth case plans collaboratively with the youth and family, and share ownership of the plan.



**5 Don't lock youth up.** Use pre-adjudication detention sparingly and briefly, and only for youth who are a genuine risk to public safety.



**8 Incarceration is harmful.** Replace large juvenile prisons with small rehabilitative facilities close to home. Use incarceration after a youth's adjudication (court process) very rarely, and solely for youth who are a genuine risk to public safety, have been adjudicated for a serious offense, and the system has exhausted all community-based alternatives. When incarceration is necessary, use only small, rehabilitation and education focused facilities that are close to home.



**3 Build on strengths and address needs.** Provide services, supports, and opportunities to youth and families that build on their strengths and address their needs.



**6 Keep any probation time short.** Cap the length of supervision/probation at 10 months if the youth has not had a new arrest.



**9 Provide exceptional care.** If a youth is ordered to out-of-home placement or secure confinement, provide quality education, rehabilitation, treatment, and health care.

This paper offers a roadmap for reform at every step of the juvenile justice system. When county and state juvenile justice and probation systems employ these ten transformative steps, they will engage and incarcerate far fewer youth, reduce racial and ethnic disparities, accrue sizeable cost savings, and achieve improved youth outcomes.

# Developing a Positive Youth Justice System

The juvenile justice system in America has failed. There are the incomprehensible scandals: youth viciously beaten by guards in juvenile facilities, girls sexually assaulted by staff, and the “Kids for Cash” scheme where judges receive financial kickbacks for sending kids who had engaged in minor misbehavior to private lock-ups. While these incidents are salacious enough for headlines, it is the everyday ineffective, harmful, and excessively expensive system that is most egregious.

Numerous studies have found that involvement in the juvenile justice system alone, even while controlling for other factors, causes youth to have worse outcomes. One study that rigorously examined the effects of the juvenile justice system found that incarceration itself resulted in negative consequences for youth (Aizer and Doyle, 2015). The report states, “juvenile incarceration results in large decreases in the likelihood of high school completion and large increases in the likelihood of adult incarceration.”

Another study found that doing nothing with youth who commit delinquent acts resulted in better outcomes than placing youth in the juvenile justice system (Gatti, Tremblay and Vitar, 2009). The study went on to find that the more intensive engagement the system has with youth, the worse their outcomes.

Columbia University professor Dr. Carl Hart, in his groundbreaking book “High Price,” writes that, “Data shows that teens who are either not caught or are given non-custodial sentences for their crimes do much better in terms of employment, education, and reduced recidivism than those who are incarcerated or otherwise removed from the community.” (Hart, 2013)

In an interview on MSNBC discussing his federal juvenile justice reform bill, “Better Options for Kids,” Senator Chris Murphy (D- Connecticut) may have said it best: “It actually makes our communities less safe, not more safe, when you lock up kids” (MSNBC, July 1, 2014).

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**1** **Strive to keep youth out of the system.** Only engage/ provide supervision to the small fraction of youth who are a genuine risk to public safety.

Overwhelming evidence shows that involvement in the system in and of itself produces negative outcomes for young people (Aizer & Doyle, 2015; Gatti, Tremblay and Vitar, 2009; Hart, 2013). Accordingly, the juvenile justice system should seek to engage as few youth as possible, and should only engage youth whom unbiased assessments determine are of high risk to public safety. Prevention and diversion should be the goal, not the afterthought.

Police departments are the first point of access to the justice system, and can take steps to divert youth away from it. Police can informally counsel and release youth who are suspected of lower level offenses. They can also issue citations for youth to come to court or referrals to youth development programs instead of bringing youth to detention centers. Some jurisdictions have opened Community Assessment and Referral Centers, or CARCs, as alternative locations where police can bring young people arrested on suspicion of delinquency rather than admitting youth to detention centers.

CARCs are staffed with personnel trained on administering risk and also house representatives of service providers and community based organizations that can immediately enroll youth in needed services, supports, and opportunities.

For youth who have not been arrested for a serious or violent offense and who do not score high on a reliable risk assessment, the default decision should be to refer the youth to support from the CBOs and not to detention or further adjudication. Communities and diversion programs should also have the capacity to offer restorative justice as an alternative to formal adjudication in cases that may otherwise have led to probation or incarceration – including cases that are more serious.

Probation departments provide the next level of off ramps from the system. Most jurisdictions throughout the country give legal authority to probation departments to divert youth who have been accused of misdemeanor and low level felony offenses and who were referred to probation through citations or brought to detention by police (Models for Change Juvenile Diversion Workgroup, 2011). Probation departments can re-route these youth to the CARCs or develop their own referrals to service providers and/or a restorative justice process as an alternative to referring the youth to the district attorney for formal charging.

If probation departments do not divert youth pre-charge, they can and should still divert many youth after adjudication. Once a youth has been adjudicated and placed on probation by the court, the youth should receive an unbiased, reliable

<sup>1</sup> Restorative justice is a different approach to responding to violence and wrongdoing that addresses the needs of those harmed, and supports those who have harmed to understand their actions, take accountability, and grow. (See Zehr, 2002)

risk assessment and probation should not supervise or even engage youth who do not rise to the threshold of high risk of serious re-offense.

In California, the San Joaquin County Probation Department has a policy not to supervise youth who have been assessed as low risk. In accordance with evidence-based practice, even if the court places a low risk youth on probation, Probation will not actively supervise them. (San Joaquin County Probation Department)

It is also important that the risk assessment used does not co-mingle risk and need factors and thus lead to the engagement of youth who have significant needs, yet do not pose a public safety risk (National Juvenile Justice Network, 2013). Such youth should have their needs addressed, but not by the juvenile justice system.

In the past few years, there has been a growing body of research that shows that some risk assessments perpetuate the racial disparities that exist in the system. (W. Haywood Burns Institute, 2016). In addition to not co-mingling needs, risk assessments should have as few questions as possible and only those that have been validated on the local population to reliably predict future serious offenses. Such assessments should not include questions regarding youth attitudes or family background.

Additionally, probation departments must also be vigilant in gathering, sharing, and analyzing data on diversion decisions to make sure diversion is reducing and not exacerbating inequities in the system. In jurisdictions across the country, youth of color are more likely to receive harsher interventions at every stage of the justice system, resulting in grave disparities. Pre-charge diversion should aim to reduce disparities, by structuring decisions using unbiased, culturally appropriate assessment tools. Probation departments need to collect complete data and review it regularly to assure that they are meeting these goals, and to identify opportunities to address disparate trends.

If jurisdictions implement the above practices – including CARCs, objective risk assessments, diversion programs, and the use of other system off ramps that have proven to produce positive outcomes – there will be huge reductions in the number of youth in the system. This will allow the system to focus resources on youth who are a high risk to public safety and need more attention.

As discussed in detail later in this report, the funds saved from diverting many youth from an excessively expensive system should be reinvested into communities of concentrated poverty to help support youth and families in order to further reduce delinquency and support resiliency and success.



## 2 Collaborate with youth and families. Develop youth case plans collaboratively with the youth and family, and share ownership of the plan.

Most juvenile justice agencies currently develop case plans for youth with little to no input from the youth or family (Davis, Irvine, and Ziedenberg, 2014). Case plans are usually developed by probation officers (POs) who work in an “Investigations Unit,” and who are not the supervision POs the youth will have while on probation. These POs use information available to them in various reports and may have separate discussions with the youth and his or her family to determine the case plan that is submitted to the court. Once the court places a youth on probation, the supervision PO rarely uses the case plan that he or she was not involved in developing.

A Positive Youth Justice System would conduct detailed assessments of youth that remain in the system. Once an

assessment finds that a youth adjudicated for violating the law is a genuine risk to public safety and the young person is placed in the juvenile justice system, the system should administer needs assessments. These assessments point to the greatest needs of the youth, primarily in the areas of: family, education, employment readiness, drug treatment, mental health, and connection (e.g.: mentoring). The assessments should also include Adverse Childhood Experiences (ACEs) or trauma screening, to identify any trauma the youth has experienced that may have contributed to their behavior and have implications for service interventions (Center for Youth Wellness, 2015).

In addition to risk, needs, and trauma – the strengths and assets of the youth must be identified. Juvenile justice agencies rarely use asset assessments, but they should be central in developing each youth’s case plan. Our responses to young people are fundamentally different when we categorize them first by the ways that they are brilliant, resilient, and full of potential rather than by the sum of weaknesses and mistakes. (Ready By 21 Case Study, 2012).

Building from these assessments and any other evaluations that are on file for the youth, the PO or case manager should employ a youth and family engaged process to develop an individual case plan for the youth. Young people and their families are the best experts in their lives and experiences, and a collaborative approach will produce greater investment and more positive outcomes. The National Child Traumatic Stress Network underscored the vital role families play in an issue brief on family engagement in the juvenile justice system, noting:

“When families are viewed and treated as partners in both their child’s care and in the operations of the juvenile justice system itself, the child, the family, and the system benefit. The most effective interventions for youth in the justice system are those that engage families in a strength-based partnership” (Rozzell, 2013).

Family Group Conferencing is a model that the child welfare system has used to involve youth and their families in a group planning and decision making process (Rozzell, 2013). A few juvenile justice agencies around the country have begun to use such models. Washington, DC’s Department of Youth Rehabilitation Services (DYRS) develops and updates the case plans of

all youth committed to the juvenile justice agency through a Youth and Family Team Meeting. The 2012 DYRS Annual Report gives a detailed description of how these youth and family team meetings are conducted:

“With all the appropriate assessments in hand, a meeting is called with the youth, the youth’s parents or guardians, the youth’s DYRS Case Manager, and any other adults who are invested in the young person’s success. The group reviews the youth’s assessments, considers his or her strengths and key needs, and then develops an individualized plan that outlines ongoing supervision, services, supports and opportunities the youth will need to successfully transition to adulthood and to reduce the likelihood of reoffending.” (Otero & Stanley, 2013)

As part of the Sierra Health Foundation’s Positive Youth Justice Initiative (PYJI), the Vallejo, California Unified School District and the Solano County Probation Department developed case plans for crossover youth (youth on probation with a history of child welfare involvement) through the school district’s Student Success Team meetings. These sessions include the youth, their families, school staff, POs, and student advocates to determine the best plan of action to support the young person’s success. Through its work with PYJI, NICJR provided training to all juvenile probation officers in Solano County on Positive Youth Development.

To ensure a process that fully and fairly engages families, juvenile justice systems should contract with parent advocates or parent partner organizations. Families and youth not only deserve to be part of the case planning process, they hold the keys to its success.

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## 3

### Build on strengths and address needs. Provide services, supports, and opportunities to youth and families that build on their strengths and address their needs.

The case planning process described above provides youth and families a voice and sense of ownership, but is ultimately about identifying the services, supports, and opportunities that youth and families need to be successful. The product of a youth and family engaged planning process should be a plan that addresses the needs and builds on the strengths of the youth. That plan should then become the focus of the time the youth spends in the juvenile justice system.

**In most probation departments, the work between the youth and the PO is primarily based on “supervision” and “compliance” (Davis, Irvine, and Ziedenberg, 2014).** This supervision most often consists of infrequent check-in visits (once or twice a month) and drug tests. Due to high caseloads and finite resources, even the best POs are unable to have meaningful engagement with all of the youth on their caseloads. As noted in a 2014 report by Georgetown University, “Juvenile justice agencies continue to employ correctional, deficit-based approaches that rely heavily on imposing control over youth, rather than promoting their development” (Umpierre, Loughran, Bilchik, 2014). These approaches are harmful and counterproductive. Instead, individualized case plans should drive the work between the PO and the youth. The aim of the supervision period should be to achieve the plan’s goals.

Some jurisdictions are using asset-based case planning to guide their probation work. DYRS uses Individual Development Plans (IDPs) crafted in the Youth and Family Team Meetings as the case plans for youth in the system (Department of Youth Rehabilitation Services, 2011). The Alameda County Probation Department (Oakland, CA) uses Individual Achievement Plans (IAPs) for youth on probation (City of Oakland Department of Human Services, 2013). Both DYRS’s IDPs and Alameda County’s IAPs identify goals for youth in six developmental domains: Family Support, Education, Employment, Drug Treatment, Mental Health, and Connection (i.e.: mentoring). Then the POs identify the services, supports, and opportunities that will help youth achieve these goals.

This would in effect, change the job description of probation officers. Their responsibilities should primarily be to work with youth and their families to identify needs and strengths; connect the youth to community based servi-

ces like academic enrichment, employment opportunities, mentoring, recreation, cognitive behavioral therapy, family counseling and other supports; ensure the community based organizations are providing adequate services to the youth and family; and report back to the court on the progress.

In 2011, the New York City Department of Probation launched the innovative Neighborhood Opportunity Networks (NeONs) to provide people on probation with a connection to services and supports in the neighborhoods where they live. These client centered resource hubs have become a national model of how to transform probation practice.

“The NeON initiative prioritizes three core components of effective supervision: client engagement, network building with local organizations, and community engagement. By strengthening these components of



supervision, DOP (Department of Probation) anticipates that probation will be more useful for clients and improve their long-term outcomes while transforming the culture of DOP and enriching the roles of probation officers.” (McGarry, Yaroni and Addie, 2014).

In an interview discussing NeONs, Vincent Schiraldi, the Commissioner of New York City’s Probation Department and former Director of DYRS in DC, said, “In the past, too much focus has been put on compliance, now we’re looking at ways we can change that, focus more on clients’ needs, and connect them to resources that will continue to benefit them after we’re out of their lives.” (as cited in Kramer, 2012)



**4****Community based organizations should take the lead.**

Treat the system as a broker of services and a quality assurance mechanism, leaving direct case management and youth engagement to community-based organizations.

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*(Otero & Stanley, 2013).*

A goal of the juvenile justice system must be that youth successfully complete supervision as soon as possible. But when supervision ends, a youth’s connection to services, supports, and opportunities in the community should not end with it. Youth should be connected to meaningful and lasting relationships in their communities. To achieve this, community based organizations (CBOs) – ideally run by and for members of the communities that youth come from – should be the primary providers of direct services to youth in the system. The government agency can provide oversight, broker services and conduct quality assurance.

In 2009, DYRS in Washington, DC, contracted with two “Lead Entities” to administer Regional Service Coalitions, an alliance of CBOs that are responsible for resourcing the Individual Development Plans of each youth committed to the Department. In 2011, the Department enhanced the initiative and renamed it DC YouthLink.

In its 2011 Annual Performance Report, DYRS shared that it “built DC YouthLink based on our belief that neighbors and the community are often far better suited and more successful than government agencies at helping court-involved youth succeed in the community” (Otero & Stanley, 2013). Indeed, youth excel most with the support of their families and communities, not when supervised by probation officers or confined in youth prisons.

The comprehensive transformation of the Wayne County (Detroit), Michigan juvenile justice system inspired the DYRS YouthLink model. Wayne County decided to stop sending youth to the state system, and launched a coalition of community service providers to assume the responsibilities of supervision and services for adjudicated youth. This allowed Wayne County to phase out government employed Probation Officers and instead administer a neighborhood based system of CBOs. Between 1998 and 2010, the number of Wayne County youth in state training facilities dropped from 731 to two (Wayne County Children & Family Services, 2009). In that time, recidivism rates fell from 56 percent to 16 percent. Costs also plummeted. The county estimates that it diverted 5,000 youth since the reform effort began (National Association of Counties, 2014).

In an overview of its reforms, Wayne County’s juvenile justice system states that their “new model’s commitment was to treat each individual youth as a person (within a family context) in need of opportunities and resources rather than a societal disease that needed to be contained.” (Wayne County Children & Family Services, 2009)



## 5

**Don't lock youth up.** Use pre-adjudication detention sparingly and briefly, and only for youth who are a genuine risk to public safety.

Incarcerating youth has very harmful effects: the experience is traumatic, and youth become much more likely to drop out of school and to become involved in the adult criminal justice system (Aizer & Doyle, 2015; Gatti, Tremblay and Vitar, 2009; McCarthy, Schiraldi, and Shark, 2016). Therefore, as few youth as possible should ever be incarcerated, even for brief periods.

The purpose of a juvenile hall or detention center is to hold youth who have been accused of committing a crime during the adjudication process. Much as adult jails hold people arrested for crimes pre-trial, these facilities imprison youth before the court has found that they have violated the law. America's judicial system maintains the principle of innocence until proven guilty, and young people do not have the right to post bail. Given that, young people should only be detained pre-trial/adjudication for two reasons:

- 1 There is a **legitimate and documented reason** to believe that if released they will not show up to court (although low-risk youth should never be detained).
- 2 Evidence indicates they are a **significant public safety risk** (such evidence must exclude the instant offense for which they are presumed innocent).

Tens of thousands of youth who are incarcerated in detention centers across the country do not reach this threshold. Bureaucratic expediency, political pressures, and lack of alternatives are among the main reasons juvenile detention centers continue to be filled with youth who should not be there.

In the past twenty years, the Annie E. Casey Foundation's renowned Juvenile Detention Alternative Initiative (JDAI) has made tremendous progress throughout the country in reducing detention populations. The initiative's latest data show that participating jurisdictions have reduced detention populations by 43 percent since JDAI launched. Detention populations in participating counties fell on average 2.5 times more than the overall decline in their respective states over the same period—17 percent on average (Annie E. Casey Foundation, 2014).

JDAI works with multiple system stakeholders in a given jurisdiction to responsibly and methodically provide alternatives to detention, and change decision patterns away from detention as the default towards keeping youth in the community.

Understanding the harmful effects of detention, the system should use every possible vehicle to divert youth from being detained. As mentioned in step one above, when police arrest youth on suspicion of violating the law, the police department should have an array of diversion programs and practices to ensure that only youth who are legitimate risks to public safety are taken into custody. Police can counsel and release youth suspected of lower level and first time offenses; can refer youth who need more intervention to youth courts, restorative justice, or mentoring programs; and can even give citations to those youth they determine may need formal processing, requiring that those youth show up in court without bringing them to a detention center.

If a young person is brought to the local juvenile hall or detention center, probation departments should use reliable, unbiased detention risk assessment screening instruments to determine if the youth is a significant flight risk or an acute public safety risk. If the youth does not reach this threshold, then the probation department should give him or her a court date and send him or her home.

In this instance, a youth must have an initial hearing within days of arrest to determine if he or she should remain at home or be detained during the adjudication process. At this “Detention Hearing,” the probation department and the courts should have ample, effective alternatives available so that detention is only used as a last resort. Low risk youth should simply be allowed to remain at home with no mandated programs.

There are many successful alternatives to detention for youth who are assessed as higher public safety and/or flight risks. Evening Reporting Centers (ERCs) are among the best. An ERC is usually at a community recreation or youth development center. Youth are court ordered to report to the ERC every day after school where they receive help with completing homework and tutoring. They also engage in other enrichment services, including computer labs, life skills classes, and sports. At designated curfew times, ERC staff drives youth home.

Numerous jurisdictions have started ERCs. Cook County, Illinois and Washington, DC have particularly effective programs. Washington, DC successfully implemented ERCs in 2005 to reduce the overcrowded detention center. According to DYRS (2011), between 2006 and 2010 over 90 percent of youth participating in ERCs attended all of their court dates and were not re-arrested during participation.

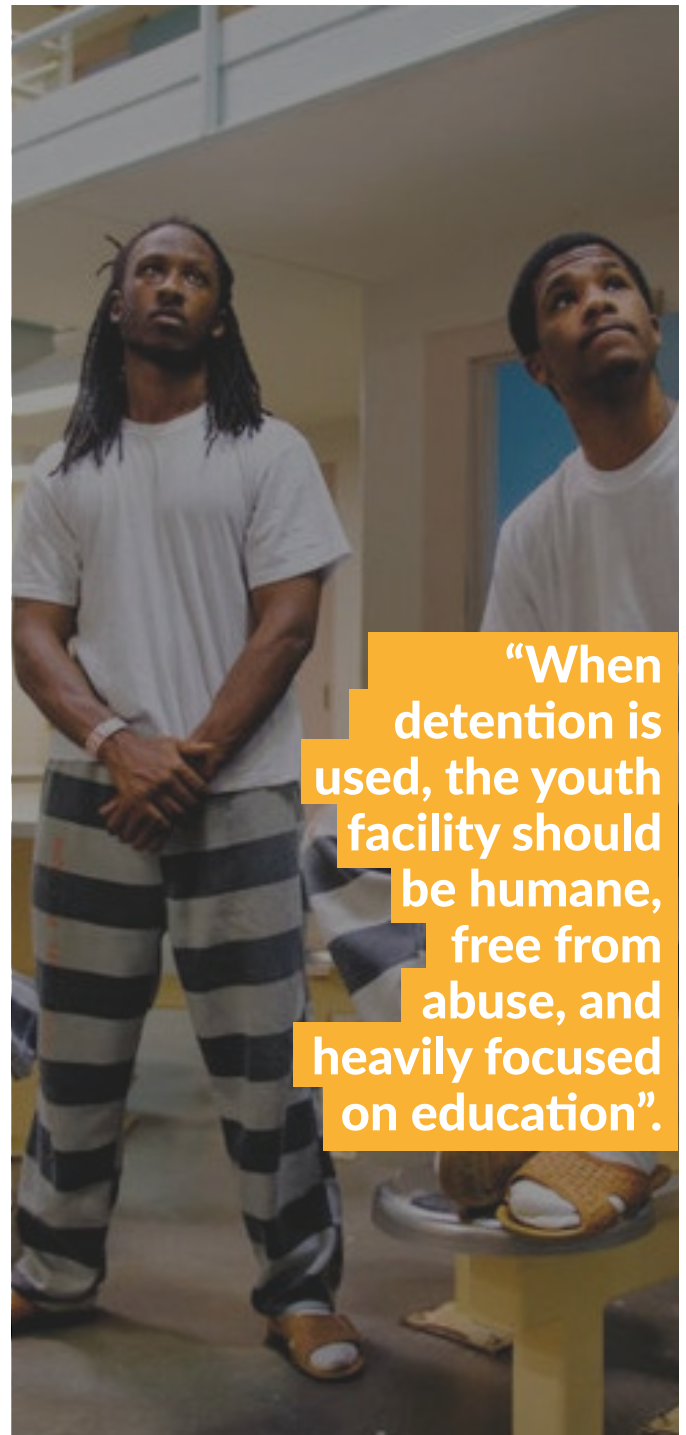


Electronic monitoring (GPS) is another widely used detention alternative. Although the use of GPS is much better than detention, the tool is often overused and creates a false sense of security. Jurisdictions also often require youth and their families to pay for electronic monitoring, creating a punishing burden for poor families. Youth wearing GPS monitors also may experience stigma and negative emotional impacts (Development Services Group, 2014). ERCs are thus a preferred approach, as they provide human supervision as well as enrichment and development for young people.

Alternatives to detention are far less costly, significantly less harmful, and much more effective than incarcerating youth. If detention is used at all, its use should be rare and brief. The default decision by police, probation, and the

courts should be to send a youth home, with an alternative program, if the youth is assessed as higher risk.

When detention is used, the youth facility should be humane, free from abuse, and heavily focused on education, and for those youth who need it: treatment and rehabilitation programs provided. Detention facilities must provide high quality education and should open its doors to saturate the facility with volunteers and community service programs.





## 6 Keep any probation time short. Cap the length of supervision/probation at 10 months if the youth has not had a new arrest.

Youth are often placed on juvenile probation until their 18th or 19th birthday. So, if they are initially placed on probation at 14 or 15 years old, they can be on court-mandated supervision for four to five years. This practice is ineffective, inefficient, and detrimental. Research shows that longer lengths of probation result in unnecessary and harmful technical probation violations and incarceration when teens inevitably break the rules (National Juvenile Justice Network, 2016; W. Haywood Burns Institute, 2016). And keeping youth on probation for long periods contributes to higher caseloads, which tax POs and distract them from giving appropriate attention to higher risk youth.

Indeed, the longer probation terms are, the more resources departments waste. People on probation or parole are most likely to violate the law again within the first few months of supervision (Pew Center on the States, 2009). After that, youth are significantly less likely to get into trouble, and investing resources produces diminishing preventive benefits.

Several states have changed their laws to reduce the lengths of probation terms, even for adults on probation. The 2008 Safe Communities Act in Arizona pioneered a new way of thinking about probation. An innovative provision in the Act allows people on probation to “earn” time off probation, mirroring the “good time” credits people can receive in prison. For every 30 days that someone on probation does not get re-arrested or violate the conditions of supervision, the person receives a 20-day reduction of their probation term (Pew Center on the States, 2011).

South Carolina followed Arizona’s lead and passed a similar measure for youth in 2012. S.B. 300/Act No. 227 granted the Department of Juvenile Justice the

authority to reduce a young person’s probation or parole term by 10-days for every month he or she complies with probation terms.

In 2012, the New York State legislature passed a bill that changed the five-year mandatory probation term for felony offenses, to three, four, or five years determined by the court based on a recommendation from the Probation Department (A4582, 2012).

“This legislation will shrink the number of people on probation statewide, saving tax payers dollars by reducing technical violations and allowing officials to reinvest in programs for those at the highest risk of reoffending,” wrote Vincent Schiraldi and Michael Jacobson (2014), both former Commissioners of New York City’s Department of Probation, in a joint op-ed.

**A young person on probation should be able to earn time off of probation by achieving certain milestones, including significant academic improvement, high school graduation, program completion, etc.**

In Washington, DC, statutes mandate that a juvenile can only be placed on probation for one year. At the end of that year, the court reviews the youth’s case and can decide to place the youth on probation for another year (D.C. Superior Court Family Court, 2015).

These are all common sense approaches to community supervision. But an ideal system would go further. As stated before, probation or community supervision should strive to support youth to successfully complete the term of their supervision as quickly as possible. Juvenile justice systems should incentivize youth achievement. A young person on probation should be able to earn time off of probation by achieving certain milestones, including significant academic improvement, high school graduation, program completion, etc.



## 7 Keep youth in their homes and communities. Use

out-of-home placement, which usually means large, privately operated residential facilities, only when a youth has been determined to be a genuine risk to public safety and/or their home is proven unsafe.

“Out-of-home” placement has become a catch-all phrase to mean everything from placing youth in a single family foster home to a large privately run juvenile correctional facility. For youth in the juvenile justice system, “placement” is usually the latter. Out-of-home placement may sound nicer than incarceration, but it is often very similar. Some jurisdictions may call these facilities Residential Treatment Centers (RTCs), and some RTCs do provide adequate treatment services. But most out-of-home placements are also very far from the young person’s home, sometimes many states away (Sapient, 2015; W. Haywood Burns Institute, 2016).

Jurisdictions should only use Out-of-Home placement in two circumstances: 1) if a youth has been assessed as high risk and is in need of treatment services that only a non-local residential setting can provide; or 2) if a thorough and objective assessment finds that a youth’s family home is not safe, and no other family is willing or able to house the youth. Many if not most youth in out-of-home placements do not reach this threshold.

Young people who are not legitimate risks to public safety should not go to out-of-home placements. Youth with unsafe homes who have no other family members that can safely house them should be placed in single-family foster homes, not group homes or large congregate juvenile facilities. Youth deserve families, and single-family settings better support youth success, while congregate care facilities more often breed further trauma and abuse. In a study comparing youth placed in foster homes to matched youth placed in group homes, Ryan and colleagues (2008) found that youth placed in group homes were 2.5 times more likely to be arrested in the future.

Out-of-home placements are also costly. The private facilities California sends youth in the juvenile justice system to cost on average \$110,000 annually per-youth (California Department of Social Services). Just reducing the placement count by 10 could save a jurisdiction one million dollars each year.

The federal government launched the promising Title IV-E Waiver program to incentivize jurisdictions to keep youth in their homes. Title IV-E is the federal funding source that pays for at least half the cost of most child welfare and juvenile justice placements. Historically, jurisdictions could only use these funds to pay for out-of-home placements, not to support natural families.

In 2006, the federal government allocated more than \$6 billion dollars in Title IV-E funds to states for foster care placements and adoption (Casey Family Programs, 2010). Under the Waiver, participating jurisdictions receive a capped allocation of Title IV-E funds that they can use for placements or services and supports that prevent placement. If a jurisdiction receiving the Waiver increases its number of placements, it will in effect be financially penalized because it will not receive the additional funds to pay for those placements. Conversely, if a jurisdiction reduces the number of youth sent to placement, it generates substantial savings that it can then use to fund youth development programs in the community or even provide families with direct support.

In 2007, Los Angeles began a five-year Title IV-E Waiver pilot initiative. Between July 2007 and February 2010, LA County reduced its foster care population by 23 percent. The number of children it placed in group homes and other institutionalized settings declined by more than one-third during this same period. In the first year of the Waiver alone, the Los Angeles County Probation Department saved \$11 million by reducing the number of youth sent to out-of-home placements. The Department was able to re-direct those funds to provide community based services to youth and families (Casey Family Programs, 2010).



By reducing the number of youth sent to out-of-home placements.

Taking youth out of their homes and away from families must only ever be a last resort. In rare circumstances where a young person does need to be placed away from his or her home and community, the placement should be as short in duration as possible (McCarthy, Schiraldi, and Shark, 2016).



## 8 Incarceration is harmful.

Replace large juvenile prisons with small rehabilitative facilities close to home. Use incarceration after a youth's adjudication (court process) very rarely, and solely for youth who are a genuine risk to the public safety, have been adjudicated for a serious offense, and the system has exhausted all community-based alternatives. When incarceration is necessary, use only small, rehabilitation and education focused facilities that are close to home.

As stated throughout this report, juvenile incarceration is ineffective, harmful, and excessively expensive. Therefore, if incarceration is used at all it should only be used when evidence attests that a youth is a genuine risk to public safety and when no community based alternatives are left. Thousands of youth locked up in America do not meet this basic threshold and should therefore not be incarcerated.

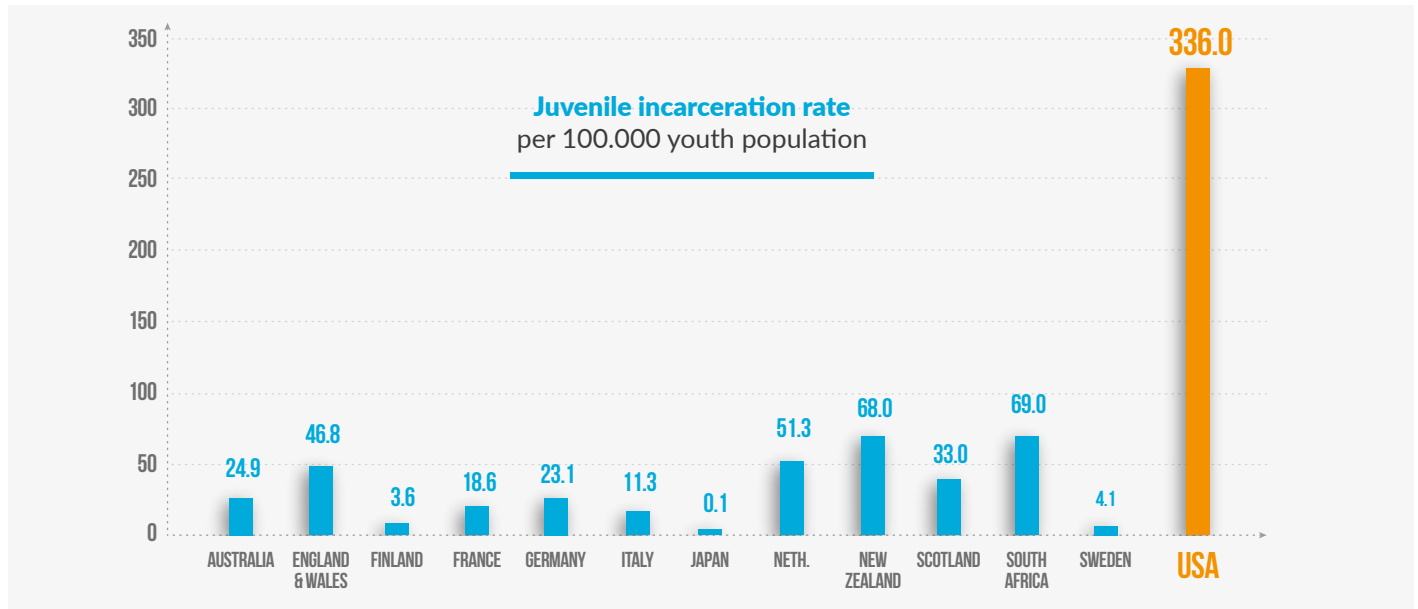
Far too many youth are locked up, and the experience of incarceration is horrifying. Instead of receiving needed services, young people are often abused and neglected while incarcerated. One report that examined years of research on juvenile justice found that "America's juvenile corrections institutions subject confined youth to intolerable levels of violence, abuse, and other forms of maltreatment" (Mendel, 2011). An update to this report released in 2015 found that despite system reforms, pervasive abuse in youth confinement facilities has continued since 2011 (Mendel, 2015). The updated report identifies several "recidivist states" in which abuse persisted despite public efforts to address it.

Not only is the system failing, it is also extremely expensive. Nationally, juvenile incarceration averages \$149,000 per year for each youth (Justice Policy Institute, 2014). Some places are much more expensive. California spends more than \$200,000 annually to incarcerate a single youth in a state facility (Justice Policy Institute, 2014).



Costs incurred are realized far beyond those stemming directly from incarceration. A groundbreaking report by the Aspen Institute titled "Economic Value of Opportunity Youth" examined the economic impact when youth are disconnected from education and employment. It found each youth disconnected in these ways costs taxpayers \$13,900 per year immediately, with a social burden of \$37,450 per year. Over the young person's lifetime, costs add up to \$170,740 in taxpayer dollars, and an overall social burden of \$529,030. The authors report that there are 6.7 million such 'opportunity youth' nationwide, making the impact of this disconnection staggering, and the potential economic benefits of making 'cost-effective, targeted investments' enormous (Belfield, Levin, and Rosen, 2012). Incarcerating youth severs educational and career opportunities, and furthers youth disconnection instead of supporting youth to reach their full potential.

The good news is that over the past few years, youth incarceration rates have been dropping while juvenile crime has also plummeted. A 2013 Annie E. Casey Foundation “Kids Count” report revealed that from 1995 to 2013, there was a 41 percent reduction in youth confinement in America, with most of the decline occurring since 2008. While this is cause for celebration, it is far from victory. As the Kids Count report pointed out, “despite this rapid decline, the United States still locks up a larger share of the youth population than any other developed country” (Annie E. Casey Foundation, 2013).



Nationwide, juvenile arrests declined 31 percent between 2002 and 2011 and for many serious crimes, juvenile arrests reached their lowest point in 30 years (Puzzanchera, 2013). An analysis of crime data by the Center for Juvenile and Criminal Justice showed that in the country’s most populous state, California, juvenile crime rates have reached the lowest level since statistics were first collected. “These data demonstrate today’s young people are less likely to be involved with the criminal justice system than any generation in at least the last 60 years,” the report notes (Males, 2012).

California has responded with an amazing reduction in juvenile incarceration. Following years of media exposure, a series of legislation aimed at reducing the size of the system and even the Governor calling for its closure, the state’s Department of Juvenile Justice facilities shrank from 10,000 youth in 1996, to less than 600 in 2018 – an astronomical decline. County juvenile facilities have also seen reductions. The combined population of youth in county detention centers and in camps are at about half of those facilities’ rated capacities. From 2009 to 2012, there was a 25 percent decline in juvenile incarceration at the county level throughout the state (Steinhart, 2014). A recent groundbreaking report from the Harvard Kennedy School and the National Institute of Justice calls for the dismantling of the youth prison model as we now know it. The authors shared:

“The call for the closure of youth prisons does not mean that there are not some young people for whom secure confinement is the right and necessary solution. But even for them, harsh, punitive, inhumane, and developmentally inappropriate settings are not the right place; certainly not if the goal is – as it should be – positive youth development and rehabilitation.” (McCarthy, Schiraldi, and Shark, 2016)

In its third season released in late 2018, the Serial podcast of This American Life, which earned wild popularity in its season 2 profile of the case of Adnan Syed, the producers spent a year following numerous cases in the Cuyahoga County, Ohio (Cleveland) courthouse. The podcast brilliantly exposed the everyday horrors of the American justice system and in its last two episodes revealed the punitive, abusive, horribly run state juvenile system in Ohio. This is a system that had experienced huge reductions in its population and had supposedly undergone reforms.

While reducing the number of youth in the system is more important than improving the conditions of facilities, with some youth remaining in the system, we must ensure youth lock-ups are humane, free of abuse, and provide quality education and rehabilitation services.



**9 Provide exceptional care.** If a youth is ordered to out-of-home placement or secure confinement, provide quality education, rehabilitation, treatment, and health care.

As emphasized throughout this paper, youth should only ever be placed out-of-home if they are a genuine and high risk to public safety and if all community-based options have been exhausted. If youth are placed in secure confinement, they must be placed in youth centers that provide high quality education, rehabilitation, treatment, and healthcare services. Ideally, these centers will be small settings close to home that are non-institutional and non-correctional in character; bearing no resemblance to the large state juvenile justice facilities many youth are currently placed (See McCarthy, Schiraldi, and Shark, 2016). The duration of placement need not be excessive. As with probation, the goal should be to confine youth for the shortest period possible, and to build rather than sever ties with family and community.

Youth confined in juvenile facilities should undergo assessments and evaluations that can accurately determine their needs and strengths. Mental health evaluations, educational and asset assessments, and trauma screening should all be a part of the process to develop individualized plans while a young person is incarcerated.

Developmentally appropriate services must be offered in facilities, including: trauma-informed therapy, cognitive behavioral therapy, vocational training, life skills classes, recreation, and other enrichment programs. High quality education should be the primary focus when a youth is incarcerated.

In its study, “Just Learning”, the Southern Education Foundation found that “most juvenile justice schools have such low expectations of student academic performance that they usually report only if students gained or failed to gain basic skills during the period of custody” (Southern Education Foundation, 2014). Compounding this problem, most youth entering the juvenile justice system are significantly behind in school. “In 2008-2009, roughly two-thirds of all students in the South and the nation who were tested as they entered state juvenile residential institutions were behind grade level in reading and in math” (Southern Education Foundation, 2014).

A report sponsored by the federal Bureau of Justice Assistance published by the Rand Corporation conducted a detailed analysis of correctional educational programs. “Evaluating the Effectiveness of Correctional Education” found that people who obtain some form of education while behind bars are less likely to return to crime and more likely to gain employment once they are released. According to results of existing data from 50 studies of education programs within correctional facilities, people who participated in an education program while behind bars were 43 percent less likely to be sent back to prison than those who did not (Davis, Bozick, Steele, Saunders, and Miles, 2013).

People who participated in an education program while behind bars were:



*Rand Study*



## MISSOURI MODEL

Missouri is widely touted as having the best juvenile facilities in the country. In the 1980's, Missouri began abolishing its old, large warehouse type correctional training schools and replaced them with rehabilitation and education focused youth centers that are renowned for their extraordinary outcomes.

The "Missouri Model" includes small home-like facilities with less than 60 residents, located no more than 50 miles from the youth's community to make family visiting easier. The living units house no more than 12 youth each. The Missouri Model prioritizes education and rehabilitation, instead of corrections and compliance.

"Missouri places youth into closely supervised small groups and applies a rigorous group treatment process offering extensive and ongoing individual attention, rather than isolating confined youth in individual cells or leaving them to fend for themselves among a crowd of delinquent peers." (Mendel, 2010)



Missouri State Juvenile Facility



Traditional Youth Correctional Facility

*(images reprinted from Annie E Casey Foundation Report: Missouri Model)*

Several jurisdictions around the country have attempted to replicate the successful Missouri Model, including: Washington, DC, Louisiana, New York, and Santa Clara and Los Angeles Counties in California.

In Washington, DC, the Department of Youth Rehabilitation Services (DYRS) replaced its old decrepit juvenile facility that had been the basis for a 20-year-old lawsuit with a state-of-the-art new facility that resembled a college campus more than a prison. New Beginnings incorporates the Missouri Model as its program, has a physical plant that reinforces a rehabilitative environment, and has an innovative school that rivals high priced private education.

As part of DYRS' reform agenda, the public school that was operated within the old Oak Hill facility was replaced with the Maya Angelou Academy, a publicly funded, privately operated school that has won national acclaim.

The Maya Angelou Academy has classes with 10 students each, a teacher and assistant in each of those classes, a Smart Board in each classroom, and a vocational training program. During the brief summer recess, the school brings in the Children's Defense Fund's Freedom School to improve literacy and cultural awareness. DYRS' New Beginnings facility has only 60 beds and in January 2019 the population was under 40 adjudicated youth. Washington, DC epitomizes the principle of only keeping in custody youth who are high risk, in a small youth center focused on education and rehabilitation.

In a Positive Youth Justice System, secure confinement will likely still be necessary for brief periods in a small number of cases. But systems must abandon large correctional facilities that warehouse youth and instead imagine new spaces, designed to care for youth, to keep youth connected to their families and communities, and to facilitate the highest levels of achievement.



**10 Reinvest.** With a significant reduction in the size and number of youth in the system, use the hundreds of millions of dollars in savings to reinvest in youth, their families, and the communities in which they live.

Even though the cost of the juvenile justice system is enormous, upwards of \$6 billion per year, the majority of youth in the system come from poor families and neighborhoods. And while government has been willing to spend hundreds of thousands of dollars on a single youth to place them in harmful and ineffective facilities, the system has been unwilling to invest in those same youth's families and communities.

In her report, *Delinquent by Reason of Poverty*, law professor Tamar Birckhead painstakingly details how youth and their families are criminalized for their poverty:

“Juvenile courts have traditionally been considered the courts of the poor and impoverished. . . Although few juvenile courts formally keep track of the income-level of a youth's family, jurisdictions that do so have confirmed that nearly sixty percent were either on public assistance or had annual incomes of less than twenty thousand dollars. Another twenty percent had incomes of less than thirty thousand dollars. Court officials acknowledge that they consciously and affirmatively take steps to direct low-income families into the juvenile justice system, because they believe that the court will ‘help the youth and facilitate the services, accountability, and discipline’ needed to become a productive adult.”

*(Birckhead, 2012)*

Million Dollar Blocks, a project of the Spatial Information Design Lab and the Justice Mapping Center, has documented how millions of dollars are spent to incarcerate people from single blocks in impoverished neighborhoods. It is clear that in terms of providing support, intervention, and opportunity to youth and families who are in need, it's not that there is a lack of resources as is so often repeated by politicians and government officials, but a lack of will.

In 2002, the federal government in partnership with foundations and justice policy organizations embarked on a well-meaning effort called the Justice Reinvestment Initiative (JRI). The JRI provided local and state government agencies with grants and technical assistance to reduce prison populations and use the savings generated by those reductions to reinvest in communities. After ten years of the JRI which had expanded to 27 states, a comprehensive evaluation was conducted by a large team of researchers and academics. The evaluation found that although JRI had achieved greater awareness in the need to reduce prison populations, it failed to produce any new significant investments into communities (Austin, et al, 2013). “Possible savings in the form of ‘averted costs’ for JRI work have been either returned to the general coffers or used to augment community corrections and law-enforcement government budgets,” the report states.

Funds historically used to operate a dysfunctional juvenile justice system should be reinvested in communities and youth in three ways:

**1**

Significantly more community based services should be procured by government to be offered to youth and families who remain in the system.

In 2016, Washington, D.C.'s DYRS considerably reduced the number of youth sent to private residential facilities. The juvenile justice agency then used the savings generated to invest in Credible Messenger mentoring, an innovative community based service.

**2**

A portion of savings generated from a reduced sized youth justice system should be given to a community foundation or a non-law enforcement youth service government agency to administer grants to CBOs to provide prevention services and supports, including diversion.

In 2017, the Los Angeles County Probation Department transferred \$180 million to the newly created county agency, the Office of Diversion and Re-Entry, to administer grants to CBOs to provide community based services

**3**

Investment directly into communities hardest impacted by mass incarceration to improve the conditions of neighborhoods and provide opportunities to residents. Funding should go toward education assistance to students and improvement of schools; employment training and job placement; down payment assistance for home purchase and rental assistance; and neighborhood improvement like blight abatement and infrastructure development. Community members should be involved in final decisions of what investments are to be made in their neighborhoods. This is genuine community reinvestment. There are no examples of any jurisdiction doing this level of justice reinvestment.



# Data-Driven Performance Management Process

In order to ensure a Positive Youth Justice System is achieving its intended objectives, a performance management system should be implemented that tracks data based on agreed upon metrics, tied to specific goals, that is reviewed in regular accountability meetings.

A small number of strategic goals should be developed by executive leadership and their supervisors. For instance, in a probation department in California, this would be the Chief Probation Officer and his/her executive leadership along with the Board of Supervisors and the County Administrator. Such goals could include:

- »» Reduce current recidivism rates by 30% over the next three years, with no less than a 10% reduction each year.
 

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- »» Reduce critical incidents in juvenile facilities by 35% in the next year and 10% each year thereafter.
 

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- »» Ensure that case plans or life plans are developed and resourced for 85% of all youth and adults on probation.

Government officials that oversee department heads, should establish no more than 10-15 of the most important goals by which to evaluate the department and the department head. Once goals are established, metrics tied to those goals to be assessed quarterly should be agreed upon. There must be capacity for reliable and transparent data to be collected on these metrics. Metrics from each objective should be collected and presented at the quarterly Data-Driven Performance Management meeting. These accountability meetings should be hosted by the elected or executive leadership that has oversight of the department head. Agency Directors or Deputy Directors should then present or respond to data presented on their objectives at each meeting. If they have not achieved their objectives, each agency director should present a specific plan on how they intend to improve their department's performance.

Every Data-Driven Performance Management meeting should conclude with a detailed plan of action in response to unmet and/or new objectives. The responsible executive (i.e.: County Administrator/Executive) will follow-up with each agency director in the weeks in-between each Data-Driven Performance Management meeting to ensure progress is being made toward achieving the goals.

# Conclusion

A Positive Youth Justice System will have considerably fewer youth in it for as short a time possible, and will be reserved only for youth who pose a high risk to public safety. Such a system will engage youth and families in the development and implementation of case plans that build on the youth's strengths and address their needs. It will only detain or incarcerate youth when unbiased evidence proves they are a legitimate risk to public safety, and when there are no community-based options left. The small number of young people who are still confined will be held in youth centers that treat them humanely and prioritize education, treatment, and rehabilitation. These centers will be small and close-to-home. A Positive Youth Justice System would also create huge savings that it can then reinvest in communities most impacted by youth incarceration.

An exhaustive study sponsored by the Department of Justice's Office of Juvenile Justice and Delinquency Prevention and published by the National Research Council concluded:

Whether conducted in institutions or in communities, programs are more likely to have a positive impact when they focus on high risk offenders, connect sound risk/needs assessment with the treatment approach taken, use a clearly specific program rooted in a theory of how adolescents change and tailored to the particular offender, demonstrate program integrity, involve the adolescent's family, and take into account community context. (National Research Council, 2013).

There are numerous examples of systems across the country that are operating pieces of a Positive Youth Justice System. Missouri and Washington, DC provide excellent examples of long-term juvenile facilities. Wayne County's community run probation system and New York City's Neighborhood Opportunity Networks are great examples of how to provide community based supports for youth who run into trouble with the law. Several Juvenile Detention Alternative Initiative sites, including Santa Cruz, CA and Cook County, Illinois, are good models for how to reduce detention populations. And now many jurisdictions across the nation have significantly reduced their overall juvenile incarceration rates.

A comprehensive study on juvenile probation conducted by the Annie E Casey Foundation, with editing from NICJR, made similar conclusions as found in this report:

“for youth who pose more serious threats to public safety and really do require court supervision, probation must be transformed into a focused intervention designed to promote lasting positive behavior change. To achieve that end, probation agencies will need to sharply reduce the caseloads of juvenile probation officers and – far more than ever before – to embrace parents and other family members as partners. They will need to motivate youth primarily through rewards and positive incentives for positive behavior, rather than threats of punishment for continued misbehavior. And in addition to addressing delinquency-related needs and problems faced by court-involved youth and their families, probation will need to work with community organizations far more than is common today to engage young people in constructive activities that help them develop skills, explore their interests, and advance toward healthy and productive adulthood.”

(Annie E. Casey Foundation, 2018)

If the juvenile justice system were to implement these ten steps outlined in this report, it would operate in a much fairer and equitable manner and therefore not produce the gross racial and ethnic disparities that exist now. A fair and equitable system would also collect and produce data readily available to the public and be transparent and accountable to the community members it serves.

Although there are some state and local jurisdictions that exemplify parts of this Positive Youth Justice System – taken in totality, these ten steps outlined above would require a major overhaul and transformation. The current system does not work, makes youth worse, and costs too much – youth and communities need this transformation urgently.

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