

Exploring Community-Based Alternatives to Youth Incarceration

Shreya Vijay

Northeastern University School of Law

INTRODUCTION

The thought of completely transforming our current juvenile justice system may seem impossible, and when alternatives are posed, concerns about public safety, rehabilitation, and accountability are often cited in opposition. However, our current system does not actually address any of these concerns. The majority of youth in the system today are incarcerated for status offenses or probation violations rather than violent crimes.¹ Rates of recidivism also remain high among youth who are incarcerated rather than diverted to community-based programs. For a system that costs taxpayers an exorbitant amount per juvenile, it is failing to deliver on its promises.² Instead, it punishes youth for normal adolescent behavior and worsens existing trauma while continuing to target youth from marginalized communities.³ Though the rate of youth incarceration is decreasing, there is still a need to reform the existing system to promote safety, positive relationships, and involve developmentally appropriate services that can better serve youth who become trapped in this cycle.⁴

CHALLENGES INHERENT IN OUR CURRENT JUVENILE JUSTICE SYSTEM

A. Brief History of Juvenile Justice

The juvenile justice system in the United States has a troubled past that sheds light on its inherent problems. In the 1800s, reformers wanted to find a way to tame the “misbehavior” of

¹ Patrick McCarthy, Vincent Schiraldi & Miriam Shark, *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model*, NAT’L INST. OF JUST. 19 (Oct. 2016), <https://www.ojp.gov/pdffiles1/nij/250142.pdf>.

² It costs about \$88,000 to incarcerate each juvenile per year. OFF. OF JUV. JUST. & DELINQ. PREVENTION, ALTERNATIVES TO DETENTION AND CONFINEMENT 1, 2 (2014) [hereinafter OJJDP]; McCarthy et al., *supra* note 1, at 12.

³ “Marginalization occurs when people are excluded based on social identities such as race, gender, sexuality and social class as well as the inequitable distribution of social, economic, physical and psychological resources.¹ Individuals and communities are marginalized by, live in marginalized conditions or are forced into marginalization rather than being labelled as marginalized people/populations/groups.” *Glossary of Essential Health Equity Terms*, NAT’L COLLABORATING CTR. FOR DETERMINANTS OF HEALTH 4 (Apr. 2022), <https://nccd.hhs.gov/glossary/entry/marginalization/print>.

⁴ See McCarthy et al., *supra* note 1, at 18, 21.

children who were moving into more industrialized areas by creating reformatory schools.⁵ Children sent to these facilities were abused and exploited.⁶ When the first separate juvenile court was established in Chicago in 1899, admissions to these reform schools increased.⁷ No significant change was made until 1967, when the Supreme Court found that youth were entitled to some Due Process rights in *In re Gault*.⁸ However, the subsequent era marked by “tough-on-crime” policies proved to be detrimental to the possibility of further reform and instead introduced a greater villain: the “super-predator” stereotype.⁹ Despite evidence showing that violent crime had declined in the mid 1990s, the idea that many youth, especially youth of color, were a danger to society prompted the construction of numerous juvenile prisons across the country.¹⁰ This response to crime remains ingrained in the minds of many who may view young people as “thugs” and believe incarceration is necessary to protect greater society. Though youth crime and incarceration continue to decline to this day, the United States still locks up its youth at larger rates than any other developed nation.¹¹

B. Flaws in Our Current Model

Given the history of our juvenile justice system, it is no surprise that public safety is often cited as a reason for the necessity of maintaining youth prisons. However, there are numerous studies that have proven that youth incarceration leads to an increase in recidivism and an

⁵ *Id.* at 2.

⁶ *Id.* at 2-3.

⁷ *Id.* at 3.

⁸ *Id.*; see also *In re Gault*, 387 U.S. 1 (1967).

⁹ McCarthy et al., *supra* note 1, at 3. In a 1996 speech, the former president Bill Clinton attributed high rates of crime and violence to “super-predators”, or kids without “conscience” or “empathy.” See Anne Gearan & Abby Phillip, *Clinton Regrets 1996 Remark on ‘Super-Predators’ After Encounter with Activist*, WASH. POST (Feb. 25, 2016, 3:50 PM), <https://www.washingtonpost.com/news/post-politics/wp/2016/02/25/clinton-heckled-by-black-lives-matter-activist/>.

¹⁰ McCarthy et al., *supra* note 1, at 3-4.

¹¹ *Id.* at 15; see also Anessa L. Pennington, *Keep Kids Out of Prison: Community-based Alternatives for Nonviolent Juvenile Offenders*, 14 BYU UNDERGRADUATE J. OF PSYCH. 101 (2019).

increased likelihood of incarceration as an adult, which would present an even greater threat to public safety.¹² Incarcerated youth are also often exposed to traumatic events in their childhood, such as poverty, neglect, and abuse, and may meet the criteria for at least one psychological disorder.¹³ Because institutions either do not prioritize mental health or do not have the resources to do so, incarcerated youth experience an exacerbation of their trauma, mental health symptoms, poor decision-making, and impulsivity.¹⁴ Incarceration also decreases the likelihood of graduating high school and obtaining employment, as well as proper day-to-day functioning.¹⁵

It is important to note that not all youth are equally affected by the problems inherent in the juvenile justice system. The criminalization of youth behavior, as well as ill-informed policies and practices, disproportionately affect youth of color.¹⁶ It was found that Black and Hispanic youth have higher rates of arrest, detention, and out-of-home placement.¹⁷ Evidence of “race effects,” or unexplained racial disparities not caused by prior record or severity of the offense, were found at every stage of the delinquency proceeding and intensified over time.¹⁸ An analysis of probation reports revealed that while behaviors of white youth were attributed to external circumstances beyond their control, Black youths’ behaviors were seen as a result of negative attitudes and personality traits.¹⁹ This cyclical and systematic process has greatly

¹² David Muhammad, *A Positive Youth Justice System*, NAT’L INST. FOR CRIM. JUST. REFORM 13 (2019) <https://nicjr.org/wp-content/uploads/2019/01/PYJS-Report-NICJR-Feb-2019.pdf>; *see also* Richard A. Mendel, THE ANNIE E. CASEY FOUND. 3 (2011) <https://files.eric.ed.gov/fulltext/ED527944.pdf>.

¹³ Pennington, *supra* note 11, at 105.

¹⁴ *See id.* at 106; McCarthy et al., *supra* note 1, at 4.

¹⁵ *See* McCarthy et al., *supra* note 1, at 12; Muhammad, *supra* note 12, at 4; Pennington, *supra* note 11, at 105. If a juvenile is able to complete school, obtain employment, and care for themselves on a daily basis, public safety is enhanced because they can become positive, functioning members of society.

¹⁶ *See* James Bell & Raquel Mariscal, Race, Ethnicity, and Ancestry in Juvenile Justice 119-24 (Francine T. Sherman & Francine H. Jacobs eds., 2011).

¹⁷ Pennington, *supra* note 11, at 106.

¹⁸ McCarthy et al., *supra* note 1, at 16-17.

¹⁹ *Id.* at 17. The use of “Black” rather than “African Americans” emphasizes the unique experiences of those who have been born and raised in the United States for multiple generations and do not have direct connections to Africa.

disadvantaged youth of color and further adds to the inequalities their communities face on a daily basis.

Even when not considering impact on youth, the exorbitant cost of juvenile confinement should be enough of a deterrent. It costs about \$88,000 to incarcerate each youth per year, and cost may continue to increase as youth incarceration decreases if state institutions do not scale down accordingly.²⁰ What is often overlooked is the societal cost of caring for each young person after their release. A decrease in employability means loss of potential for earning, which results in lost government tax revenue and higher spending on government assistance programs.²¹ Because confinement also leads to lost educational and career opportunities, it was estimated that one year of youth incarceration could cost each taxpayer around \$14,000 and could lead to long-term costs of up to \$21 billion across the country.²²

While incarceration of youth is seen to protect the public, there is a wealth of evidence that suggests that confinement leads to greater rates of recidivism and criminal activities as an adult. If another goal was to help reform youth who exhibit delinquent behavior, then our current system has failed them by exacerbating their trauma while disconnecting them from essential developmental resources and employment opportunities. Not only is this detrimental to youth, but it is costly for greater society. This model of so-called “juvenile justice” is not actually benefitting youth or the public, and it is time to consider the developmental needs of all youth in creating a system that builds them up rather than one that tears them apart.

²⁰ OJJDP, *supra* note 2, at 2; McCarthy et al., *supra* note 1, at 12-14.

²¹ See McCarthy et al., *supra* note 1, at 12.

²² See Muhammad, *supra* note 12, at 14; McCarthy et al., *supra* note 1, at 12.

POSITIVE YOUTH DEVELOPMENT

Adolescence is a critical time in a person’s development and the experiences that a young person faces during this time will forever change the way they navigate the world. Those who eventually become involved in the justice system often have additional challenges they must overcome to achieve normal developmental milestones.²³ The Supreme Court, in cases such as *Roper v. Simmons* and *Miller v. Alabama*, used this knowledge to inform its decisions regarding the unconstitutionality of capital punishment and life without parole for youth, which indicates that courts are now willing to consider scientific evidence when deciding what is just.²⁴ Knowing the biological differences between a child and adult and the environments that can either promote or diminish development will help formulate a new model in which youth are given the resources to succeed as an adult.

A. Understanding Adolescent Development

Development can be seen through biological, psychological, and social changes in an adolescent. When considering their biology, it becomes apparent that the physical structure of the brain is very different than that of an adult. Adolescent brains crave stimulation, immediate rewards, and new experiences.²⁵ However, the pre-frontal cortex, which controls planning, decision-making, and self-control, continues developing even after the age of 18.²⁶ The process of “pruning” also occurs during this time, which is when the brain begins to remove neural

²³ See Robert Kinscherff, Exec. Dir., Ctr. for L., Brain & Behav., *The Developing Adolescent Brain: Implications for Law and Policy*, slides 60-65 (June 30, 2022) (on file with author). The isolating and disciplinary nature of incarceration provides a barrier for juveniles in building essential educational or career skills, seeking positive relationships with their peers and adults, feeling a sense of belonging, and positively engaging with their community.

²⁴ *Roper v. Simmons*, 543 U.S. 551, 569, 598 (2005) (finding that youth possessed a “lack of maturity and an underdeveloped sense of responsibility . . . [are] more vulnerable or susceptible to negative influences and outside pressures . . . [and their] character is not as fully formed as that of an adult.”); *Miller v. Alabama*, 567 U.S. 460 (2012).

²⁵ Kinscherff, *supra* note 23, at slide 32.

²⁶ *Id.* at slide 34.

connections that are not in use to increase efficiency.²⁷ This means that if an adolescent is not able to increase those connections by learning new information or practicing a skill, then it will likely be harder for them to do so in the future. Neural networks are increasing in the areas of the brain concerning emotional, social, and cognitive controls, but this process continues well into the 20s.²⁸ Dopamine, or the “currency” of rewards in the brain, is potent during this time as well, which is why youth may seek more risky behaviors and approval from their peers.²⁹ However, impulsivity and risk-taking decrease with age while future orientation, delayed gratification, resistance to peer influence and ability to consider consequences increases.³⁰

While the neurological development process may be substantially similar for most youth, it is the influence of their family, community, and society that greatly varies. Youth are shaped by their personal experiences and people around them, which is why increasing their exposure to positive environments that encourage development is so critical.³¹ An adolescent’s personal and group identity are slowly developing during this time, and negative peer, adult, and societal interactions – referred to as Adverse Childhood Experiences (“ACEs”) – can result in trauma and add to any existing difficulties.³² Understanding adolescent development in a social context provides a more substantial overview of a young person’s circumstances, and this focus has driven the creation of a model known as positive youth development (“PYD”) to address any gaps in their environment that may inhibit them from reaching their full potential.

²⁷ *Id.* at slide 25-26.

²⁸ *Id.* at slide 28.

²⁹ *Id.* at slide 37.

³⁰ Comm. for Pub. Couns. Servs., Thinking about a Youth Development Approach to the Legal Representation of Adolescents, slide 23-30 (2022) (on file with author).

³¹ *Id.* at slide 13.

³² Kinscherff, *supra* note 23, at slide 71.

B. Principles of Positive Youth Development

Simply put, PYD is a “strength-based, resilience-oriented perspective on adolescence.”³³ Instead of focusing on deficits, this model seeks to build upon a young person’s inherent strengths while reducing detrimental risks in their environment.³⁴ Two theories have informed PYD practice: social learning theory and social control theory.³⁵ In the context of juvenile justice, social learning theory says that delinquent behavior is the result of a process of rewards and punishments in which youth learn to value participation in crime and other dangerous behaviors.³⁶ A suggested intervention under this theory would then be to de-incentivize crime by limiting a young person’s negative influences and introducing them to more prosocial ways of meeting their needs.³⁷ A second theory is one of social control, which states that people commit crimes because they have weak social bonds and do not have a sense of belonging or attachment.³⁸ Youth can avoid this outcome by restructuring their social bonds by forming secure attachments, participating in their communities, and accepting rewards for their accomplishments.³⁹

Different organizations have different competencies that they strive to achieve in implementing PYD. For example, the Youth Justice Work Group in Los Angeles referenced PYD in their recommendations for juvenile justice reform by focusing on health, social, vocational, cognitive, and leadership competencies.⁴⁰ However, all frameworks incorporate

³³JEFFREY A. BUTTS ET AL., POSITIVE YOUTH JUSTICE: FRAMING JUSTICE INTERVENTIONS USING THE CONCEPTS OF POSITIVE YOUTH DEVELOPMENT 9 (Coal. for Juv. Just. 2019).

³⁴ James M. Frabutt, Kristen L. Di Luca & Kelly N. Graves, *Envisioning a Juvenile Justice System that Supports Positive Youth Development*, 22 NOTRE DAME J.L. ETHICS & PUB. POL'Y 107, 113 (2008).

³⁵ Butts et al., *supra* note 33, at 12.

³⁶ *Id.*

³⁷ *Id.* at 13.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ LOS ANGELES COUNTY YOUTH JUSTICE WORK GROUP, LOS ANGELES COUNTY: YOUTH JUSTICE REIMAGINED 39 (Haywood Burns Inst. 2020).

certain basic elements in their programs, including focusing on strengths over deficits, understanding that youth are shaped by social interactions beyond family, and fostering quality relationships with adults.⁴¹ PYD practices can also be measured by certain outcomes for youth, namely achievement, problem prevention, and development.⁴² Achievement focuses on positive successes of youth, such as academic achievement or learning a new skill.⁴³ Problem prevention then ensures that youth do not encounter negative experiences that impact those achievements, such as incarceration.⁴⁴ And developmental outcomes, which are central to PYD, measure their healthy identity formation and ability-related development.⁴⁵ Domains in which these outcomes can be measured include: “(1) physical and mental health, (2) adult and positive peer relationships, (3) safe places to live and learn, (4) educational and economic opportunities, and (5) structured activities and civic participation.”⁴⁶

Development of alternatives to the juvenile justice system should be informed by principles of PYD to maximize the positive impact on youth, most of whom should not be punished for biological and environmental factors they are unable to control. The inherent nature of our current system focuses on the deficits of youth and disconnects them from their communities in the name of safety. Alternatively, community-based programs may provide the best format for exploring these PYD principles further because of their emphasis on relationship building, developmentally appropriate services, and civic engagement.

⁴¹ Frabutt et al., *supra* note 34, at 110.

⁴² Comm. for Pub. Couns. Servs., *supra* note 30, at slide 41.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.* at slide 41, 43.

⁴⁶ *Id.* at slide 45 (cleaned up).

CREATING COMMUNITY-BASED ALTERNATIVES

A. If You Can't Reform It, Abolish It

Considering the wealth of information now available about PYD, it is not surprising that many have attempted to reform the juvenile justice system accordingly. But these efforts are often unsuccessful and sporadic.⁴⁷ Litigation was a widely used technique in the 1970s and 1980s and was initiated by juvenile law centers trying to improve the conditions of juvenile facilities.⁴⁸ Both the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Department of Justice (DOJ) showed their support through funding and investigations into the conditions of these facilities.⁴⁹ The Civil Rights of Institutionalized Persons Act was also passed in 1980 to protect the rights of youth in institutions across the country.⁵⁰ Other reform attempts came from states such as New York, Massachusetts, and the District of Columbia, which tried pushing legislation to regulate juvenile facilities, but were met with fierce opposition.⁵¹

However, it became clear that these initiatives were not enough to address the deep-rooted issues within the system. A 1994 report by the DOJ revealed that many facilities still had widespread problems with living conditions, health care — including management of suicidal behavior — and security.⁵² And despite the OJJDP's attempts to incentivize change, a lack of interest in promoting federal expenditure for domestic programs jeopardized their authority to do so.⁵³ Despite decades of time, energy, and money spent on improving the conditions of youth institutions, the problems that afflict incarcerated youth are still present, suggesting that there is

⁴⁷ McCarthy et al., *supra* note 1, at 10.

⁴⁸ NATIONAL RESEARCH COUNCIL, REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL APPROACH 247 (DC: The Nat'l Academies Press 2013).

⁴⁹ *Id.* at 244, 250.

⁵⁰ McCarthy et al., *supra* note 1, at 10.

⁵¹ *Id.* at 11-12.

⁵² *Id.* at 10.

⁵³ NATIONAL RESEARCH COUNCIL, *supra* note 48, at 244.

something more that is not being addressed. Jerome Miller, the former Massachusetts Secretary of the Department of Youth Services, stated that “Nothing in history suggests [state institutions] can sustain reform, no matter what money, what staff, and programs are pumped into them. The same crises that plagued them for 150 years intrude today.”⁵⁴ It is for this reason that states who first attempted to reform their youth prisons ultimately found it to be more efficient to just shut them down.⁵⁵

The history of juvenile justice reform indicates that the problem may not be with the physical aspects of the facilities, but with the system of institutionalization itself. The dynamic between facility staff and youth is one of power and submission, not mentorship and support.⁵⁶ Institutions try controlling youth through harsh conditions, punishment, fear, and violence. When compared to the asset-based goals of PYD, it becomes clear that these institutions will never meet the needs of growing adolescents. Though the hard work of advocates should not be discounted, they are often only reacting to an unproductive cycle characterized by awareness of a scandal or abuse that leads to outrage, which then causes surface-level reforms followed by a period of peace that is again disrupted with another inevitable scandal.⁵⁷ It seems illogical to waste time and money bandaging the abusive and traumatizing aspects of facilities across the country when there is ample evidence indicating that it does not work. Complete transformation is needed, and a system rooted in community organizations may be the answer.

⁵⁴ McCarthy et al., *supra* note 1, at 10.

⁵⁵ *Id.* at 11-12. In the 1970s, Jerome Miller had successfully closed all eight youth prisons in Massachusetts. Gladys Carrion, the former commissioner of New York’s Office of Children and Family Services, closed more than two dozen youth prisons. The Director of the Department of Youth Rehabilitation Services, Vincent Schiraldi, closed the notorious Oak Hill Youth Center, which was known for its abusive and unconstitutional conditions.

⁵⁶ *See id.* at 10.

⁵⁷ *Id.* at 12.

B. Implementing Community-Based Alternatives

Because youth are less likely to be involved in the juvenile justice system today than previous generations, now is the ideal time to explore alternatives that keep youth at home working toward a better future. The community-based program model addresses delinquency through community resources that complement existing mental health resources and education systems.⁵⁸ Studies have shown that institutionalizing youth leads to worse outcomes than providing them with home-based services, such as family therapy and school-based programs.⁵⁹ Because of the disruptiveness that incarceration causes in a young person's life, especially in their education, it is beneficial for them to stay close to home and remain on a path to high school graduation.⁶⁰ However, an unstable home life may contribute to youth becoming involved in the juvenile justice system. Community-based alternatives provide opportunities for states to invest in their communities to ensure housing stability, educational, and economic opportunities, and safety.⁶¹

As detailed in the section below, community-based programming can address the many flaws found in our current juvenile justice system, including recidivism.⁶² These programs also allow youth to continue attending their community's schools, provide them with vocational training, address their mental health issues, and promote positive relationships with adults and peers. Youth who participate in these programs can benefit from individualized and developmentally appropriate resources while avoiding the trauma of incarceration. The amount

⁵⁸ Pennington, *supra* note 11, at 103.

⁵⁹ McCarthy et al., *supra* note 1, at 13; Muhammad, *supra* note 12, at 7.

⁶⁰ See McCarthy et al., *supra* note 59 at 13.

⁶¹ Muhammad, *supra* note 12, at 19.

⁶² See McCarthy et al., *supra* note 1, at 13.

of money that jurisdictions can save by keeping youth at home also makes community-based programming a more favorable option.⁶³

Implementing this model as an alternative to incarceration will take time and patience, but there are certain key elements that must drive this transformation. The first is to avoid keeping youth in institutions unless they are a genuine risk to public safety, which should be determined by objective risk assessments. If a young person is not high-risk, then communities and families should take the lead by providing them with opportunities to participate in civic engagement, therapy sessions that encourage family participation, and education-based programming. Those who are high-risk or are unable to return home due to safety concerns should be housed in smaller, non-correctional facilities close to their communities that mimic the conditions of a safe and secure home. With the money that this model will save, states should reinvest in community-based organizations that are serving these youth while also directly assisting families in need. Finally, it is important for PYD principles to be the driving force throughout this process, particularly focusing on building upon assets, positive relationships, and employment opportunities.

1. Keeping Youth Away from Prisons

It is possible to significantly reduce the number of youth in the cradle-to-prison pipeline by limiting the option of institutionalization to only those who “have committed serious offenses and pose clear and demonstrable risks to public safety.”⁶⁴ Out-of-home placements should be reserved for those who exhibit high-risk behavior, and most youth currently in out-of-home placements “do not reach this threshold.”⁶⁵ After adjudication and probation placement, a young

⁶³ Muhammad, *supra* note 12, at 13 (“[T]he Los Angeles County Probation Department saved \$11 million by reducing the number of youth sent to out-of-home placements.”).

⁶⁴ McCarthy et al., *supra* note 1, at 18.

⁶⁵ Muhammad, *supra* note 12, at 13.

person should undergo a thorough, objective, and unbiased risk assessment that does not conflate the their needs with their risk for harm.⁶⁶ This should ideally be done by a trained social worker who will be able to choose appropriate programs for the youth with whom they work. After assessing risk, the social worker would then assess the needs of the young person by looking at their family, education, mental health, and trauma.⁶⁷ Once this has been completed, the social worker should encourage the involvement of the youth, their family, and any other invested adult to develop an individualized plan that caters to their “lives and experiences” and helps them transition successfully to adulthood.⁶⁸

Even if a young person is determined to be high-risk, incarceration should still not be the default. An alternative could be a group home following the Value-Based Therapeutic Environment (VBTE) model, which houses youth and teaches them prosocial skills while encouraging them to have constant contact with their community through school and work.⁶⁹ One effective treatment model for high-risk youth is known as the Missouri Model, in which youth are housed in home-like facilities near their communities and attend classes focused on proper education, along with rehabilitation.⁷⁰ Specialized foster care is another alternative for both high-risk youth and those who are unable to return home.⁷¹ In this model, families are trained to provide adequate resources for youth involved in the system and serve as their mentors.⁷² Despite the differing structures of these models, it should be emphasized that alternatives to incarceration should include programming that aids healthy development,

⁶⁶ *Id.* at 5-6.

⁶⁷ *See id.*

⁶⁸ *Id.* at 7. The Family Group Conferencing model involves the juvenile, their family, their case manager, and other invested adults to an create individualized plan for the juvenile.

⁶⁹ OJJDP, *supra* note 2, at 4.

⁷⁰ NATIONAL RESEARCH COUNCIL, *supra* note 48, at 246-47; *see also* Muhammad, *supra* note 12, at 17.

⁷¹ *See* OJJDP, *supra* note 2, at 4.

⁷² *Id.*

prioritizes peer and adult relationships, and encourages youth to have positive interactions with their community.⁷³

2. *Families and Communities Take the Lead*

If a social worker finds that a young person is low-risk, then they should direct them to the appropriate community-based organizations. These organizations should be the primary source of services to youth and should work with both the young person and their family to achieve the goals in their individual plans.⁷⁴ A good example of this approach can be found in Wayne County, Michigan, where state systems and probation officers were replaced with a network of community service providers and neighborhood organizations.⁷⁵ Different organizations should be used simultaneously to address different aspects of a young person's positive development, such as mental health, education, and civic engagement.

Therapy-based models that incorporate the youth's family and other members of the community are also popular choices. One such model is Multisystemic Therapy (MST), which has proven to reduce recidivism and many behavioral issues, such as conduct disorder and oppositional defiant disorder.⁷⁶ It recognizes the multisystemic nature of development and understands that delinquent behavior may arise from individual issues, problems with the family, incidents in the community, or interactions between all three.⁷⁷ This model empowers youth by providing them tools for optimal functioning with family relations, social supports, educational and vocational success, and interactions with peers.⁷⁸ Another form of family-focused therapy is

⁷³ See Comm. for Pub. Couns. Servs, *supra* note 30, at slide 57.

⁷⁴ See McCarthy et al., *supra* note 64 at 5.

⁷⁵ Muhammad, *supra* note 12, at 9.

⁷⁶ Pennington, *supra* note 11, at 108-09.

⁷⁷ *Id.* at 108.

⁷⁸ *Id.* at 109. See also Vidal et al., *Placement and Delinquency Outcomes Among System-Involved Youth Referred to Multisystemic Therapy: A Propensity Score Matching Analysis*, 44 ADMIN. & POL'Y MENTAL HEALTH 1 (2017).

known as Parenting with Love and Limits (PLL).⁷⁹ In this method, the young person and their family attend weekly group meetings for six weeks, along with six family therapy sessions.⁸⁰ Studies have shown positive results similar to MST but have gone even further to say that it is an effective model for high-risk juveniles as well.⁸¹

Education-based programs are another avenue for community-based programming that have proven to reduce recidivism. One study looked at a Shakespeare-centered program where students played games that required them to act, interact with their peers, and interpret the text according to their own life experiences.⁸² This program helped foster positive relationships among peers and with the adult practitioners, and they developed empathy, confidence, and trust listening to each other.⁸³ The use of readings by Shakespeare also boosted their self-confidence because many felt more intelligent after engaging with them.⁸⁴ While programs such as this cannot stand alone in rehabilitating youth, they can be creative additions to the other services that they receive while also teaching them about proper social interactions, self-expression, and increasing their self-confidence.

Acknowledging the systemic inequalities found in the communities of participating youth should be another important feature in community-based programming. One such program in Hawaii involved Native Hawaiian and Asian American youth from a rural community that struggled with food insecurity.⁸⁵ The youth worked on a five-acre farm, kept a garden at their

⁷⁹ Pennington, *supra* note 11, at 109.

⁸⁰ *Id.*

⁸¹ *Id.* at 109-10.

⁸² Laura Louise Nicklin, 'Make Not Your Prisons Your Prisons': Participant-Perceived Potential Outcomes of a Shakespeare Focused Alternative to Juvenile Incarceration in the USA. *EMOTIONAL & BEHAV. DIFFICULTIES* 2, 8 (2017).

⁸³ *Id.* at 9.

⁸⁴ *Id.* at 10.

⁸⁵ Alma M.O. Trinidad, *Toward Kuleana (Responsibility): A Case Study of a Contextually Grounded Intervention for Native Hawaiian Youth and Young Adults*, 14 *AGGRESSION & VIOLENT BEHAV.* 488, 491 (2009).

high school, and participated in workshops centered around Hawaiian agriculture and leadership.⁸⁶ At the end of the study, parents noted that the program had “instilled pride” and “empower[ed] the youth to make a positive difference in their communities.”⁸⁷ The youth were also able to build more practical skills, such as decision making and trust in adult supervisors.⁸⁸ This program demonstrates the immense benefits of allowing youth to work in their own communities to understand the needs of those around them and work toward solutions rather than cause more problems through crime.

3. *Reinvest in These Communities*

Governments still choose to spend exorbitant amounts to keep youth in facilities rather than invest in their families and communities, despite the development of many beneficial and cost-effective community alternatives.⁸⁹ Community-based programming could cost as little as \$75 per day compared to \$400 for incarceration.⁹⁰ If reform and reinvestment occurred simultaneously, then states would be able to put the money they save back into community-based alternatives to expand their reach.⁹¹ For example, Washington, D.C. was able to fund a community organization focused on mentorship, known as Credible Messenger Mentoring Movement (CM3), by reducing the number of youth sent to private residential facilities.⁹² In addition, reinvestment can also take the form of grants to community-based organizations so they can provide support and resources that encourage diversion.⁹³ Most importantly, the money saved through the implementation of these programs should be given directly to families and

⁸⁶ *Id.*

⁸⁷ *Id.* at 492.

⁸⁸ *See id.*

⁸⁹ Muhammad, *supra* note 12, at 18.

⁹⁰ McCarthy et al., *supra* note 1, at 21.

⁹¹ *See id.* at 27.

⁹² Muhammad, *supra* note 12, at 19. *See also Introducing CM3*, <https://cm3.splashthat.com> (last visited Mar. 21, 2023).

⁹³ *See* Muhammad, *supra* note 12, at 19.

communities who are struggling to meet their basic needs.⁹⁴ Youth are a product of the neighborhoods they live in, the people with whom they surround themselves, and the resources they are given as they grow into adulthood. Assistance with programs that improve infrastructure, education, job placement, affordable housing, and health care will greatly improve the conditions of low-income families who may not have the capacity to provide everything that their children deserve to succeed as an adult. Breaking the cycle of generational poverty through reinvestment into communities is a great step toward the further reduction of juvenile crime.

4. *Considering the PYD Model*

Community-based programming can only be effective if it aids in the positive development of youth. The National Research Council released a report entitled *Reforming Juvenile Justice: A Developmental Approach* which outlined the essential elements of a good community-based program, all of which involved principles of PYD.⁹⁵ They recommended that programs focus on the quality of social interactions involving youth by keeping them close to their family and community while limiting time spent with individuals who exhibit antisocial behavior.⁹⁶ Another recommendation was to set youth up for future success by providing them with academic resources and tools to tackle future problems.⁹⁷

But implementing PYD in this alternative system should be ingrained every step of the way. Each individualized plan should be informed by the five domains of PYD: physical and mental health; positive adult and peer relationships; safety; educational and economic opportunities; and civic participation.⁹⁸ Asset-based case planning is seen in the Individual

⁹⁴ *See id.*

⁹⁵ McCarthy et al., *supra* note 1, at 20; NATIONAL RESEARCH COUNCIL, *Reforming Juvenile Justice: A Developmental Approach*, *supra* note 48.

⁹⁶ McCarthy et al., *supra* note 1, at 20.

⁹⁷ *Id.* at 20-21.

⁹⁸ Comm. for Pub. Couns. Servs, *supra* note 30, at slide 45.

Development Plans (IDPs) implemented in Washington, D.C. and the Individual Achievement Plans (IAPs) in Oakland, California, both of which focus on family support, treatment, education, and connection.⁹⁹ This is especially critical for youth who have a history of abuse and come from difficult homes.¹⁰⁰ Social workers and community-based organizations should meet youth where they are and not force them into programs that are not suited for their needs. Because PYD recognizes that youth grow up within various intersecting systems, culturally appropriate programming, along with a recognition of oppressive systems that may cause trauma, should be another aspect of the planning process.

CONCLUSION

The variety of studies that have reported on the harsh effects of incarceration are overwhelming. It is concerning that states continue to attempt to reform these costly and unsustainable systems when so many communities have successfully implemented alternatives that truly and meaningfully benefit their youth. Keeping youth close to their family and community creates minimal disruption and enhances safety. Individualized developmental plans that are informed by PYD can then be administered with the aid of community-based organizations. With a robust system of support and resources, youth can receive proper education and vocational training, build strong relationships with peers and adults, and work through past trauma to become successful adults who contribute positively to society.

⁹⁹ Muhammad, *supra* note 12, at 8.

¹⁰⁰ See McCarthy et al., *supra* note 1, at 5.