



SMART, SAFE, AND FAIR:

**STRATEGIES TO PREVENT
YOUTH VIOLENCE, HEAL VICTIMS
OF CRIME, AND REDUCE RACIAL INEQUALITY**

ACKNOWLEDGMENTS

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FOREWORD

In *Smart, Safe, and Fair*, the Justice Policy Institute (JPI) and the National Center for Victims of Crime (NCVC), explore how to build more effective approaches to serve youth involved in a violent crime in the community. JPI started by researching strategies for maintaining public safety when a youth is involved in violent crimes and examined the barriers to serving more youth involved in these behaviors at home. JPI also solicited input from a diverse spectrum of stakeholders, including young people directly impacted by the justice system, public defenders and prosecutors, advocates and policy-makers.

After the initial research, JPI partnered with NCVC to gain insight and recommendations for how best to serve youth charged with violent crime—including to assess how the field would react to serving more youth involved in violent crime in the community.

As part of this effort, NCVC invited victims and victim advocates from across the country to discuss these issues. The purpose of the conversation was to engage the two communities—juvenile justice researchers and advocates with crime victims and victim advocates—in a dialogue around the research and findings.

Some of the highlights from the roundtable were that crime victims:

- Do not equate accountability with confinement;
- Want a voice in the process that resolves the outcomes surrounding the young person's behavior;
- Want opportunities for youth to get what they need so they no longer engage in crime;
- Support eliminating some of the barriers that prevent youth involved in a violent crime from being served in the community;
- Want more resources designated to support youth rehabilitation in the community;
- Say that whether the youth was involved in violent or nonviolent crime is far less important to them than whether the youth is served effectively, held accountable, and the victim(s) are safe and their needs are met;
- Want the youth justice system to address the reality that young people involved in violent crimes are often victims of violence themselves and need trauma-informed services for successful rehabilitation;
- Are concerned with how racial and ethnic disparities affect the treatment and services provided to both youth in the justice system and victims; and
- Believe that serving youth involved in violent crime should not be built around the current philosophy of confinement. Instead, it should be built

- around a set of principles that focus on rehabilitation, victim safety, and the provision of ample services to both parties.

While participants acknowledged that the research on what works to address youth behavior points in a clear direction toward serving most youth in the community, there was also the recognition that there are diverse views across the victims' communities, and in some cases they believe that confinement is necessary and appropriate.

Today, far fewer youth are confined than in the past, and juvenile crime rates are at all-time lows, demonstrating that we don't have to choose between locking up more youth or being safe. We believe that incarcerating fewer youth and using resources more wisely is, in fact, a key piece of creating the safer society we all want, and we hope that this report is helpful in moving us toward that goal.



Mai Fernandez, Executive Director
National Center for Victims of Crime



Marc Schindler, Executive Director
Justice Policy Institute

“Research has shown that increasing time served does not help keep the public safe. Studies show that longer sentences have minimal or no benefit on future crime. Even worse, research shows a strong correlation between increased prison time and repeat offenses, meaning prison may create more serious and violent offenses when overused.”

—Law Enforcement Leaders to Reduce Crime and Incarceration

EXECUTIVE SUMMARY

Research shows that youth convicted of a crime who are served in the community are significantly less likely to reoffend than if they are confined, regardless of their offense type. Treating youth in the community makes everyone safer. Serving youth in the community is also significantly more cost effective than confinement and mitigates the disproportionate impact of confinement in the justice system on youth of color.

In the last two decades, largely in response to this body of research, there has been a seismic shift in the way confinement is used. According to federal data trends reported by the U.S. Department of Justice, since 1997, there has been nearly a 50 percent decline in the number of confined youth. This drop occurred during an era of historic declines in crime. Today, far fewer youth are confined and communities are safer. This clearly demonstrates that policymakers are not forced to choose between locking up more youth and being safe. To the contrary, incarcerating fewer youth is a key piece of creating a safer society.

However, the benefits of safely reducing the rate of incarcerated youth have not accrued equally among all. These reductions in the youth incarceration rate have been concentrated among nonviolent offenses—70 percent of the population decline. This distinction between nonviolent and violent¹ offenses that is frequently made by policymakers is artificial and not grounded in a strong public safety argument. Whether or not a crime is considered violent depends on the jurisdiction. For example, assaultive behavior can be prosecuted as nonviolent in some jurisdictions and violent in others.² Moreover, research shows that confinement leads to higher rates of reoffending compared to community-based strategies.

In addition, despite plummeting numbers of youth in confinement, racial and ethnic disparities have actually increased. Thus, it is clear that reducing the number of youth of color in confinement requires an intentional racial justice strategy that extends beyond simply changing policies and practices that drive confinement.

Despite some recent successes in safely reducing the rate of incarcerated youth, there is much work remaining. Diverting white youth engaged in nonviolent behavior is not a defensible strategy to roll back decades of overuse of incarceration and will not make communities safer. To sustainably reduce youth violence, recidivism, and racial disparities, we must focus on changing the many laws, policies, and practices that prohibit young people involved in a violent crime from taking advantage of effective interventions in a community setting.

This view is shared by many victims of crime, who are increasingly demanding change from a status quo that they see as costly, ineffective, and damaging to youth and their families. In *Smart, Safe, and Fair*, the Justice Policy Institute (JPI) and the National Center for Victims of Crime (NCVC) explore how to build more effective approaches to serve youth involved in a violent crime in the community. JPI started by researching strategies for maintaining public safety when a youth is involved in violent crime and examined the barriers to serving more youth involved in these

behaviors at home. JPI also solicited input from a diverse spectrum of stakeholders, including young people directly impacted by the justice system, public defenders and prosecutors, advocates and policy-makers.

Key takeaways include:

- The justice system currently treats youth charged with violent offenses in ways that are unnecessarily expensive, ineffective, and unjust;
- Confinement increases risk of reoffending compared to community-based approaches;
- Youth of color are more likely to be confined rather than benefitting from a community-based intervention; and
- Racial disparities are the result of cumulative disadvantages in their communities coupled with different patterns and practice of law enforcement.

After the initial research, JPI partnered with NCVV to gain insight into, and recommendations for, how best to serve youth charged with violent crime. This includes assessing whether the field supports serving youth involved in violent crime in a community setting.

As part of this effort, in December, 2017, NCVV invited victims and victim advocates from across the country to a roundtable to consider and discuss these issues. The purpose of the conversation was to engage the two communities—juvenile justice researchers and advocates with crime victims and victim advocates—in a dialogue around the research and policy solutions. Victims were consistent in their views, including the fact that they:

- Do not equate accountability with confinement;
- Want a voice in the process that resolves young people's behavior;
- Want opportunities for youth to get what they need so they no longer engage in crime;
- Support eliminating some of the barriers that prevent youth involved in a violent crime from being served in the community;
- Want more resources designated to support youth rehabilitation in the community;
- Say that whether the youth was involved in violent or nonviolent crime is far less important to them than whether the youth is served effectively, held accountable, and the victim(s) are safe and their needs are met;
- Want the youth justice system to address the reality that young people involved in violent crimes are often victims of violence themselves and need trauma-informed services for successful rehabilitation;
- Are concerned with how racial and ethnic disparities affect the treatment

and services provided to both youth offenders and victims; and

- Believe that serving youth involved in violent crime should not be built around the current philosophy of confinement. Instead, it should be built around a set of principles that focus on rehabilitation, victim safety, and the provision of ample services by both parties.

This report highlights areas of needed reform and provides examples of policies and practices that will result in a less costly, more effective, and more just system. These include:

- Expanding efforts to address the harm caused by crime in underserved communities, focusing on communities of color;
- Stepping up investments in approaches that address both the needs of young people involved in violent crime and reduce the harm caused by violent crime; and
- Advancing the juvenile justice system's ability to demonstrate accountability, share information, and help crime victims.

THE JUSTICE SYSTEM CURRENTLY TREATS YOUTH CHARGED WITH VIOLENT OFFENSES IN WAYS THAT ARE UNNECESSARILY EXPENSIVE, INEFFECTIVE, AND UNJUST

Research shows that youth involved in both nonviolent and violent behavior can be safely and successfully served in the community by utilizing similar approaches. By focusing on a youth's needs and providing individualized services, they are more likely to move beyond their behavior. Unnecessary confinement is associated with a host of issues, including increased likelihood of reoffending and detrimental effects on life outcomes around education, employment, and housing. Approaches that keep youth out of confinement and focus on community supervision have primarily been made available to youth with nonviolent offenses.

This is problematic because, regardless of whether a youth is involved in a violent or nonviolent offense, confining a young person results in a system that is worse for everyone.

Confinement is the most expensive way to address a youth's behavior. In many cases, the yearly cost of incarcerating a youth can exceed \$300,000, meaning that the community-based approaches that could effectively serve the same youth go underfunded.

Confinement increases a young person's likelihood of recidivating. When youth are served in the community rather than confined, they have been found to have a higher likelihood of avoiding future criminal justice involvement, regardless of their offense and risk level. This also coincides with a series of better life outcomes, all of which help youth transition to being healthy, law-abiding, and productive adults, including:

- Academic achievement;
- Getting jobs and job training;

- Experience in the workforce;
- Being exposed to extracurricular activities; and
- Healthy socialization skills.

Current practice does not make the community or the youth safer; it is an ineffective use of resources, disproportionately impacts youth of color, and rarely meets the needs of the victim.

Young people of color are disproportionately impacted any time a system relies on confinement. Black youth only account for about 13.8 percent of the youth population, but account for 38 percent of the committed population and 43 percent of the detained population. In the last decade, the percentage of white confined youth has decreased by half, whereas the Black population has grown by 7 percent. There is an inherent imbalance of impact when the system is reformed.

Despite the system disparity, youth of all backgrounds engage in similar behaviors. Eighty-two percent of youth confined for a gun offense were either Black or Latinx, yet survey-based research suggests that white, Black, and Latinx youth all carry a gun at a similar rate.

In many cases, this overrepresentation of youth of color is based on cumulative disadvantages. Young people of color experience higher rates of poverty and unemployment; face more challenges accessing health care and treatment; face barriers to seeing their case diverted or resolved by disposition to a community-based program; and face different levels of law enforcement contact than white youth. The cumulative disadvantages facing youth of color means they have a higher propensity of coming in contact with the justice system, regardless of the fact that research suggests that all youth engage in similar rates of delinquency.

When policy focuses on the offense rather than the needs, it creates a system that is worse for everyone. California has gone through a series of de-incarceration efforts for their youth confinement population; so much that today, a mere 4 percent of young people incarcerated in a state-run facility were involved in a nonviolent offense—a much better use of resources than in systems that confine higher percentages of youth involved in nonviolent offenses. Despite these successes in reducing the confined population, policy changes emphasizing community-based services have neglected to include youth involved in violence, even when research shows success engaging these youth. Similar trends were seen in Ohio and Florida.

Simply Locking Up Youth Who Have Committed a Violent Offense Not Only Fails to Provide Public Safety, But Also Does Not Meet the Needs of Victims of Crime

Research shows that the offense—violent or nonviolent—is not an accurate predictor of future offending. In many cases, laws require youth involved with violence to be transferred to an adult court, or face a mandatory or determinate sentence, which does not allow for a tailored response to address the individual's behavior. Decision-makers should assess the needs of each youth and provide individualized services and support.

Community and individualized support can come from evidence-based programs that serve youth involved in violence such as Functional Family Therapy or Multisystemic Therapy.

There are two approaches that help decision-makers with delivering individualized rehabilitative plans. These plans are typically sought for youth with a nonviolent offense, but are equally appropriate for youth involved in violent offenses:

Risk, Need, and Responsivity (RNR)

This approach calls for assessing what a young person needs, developing an individualized case plan to map out how services will be delivered to address their specific needs, and identifying strategies to help youth navigate the challenges of moving past delinquency. By targeting causal risk factors, a young person has a much better chance of moving past delinquency.

Positive Youth Justice (PYJ)

This approach is more focused on building on young people's strengths and creates opportunities for positive behaviors and outcomes for youth. The approach seeks to address issues that led a youth to be involved in the justice system in the first place by lifting barriers to accessing support the young person needs to thrive and succeed. It is facilitated by connecting them to resources in the following areas:

1. Relationships
2. Work
3. Health
4. Education
5. Community
6. Creativity

By utilizing these approaches, any support that could be provided in a facility setting can be accomplished in the community more effectively and less expensively. Jurisdictions can garner ideal outcomes by shifting their approach away from confinement and focusing resources on serving young people in the community. There has been success serving significant numbers of youth involved in violent crimes in the community. Washington, D.C., has been highlighted as a place that has switched their focus. By embracing a PYJ approach that focuses on personal accountability, Washington, D.C., has been able to shift their incarcerated population to the community, decreasing the recidivism rate even for youth convicted of acts of violence. This shift coincides with some of the lowest rates of youth crime since a recent peak in 2009.

When appropriate resources are allocated to the community, there should be no barriers that prevent properly assessed youth from being served in the community. It's safer for the youth, and for the community.

VICTIMS OF CRIME WANT AN APPROACH THAT MEETS THE NEEDS OF THE YOUTH, STRENGTHENS FAMILIES, AND ADDRESSES THE UNDERLYING CAUSES OF CRIME

Any shift in practice needs to be in conjunction with meeting crime victims' needs. This creates safer and fairer communities for everyone.

JPI and NCVC convened a roundtable of crime victims and justice reform advocates to discuss proposed youth justice policy reforms. Two dozen leaders learned of the barriers to serving more youth in the community and were invited to provide their perspective on what needs to happen next. As part of the roundtable conversation, there were some consensus areas established:

- There should be no categorical bar on serving more young people involved in violent crimes in the community. This includes serving a young person in the community if it is likely to reduce recidivism, as long as the appropriate community-based approach is available. Participation in restorative justice principles were broadly supported if the harmed party consented.
- Community approaches are not necessarily "easier" than confinement— young people can be engaged in multiple services when they are at home. Washington D.C.'s focus connects committed youth to resources to help move them beyond their committing behavior. Because of this approach, 55 percent of youth committed to the agency are served in the community, including half the youth committed for a violent offense. Similar approaches have better served youth in New York City and Wayne County, Michigan.
- Community approaches can be just as "tough," and crime victims believe they can hold youth just as accountable as out-of-home confinement. When victims have been polled, by a margin of 3 to 1, crime victims prefer community-based rehabilitation and mental health and substance abuse treatment over incarceration. Community-based approaches—including restorative justice practices—have helped youth confront the issues leading to their behavior; acknowledge the harm done to the community and crime victims; and make restitution to the harmed party. Simply incapacitating someone has a negligible (or a negative) impact on their recidivism rates, whereas understanding the effect of their actions and the experience of their victim has a positive effect on public safety.
- Crime victims believe a community approach can hold a young person just as accountable as confinement. Accountability can be a key part of the community-based formula and does not need to equate confinement. Accountability can take the form of a young person successfully completing the terms of their probation, paying restitution to the victims, or participating in community building or restorative justice activities.
- Crime victims want youth to be served effectively, held accountable, and victims' needs to be met. The perspective offered by crime victims

and crime victims' advocates echoed the position taken by juvenile justice experts—whether something is described in statute as violent or nonviolent is less important than how a young person is served; the vast majority of youth can move on from the behavior and the treatment approach can be provided in the community.

- Juvenile justice system processes should be individualized to meet the needs of both the young person and the crime victim. No participant conveyed that there is anything to be gained by categorically excluding youth from effective community approaches, and they agreed that approaches should be individualized to address the specific behavior.
- Crime victims believe we need to recognize that young people who are involved in violent crime are themselves overwhelmingly victims and should receive appropriate services. Engaging youth in similar victims' services will help reduce future crime and violence. An analysis of Florida found that 98 percent of youth in the juvenile justice system reported four or more Adverse Childhood Experience (ACE) indicators—including both physical and psychological abuse—with the remaining 2 percent reporting one to three. If the cycle of violence is going to be solved, the trauma that can lead to a young person being involved in violence simply must be treated.

Roundtable attendees cautioned that, just as there is no monolithic approach to serving a young person, there also is no monolithic perspective on what crime victims might think is an appropriate disposition for a youth. Crime victims need to have a voice in the sentencing or disposition process.

The vast majority of youth should be served in the community, but there is a system-wide recognition that those who are a threat to public safety are appropriate candidates for a limited period of confinement. No matter where a youth is served, there should be a consensus of what supervision looks like.

THE PRINCIPLES FOR SERVING YOUTH IN THE JUSTICE SYSTEM SHOULD BE THE SAME, WHETHER THEY ARE IN THE COMMUNITY OR IN SECURE CONFINEMENT

These principles include:

- A positive youth justice approach;
- A trauma-informed approach;
- A supportive and well-qualified staff;
- Partnership with the young person's family;
- Purposeful programming;
- Healing and safe environments;
- Connecting youth to communities;

- Ensuring equity in the provision of all programs and opportunities; and
- Quality assurance and continuous improvement.

These principles are not dependent on the kind of behavior a young person is involved in or the offense for which they were convicted. They should drive the approach to any young person touching the juvenile justice system, regardless of where they are served.

A PATHWAY FORWARD: KEY BARRIERS AND POLICY RECOMMENDATIONS TO SERVE MORE YOUNG PEOPLE INVOLVED IN VIOLENCE IN THE COMMUNITY

When members of the crime victims' roundtable discussed how to support safer, healthier communities that address the needs of both crime victims and youth involved in violent crime, several key goals were identified. These included:

- Address the harm caused by crime in underserved communities and communities of color;
- Step up investments in approaches that both address the needs of young people involved in violent crimes and reduce the harm caused by violent crime; and
- Juvenile justice systems need to demonstrate accountability, share information, and help crime victims.

States can implement important changes to policy and practice to meet these goals, including:

- Repealing state laws requiring a mandatory term of confinement or an automatic transfer to adult court. Mandatory minimums are resource intensive. Louisiana's "Vitter Law"—mandatory confinement until a youth's 21st birthday for certain offenses—can cost nearly \$600,000 to incarcerate one youth. Additionally, being charged as an adult is connected to a host of problems; youth are more likely to reoffend or be harmed while in the adult system, spend time in solitary confinement, and provide challenges to correctional leadership to serve youth effectively while keeping them safe.
- Changing practice standards that needlessly increase length of stay. In 2015, more than 31,000 youth were committed out-of-home, with nearly one-quarter of youth being confined for longer than 6 months. Adjusting practice that reduces an individual's length of stay would allow more young people involved in violent crimes to transition into the community. Research shows that length of stay has a negligible impact on rearrest rates after 3 to 6 months. Providing the wrong dosage of supervision can impact a youth's future involvement in violence.
- Expanding available diversion options for youth involved in violence. Every year, nearly one million youth are arrested and experience the negative consequences of justice system involvement. Pre-arrest and

pre-adjudication diversion strategies provide meaningful opportunities to address a young person's behavior outside the justice system. Restorative justice practices have been widely explored internationally and have been shown to reduce reoffending among those involved in violence, compared to a disposition resulting in traditional criminal justice supervision. But compared with the tens of thousands of young people arrested for a violent crime, the number of youth being served by appropriate diversion schemes are measured in the hundreds.

- Narrowing the number of offenses or behaviors that require confinement. By limiting the scope of confinement eligibility, some states have increased their community supervision. In 2007, both California and Texas passed laws that prohibited a young person from being committed to their state-run facilities for a variety of offenses. These categorical bars catalyzed more youth being served effectively in the community. The limit has been mostly focused on misdemeanor or status offenses. However, key changes that would increase the scope of community support include having time limit policies, using data and studying practices to inform case processing, and improving reentry and aftercare approaches. These changes would help reduce the length of stay, individually tailor supervision, and free up resources to adequately fund community-based programs.
- Providing appropriate supervision and support for young people in the community. Effective probation supervision for youth involved in violence is possible. According to a national survey, 28 percent of youth placed on supervision were convicted of a violent offense. Currently, probation and aftercare approaches are solely focused on conditions; a focus on serving a youth effectively in the community would involve a series of reforms, including:
 1. Reducing probation caseloads;
 2. Individualizing case planning that aligns the right amount of contacts and services;
 3. Limiting court orders;
 4. Connecting youth with community-based organizations and resources;
 5. Rewarding young people for good behavior; and
 6. Eliminating incarceration for minor violations while on supervision.

Addressing these barriers to move us toward the best community supervision model for youth would mean more attention, resources, and support for youth involved in violence when they are in the community. This includes:

- Ensuring a zealous defense at every stage of the justice system process. An effective legal defense plays a key role in determining if a youth will

end up in the community or confined when charged with a violent offense. According to a 2017 analysis of juvenile public defense in all 50 states³, only 11 states provide every child accused of an offense with a lawyer. With an already insufficiently resourced and overburdened public defense system, if a youth lacks an adequate defense, the courts may not have sufficient information to decide whether a youth can be served in the community.

- Resourcing community-based approaches at a scale sufficient to serve more youth involved in violent crimes at home. Federal, state, and local governments spend upwards of \$80 billion on prisons, jails, and the corrections system. There has been a concentrated effort in juvenile justice policy to move funding from incarceration to community-based approaches. However, this has been met with funding challenges. In California, only 4 percent of a \$90 million funding stream designed to serve youth in the community actually reached community-based organizations. Both Virginia and Ohio have experienced similar funding dilemmas after reforms to move more youth to the community, and while there has been progress in shifting resources, the majority of budgets continue to focus on the deep-end. When community-based approaches are not resourced at scale to serve youth, it creates a cycle of events that fails both crime victims and young people directly.
- Decision-makers should appropriately use tools that assess what a young person may need to be served in the community. Utilizing Risk Assessment, Needs Assessment, and Structured Decision Making tools to determine the best place and most effective way to serve a youth will help better manage resources and navigate the aforementioned barriers. These tools do not replace the need for an individual to make a decision, but provide information to recalibrate the focus away from the offense and help make more objective and effective decisions. To use these tools effectively, they should be:
 1. Combined with other sources of information;
 2. Validated;
 3. Free from bias based on race, ethnicity, sexual orientation, or gender identity and expression;
 4. Monitored and reviewed; and
 5. Expanded to measure ACEs.

The research is clear that the community is the best setting to serve youth who have been convicted of a crime. Keeping kids close to home, providing services and support, and allowing them to engage with their families and experience positive peer associations results in significantly lower rates of reoffending. In addition to making everyone safer, youth can be treated in the community at a fraction of the cost of confinement, and keeping them at home helps mitigate the damage caused

by racially disproportionate policies and practices in the justice system.

To truly reduce youth violence, recidivism, mass incarceration, and racial disparities, we must face the challenge of shifting youth convicted of violent offenses out of secure facilities and into the community. This is a view that is shared by many researchers, juvenile justice advocates, practitioners, and perhaps most importantly, victims of crime. The JPI/NCVC-convened roundtable and focus groups echo public opinion polling revealing that many crime victims believe that youth convicted of violent offenses can be effectively served in the community. Moreover, they feel their needs as victims of crime are not being adequately addressed. Finally, victims of crime recognize the fact that many youth who have committed violent offenses have themselves been victims of crime and are not receiving the trauma-informed care and services they need to heal and change their behavior. Focusing on these issues differently, they believe, would create a safer, healthier society for everyone.

“There can be very **high rates of victim satisfaction in a restorative justice** approach. In terms of accountability—accountability meaning the person who committed the offenses accepts that their actions harmed someone and **take responsibility** for that and engage in a dialogue with a victim who’s willing to dialogue to address the harm – **victims feel a lot more listened to.**”

-Rosie Hildago,
National Latin@ Network



INTRODUCTION

Research shows that youth convicted of a crime who are served in the community are significantly less likely to reoffend than if they are confined; meaning that treating youth in the community makes everyone safer. Serving youth in the community also is significantly more cost effective than confinement and mitigates the disproportionate effect of confinement and the justice system on youth of color.

Over the last 30 years, in response to this body of research, elected officials and juvenile justice systems stakeholders have changed laws, policies, and practices to treat more youth in the community. These changes have reduced the number of young people in confinement by half and resulted in closing dozens of juvenile correctional facilities across the country. This has occurred during a period when juvenile crime rates have declined significantly⁴, showing that youth incarceration can be reduced without compromising public safety.

In general, these trends of reducing youth incarceration have predominantly affected youth involved in nonviolent, rather than violent, offenses—including a clear disproportionate impact on white youth over youth of color. But the distinction between nonviolent and violent offenses is often an artificial and inconsistent one. By way of example, depending on the jurisdiction assaultive behavior can be prosecuted as nonviolent or violent – the same behavior, just in different jurisdictions. For the purposes of this paper, we use the FBI's and the Department of Justice's National Institute of Justice's definition of a violent offense: murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault.

The research clearly shows that the reasons to serve youth in the community apply equally regardless of whether the offense is categorized as violent or nonviolent. What is important to a young person's success is how they are served, and whether the approach connects the youth with the kinds of supports that will help them successfully transition into a productive, law-abiding, adult.

To truly reduce youth violence, recidivism, mass incarceration, and racial disparities, we must address the issue of confinement for youth convicted of violent offenses. Many crime victims agree that this process can and should change; they say that there is no reason to categorically bar youth convicted of violent offenses from being served in the community, that their needs as victims of crime are not currently being adequately addressed, and that the justice system needs to recognize and address the fact that many youth who have committed violent offenses have themselves been victims of crime. Focusing on these issues differently, they believe, would create a safer, healthier society for everyone.

To do that, however, we must focus on changing the many laws, policies, and practices still in place that prevent young people involved in a violent crime from having their behavior addressed in the community—even though serving a youth in the community is the safer and more effective, less expensive, and fairer approach.

To unpack the issues that result in the twin problems of too many young people

being confined and too few victims receiving what they need, JPI synthesized the dialogue from the NCVV roundtable and other research, examining these issues within four core themes:

THE JUSTICE SYSTEM CURRENTLY TREATS YOUTH CHARGED WITH VIOLENT OFFENSES IN WAYS THAT ARE UNNECESSARILY EXPENSIVE, INEFFECTIVE, AND UNJUST

In *Smart, Safe, and Fair*, JPI and NCVV demonstrate that serving more youth in the community is the more cost effective, safer, and fairer way to resolve young peoples' behavior and help them transition to adulthood—regardless of whether a youth is involved in a violent or nonviolent offense.

VICTIMS OF CRIME WANT AN APPROACH THAT MEETS THE NEEDS OF THE YOUTH, STRENGTHENS FAMILIES, AND ADDRESSES THE UNDERLYING CAUSES OF CRIME

In *Smart, Safe, and Fair*, JPI and NCVV discuss themes that were learned from a roundtable discussion the organizations conducted with a diverse group of crime victims and advocates on their perspectives on juvenile justice policy, with a particular focus on what victims want to see if more youth involved in violent crime are going to be served in the community, rather than be incarcerated. That focus group resulted in these crime victims and advocates articulating a set of recommendations to the youth justice field.

THE PRINCIPLES FOR SERVING YOUTH IN THE JUSTICE SYSTEM SHOULD BE THE SAME, WHETHER THEY ARE IN THE COMMUNITY OR IN SECURE CONFINEMENT

Smart, Safe, and Fair offers a series of principles that should inform how a young person involved in crime is served, regardless of where they are in the justice system—whether they are the vast majority of youth who should be served in the community, or the very few that will be confined for some period of time.

KEY BARRIERS AND POLICY RECOMMENDATIONS TO SERVE MORE YOUNG PEOPLE INVOLVED IN VIOLENCE IN THE COMMUNITY

In *Smart, Safe, and Fair*, JPI and NCVV analyze and present some of the key laws that would need to change, and the key policy and practice barriers that need to be addressed to serve more young people involved in violence in the community.

In order to have the same conversation, there needs to be a commonality of agreed upon terms.

For the purposes of this analysis, what do we mean by the term "youth?" Different sources and statistical surveys may present data on people under the age of 18, people involved in the juvenile justice system, people under 18 who have been transferred to the adult system, or a mix of all three. For the purposes of this report,

JPI uses the term “youth” to apply to all people under the age of 18, regardless of where they are in the justice system.

What do we mean by the term “violent”? How violent offenses are categorized can vary from place to place; an act may be defined as a violent crime in one jurisdiction and as a nonviolent crime in a nearby jurisdiction. The law in a particular jurisdiction may define something as a nonviolent crime, but a corrections department may define the same behavior differently. The FBI and the Department of Justice’s National Institute of Justice define crimes of violence for the purpose of statistical collection as murder and non-negligent manslaughter, forcible rape, robbery, or aggravated assault.⁵

Additionally, in many states under the federal jurisdiction, burglary can be defined as violent and can lead to a long prison sentence even though burglary rarely involves person-to-person behavior.⁶ Also, not all violent crimes are felonies, and not all felonies are violent crimes.

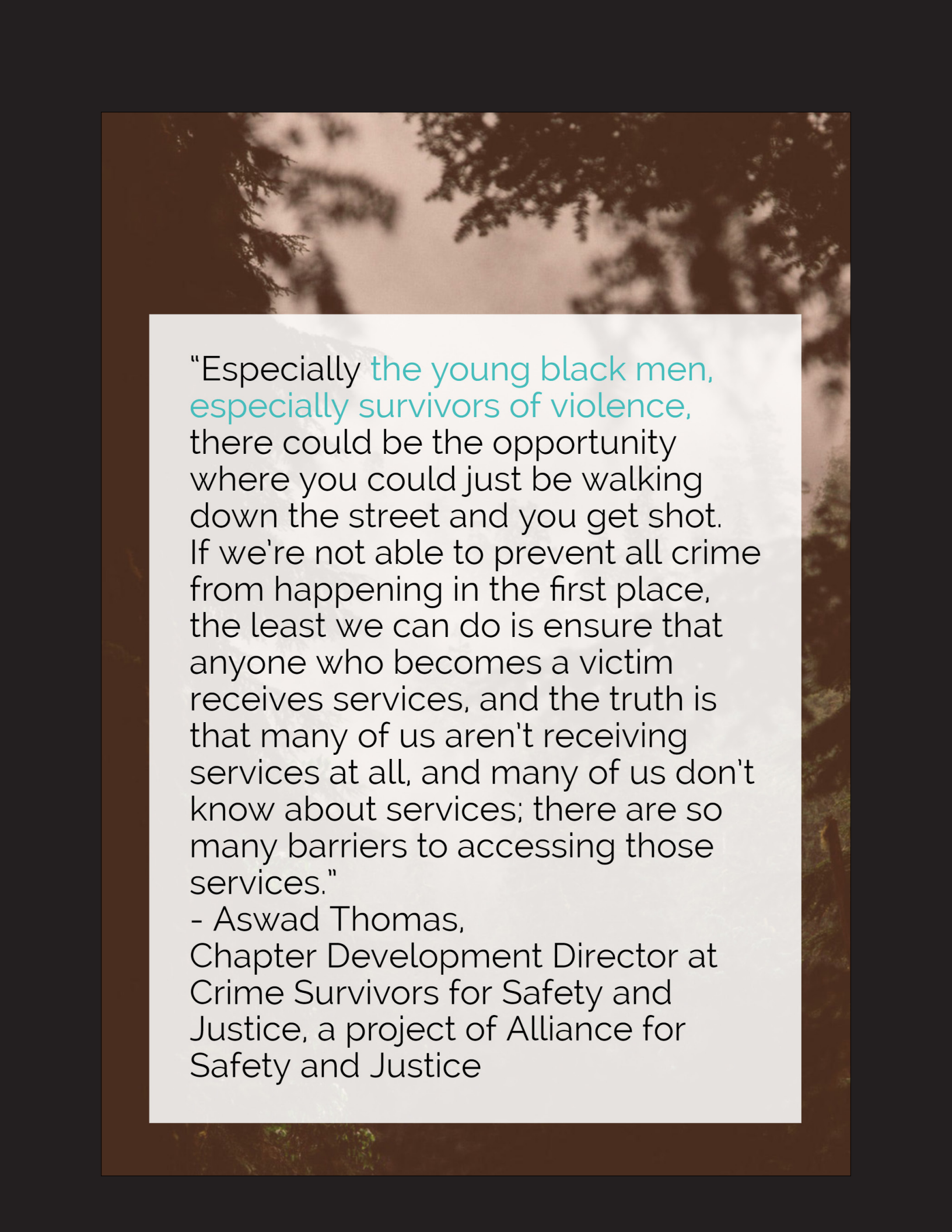
JPI has previously examined this question in *Defining Violence: Reducing Incarceration by Rethinking America’s Approach to Violence* where we found that, depending on the jurisdiction, similar behavior can be prosecuted as nonviolent in some locations and violent in others.

What segment of youth convicted of an offense are we addressing in this analysis? There is broad consensus across political parties that youth should not be confined for non-violent offenses.

There is consensus that some portion (and we argue a very small portion) of youth involved in violent offenses may need to be in out-of-home placement for some period of time. We argue that a comprehensive risk assessment needs to be done before making this assessment, and that these youth should be confined only if they are shown to be a high risk if served in the community.

For the purposes of this paper, we address the majority of youth convicted of offenses labeled as “violent”—whether or not the offense included direct, person-to-person violent contact—about whom there is no current consensus. Research shows the majority of these youth can be safely managed in the community, and that doing so is significantly better for youth, victims, and society at large.

JPI and NCVC believe strongly that there should be dialogue amongst key stakeholders on these complicated issues. Through this dialogue and subsequent policy discussions, the youth justice system can be altered so that fewer youth involved in violent crimes are confined, more crime victims’ needs are met, and all of us can live in safer and fairer communities.



“Especially the young black men, especially survivors of violence, there could be the opportunity where you could just be walking down the street and you get shot. If we're not able to prevent all crime from happening in the first place, the least we can do is ensure that anyone who becomes a victim receives services, and the truth is that many of us aren't receiving services at all, and many of us don't know about services; there are so many barriers to accessing those services.”

- Aswad Thomas,
Chapter Development Director at
Crime Survivors for Safety and
Justice, a project of Alliance for
Safety and Justice

PART I: THE JUSTICE SYSTEM CURRENTLY TREATS YOUTH CHARGED WITH VIOLENT OFFENSES IN WAYS THAT ARE UNNECESSARILY EXPENSIVE, INEFFECTIVE, AND UNJUST

Research shows that youth involved in both nonviolent and violent behavior can be safely and successfully served in the community utilizing similar approaches. However, these community-based approaches have typically only been available to youth who have been engaged in nonviolent offenses. Since 1997, the number of youth committed to a juvenile facility has dropped by more than 50 percent.⁷ According to the federal data trends reported by the U.S. Department of Justice's Census of Residential Placement, about 70 percent of the drop in youth confinement between 1997 and 2015 was based on fewer young people being confined for nonviolent crime. This translated to 44,000 fewer youth confined for a nonviolent offense versus about 12,000 fewer confined for a violent offense.⁸

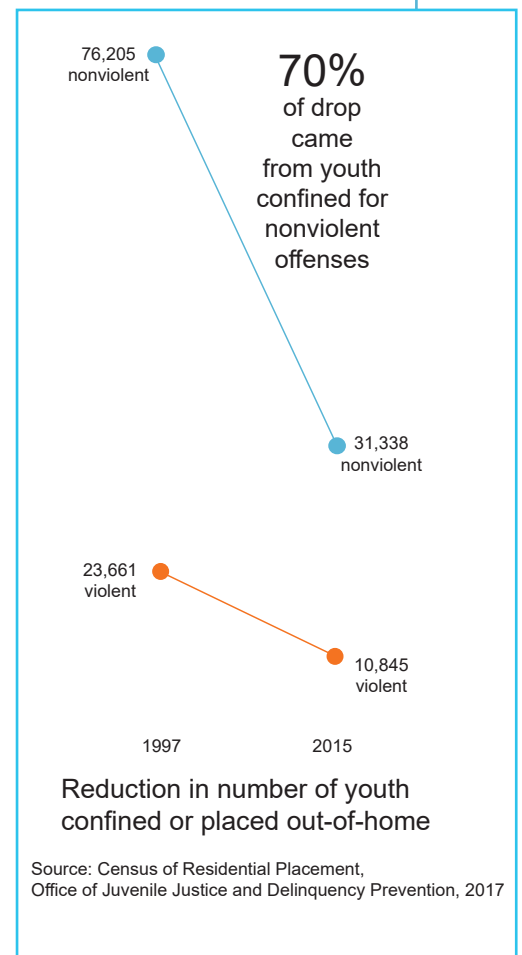
National data can sometimes mask the scale of what is happening at the state level due to differences in how states report their use of confinement. To illustrate, two states that changed their laws, policies, or practices to reduce the number of youth confined demonstrate how the de-incarceration trend has been driven by youth involved in nonviolent offenses.

FLORIDA: In Florida⁹, between 2007 and 2016, there was a 72 percent decline in the number of young people confined and placed out-of-home; of that reduction, 82 percent were youth whose offense was nonviolent.

OHIO: During the same time frame, in Ohio¹⁰, the number of youth confined for a nonviolent offense fell by 86 percent, with just a 58 percent reduction for violent offenses.

Because our system equates violent crime with confinement, we incarcerate too many youth in too many adult-like facilities that remove young people from their community and family, often placing them in harmful and traumatic conditions. Regardless of whether a youth is involved in a violent or nonviolent offense, confining a young person creates results that are worse for everyone; it increases the likelihood that a young person will reoffend, is by far the most expensive way to address behavior, and disproportionately impacts youth of color.

When policy focuses on the offense rather than need, we create a system that is



worse for everyone—the youth, the community, and the victim.

Juvenile confinement is the most expensive way to address a youth's behavior

The expense of incarcerating a young person inherently limits the resources available to serve youth in the community and provide necessary services to crime victims.

In 2014, JPI studied juvenile correctional costs across the country by surveying state juvenile correctional systems and found that in 33 states and the District of Columbia, it costs \$100,000 or more annually per youth to confine a young person in that jurisdiction's most expensive confinement option.¹¹ Since then, in some states the cost of confining a young person has actually increased, drastically impacting the state's budget.

In California, confinement in a state-run facility now costs more than \$317,000 per year.¹² In Maryland, the most expensive state option to confine a youth is even more, coming in at \$358,000 a year.¹³ Ohio¹⁴ taxpayers can spend \$200,000 a year to confine a youth in a state-run facility, and even in the relatively less expensive Florida, taxpayers can spend more than \$90,000 a year to confine a youth (up from \$55,000 just a few years ago).¹⁵

When juvenile correctional systems spend an increasingly large portion of their resources on confinement, it means that proven community-based approaches that could serve the same youth more effectively are underfunded.

Confinement increases a young person's likelihood of recidivating compared with treatment in community-based approaches, making everybody less safe

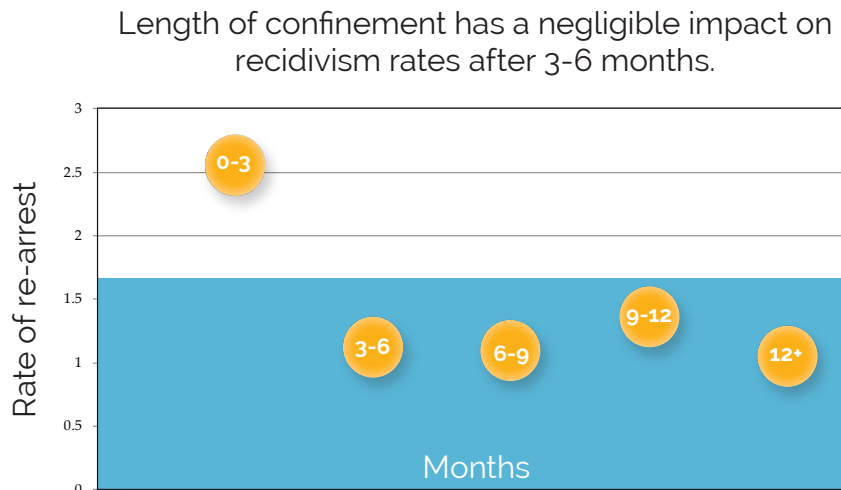
Young people who have been confined have higher recidivism rates than youth with similar characteristics who are served through a community-based approach.¹⁶

In California, in the three years following their release from confinement, 74 percent of young people are rearrested, 54 percent are convicted of another offense, and 37 percent return to custody.¹⁷ If the system had diverted them early on and provided services in the community, their behavior may have been addressed more effectively. For example, only 18 percent of young people diverted to a restorative justice¹⁸ approach in California's seventh largest county were rearrested, convicted, or confined within a two-year period.¹⁹

In Ohio, 45 percent of youth are convicted of another offense within three years of returning home from confinement;²⁰ but an analysis of recidivism outcomes across a variety of dispositions showed that young people served in the community had lower recidivism rates, regardless of their offense and risk level.²¹

An Annie E. Casey Foundation analysis of Florida data²² found that youth who were either diverted or served by probation were less likely to recidivate than youth who were confined in the deep end of the system. Seven in 10 youth assessed as high risk recidivated within one year of release from a residential facility in Florida, whereas Florida's AMI Kids reports that only 1 in 5 youth treated at home during their supervision recidivated within one year of release.²³

When youth are served effectively in the community, they are more likely to move beyond their delinquency and experience better life outcomes. This includes better academic achievement, increased likelihood of employment and job training, more experience in the workforce, greater exposure to extracurricular activities, and healthier socialization skills. These better outcomes help ensure that impacted youth transition to being healthy, law-abiding, and productive adults.



Source: Ed Mulvey, et al., Youth Corrections Reform (Washington D.C.: The McCourt School of Public Policy–Lead Conference, 2017). PowerPoint.

Young people of color are disproportionately impacted any time a system relies on confinement

Although youth of all backgrounds engage in violent behavior, communities of color are disproportionately impacted by the justice system, including confinement. Black youth account for about 14 percent of the youth population but comprise 38 percent²⁴ of the committed population and 43 percent of the detained population.²⁵ When you factor in Latinx, Asian-Pacific Islander, and Native American youth's overrepresentation in the deepest end of the justice system, 7 in 10 youth confined for a violent offense in 2015 were youth of color.²⁶

In California, nearly 9 out of 10 youth in the deep end of the system are youth of color. In California, youth of color are 57 percent²⁷ of the youth population, but 86 percent²⁸ of the youth confined in the three state facilities.

In Ohio, youth of color are 2 out of 10 youth, but nearly 7 out of 10 confined youth. In Ohio, youth of color are 21 percent²⁹ of the youth population, but 68 percent³⁰ of the youth confined in the three state facilities.

In Florida, youth of color are half³¹ of the youth population, but 74 percent³² of the

youth confined in the three state facilities.

All young people navigate a phase of adolescence that is characterized by increased risk-taking behavior, which can potentially lead to involvement in violence;³³ but data shows that youth of color are more likely to find themselves in the deepest end of justice system for these offenses than are white youth. Young people's tendency to be involved in riskier behavior than adults stems from three cognitive developmental differences:

- Youth are less equipped to self-regulate emotionally-charged situations;
- Youth have a heightened sensitivity to peer pressure; and
- Youth show less ability to make judgments and decisions that require long-term foresight.

Research showed that white, Black, and Latino males under 18 carried weapons at relatively similar rates (white 9.6 percent, Black 9.6 percent, Latino 6.5 percent),³⁴ but 44 percent of youth arrested for weapons offenses were Black and 32 percent of these arrests were Latinx.³⁵ Moreover, eighty two percent of youth confined for a weapons offense were either Black or Latinx.³⁶ Similar trends of a disproportionate rate across demographics are found in robbery and assaultive behavior, despite the prevalence of those behaviors among all demographics outside of the criminal justice system.³⁷

While youth behavior that can be defined as violent occurs at similar rates among youth of different demographic categories, how juvenile justice systems address violent behavior contributes to racial and ethnic disparities in the justice system.

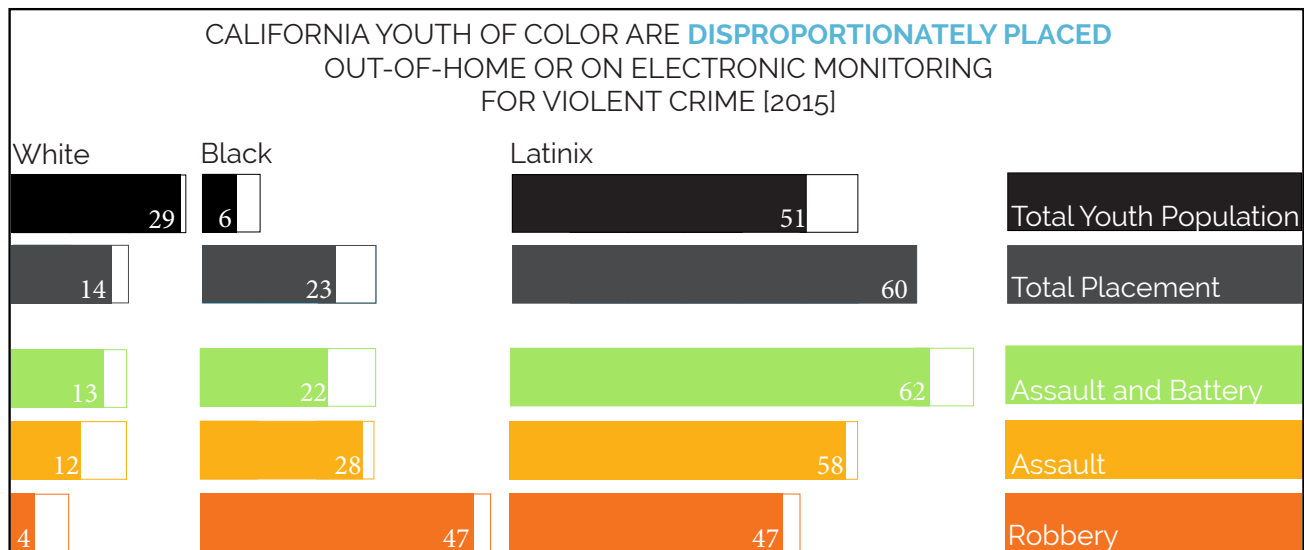
Ramsey County, Minnesota: Racial and ethnic disparities increase for violent offenses

As part of their participation in the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative, stakeholders in Ramsey County (St. Paul), Minnesota reviewed who was committed to the deep end of the justice system, with a focus on racial disparities. The analysis found that Blacks represented only 20 percent of the county's youth population but were 69 percent of the juveniles placed out-of-home.³⁸ Also, when a young person's committing offense was labeled as violent, the racial disparities in Ramsey County worsened.³⁹

Black youth labeled as nonviolent were slightly more likely than similar white youth labeled as such to be sent to an out-of-home placement. Conversely, Black youth labeled as violent were significantly more likely than white youth labeled as such to be placed out of the home. Whereas only 18 percent of white "violent" youth were confined; 43 percent of Black "violent" youth were confined.⁴⁰

California: Young people of color involved with assault, burglary, and robbery are more likely to receive out-of-home placement than white youth who committed the same offenses.

A study from the W. Haywood Burns Institute showed that in California, youth of color were overrepresented in the population of youth in out-of-home placements



Source: Anna Wong and Lauren Ridolfi, *Unlocking Opportunity: How Race, Ethnicity and Place Affects the Use of Institutional Placement in California* (Oakland, CA: The W. Haywood Burns Institute, 2018.)

and electronic monitoring conditions for violent crimes. Controlling for the offense (assault, burglary, and robbery), youth of color were disproportionately placed out-of-home or placed on electronic monitoring during disposition. The impact does not stop at violent crimes; the penetration of youth of color into the system extends to all levels of crime. Both Latinx and Black youth account for at least 75 percent of weapons, vandalism, theft and other misdemeanors.⁴¹

Youth of color often face systemic barriers to the types of resources white youth have access to during adolescence, and these gaps collide with justice system processes

Youth of color and white youth have very different interactions with systems. Young people of color experience poverty and unemployment; face more challenges accessing health care and treatment;⁴² face barriers to seeing their case diverted or resolved by disposition to a community-based program; and face different levels of law enforcement contact than do white youth.⁴³ Access to work and workforce development has been identified as a protective factor that help young people “desist” from crime,⁴⁴ but Black youth face the highest unemployment rates, followed by Latinx youth.⁴⁵

The combined weight of these disparities give youth of color fewer opportunities than white youth to address the underlying causes of violent behavior, fewer opportunities to avoid the deepest contact with the justice system, and fewer resources to guide them through the normal maturation process.⁴⁶

Youth of color are exposed to situations where their actions have a greater chance of placing them within the purview of the juvenile justice system rather than having the behavior informally resolved. This can ratchet up a young person of color’s juvenile record in ways that white youth do not experience, increasing the risk that the system will judge one youth to be more “violent,” or “chronic” than another for reasons that have nothing to with the behavior in question.⁴⁷

Young people of color face more concentrated poverty than white youth.⁴⁸

Low-income youth of color often live in areas of concentrated poverty that are

more heavily policed, leading to more surveillance and more repeat encounters with the police. Twenty-eight percent of youth of color in the United States are living in poverty, as opposed to 12 percent of white and non-Latinx children and adolescents.⁴⁹ Behaviors that are “under the radar” in affluent neighborhoods draw more scrutiny and an increased likelihood of justice system involvement.⁵⁰

Geography (where one lives) and household income can mean the difference between whether or not a young person is able to access the kind of legal counsel that can help them avoid confinement, get access to restorative justice processes, or take advantage of other available resources.

Communities of color often lack evidence-based programs and resources for their youth compared to more affluent jurisdictions.^{51,52} For example, an analysis of Ramsey County, Minnesota, data found that Black youth were less likely to be connected to community services that assist an individual in moving beyond delinquency, despite being twice as likely to be labeled high risk or high need. In other words, even though the system has assessed this group as having greater needs than others, rather than being connected to the appropriate services, they were simply confined. Additionally, Black youth were not offered the same opportunities that move youth back into the community pre-arrest or pre-adjudication. Prosecutorial diversion was offered to 17 percent of white youth and only 5 percent of Black youth.⁵³

The justice system targets the behavior of youth of color in ways that it does not target white youth, particularly in schools.

Even though all youth engage in various forms of delinquent behavior, schools have major differences in discipline policies, levels of tolerance, and police presence. Differing disciplinary environments can contribute to disparities in incarceration of youth involved in violent behavior. Youth of color are more likely to attend high poverty schools, which also tend to be schools with police officers on campus, resulting in youth of color being under heightened surveillance and disproportionately arrested in comparison to other school populations.^{54,55}

Low-income youth of color often attend schools with fewer resources and higher dropout rates.⁵⁶ Young people attending these schools also often face higher rates of suspension and expulsion, as well as documented higher referrals to court for behavior that might well be handled in the principal’s office in other neighborhoods.

It has been widely documented that Black youth face harsher punishments for school misbehavior than white youth do for similar behavior. The result is a widening of the suspension and expulsion gap by race. Youth of color are often in a situation where general adolescent behavior is more likely to fall under the purview of the justice system rather than being resolved informally.⁵⁷ Black, and in some cases Latinx, students are disproportionately suspended or expelled.⁵⁸ The more a young person has been suspended, the higher their risk of dropping out and being more involved with the justice system.⁵⁹

Youth of color face bias that increases their involvement in the justice system in ways that white youth do not.

A Seattle-based study found that Black youth were twice as likely as white youth to have any sort of police contact due to a range of factors including heavier police presence in communities of color and a greater chance of being a victim of a crime.⁶⁰

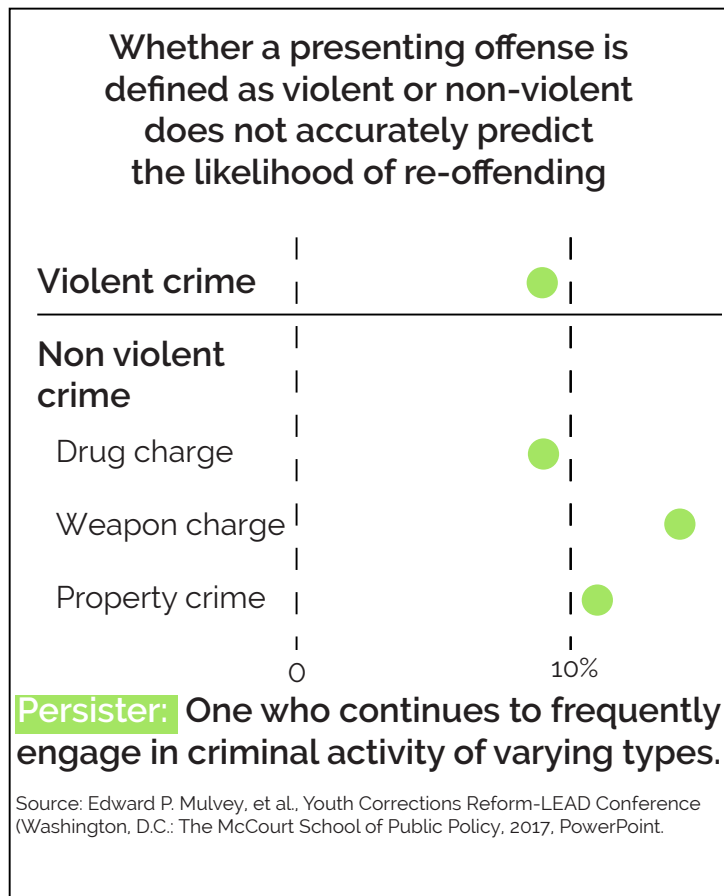
Racial bias, discrimination, and profiling are all important lenses through which to view disparities in justice system involvement. This is especially true in the juvenile justice context, as studies have shown that Black children are often viewed as older, less childlike, less innocent, more culpable, more responsible, and more appropriate targets for violent police tactics.⁶¹ These implicit biases contribute to more intensive policing practices, more opportunities for the justice system to observe behavior common to many youth, and oftentimes a lengthier juvenile justice record for a young person of color—all of which tends to lead to a more punitive response when the youth is involved in a violent act.

Investing in proven community-based interventions does more than confinement to meet the goals of public safety and the needs of crime victims

Most young people who engage in violent behavior do not do so again, with slightly over one percent engaging in multiple acts of violence.⁶² Serving more youth convicted of a violent crime in the community has been successful in a variety of jurisdictions, reducing recidivism associated with confinement, thereby improving public safety. The data show that if a young person is served effectively, with an intervention that best fits their unique needs, the committing offense has little value when evaluating whether a youth will leave delinquency behind.

A seven year-long study, Pathways to Desistance, studied the long-term outcomes of 1,354 young people aged 14 to 18 involved in the Philadelphia and Phoenix juvenile justice systems at varying levels of delinquency. Their long-term reoffending was tracked through official records and regular interviews,⁶³ and showed that youth had similar outcomes, regardless of whether they were convicted of a violent, or non-violent, offense. The researchers categorized the young people they studied into five groups to track whether or not their delinquency continued. Youth labeled as “persisters” engaged in multiple crimes over the long term; while “desisters” left delinquency behind.⁶⁴

Though there are some small differences, the overall proportions of youth who were identified as persisters or desisters were



relatively consistent across offense categories. The presenting offense, whether violent or nonviolent, does not accurately predict their risk of reoffending. If being convicted of a violent crime predicted whether a young person will continue with delinquency, more youth whose presenting offense was a violent crime would “persist” in their delinquency; instead, about the same proportion of youth convicted for violent and nonviolent crimes persist and desist across categories of delinquency. Even among the three other types of youth (“late onset,” “mid-stable,” and “low stable”), the presenting committing offense did not significantly impact their future criminal behavior.

This research matters because many laws (or justice system practices) require that youth involved in certain offenses must be confined, transferred to the adult justice system, and may face a mandatory minimum or determinate sentence mandating how long they must be confined. This does not allow for an individually tailored disposition and therefore cannot adequately address likelihood of recidivism.

Mandatory sentences mean the offense trumps an individual youth’s risk of re-offending, regardless of what the data shows. For example, nearly a quarter of the youth confined to one Ohio facility are there with a “gun spec”⁶⁵ designation, which under Ohio law requires one year of incarceration - regardless of whether the youth could be served safely in a less restrictive way. More than 50 percent of the youth with a “gun spec” designation were initially assessed as low-to-moderate risk as are most youth currently served in the community in Ohio. With no meaningful effort to currently address the “gun spec” law, in this context the offense will always trump the risk.⁶⁶

Individualized services and support for youth have been shown to help young people move on from delinquency

Rather than blunt policy decisions based solely on the type of offense, to successfully help young people leave delinquency behind them, systems must assess the individual needs of each youth and provide individualized services and support based on their specific needs. There are two proven strategies that help youth justice systems deliver the right, individualized, rehabilitative approach to a young person; both are equally appropriate for youth who have committed a violent offense.

Risk, Need, and Responsivity

The Risk, Need, and Responsivity (RNR) approach calls for assessing what a young person needs, developing an individualized case plan to map out how services will be delivered to address their specific needs, and identifying strategies to help youth navigate the challenges of moving past delinquency. By targeting causal risk factors—areas that can be changed by providing a youth with a service, support, or treatment⁶⁷—a young person has a much better chance of moving past delinquency. Working with a young person and their family to navigate these risk factors helps reduce the chances that a young person who comes into contact with the justice system for any offense will reoffend.⁶⁸

The operations of the RNR approach are not dependent on the offense; a young person convicted of a violent or nonviolent crime can equally benefit from the RNR approach. Because the RNR approach comes out of an adult correctional system approach, it can be more focused on looking for a young person's deficits (e.g., a substance abuse challenge) rather than supporting their strengths.

Positive Youth Justice

The Positive Youth Justice (PYJ) approach is more focused on building on young people's strengths and creating opportunities for positive behaviors and outcomes (e.g., improvements in educational outcomes, connections and preparation for work, and improving young people's health). PYJ recognizes that all young people (whether justice system involved or not) have the same needs to be met and skills to be developed through pro-social opportunities. PYJ seeks to address issues that led a youth to be involved in the justice system in the first place by lifting barriers to accessing support youth need to thrive and succeed. Juvenile justice systems in Oregon, Massachusetts, and Washington, D.C., have made PYJ central to their approach to serving youth by incorporating it in both community-based nonprofits and the formal justice system.

PYJ is a response to the risk-based models that stigmatize youth as "criminogenic" and focuses on the prevention of negative behaviors and outcomes. While the language describing RNR stands in stark contrast to how the juvenile corrections field is talking about PYJ, both of these approaches can help ensure a young person gets the support they need to move past their justice system involvement and transition to adulthood.

In other words, it does not matter if a youth is involved in a nonviolent or violent crime for a case plan to be individualized to address their needs. These types of approaches can build on a young person's, and their family's, strengths and connect them to the kinds of services and support any youth might need to thrive as an adult.

Strategies associated with PYJ and RNR are being used to serve young people involved in violent crimes in community settings, demonstrating the two approaches are not necessarily in conflict with each other.

The most effective RNR approaches focus not only on who is in need of the greatest service or intervention, but also on what that the service or intervention should be.⁶⁹ While assessments can be effective at answering the "who" question, answering the "what" question in a way that best benefits youth often leaves room for the implementation of PYJ by a person interpreting the results.

In other words, the RNR approaches can capitalize on a youth's strengths by targeting the areas of highest need, and then people—not a tool—can deliver the service consistent with PYJ principles that build on a youth's strengths to develop skills and have experiences that help support their transition to a productive and law-abiding adult life.⁷⁰

Right now, juvenile corrections departments in Washington, D.C., and Oregon report they are delivering a PYJ approach and using RNR strategies to help tailor case plans to serve youth effectively. Under the Sierra Health Foundation's Positive Youth Justice Initiative, a dozen juvenile justice departments and more than a dozen community-based organizations are seeking to serve youth involved in a variety of behaviors at home and are using assessment tools to help direct case plans.

There may be some young people who present for a violent offense who do not need much help to desist from crime; they may well desist without intensive connections to services or supervision. Others may need more services and support. The key point is that the offense—in and of itself—does not say much about what a particular youth needs to successfully move past delinquency. It is important to ensure the most effective interventions are used for youth who are at the highest risk of continuing delinquency. Two important examples include:

Functional Family Therapy

Functional family therapy (FFT) is an approach used in 45 states that serves youth 11 to 18 years old who have had multiple contacts with the justice system, including those involved in violent crimes. When FFT was used in Florida in 2008 as part of the expansion of community-based approaches, about 20 percent of the youth served by the approach were convicted of a violent crime, with the largest percentage being aggravated assault and/or battery, or robbery.⁷¹ The National Institutes of Health has shown that after engagement with FFT, there is a 35 percent reduction in future felony offenses and a 30 percent reduction in violent crimes.⁷²

Multisystemic Therapy

Multisystemic therapy (MST) is an intervention that has been used for two decades with young people who have intensive treatment needs and have been involved in multiple, including violent, offenses. According to Scott Henggeler, the founder of the intervention, "MST can serve any young person, MST effectiveness doesn't hinge on seriousness of the offense, and its focus is on the antisocial behavior, not the offense."⁷³

In 2018, researchers studied the effectiveness of MST in an international setting where there were fewer law, policy, and practice barriers limiting its use. Within a sample of youth convicted of violent crime, they defined a group of "extremely" violent youth and looked at those youth who were facing the highest possible sentence.

Of the youth studied who were served by MST, 10 percent in the "extremely" violent sample were involved in a homicide, 75 percent were involved in an armed robbery, and 15 percent were involved in assaults. The study found "no difference in overall treatment responses between juveniles showing extreme violence and not showing extreme violence. In other words, MST was more effective than treatment as usual for both groups."⁷⁴ Had they been in the U.S., these youth served successfully in the study would generally be excluded from the community-based approach simply because it was a violent offense.

Almost anything that can be done in a juvenile facility can be done in the community more effectively and less expensively

The effectiveness of the Risk, Need, and Responsivity (RNR) and Positive Youth Justice (PYJ) approaches does not depend on the type of crime— they are equally applicable to youth convicted of violent or nonviolent crimes. The fact that the RNR and PYJ approaches are used both in facilities and in the community underlines that almost anything that can help a young person move past involvement in violent offenses can also be done successfully in the community.

There are correctional models that connect a young person to the treatment and services they might need to move past delinquency. Two systems that are frequently cited as being "model" approaches are those used by Missouri's state Division of Youth Services (DYS), and the D.C. Department of Youth Rehabilitation Services (DYRS) —they have been identified as examples of how a young person can be held accountable and still connect to treatment to move on from delinquency, without being exposed to harsh, inhumane, and ineffective conditions of confinement.

When these approaches are held up as models, the fact that both systems replaced large, congregate care facilities confining hundreds of youth with smaller and much more humane facilities can obscure key aspects of their approach. Both Washington, D.C., and Missouri sharply reduced youth confinement and now serve more youth in the community, including youth involved in violence.

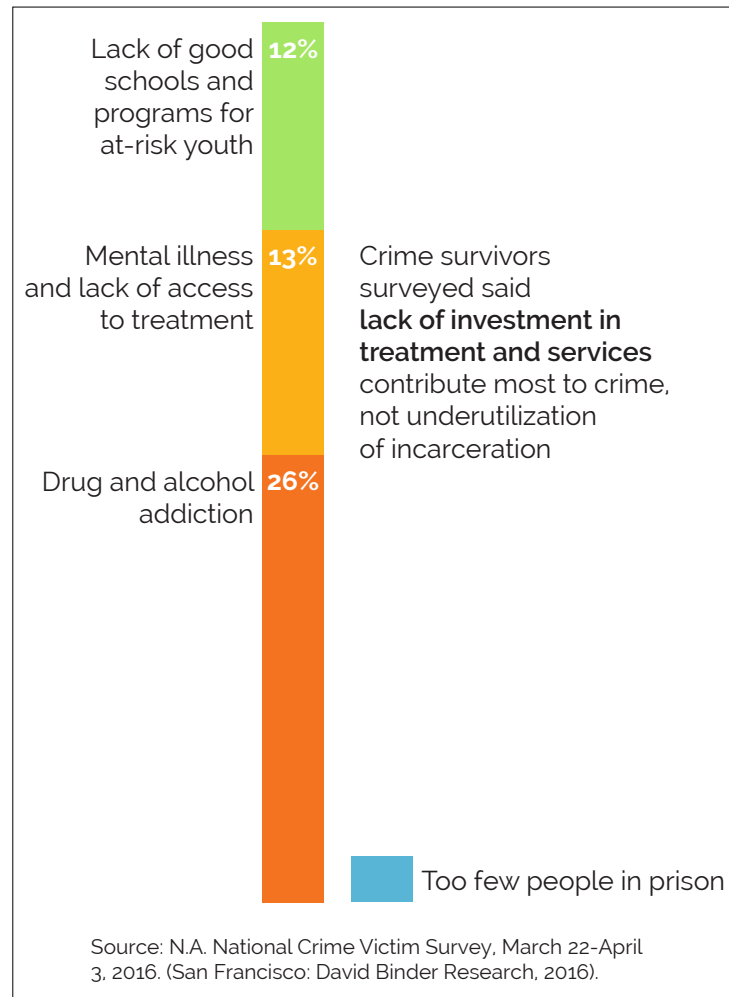
MISSOURI MODEL: In 2017, Missouri served 93 youth, (69 percent of the population who were placed in their custody based on the committing offense being statutorily violent).⁷⁵ Of those 93 young people, DYS reported a 5.9 percent recommitment rate in 2017 for a new offense.

They report that they run:

- “Small programs, close to home;

- Least restrictive continuum of care, humane, natural, home-like environments with 'eyes-on, ears-on, hearts-on' supervision;

- The use of group systems such as therapeutic intervention, group circles, daily group meetings, and experiential



group projects;

Trauma-informed treatment approach focused on emotional healing, self-awareness, and cognitive-behavioral;

Youth development, family systems;

Unifying treatment and education; and

Universal case management and family and community engagement through outreach, family therapy, and community councils."⁷⁶

Currently, DYS operates a continuum of care that consists of eight-day treatment centers and 29 close-to-home residential centers (six group homes, 18 moderate level care centers, and five secure care centers.)⁷⁷

D.C. DYRS REPORTS THAT THEY: "believe a comprehensive program based on youth and family needs offers the best chance for youth to learn, grow, and change. Our therapeutic rehabilitation process includes individual and group work, family involvement, individual treatment planning, and experiential learning activities. In addition, youth participate in structured daily and weekly schedules that include educational, career development, recreational, and treatment-oriented activities, as well as regular group meetings with a focus on building positive, healthy peer-to-peer relationships and youth-to-adult interactions. Through these activities, we encourage our youth to develop useful coping and decision-making skills, as well as self-awareness insights and behavioral change."⁷⁸

DYRS also embraces a PYJ approach, connecting youth to work, education, health, relationships, community, and creativity. In the latest available data, the DYRS re-conviction rate fell every year from FY 2008 to FY 2011, and the seriousness of any youth behaviors has declined.⁷⁹

These drops came at a time that about half the youth under community supervision were convicted of a violent crime, and as D.C. had some of the lowest rates of youth crime since a recent peak in 2009.⁸⁰

Both Missouri's DYS and D.C.'s DYRS have reduced the number of young people in out-of-home juvenile facilities; DYRS supervises young people in the community after the shortest possible stay in confinement and runs six initiatives that seek to support young people while they are in the community.⁸¹ As of July 2018, of the youth committed to the agency, DYRS supervised 61 percent in the local community and 39 percent in either secure facilities, residential treatment centers, or out-of-state.⁸² Over the course of 2017, the Missouri Juvenile Court diverted 8,842 youth to community supervision. A total of 621 youth were committed to DYS by the juvenile court in 2017, a 32 percent drop from 2013.⁸³

There is nothing in these best practice juvenile correctional models being used that is not—and cannot be—done with a young person in the community. Given the huge expense that comes with confinement, best practices should seek to apply these approaches to the largest number of young people possible to manage resources

effectively and fund community-based approaches at-scale. This already includes young people involved in the system who were committed to the justice system for a violent crime.

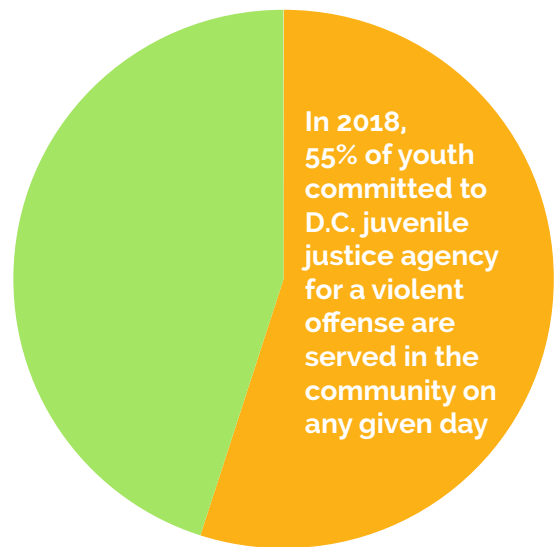
Policymakers can be assured that young people involved in violent crime can be served more effectively in the community, in part because there are already significant numbers of such youth who are being served successfully under community supervision rather than being confined in a facility:

Twelve percent of Maryland's current youth probation population was convicted of a violent offense.⁸⁴

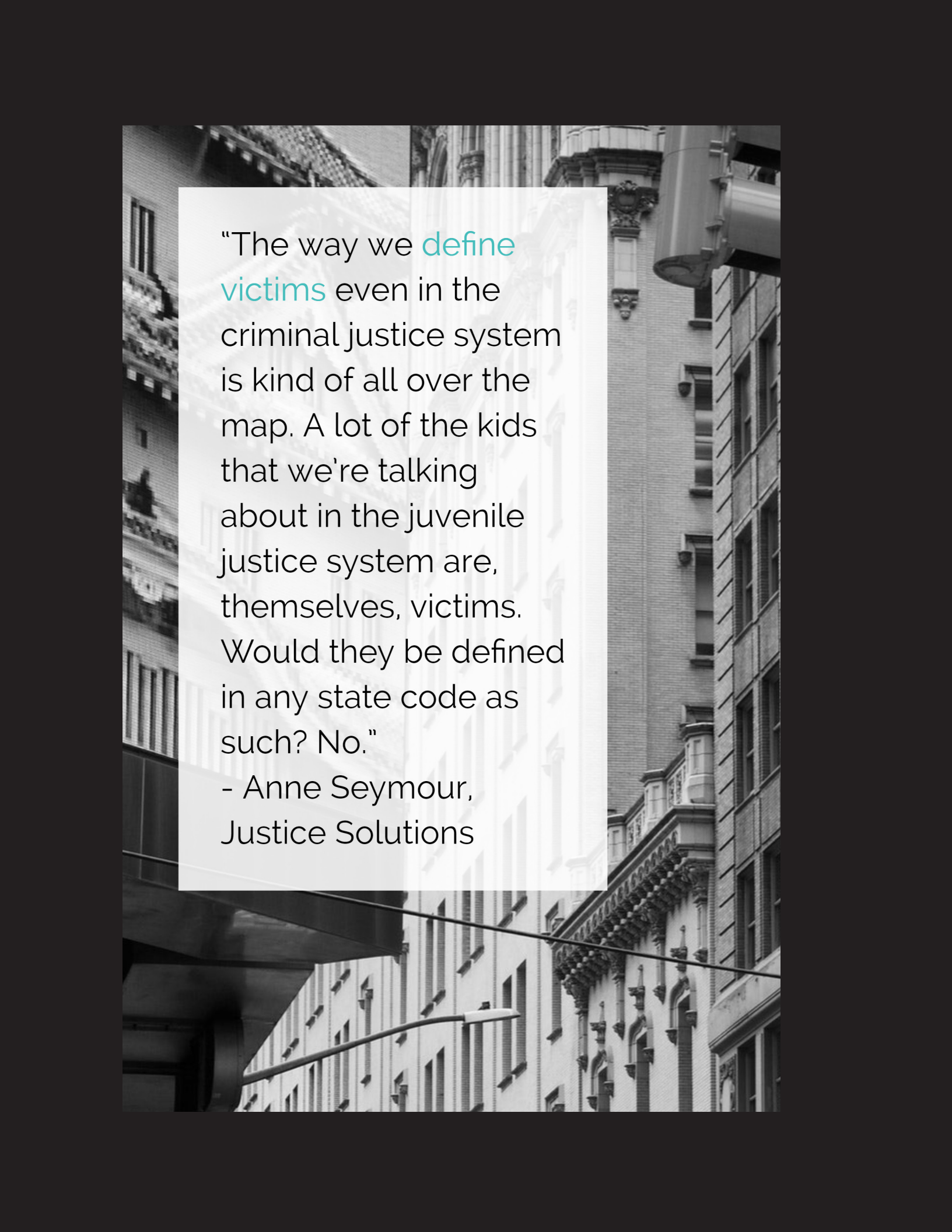
In 2015, 43 percent of Washington State's aftercare population who were being served in the community were committed for a violent offense.⁸⁵

When appropriate resources are allocated to community placement, there should be no barriers that prevent properly assessed youth from being served in the community; it's safer for the youth and for the community.

2018: Washington, D.C. serves more than half of the youth involved with violence in the community and, at the same time, crime rates are at all time lows.



Source: Department of Youth Rehabilitative Services, 2017

A black and white photograph of a city street. The image shows tall buildings with many windows, a street lamp, and a utility pole. The scene is captured from a low angle, looking up at the buildings. The text is overlaid on a semi-transparent white box in the center of the image.

“The way we **define victims** even in the criminal justice system is kind of all over the map. A lot of the kids that we’re talking about in the juvenile justice system are, themselves, victims. Would they be defined in any state code as such? No.”

- Anne Seymour,
Justice Solutions

PART II: VICTIMS OF CRIME WANT AN APPROACH THAT MEETS THE NEEDS OF THE YOUTH, STRENGTHENS FAMILIES, AND ADDRESSES THE UNDERLYING CAUSES OF CRIME

If we are to embrace the most cost effective, fair, and safest youth justice practices, more youth involved in violent crime should be served in the community rather than being confined in a facility. This shift in practice needs to be in conjunction with meeting crime victims' needs, including by reinvesting savings into victims' services. This will create safer and fairer communities for all people.

To learn more about crime victims' perspectives on the kind of policy changes being considered, in December, 2017, JPI and NCVC convened a roundtable of crime victims and justice reform advocates to discuss proposed youth justice policy reforms. Two dozen leaders in the victim services field heard about what the juvenile justice field can do for youth convicted of violent crimes, learned of the barriers to serving more youth in the community, and were invited to provide their perspective on what needs to happen next. Many of the people convened self-identified as victims of violent crime (some of whom also offered that the person who harmed them was a youth).

Crime victims and advocates at the roundtable agreed that a different approach to youth justice is possible if there is an individualized approach to meeting the needs of the young person, the victim, and the victim's community.

Crime victims want youth to be served effectively, held accountable, and for victims' needs to be met

When discussing how a violent offense by a youth could be treated by the system under various laws, policies, and practices, the crime victims and advocates at the roundtable offered that offense categories were less important than whether needs of the victims were met and that young people were being held accountable and served effectively.⁸⁶ The perspective offered by crime victims' advocates echoed the position taken by juvenile justice experts: Whether something is described in statute as "violent" or "nonviolent" is less important than how a young person is served.

There should be no categorical bar on serving more young people involved in violent crimes in the community

In conversations with members of the roundtable, there was a broad consensus that the justice system should follow the research on what works to help youth avoid continued delinquency. This includes serving a young person in the community if it is likely to reduce recidivism, thereby resulting in fewer new crime victims. No one said they thought youth involved in a violent crime categorically could not be served in the community, as long as the appropriate community-based approach is available. This is a particularly important message for policymakers, as many young people involved in violent crimes are categorically barred from a community

disposition because a mandatory minimum has been imposed in the context of being transferred for trial in adult criminal court. Mandatory minimums and related laws and policies do not address what the majority of crime victims say they want in response to a violent act.

For youth convicted of sex offenses, the best available evidence shows that with appropriate treatment and services, the vast majority of youth can move on from the behavior, and that the treatment approach can be provided in the community.⁸⁷ As part of the roundtable discussion, a California analysis was discussed that moved lower-level sex offenders out of a confined facility and into community-oriented treatment.

Roundtable participants broadly supported approaches that embrace restorative

justice principles if the harmed person consents to the process, or processes like those described by the Juvenile Detention Alternatives Initiative⁸⁸ that seek to build support among stakeholders to serve youth outside a confined setting. Roundtable participants generally agreed that approaches that make it more likely that delinquent behavior will end and that the young person will successfully transition into a law-abiding and productive adulthood are positive for both the youth and the victim.

A couple of key themes surfaced in the discussion, consistent with what has been documented in public opinion surveys on what crime victims say they want to see happen after a violent act:

Roundtable attendees cautioned that, just as there is no monolithic approach to serving a young person, there also is no monolithic perspective on what crime victims might think is an appropriate disposition for a youth. Regardless of whether someone was a victim of a violent crime at the hands of youth or adult, crime victims need to have a voice in the sentencing or disposition process. Multiple organizations and individuals convened by JPI and NCVC said that the harmed party must be heard in a dispositional process and be included in the conversation by the prosecutor in the plea-bargaining process. An effort by NCVC and the Office of Victims of Crime to poll California crime victims discovered that victims

Victims surveyed said we should hold people who commit crimes accountable by:



Rehabilitative services includes mental health treatment, drug treatment, community supervision or community service.

Source: "Crime Survivors Speak: The First-Ever National Survey of Victims' Views on Safety and Justice," Alliance for Safety and Justice, 2016, <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>

would support implementation of more restorative justice and diversion options if stakeholders could fashion workable solutions to engage the harmed party earlier in the process.⁸⁹

Crime victims say community approaches can be just as “tough,” and can hold youth just as accountable as out-of-home confinement

The data show that how a system serves a young person is far more important to whether or not they will move on from delinquency than whether the offense they were involved in is categorized as violent or nonviolent, but laws, policies, and practices can mean that confinement is often used even when another approach might be more successful. But nearly three-quarters of respondents who self-identified as crime victims believed that community alternatives that engage youth in counseling and education will help prevent future delinquent acts.⁹⁰

Many politicians have argued that “incarceration is what crime victims want and need.” In the 1990s, a wave of punitive legislation resulted in more juvenile facilities being built, more young people being confined, and more youth transferred to the adult criminal justice system. Lawmakers advocating these changes argued the juvenile justice system was not “tough” enough and could not hold young people accountable for their actions.

But more comprehensive assessments of what crime victims say they want after violence has occurred paints a different picture of the kinds of laws, policies, practices that should govern how youth are treated when they are involved in violence. When victims have been polled on what they think should happen after a crime (including a violent crime), they say that the person who caused the harm can should be held accountable in the community. By a margin of 3 to 1, crime victims prefer community-based rehabilitation and mental health and substance abuse treatment over incarceration.⁹¹

One study showed that 93 percent of victims of youth crimes reported they were satisfied with the accountability provided by a restorative justice process following a violent act (or property crime), compared to 74 percent of victims of the same types of crime who saw the behavior resolved through a more traditional justice system process.⁹² Surveys that seek to document the perspectives of crime victims consistently show that people harmed by violent crime think those that caused the harm can be held accountable without overly relying on incarceration.

By way of example, a majority of surveyed households in Oregon with at least one victim of violent crime favored modifying mandatory minimum sentences applicable to youth convicted of certain robberies, aggravated assaults, and sexual assaults.⁹³ A national public opinion survey showed an even larger proportion of surveyed victims of violence agreed that “when thinking about people who commit violent crimes, it’s more important to focus on changing their behavior so they are less likely to hurt anyone again,” rather than “focus[ing] on punishing them because behavior change isn’t possible.”⁹⁴ In both the juvenile⁹⁵ and adult justice systems, victims have repeatedly said that to reduce the number of violent crimes, they prefer investing

in drug treatment, mental health services, and community-based supervision approaches rather than investing more money in building and running prisons.

While it is beyond the scope of this paper to definitively account for everyone's subjective thought on what it means to be "tough," there is ample evidence that community supervision for a youth involved in a violent crime can be just as intensive, and can hold a youth just as accountable, as confinement. For example:

Washington, D.C.: Young people committed to the agency can be connected to the community through DC YouthLink for more than 20 hours a week.⁹⁶ YouthLink has three programs—tutoring, family support, and substance abuse education—as well as D.C.'s partnership with Credible Messengers for mentorship.⁹⁷ At one point, Washington, D.C., partnered with 54 different organizations and programs,⁹⁸ but has been recently reduced to core focuses based on the dramatic decrease in the committed youth population. Because of approaches like these, on any given day 55 percent of youth committed to the agency are served in the community,⁹⁹ including half the youth committed for a violent offense.

New York City, New York: Young people assessed as needing the most support when they are under community supervision in New York City are served by the Enhanced Supervision Program (ESP), which targets youth who have committed the most serious juvenile offenses.¹⁰⁰ Young people must report weekly to ESP probation officers, receive visits from a probation officer both at home and school, complete 60 hours of community service, and attend behavior modification and education groups.¹⁰¹ As part of the care, there is an emphasis on connecting youth to multiple services such as emergency food relief, therapeutic services, and tutoring services. Because of strategies like these, 252 youth, 60 percent committed for a felony, were served in the community as part of New York City's Close to Home initiative in 2017, with 91 percent involved in community-based supervision programs.¹⁰²

Detroit, Michigan: Under Wayne County's Case Management approach to serving young people in the Detroit metropolitan area, youth receive appropriate treatment and services based on their needs assessment. Utilizing this approach, in 2015 Wayne County was able to serve 10 percent of youth who were charged with a Class I or II Felony (i.e., violent crimes) in the community.¹⁰³ The approach provides youth individualized care plans, which involve levels of observation and regular assessments, combined with seven community domains: assessment services, clinical services, substance abuse services, therapeutic counseling services, diversion services, mental and behavioral health services, and community-based alternatives—all operating with various partners.¹⁰⁴ Due to the effort of Wayne County to provide the type of services all youth would benefit from, they have seen dramatic improvements. This includes reducing the number of youth placed in Wayne County Training School from 731 in 1998 to just two in 2010,¹⁰⁵ and estimates that more than 5,000 youth have been diverted entirely from the juvenile justice system.¹⁰⁶

A community approach can mean that a young person has to confront the issues leading to their behavior, acknowledge the harm done to the community and crime victims, and make restitution to the harmed party. Restorative justice practices allow youth to remain in the community and have better recidivism outcomes than the use of confinement, hold youth accountable for their actions, and achieve more victim satisfaction than other justice system processes.¹⁰⁷ As part of an analysis of the restorative justice approach in Alameda County, California, Impact Justice found youth said it was more important and meaningful to face their victims, the harms they had caused, and take responsibility for their action than other justice system responses they had experienced.¹⁰⁸

These practices are in sharp contrast to the justice system's traditional response to violence, which simply incapacitates a young person without providing the resources and opportunity for them to address the issues that led to them being system involved in the system and to engage with the person they harmed to understand the effect that harm has had on their victim. Simply incapacitating someone has a negligible (or a negative) impact on their recidivism rates, whereas understanding the effect of their actions and the experience of their victim has a positive effect on recidivism rates.

Crime victims believe a community approach can hold a young person just as accountable as confinement

Proponents of confining youth often conflate incarceration with punishment and holding youth accountable. These concepts are not interchangeable. There is nothing about confining a young person, per se, that means they are being held more or less accountable than what can be done in the community. Accountability can be a key part of the community-based formula, taking many potential forms; it can also be missing from traditional "punishment" through incarceration.

Accountability can take the form of a young person successfully completing the terms of their probation

When a young person completes court-ordered treatment and is addressing past trauma, seeking suitable employment, and going to school, they may be completing the terms of a formal accountability agreement with the courts. By way of example, every year in Multnomah County (Portland), Oregon, approximately 450 youth are held accountable through formal accountability agreements that include community service, paying restitution to victims, and completing community-based educational/behavioral interventions.¹⁰⁹

Accountability may involve a young person paying restitution to the victim

A youth may surrender part of their wages during a workforce program as a way to financially compensate the victim for damages.¹¹⁰ An analysis in Boise, Idaho, found that instituting court-ordered restitution in the community led to greater levels of victim satisfaction than traditional criminal justice sanctions.¹¹¹ It also improves recidivism rates; even when focused on youth who have at least one felony conviction, youth involved in restitution-based alternatives outperformed those on probation on recidivism by 18 percent.¹¹²

While restitution can provide a means of holding a young person accountable, it should be done in a way that does not have lasting negative repercussions. Restitution orders should consider a young person's ability to pay, and/or be tied to participating in programs that connect a youth to ways to pay off their obligations.

Accountability may involve community building

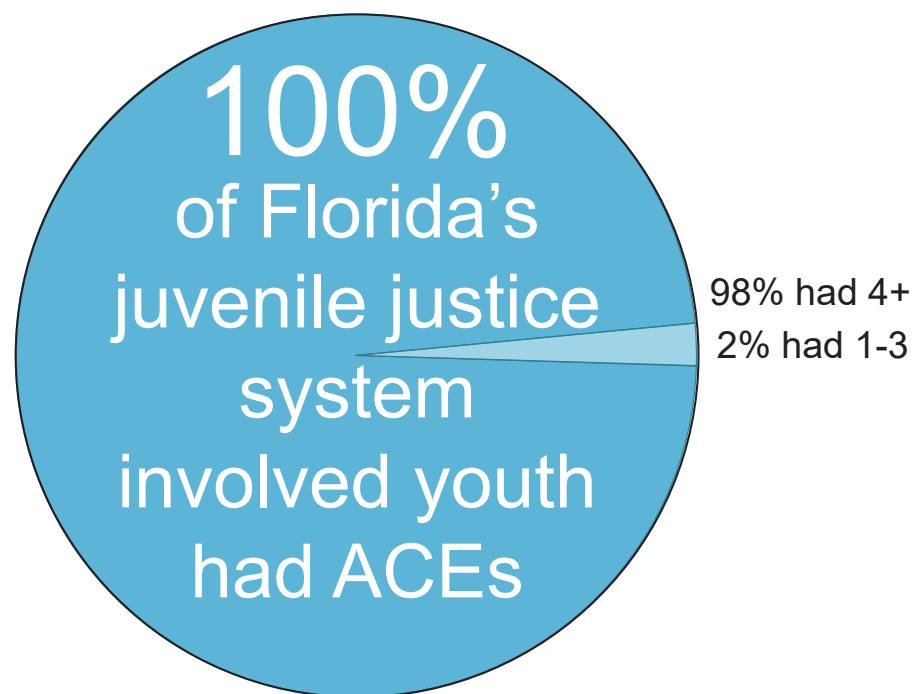
A lot of community-based approaches involve community service. By way of example, the Community Service Program in Multnomah County includes unpaid work with nonprofit organizations, as well as paid positions through Project Payback, a restorative justice program that provides opportunities for youth to pay their restitution and other fees with money they earned by working in the Restitution Work Crew program. In 2016, young people participating in the Community Service Program worked approximately 8,200 hours in the community and paid \$40,821 to the court and individual victims for restitution. Both the Community Service Program and Project Payback provide youth with a pro-social activity while teaching valuable skills. Youth learn landscaping techniques, hand/power tool use, maintenance, and how to safely and efficiently accomplish tasks.¹¹³

Recognition that young people who are involved in violent crime are themselves overwhelmingly victims of crime and should receive appropriate services

The crime victim advocates convened said that it is critical to recognize that youth involved in violent crimes are often crime victims themselves, and that providing them necessary support and services is central to reducing crime and violence.

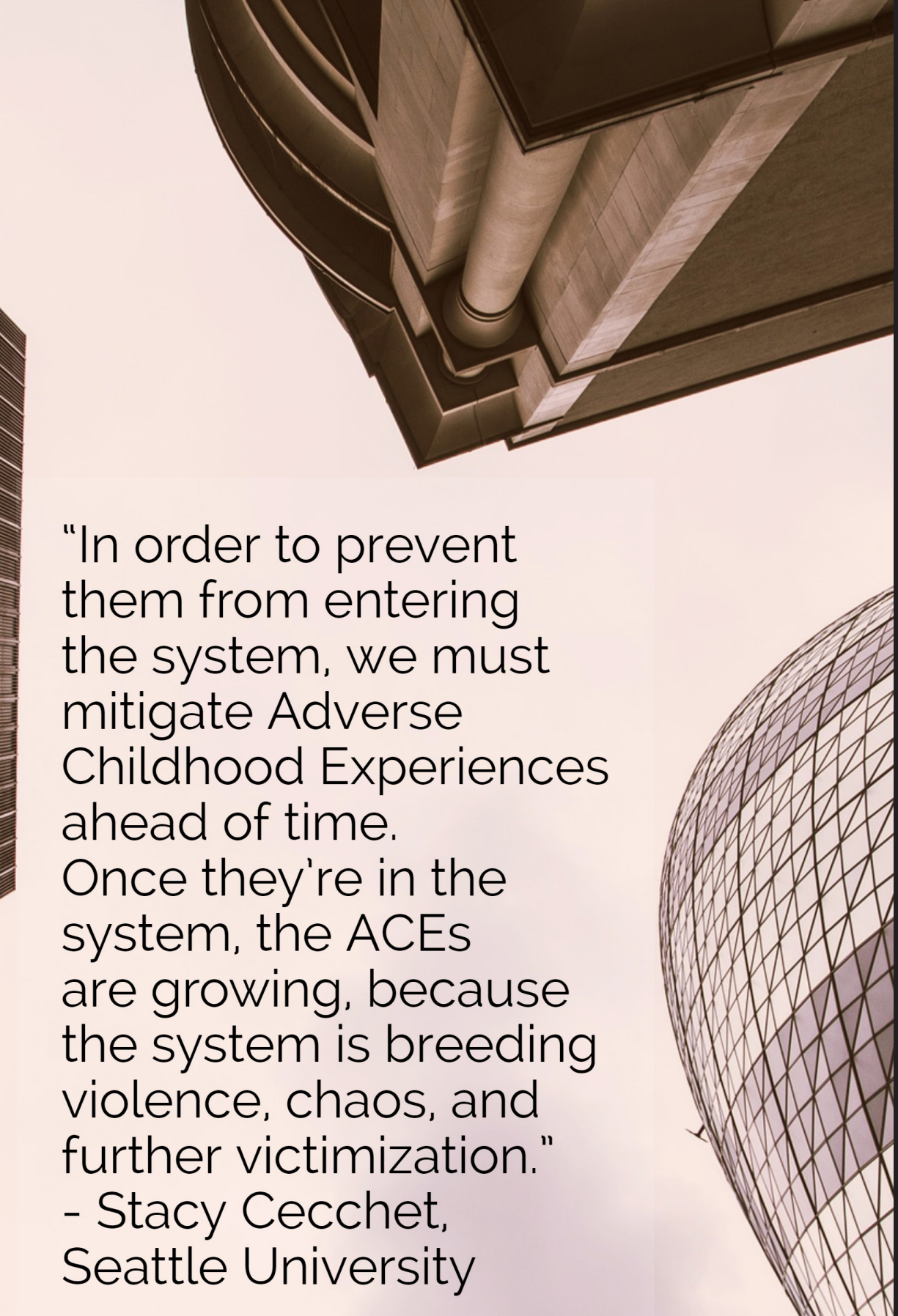
One nationally-representative sample of confined youth in state and local facilities found that "[n] early one-fifth (19 percent) of youth in custody report prior experiences of frequent physical abuse, while 18 percent of youth say they experienced injury from prior physical abuse. Some youth indicate they experienced both frequent and injurious prior physical abuse; so considering these experiences together, one-fourth (25 percent) of youth disclose histories of physical abuse."¹¹⁴

A number of the participants pointed to the growing body of knowledge around Adverse Childhood Experiences (ACEs). Since the 1990s, researchers and practitioners have begun to identify and address the impact of certain traumatic experiences on young people. ACEs can include both physical and psychological



abuse of all types, witnessing violence, and parental separation or incarceration. Untreated, ACEs can lead to a variety of negative outcomes, including an increased risk of criminal justice involvement. A 2006 study that looked at young people who had some level of involvement in Florida's juvenile justice system found that 100 percent of the youth reported ACEs (98 percent reported 4 or more ACEs, the remaining 2 percent reported 1 to 3.)¹¹⁵ In other words, every single child that touched Florida's juvenile justice system had experienced some form of childhood trauma.

Without much prompting, all the crime victims convened acknowledged that if the cycle of violence is going to be addressed, the traumatic events that can lead to a young person being involved in violent crimes need to be treated using a trauma-informed approach to treat youth effectively. Implementing a trauma-informed approach, or what some refer to as a healing-centered approach, would require changes to laws, policies, and practices that include everything from leniency in sentencing in considering a young person's prior victimization to redirecting resources to fund more community-based mental health approaches.



“In order to prevent them from entering the system, we must mitigate Adverse Childhood Experiences ahead of time.

Once they're in the system, the ACEs are growing, because the system is breeding violence, chaos, and further victimization.”

- Stacy Cecchet,
Seattle University

PART III: THE PRINCIPLES FOR SERVING YOUTH IN THE JUSTICE SYSTEM SHOULD BE THE SAME, WHETHER THEY ARE IN THE COMMUNITY OR IN SECURE CONFINEMENT

The vast majority of youth involved in crime, violent or nonviolent, should be served in the community. But there may be some small population of youth for whom out-of-home, secure confinement is an appropriate placement for a limited period of time.

When a young person is a threat to public safety, it may be appropriate for them to be confined; otherwise, serving youth in the community should be considered the first choice.

The principles that define the best practice approach to serving a young person, no matter the setting, are consistent with the critical elements of a Positive Youth Justice approach. They include:

UTILIZING a positive youth justice approach. All young people need to:

1. Build relationships with positive role models and develop communications and conflict resolution skills;
2. Have access to the kind of diet, exercise, and treatment necessary to be healthy;
3. Have connections to school for education and creative expression through the arts;
4. Have work experiences to prepare them for independence; and
5. Be able to participate in community activities to build a sense of belonging.

HAVING a trauma-informed approach. Most young people involved in the justice system have themselves been victims of violence. Staff therefore need to be trained on how to address their trauma in ways that are consistent with treating the whole person and helping them best deal with past harms.

HAVING a supportive and well-qualified staff.

ENSURING a culturally competent workforce that can help a young person navigate adolescence, build on their strengths, access whatever treatment and support they need to move ahead, and prepare for adulthood.

ENSURING there are staff trained in trauma-informed approaches and positive youth justice and value working with youth and their families in their communities.

PARTNERING with a young person's family. Families need to be engaged in

young people's rehabilitation process, be part of decisions about how to serve the youth, and staff must continuously work with the family to best serve the youth's needs.

PROVIDING purposeful programming. Activities and programming that connect youth to all the domains of positive youth justice, from school and work to the arts and creativity, need to be available wherever a youth is served.

EMPOWERING youth to have a voice and choice in the decision-making process. This will allow individual young people to have a role in tailoring programming to their strengths and interests, making it more likely that they can become assets to their community. If program goals are not individualized, a youth may fall short for no other reason than the system's inability to recognize and build on a young person's strengths.

CREATING healing and safe environments. Wherever a youth is, they need access to a space where healing can take place, where they can take advantage of treatment and services, and where they are not crowded so the service can be provided effectively. The space needs to be one where the youth, family, and staff feel safe.

CONNECTING youth to communities. Whether the youth is in a facility or not, they need to have opportunities to connect to mentors, positive role models, and have the chance to enhance relationships and build skills before they return to their community.

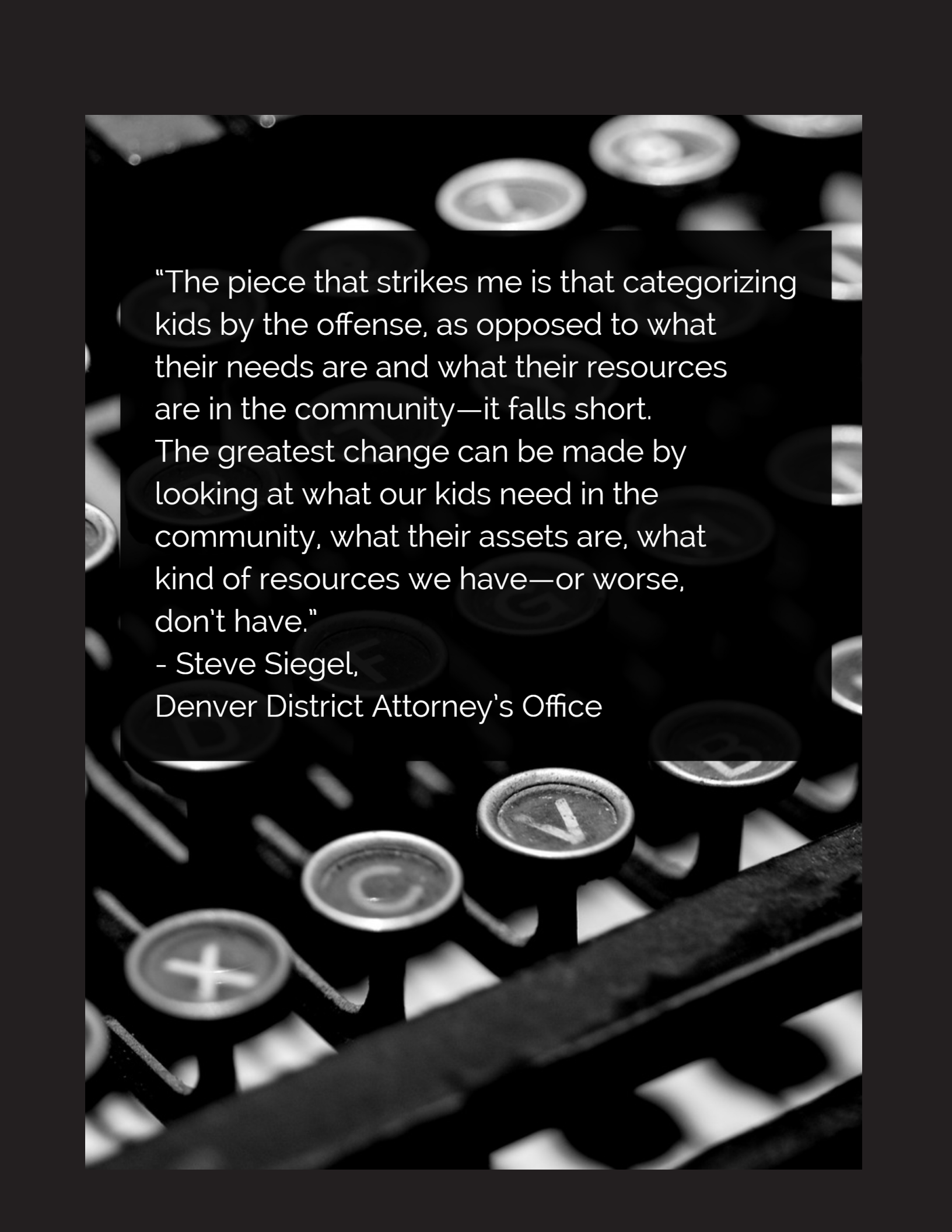
ENSURING equity in the provision of all programs and opportunities. It is often the case that neighborhoods with lower economic status, where a disproportionate percentage of youth in the justice system may come from, are not able to offer the same programs and opportunities as those in more affluent, well-resourced communities. In order to provide effective community supervision and supports, there needs to be equitable access to effective programs and positive opportunities, regardless of where a young person lives or is served.

QUALITY assurance and continuous improvement. Whatever kind of interventions serve youth, data and information need to be collected to track whether the approach is leading to the expected outcomes. This helps staff, youth, and the system to use resources effectively. Continuous improvement means everyone learns what is working (and not working) to help young people succeed and allows for changes in practice when appropriate.

These principles do not depend on the kind of behavior a young person is involved in, the offense for which they were convicted, or whether they are being served in the community or in a secure out-of-home placement. Family, treatment, connections to work, purposeful programming, and a well-qualified, culturally competent workforce all can, to a certain extent, be built into a facility. But they exist naturally in the community. Healing environments can be developed in the home, and with appropriate safety planning, young people involved in some of the

most challenging environments can be kept safe. Quality assurance and continuous improvement can be done just as well, if not better, in the community as in a facility.

For taxpayers and elected officials overseeing public sector spending, the fact that it can cost hundreds of dollars each day, or \$100,000 or more a year, to serve a youth in a confined setting should underscore that it is far more cost effective to serve youth in the community. There is nothing relating to these principles that would be less expensive to do in a facility rather than in the community; it is objectively easier to develop an approach to serve a youth that adheres to these principles in the community.



“The piece that strikes me is that categorizing kids by the offense, as opposed to what their needs are and what their resources are in the community—it falls short. The greatest change can be made by looking at what our kids need in the community, what their assets are, what kind of resources we have—or worse, don’t have.”

- Steve Siegel,
Denver District Attorney’s Office

PART IV: A PATHWAY FORWARD: KEY BARRIERS AND POLICY RECOMMENDATIONS TO SERVE MORE YOUNG PEOPLE INVOLVED IN VIOLENCE IN THE COMMUNITY

Barriers to serving more young people involved in violent crimes in the community cross the domains of the laws, policies, and practices that drive how justice systems work, and eliminating them will require broad system-wide reforms—from changes in mandatory minimum sentencing laws to expanding proven community-based interventions.

SOME RECOMMENDED AREAS OF REFORM INCLUDE

REPEAL STATE LAWS THAT REQUIRE A MANDATORY TERM OF CONFINEMENT OR AUTOMATIC TRANSFER TO ADULT COURT

When justice system decision-makers can individually tailor a disposition, regardless of the young person's offense, it increases the likelihood of receiving necessary services in the community and better outcomes. But a judge or juvenile corrections system's determination of the best approach to address the needs of an individual youth can be superseded by state laws that require a mandatory term of confinement. Depending on the law, a young person involved in violent crime may be transferred to the adult justice system to face a mandatory sentence, be subject to confinement in the juvenile justice system, or face other restrictions that preclude returning to the community.

Under Louisiana's "Vitter Law," a youth convicted of certain offenses may be subject to confinement until their 21st birthday, stripping a judge of discretion to allow a youth to return home, even after a youth has completed all available rehabilitation programs.¹¹⁶ This policy has a long-lasting financial cost: it has been estimated that it costs \$600,000 to incarcerate one youth under the "Vitter Law."¹¹⁷ In the 2018 legislative session, Louisiana took steps to mitigate the number of kids with long sentences by allowing modified dispositions for most offenses after serving three years of a life sentence.¹¹⁸

Oregon's Measure 11 allows young people tried as adults who receive a mandatory minimum¹¹⁹ to serve their time in the juvenile justice system, but the mandatory term of confinement means that resources are being spent confining youth who might otherwise be served in the community. As of 2018, 154 of the 543 juveniles in custody in Oregon are serving time under Measure 11¹²⁰ at a cost of up to \$308 a day, or \$47,432 a year to continuously confine youth.¹²¹

Juvenile corrections administrators face barriers when trying to keep young people safe and provide them with appropriate services as more and more youth are facing adult charges and mandatory minimums which require a significant number of bed days in confinement. This occurs even when the data show that absent the mandatory sentence, they could be served effectively in the community.¹²² If we eliminated mandatory minimums and determinate sentences for youth, or at least

offered opportunities for a “second look” at a young person’s sentence, it would eliminate a key barrier to allowing more young people involved in violent crimes to be served in the community.

A case study in law, practice, and policy barriers: Ohio gun law specification

Various states have laws that mandate young people be confined, even when evidence shows it would be more cost effective, fairer, and safer for youth to be served in their community; Ohio’s Weapons Specification Laws (“gun spec”) are an example of this.

There are about as many guns in America as there are people, and young people too often can easily obtain a weapon. Behavioral surveys show that youth across all demographics report possession of a firearm in the last 30 days at similar rates (Black–9.6 percent; white–9.6 percent; and Latinix–6.5 percent),¹²³ but nearly 8 out of 10 young people confined for a weapons offense are youth of color.¹²⁴

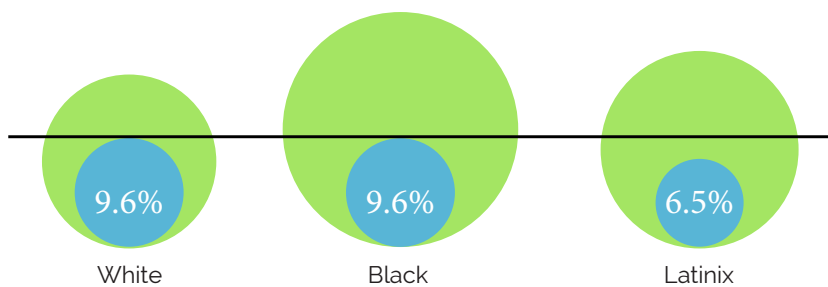
Under Ohio’s “gun spec” law, if a person possesses a gun while committing certain crimes, the statute requires a mandatory one year minimum¹²⁵ sentence be imposed regardless of whether the gun was used. In Ohio, one year of confinement can cost nearly \$200,000 per youth.

The Ohio Department of Youth Services (ODYS) has been reforming policy and practice to serve their youth close-to-home. Law, policy, and practice change reduced youth confinement from 2,600 in 1992 to just under 500 in June 2018.

This reform allowed the state to reduce the number of state-run facilities from 11 to three.¹²⁶ However, the “gun spec” law continues to undermine the system’s ability to serve youth close-to-home. By requiring at least one year of confinement, the “gun spec” law runs counter to research demonstrating that confinement beyond three to six months has a negligible impact on recidivism.¹²⁷

In 2011, nearly a decade after the law’s passage, Ohio’s House Bill 86 was amended to restore some judicial discretion and limit the imposition of the one-year mandatory minimum for youth who acted as accomplices to a crime. However, Ohio’s “gun spec” laws continue to have a huge impact on ODYS operations. Of the three deepest-end facilities remaining, about half the youth confined in 2017 had a “gun spec” designation.¹²⁸

In 2017, 137 youth were admitted by the juvenile courts to ODYS with a “gun spec.” More than half of these youth were assessed to be medium or low risk. The



Studies show youth **carry guns** at similar rates, but **arrest rates** vary widely by race.

Source: Laura Kann, Tim McManus, William A. Harris, et.al, Youth Risk Behavior Surveillance – United States, 2015 (Washington, D.C.: Centers for Disease Control and Prevention, 2016). https://www.cdc.gov/healthyyouth/data/yrbs/pdf/2015/ss6506_+updated.pdf and “Table 21B,” 2016 Crime in the United States, Accessed February 21, 2018. <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/topic-pages/tables/table-21>.

University of Cincinnati has found that youth at all risk levels have lower recidivism rates if they are served in the community, rather than being confined to a facility.¹²⁹ Of the 130+ youth admitted to ODYS in 2017 with a “gun spec” designation, 93 percent were youth of color. Even though youth involvement in crime, including possession of a weapon, is about the same by race and ethnicity, only 5 percent of youth admitted to ODYS in 2017 with a “gun spec” designation were white—in a state where 83 percent of the youth population is white. By contrast, 13 percent of the youth population in Ohio is Black, while 84 percent of the youth admitted to ODYS with a “gun spec” were Black.¹³⁰

Along with racial and ethnic disparities, there are differences in who ends up convicted with a “gun spec” by place. The two largest counties, Cuyahoga (which covers the city of Cleveland) and Franklin (which covers the city of Columbus) have about the same number of residents and proportions of youth. Even though youth do not report substantially different behavior in gun possession, the Cuyahoga courts sent 60 youth to ODYS in 2017 with a “gun spec,” versus 23 youth sent from Franklin County courts with the same designation. Slightly smaller Hamilton County (which covers the city of Cincinnati) sent 29 youth to ODYS with a gun specification.¹³¹ The counties with more black youth confine more youth with a “gun spec” designation.

The stark racial disparities are not unique to Ohio; they are a byproduct of the criminal justice system. Ohio’s disparities exist despite efforts in the state to address them by involvement in the Juvenile Detentions Alternative Initiative (JDAI) and funding toward disproportionate minority confinement assessments in counties with the highest population of minority youth.¹³²

The “gun spec” law increases costs for taxpayers, operates in a way that undermines a sense of fairness, and limits community-based approaches that generate better public safety outcomes than facilities. Ohio legislators have been presented with the research that shows the “gun spec” law needlessly increases system costs, limits the ability to use the safest and most effective strategy to address youth behavior, and has a racially disparate impact. The 2011 amendments to “gun specs” were in part made by research informing policy, yet the law remains. Ohio lawmakers have not made any further significant changes to this law since 2011, nor are there any current efforts to do so.¹³³

CHANGE POLICIES AND PRACTICES THAT NEEDLESSLY INCREASE LENGTH OF STAY

In 2015, just over 31,000 youth were committed out-of-home, with nearly one-quarter of youth being confined for longer than six months.¹³⁴ Of those youth confined for longer than six months, 45 percent were committed to the juvenile justice system for a primary offense of violence.

The Pathways to Desistance research showed in a two-year follow-up that, among the youth studied for seven years since their first contact with the law, confining a young person beyond three to six months does not reduce the likelihood of recidivism.¹³⁵ That means resources are frequently needlessly spent on expensive

facilities that reduce available dollars for other proven strategies that contribute to a successful transition to adulthood.¹³⁶

The findings from Pathways to Desistance have been echoed in other states looking at the impact of length of stay on the likelihood of future reoffending:

VIRGINIA: One-third increase in the probability of rearrest each year spent confined. The Virginia Department of Juvenile Justice reviewed data on youth two years post-release from secure care and found that the probability of rearrest increased by 33 percent for each additional year spent incarcerated—even after controlling for seriousness of offense and risk level.¹³⁷

FLORIDA: As lengths of stay increased, so did recidivism. The State of Florida Department of Juvenile Justice reviewed the outcomes of 16,779 youth and found that even for high-risk youth, as lengths of stay increased, so did recidivism.¹³⁸

OHIO: The longer the length of stay, the higher the rates of recidivism. A 2013 study looked at 4,645 youth released from the custody of Ohio's Division of Youth Services over a three-year period. Consistent with the other research, the likelihood of recidivism increased as length of stay in secure confinement increased, with a 20 percent increase in recidivism rates for youth staying more than 14 months compared to youth staying six months or less.¹³⁹

System practices that needlessly lengthen the time a youth is confined means systems are too often placing youth in the most expensive, least effective setting to help reduce their involvement in violence.

EXPAND AVAILABLE DIVERSION OPTIONS FOR YOUTH INVOLVED IN VIOLENT CRIMES

Every year, nearly one million youth are arrested.¹⁴⁰ Research shows that a young person who is arrested or adjudicated has a greater likelihood of reoffending and being rearrested, which means he or she is more likely to experience deeper justice system involvement (being confined, placed out of the home, and ultimately involved in the adult justice system).¹⁴¹ Studies also show that having a formal conviction or adjudication makes it more likely that a young person will end up being confined or placed out of the home.¹⁴² An arrest record can negatively impact a young person in any number of ways, including their opportunities for employment well into adulthood.¹⁴³

Pre-arrest and pre-adjudication diversion strategies provide meaningful opportunities to address a young person's behavior outside the formal¹⁴⁴ juvenile justice system and avoid the harmful consequences of justice system involvement. Diversion also allows the public safety system to concentrate more resources on serving young people who need more services or supervision. However, diversion is rarely used with youth who have engaged in violent behavior. In 2014, the juvenile court statistics published by the federal Office of Juvenile Justice and Delinquency Prevention showed that most young people referred to the system for a drug offense had their case disposed of informally. By contrast, one-third

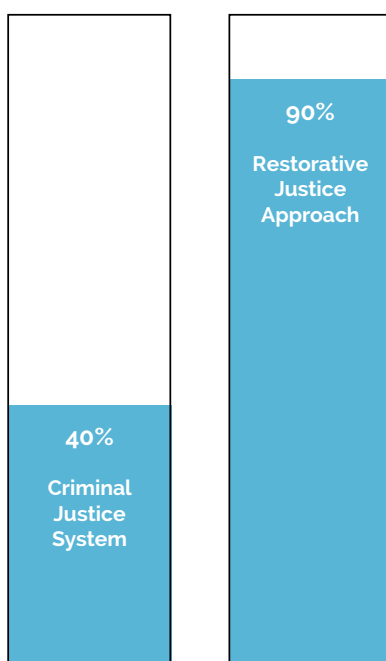
more young people referred to the system for a violent offense had their case resolved formally.¹⁴⁵ There also is an apparent racial disparity in the amount of cases informally disposed—nearly half of the cases involving white youth were handled informally, compared to only 38 percent for black youth.¹⁴⁶

Several studies have shown that youth who have been diverted without an intervention, and who do not have significant service or treatment needs, have better outcomes than similarly situated youth who go through a formal court process. Importantly, interventions of any sort for low-risk youth have been found to increase recidivism.¹⁴⁷ The vast majority of young people involved in the system are best served by avoiding the negative impacts that come with justice system involvement.

In sharp contrast, international studies show that restorative justice is effective at satisfying a victim's need for accountability, even when diverting young people who are involved in serious crimes¹⁴⁸ and satisfy victims' needs for accountability.¹⁴⁹ One study looking at a restorative justice approach in Australia found that nearly 9 out of 10 victims indicated that through restorative justice practices, a violent offense was "brought to justice"—meaning a crime resulted in a legal consequence¹⁵⁰—compared to 4 out of 10 when a youth is served by the criminal justice system.¹⁵¹

The restorative justice approach works to reduce reoffending among young people involved in violent crimes. For youth engaged in violent and property offenses, one study showed there was a 23 percent decrease in a two-year reconviction rate, compared to the reconviction rate following traditional criminal justice strategies.¹⁵²

Satisfaction with how a case was addressed



Legal restrictions may determine whether restorative justice diversion can serve a youth involved in violent crime, but the research is clear that restorative justice processes work for youth of all risk levels, including young people convicted of a violent crime, when the appropriate level of supervision or services can be provided.¹⁵³

In New York City, Common Justice established the first diversion and victim service approach in the United States that focuses on violent felonies in the adult courts using a restorative justice approach. The Common Justice approach diverts people facing an aggravated assault or robbery charge and seeks to address the needs of those harmed by the behavior. While the Common Justice approach has been cited as a model by the U.S. Department of Justice¹⁵⁴, as of 2016, only 70 cases in New York City had been diverted under this approach among the thousands of felony cases that annually move through the courts, and the approach does not currently address cases involving rape or a homicide.

There have also been caution and challenges in applying Common Justice's approach to youth. To build

Source: Lawrence W. Sherman and Heather Strang, "Restorative Justice: the Evidence," The Smith Institute, 2007, 19, http://www.iirp.edu/pdf/RJ_full_report.pdf.

on the successes achieved by Common Justice in their work with young adults (over age 18), the field would need to do more work to tailor these types of approaches in developmentally appropriate ways to work with youth who are under 18.

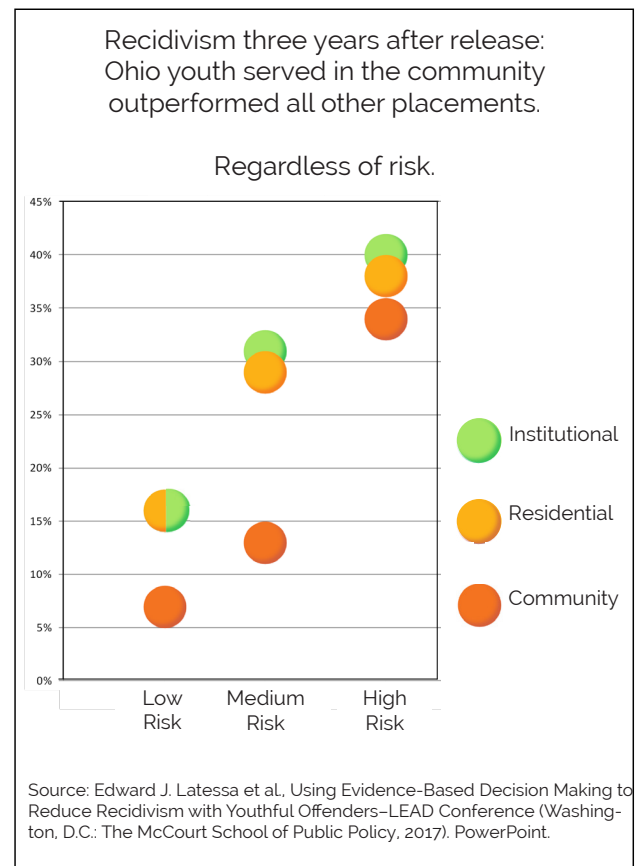
In Alameda County, California, Restorative Community Conferencing (RCC) was established by the nonprofit Community Works as a pre-charge diversion alternative for resolving harm through an organized, facilitated dialogue. With the support of family and community members, young people meet with their crime victims to create a plan to repair the harm caused by their offense. Because Community Works prioritizes serving youth with felony offenses, 62 percent of the conferences have involved felony crimes. The most common serious crimes addressed include robbery, burglary, vehicle theft, battery, battery causing great bodily injury, and drug possession. The program reports having handled a smaller number of assaults, assaults with a deadly weapon, sexual batteries, arsons, and crimes involving the exhibition of a deadly weapon besides a firearm. Out of thousands of felony and misdemeanor cases involving juveniles in Alameda County, Community Works handles approximately 100 cases a year through their restorative justice process.

In short, there is evidence that a larger pool of young people involved in violent crime could have their behavior resolved informally, freeing up resources to expand services for higher risk youth who require additional supervision and supports to remain safely in the community. There is evidence that young people involved in violent crimes could have even better outcomes than youth involved in misdemeanor crimes through restorative justice approaches. But compared with the tens of thousands of young people arrested for a violent crime, the number of youth being served by appropriate diversion schemes are measured in the hundreds.¹⁵⁵

DECISION-MAKERS SHOULD APPROPRIATELY USE TOOLS THAT ASSESS WHAT A YOUNG PERSON MAY NEED TO BE SERVED IN THE COMMUNITY

Juvenile justice systems cannot design a strategy to serve more youth involved with violent offenses in the community without the appropriate tools to determine the best approach and setting to serve a young person.

Currently, the most common tools used by juvenile systems to pair a young person with the right services and interventions include:



RISK ASSESSMENTS: A tool used to assess the relative risk that a youth may continue their delinquency without appropriate interventions, compared with other youth possessing similar characteristics. The assessment typically ranges from low- to- high risk and helps map out the correct response to a youth's behavior.

NEEDS ASSESSMENTS: An evaluation of the underlying needs of a youth (educational training, mental health screening, substance abuse disorder treatment) that can be used to develop an individualized plan for treatment and services.

STRUCTURED DECISION MAKING (SDM): A tool designed to provide information to youth justice decision-makers that helps them decide the best place to serve a young person, given a range of information about a youth's risk, needs, and what the system can offer.

When used effectively, these tools help justice system stakeholders make objective decisions that can enable a young person involved in violent crimes to be served in the community. With the growing field of predictive analytics, data systems can inform, assist, and improve youth justice decision-making about whom to serve, allocation of resources, and targeted interventions. When used well, a tool can help decision-makers see beyond the fact that the youth may have engaged in a violent offense and help them focus on the best way to serve the young person.

Decision-makers can make better use of resources by utilizing tools to keep youth in the community, such as risk assessments, or a structured decision-making tool. To ensure the effectiveness of these tools, they should be:

COMBINED with other sources of information, including interviews with a young person's family, teachers, and people involved in their lives;

VALIDATED, checked against whether or not the tool is informing decisions accurately, matched against real-life outcomes of the young people served by them, and not reinforcing systemic disparities;

FREE from bias based on race, ethnicity, sexual orientation, or gender identity and expression. Ensure that tools don't reinforce disparities and existing structural and implicit bias and inequities;

MONITORED and reviewed, assured they are being used the way they were designed to be used;¹⁵⁶ and

EXPANDED to measure ACEs to reflect the reality that many youth involved in the justice system have also been victimized or have experienced other types of ACEs. Some of these tools are beginning to measure previous exposure to traumatic events.¹⁵⁷ Assessing whether a young person has been a victim of violence themselves means the system can tailor a response that addresses the trauma a young person has experienced and provide a more effective treatment plan. Knowing the harm that youth have experienced before their initial encounter with the justice system would help connect more youth to appropriate treatment services and expand trauma-informed care practices¹⁵⁸

When data showed that young people who were assessed to be low-risk were being confined in Oregon longer than deemed necessary, some stakeholders called for a legislative change so that youth convicted of a violent crime could be served in the community. The data catalyzed a policy change discussion that led to more youth having their sentence reconsidered and fewer youth being subjected to a mandatory minimum sentence.¹⁵⁹

A cautionary note: When not used correctly, or when poorly designed, these tools can increase racial and ethnic disparities. Because communities of color have higher levels of police involvement, behaviors common to all youth lead to higher police contact and therefore a higher risk score. Certain questions on risk assessments can be a disadvantage to youth of color depending on the weight given to issues such as school attendance in a district where youth are more likely to be suspended, expelled, or face significant school challenges.¹⁶⁰ Risk assessments will ratchet up a score if a behavior occurs when a gun is present—something that is common in many high-crime neighborhoods due to easy access to firearms.¹⁶¹

In short, assessment tools can play an important role in helping stakeholders redirect their focus solely from the offense and make decisions that are grounded in a fully-informed assessment of risk and needs. This, in turn, may result in youth convicted of violent crimes being safely managed in the community. But these tools are not a panacea; they do not replace the need for individualized approaches to each youth's particular strengths and needs, consistent with the kind of support any youth might need to successfully transition to a productive and law-abiding adulthood.

These tools do not replace the need for an individual to make a decision, but provide information to recalibrate the focus away from the offense and help make more objective and effective decisions.

NARROW THE NUMBER OF OFFENSES OR BEHAVIORS THAT REQUIRE CONFINEMENT

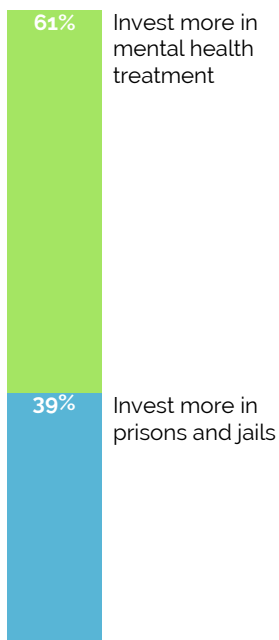
To help ensure that more justice system-involved youth are served in their own community, a number of states and localities have worked together to limit the number of offenses for which a youth would be eligible for a correctional placement. These types of policy changes can be extended to a larger pool of young people, including those involved with violent offenses.

California and Texas passed laws in 2007 that prohibited a young person from being committed to their state-run facilities for a variety of offenses. In Texas, counties were barred from committing a youth for a misdemeanor offense and California banned placements to the Department of Juvenile Justice to only a series of offenses defined by statute.¹⁶² Following these changes, both states saw dramatic reductions in the number of young people confined in far away, state-run facilities. In both states, there was a reduction from about a dozen to less than five secure facilities.¹⁶³

There are a variety of approaches being used to reduce the length of time a young

person is incarcerated and to increase the likelihood the young person will be successful when they return to the community, regardless of their underlying offense.¹⁶⁴

Victims think we should:



Source: "Crime Survivors Speak: The First-Ever National Survey of Victims' Views on Safety and Justice," Alliance for Safety and Justice, 2016. <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>

KEY LAW, POLICY, AND PRACTICE CHANGES INCLUDE:

HAVING TIME LIMIT POLICIES. Some administrators have sought to eliminate barriers to reducing length of stay by adopting time limit policies, such as providing guidelines for decision-makers that align with assessment tools to determine appropriate lengths of stay for an individual.¹⁶⁵

USING DATA AND STUDYING PRACTICES TO INFORM CASE PROCESSING. A study of practices may reveal specific challenges to releasing a youth, including whether a mental health issue can be safely addressed in the community or whether treatment for sex offense behaviors are available. If the data show young people are being confined beyond a point that is optimal, the system can create a mechanism to override decisions that result in youth being held too long.¹⁶⁶

IMPROVING REENTRY AND AFTERCARE APPROACHES. A better aftercare approach helps youth plan for their reentry before they leave a facility—ideally starting as soon as they first enter the justice system. The best practice approach connects youth with multiple reentry supports and plans a "step-down" from a more intensive form of supervision to the appropriate level when they are at home. These kinds of reentry and aftercare strategies mean young people involved in violent crimes are more equipped to move from a locked facility into community supervision.

PROVIDE APPROPRIATE SUPERVISION AND SUPPORT FOR YOUNG PEOPLE IN THE COMMUNITY. National estimates show that 183,200 youth are placed on juvenile probation following a delinquency

adjudication, 28 percent of whom are on supervision as a result of being convicted for a violent offense.¹⁶⁷ About 100,000 youth are on some form of aftercare—the juvenile justice equivalent of parole supervision in the community.¹⁶⁸

Diversion, including programs that embrace the restorative justice approaches outlined above, should be expanded to scale so the maximum number of youth can avoid deeper justice system involvement and the collateral consequences that come with an arrest or adjudication. For those youth whose cases cannot be diverted, a community supervision approach needs to be developed to collaborate with community-based organizations and direct resources to support youth involved in violent crime at-home.

Probation and aftercare approaches that are solely focused on conditions (like whether a youth is abiding by a curfew or keeping an appointment) are not effective at helping young people succeed.¹⁶⁹ Research shows that youth placed on probation are less likely to commit a new crime than those placed in a residential facility¹⁷⁰ and

young people receiving the right aftercare approach are less likely to reoffend¹⁷¹ when supervision and services are individually tailored to the needs of the young person.

To serve more youth involved in violent crimes who are currently confined, the supervision approach for all young people on probation or aftercare needs to change. Youth assessed to have few needs and who objectively look like they won't face challenges in the community should either be diverted from the system entirely or receive the lowest possible form of contact (e.g., a youth staying in touch with probation staff by phone).¹⁷²

If resources were not wasted on confining young people who do not need an intensive level of supervision or services, the probation and aftercare system could provide more intensive supervision to higher risk youth who need it most. This, in turn, would assure stakeholders that a young person involved in a violent offense can be supervised effectively. The additional resources that might be needed for supervising youth in the community would be far outweighed by the savings that would come from placing youth in a community setting with the appropriate supports to successfully move past delinquency.¹⁷³

To move toward a probation and aftercare approach that would free up resources to serve more youth in the community, a series of changes would need to be made, including:

REDUCING PROBATION CASELOADS. Probation staff should not handle more than 15 cases at a time, in order to allow them to build relationships with the youth they supervise. If more youth who do not need intensive supervision were diverted, youth involved in a violent crime could be served in the community by staff with smaller caseloads, assuring stakeholders that public safety will be well served.

INDIVIDUALIZING CASE PLANNING THAT ALIGNS THE RIGHT AMOUNT¹⁷⁴ OF CONTACTS AND SERVICES. Community supervision agencies should individualize case planning to help set expectations and goals that are developed collaboratively with youth and families. Expectations and goals should take a positive youth justice approach in addition to addressing risk and needs. Moreover, the case plan should be tailored to the right amount of supervision and supports in order to reduce the likelihood of future delinquency. Probation contacts, interventions, and services should be individualized and based on objective assessments.¹⁷⁵

LIMITING COURT ORDERS. The courts will often place probation conditions on a young person's liberty, but they should not be so onerous that they prevent the youth from focusing on what they need to be successful. For example, requiring youth to pay fees or fines may not make sense if the young person is struggling to connect to work opportunities.

CONNECT YOUTH WITH COMMUNITY-BASED ORGANIZATIONS AND RESOURCES. The youth probation and aftercare system should leverage community partnerships to provide culturally-responsive opportunities for

youth. When both responsibilities for supervision and the appropriate dollars are shared between the formal system and nonprofits, a service can be delivered to a youth and their family in a culturally responsive way, and more often in the community.

REWARDING YOUNG PEOPLE FOR GOOD BEHAVIOR. The community supervision approach should use incentives and rewards (including early release from probation) to motivate youth toward positive behavior change.

ELIMINATING INCARCERATION FOR MINOR VIOLATIONS WHILE ON SUPERVISION. A young person should never be detained or incarcerated for failing to follow conditions/rules or not meeting expectations. Detention or incarceration should only be used if a new crime is committed.

Making these changes would mean more young people involved in violence could be served well in the community because more attention, resources, and support would be available.

When a young person is involved in violent crime and is faced with potential justice involvement, whether or not that youth has an effective legal defense plays a key role in determining if the youth will end up in the community or confined. In light of a public defense system that has insufficient resources, too many youth are still unable to access the kind of zealous advocacy that can make the difference as to whether or not they are confined.

According to a 2017 analysis of 50 state agencies by the National Juvenile Defender Center¹⁷⁶:

- Only 11 states provide every child accused of an offense with a lawyer, regardless of financial status;
- Thirty-six states allow children to be charged fees for a “free” lawyer;
- Only 11 states provide for meaningful access to a lawyer after sentencing, while every state keeps children under its authority during this time; and
- Attorneys report that client interviews vary in length from less than five minutes to 30 minutes.

If a young person does not have an effective attorney simply because they cannot afford one, or an overburdened defense system cannot spend the necessary time with a youth client, it can result in courts not having sufficient information to decide whether a youth involved in a violent crime can be served in the community. This can be true when a youth is awaiting their court date, which can lead to needless pretrial detention. It is also true at the disposition and post-disposition phases when it is decided whether a youth will be served in the community.

Resource community-based approaches at a scale sufficient to serve more youth involved in violent crimes at home

A key barrier to the system serving more young people involved in violent crimes at home is ensuring that the billions of dollars spent on juvenile corrections can instead

resource community-based approaches at the scale they are needed.

Federal, state, and local governments spend upwards of \$80 billion dollars on prisons, jails, and the corrections system,¹⁷⁷ and it has been estimated that states spend billions of dollars every year confining youth.¹⁷⁸ While it varies from place to place, the cost of maintaining a juvenile facility outweighs all other expenditures in a youth justice system budget.

There has been a concerted effort in juvenile justice policy to move more funding from incarceration to community-based approaches. The significant declines in the number of youth in state-run juvenile facilities in California, Ohio, New York, and Texas followed efforts to set up funding streams to serve more young people in the community.¹⁷⁹

These "fiscal incentives" represent an important step in building the community capacity to serve more youth at home—however, the results have varied. Some states only saw a small portion of the dollars needed to serve youth through community-based approaches reach the community level. Others have found more success in reinvesting in community alternatives through a funding stream established by reducing their confined population.

Key examples from around the country include:

CALIFORNIA: As part of a series of reforms to the juvenile justice system, a \$90 million annualized funding stream—the Youthful Offender Block Grant (YOBG)—was set up to assist counties to serve youth once incarcerated by the state in the community they are from. According to an analysis of YOBG spending patterns by the Board of State and Community Corrections, only four percent of these funds were spent on community-based organizations to serve youth. The bulk of the funds were reported to be spent within the formal systems of county probation departments. Most of the 58 California counties did not report spending any YOBG funds on community-based organizations.¹⁸⁰

VIRGINIA: By vastly decreasing the confined population, there has been noticeable growth in their community investment. Over the years, Virginia has drastically reduced its use of secure confinement and moved more youth to community-based alternatives. The state continues to spend millions to resource the deep-end¹⁸¹—it is projected that \$29.7 million will be spent on Virginia's continuum of services in 2019, including community-based treatment services, detention re-entry, independent living, and psychological evaluations. This is a substantial increase from a \$7.7 million allocation in 2015. Virginia should be celebrated for increasing the allocation over a 4-year period, but should continue the process of expanding its community continuum and further reducing its use of secure confinement.¹⁸²

Ohio: Money spent on confinement and community alternatives is now more balanced. Ohio has made great strides in changing their approach so that more young people are served in the community, and more dollars are spent on community-based approaches. In 2015, the state spent \$81.2 million on

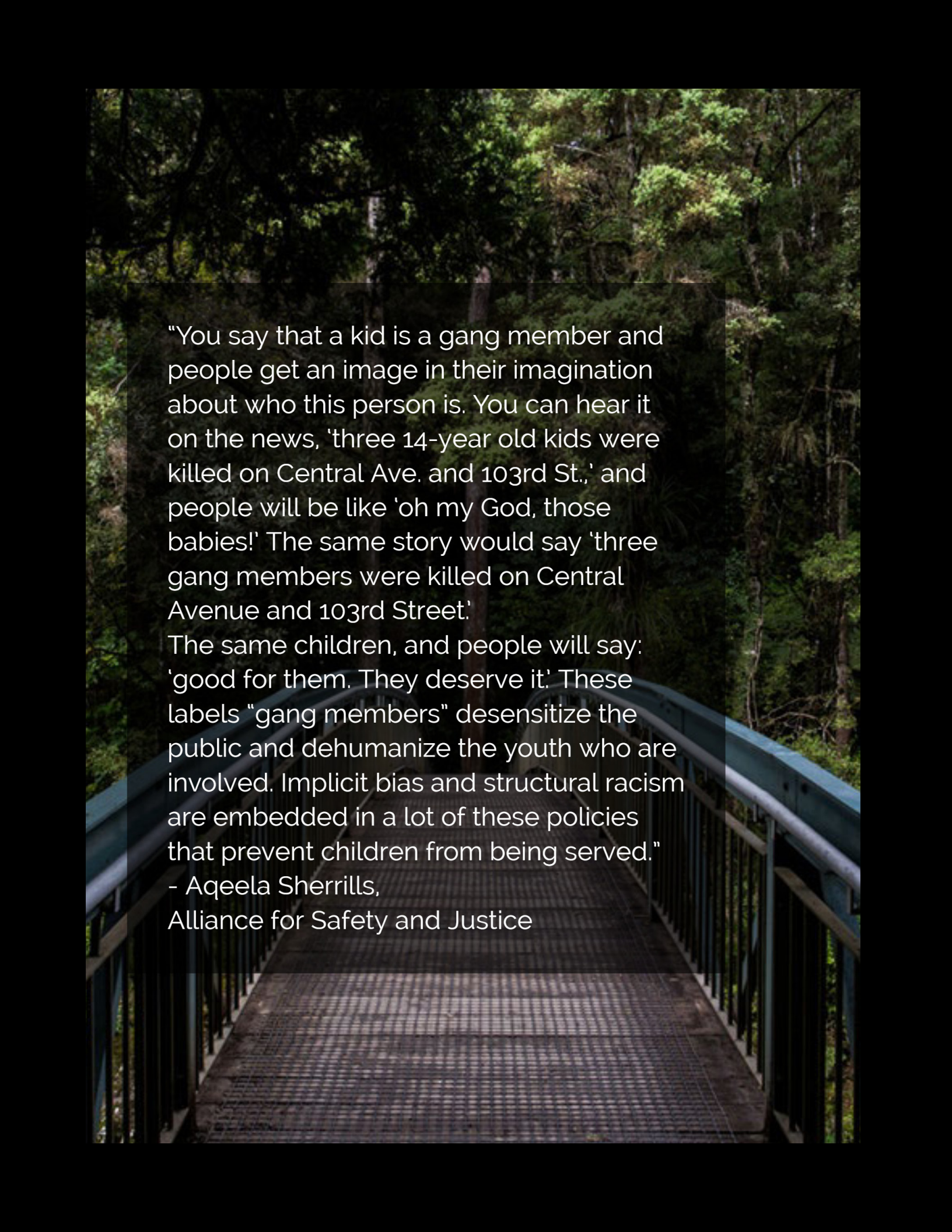
approximately 600 community-based alternative programs and the 12 state-funded, county-operated community corrections facilities that served 80,000 youth; this included \$58.4 million toward community-based alternatives programs and \$22.8 million for the 12 community-based residential facilities.¹⁸³ In the same year, Ohio spent \$81.3 million to serve 439 youth in their three remaining state-run facilities. Continuing to grow the alternative-placement funding allows for more youth, including those involved in violent crimes, to be served in the community.¹⁸⁴

JPI also heard from a diverse spectrum of stakeholders - including young people directly impacted by the justice system, public defenders and prosecutors, advocates and policy-makers - that they all thought the lack of resources to support community-based approaches was a barrier to serving more youth involved in violent crime in the community.

When community-based approaches are not resourced at scale, it creates a cycle that fails both crime victims and young people directly impacted by the justice system. Key stakeholders lose faith in the ability of organizations to serve and supervise youth effectively, which means they reach for the default tool of confinement. This results in less support for proven community-based options and fewer opportunities for youth to be placed other than in confinement.

This creates a self-fulfilling prophecy. If the community-based organizations that currently serve youth cannot cobble together enough funding to develop the staff and resources youth need, they will likely fail to achieve outcomes demonstrating that youth involved in violent crimes can be effectively served in the community.

The data show that bigger investments in nonprofit community-based organizations can have a more positive impact on reducing violent crime than anything done through confinement. One study that analyzed nonprofit concentrations in 246 cities found that every 10 additional organizations focusing on crime and community life in a city with 100,000 residents leads to a 9 percent reduction in the murder rate, a 6 percent reduction in the violent crime rate, and a 4 percent reduction in the property crime rate.¹⁸⁵

A photograph of a metal walkway bridge with railings, leading through a dense forest. The bridge is made of metal grating and has a dark metal railing on both sides. The forest is lush with green trees and foliage, creating a natural and somewhat somber atmosphere. The lighting is soft, suggesting an overcast day or a shaded area within the woods.

"You say that a kid is a gang member and people get an image in their imagination about who this person is. You can hear it on the news, 'three 14-year old kids were killed on Central Ave. and 103rd St.,' and people will be like 'oh my God, those babies!' The same story would say 'three gang members were killed on Central Avenue and 103rd Street.'

The same children, and people will say: 'good for them. They deserve it.' These labels "gang members" desensitize the public and dehumanize the youth who are involved. Implicit bias and structural racism are embedded in a lot of these policies that prevent children from being served."

- Aqeela Sherrills,
Alliance for Safety and Justice

PART V: KEY RECOMMENDATIONS: BUSINESS AS USUAL IS NOT SERVING THE NEEDS OF VICTIMS

The overarching message that JPI and NCVV heard from crime victims was the need to individualize the approach to youth and crime victims so that everyone can heal. When members of the crime victims' roundtable discussed operationalizing this in such a way as to have safer, healthier communities that address the needs of both crime victims and youth involved in violent crime, several key recommendations rose to the top:

EXPAND EFFORTS TO ADDRESS THE HARM CAUSED BY CRIME IN UNDERSERVED COMMUNITIES AND COMMUNITIES OF COLOR

In the past few years, victim assistance funding has more than quadrupled, allowing states to support more victim service organizations because the ceiling on the Victim of Crime Act was lifted. Changes to various rules governing how billions of federal victim service dollars are spent has opened up new opportunities to foster innovations and partnerships in how, where, and who could benefit from these healing dollars.¹⁸⁶

The data show that victim assistance services are most likely accessed when the violence involves a female victim, results in injury, or is reported to the police, and that access to medical services appears to increase reporting to police and use of victim assistance. Part of the push with the new funding and flexibility in the victims' services field is to target support to "underserved" victims of crime—a category that includes a number of different subpopulations that closely resemble the demographics of youth in the juvenile justice system: people who are low income, youth victims, repeat victims in urban areas with high rates of violent crime, and victims of color.¹⁸⁷

Attendees at the roundtable said that if we are going to serve more youth involved in violent crime in the community, we also need to increase efforts to address the damage to the community caused by crime; particularly in underserved communities and among youth of color. The recommendation flowed naturally from the understanding that young people involved in violent crimes are often themselves also victims of previous violence, and that the unaddressed trauma was likely a factor in their crimes. It also emerged from a clear understanding of the effect of the racial justice issues faced in the communities in which many of these youth live, including lack of access to treatment, that is dealt with by both the juvenile justice and the victim advocacy communities. Both fields connect safety and accountability to a concerted effort to address bias and the treatment needs in communities of color.

Victims prefer:



Source: "Crime Survivors Speak: The First-Ever National Survey of Victims' Views on Safety and Justice," Alliance for Safety and Justice, 2016, <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>

INCREASE INVESTMENTS IN APPROACHES THAT BOTH ADDRESS THE NEEDS OF YOUNG PEOPLE INVOLVED IN VIOLENT CRIMES AND REDUCE THE HARM CAUSED BY VIOLENT CRIME

Related to the need to step up support for victims in communities of color, there was an overarching call to increase investments in community-based approaches that address the needs of young people involved in violent crimes. The call for expanded investments includes approaches to reduce the harm of violence, prevent violence, and make sure that when a youth is served in the community, the approach is resourced at the scale that it needs to deliver the service effectively to youth.

Crime victim advocates noted the under-investment in various kinds of approaches that would be more effective at reducing youth violence and addressing the harm of crime, versus the enormous funds spent on confinement.

By way of example, in Baltimore, Maryland, Safe Streets is a public health approach that emphasizes a street outreach component with community workers canvassing neighborhoods. Safe Streets seeks to connect youth at risk of being involved with violence to services, and help de-escalate behavior that may result in more violence and crime. In 2017, Safe Streets Baltimore had an operating budget of \$971,645, 15 staff, and engaged an average of 100 youth at a time in neighborhood de-escalation strategies.¹⁸⁸ By contrast, in 2016 taxpayers spent \$58,093,111 to run just the Baltimore City Juvenile Justice Center¹⁸⁹ — a correctional facility with 400 staff¹⁹⁰ that served an average daily number of 45 youth.¹⁹¹

Another example that brought the issue of the desperate need to step up investment to light was the discussion of the underfunding of trauma recovery centers. Trauma recovery centers provide services to people suffering from trauma, violence, and loss, and are geared toward promoting healing by providing effective mental health and medical services to crime victims. Trauma recovery centers offer a one-stop shop of sorts in which mental health professionals with trauma specific training help victims of violent crime process and face the damage they have experienced.

Trauma recovery centers also seek to address some of the barriers victims of violent crime face because of the connection in many jurisdictions between receiving the treatment and services they need and cooperating with law enforcement. The fear of engaging with law enforcement – for any number of reasons – can be a barrier to victims seeking help. By contrast, the kind of treatment and support available in a trauma recovery center setting makes it more likely for them to both access treatment and participate in the justice process.¹⁹²

While a meaningful step forward to address the damage caused by violent crime, JPI and NCVC heard in the roundtable that, in some cases, trauma recovery have had waiting lists to serve those in need.¹⁹³ According to the federal National Crime Victimization Survey, only 12 percent of victims of serious violent crime receive access to services (reduced to 4 percent when the crime is unreported). A staggering 43 percent never report serious violent crime to law enforcement. Those

most likely to experience crime are often least likely to access services.¹⁹⁴

The lack of support for crime victims echoes the lack of support for the kind of community-based approaches that can address young people's behavior in the community. As demonstrated earlier, the most expensive way to address a young person's behavior is with confinement, and the funding streams developed to help a young person move on from delinquency in the community are overtaken by investments in facilities. Along with funding support for crime victims, it was offered that community-based approaches be funded at a scale to deliver high-quality service to youth so that crime victims have confidence in these community approaches.

JUVENILE JUSTICE SYSTEMS NEED TO DEMONSTRATE ACCOUNTABILITY, SHARE INFORMATION, AND HELP CRIME VICTIMS

The crime victims JPI and NCVC convened agreed that the system needs to be changed so that victims' needs are met. It must show that youth are being held accountable and that there is evidence that the approach will make the community safer. However, demonstrating accountability on a case-by-case basis (rather than in the aggregate), is easier said than done when community-based approaches are not resourced at the scale they need. Under resourcing community-based approaches feeds a negative cycle where it is harder to provide the data and evidence that youth engaged in violent behavior can be successfully treated at home.

There is a need to balance the value of holding a young person accountable with ensuring the system is helping them be rehabilitated. One example offered was ensuring that a young person who is making restitution, engaged in community service, and repairing the harm caused is not weighed down by too many conditions that set them up for failure under community supervision.

While there was a lot of shared ground between advocates for crime victims and for youth, there were also some tension points that may have more to do with perceived roles in a process—for example, whether one is an advocate for youth or for crime victims—rather than diametrically opposed goals or visions of how systems should address violence.

This tension also emerges when considering the value the juvenile courts place on confidentiality; there can be tension between providing information about how a case is being resolved and the need for a zealous defense to be marshalled consistent with the role of the juvenile defense bar.

Crime victims think that justice systems need to take victims' rights into account more and help victims navigate the justice systems. At the same time, budget cuts have meant that some justice systems may face challenges taking on new responsibilities beyond their primary responsibility of serving youth so they can desist from engaging in delinquent behavior and successfully transition to adulthood.

Also, some crime victims want to definitively know the impact on the victim of having the youth back in the community. As one participant said, "There are huge research

gaps on what are the impacts on victims: how do they feel, regardless of where the youth are placed? We don't know—we have not done studies on how they are living in the aftermath of the juvenile offenses.” And regardless of the options a system has to hold a youth accountable in the community, some victims may want a particular case resolved by the youth being confined.

After all these points were discussed, roundtable attendees still consistently supported the value in building an approach to serve as many justice system-involved youth at home as possible and addressing the key barriers to serving more youth involved in violent crimes in the community.

CONCLUSION

The research is clear that the community is the best setting to serve youth who have been convicted of a crime. Keeping kids close to home, providing services and support, and allowing them to engage with their families and experience positive peer associations results in significantly lower rates of reoffending. In addition to making everyone safer, youth can be treated in the community at a fraction of the cost of confinement and keeping them at home helps mitigate the damage caused by racially disproportionate policies and practices in the justice system.

The success of community-based treatment and services for youth helped drive a 30-year decline in confinement, as lawmakers and practitioners change policy and practice to move away from costly and ineffective use of secure facilities. This has resulted in a halving of the confined population during an era of historic declines in juvenile crime rates. Even with this success, there is more work to be done.

Most of the population decline has been the result of changes in policies and practices for youth who have committed nonviolent offenses. For those who have engaged in violent crime, confinement in a secure facility remains the most common response. This is problematic because the research has shown that youth who have committed a violent offense benefit from staying in the community and close to home just as much as those who have committed a nonviolent offense. Practitioners in the juvenile justice system know how to treat youth in the community for serious and violent offenses while also keeping the public safe. The obstacles are lawmakers and stakeholders who are unwilling to extend the benefits of community-based interventions to youth who have engaged in violence. This leads to the negative outcomes that we've come to see far too often: high rates of reoffending, wasteful deployment of resources within the juvenile justice system, and unconscionable rates of racial and ethnic disparities in the confined population.

To truly reduce youth violence, recidivism, mass incarceration, and racial disparities, we must face the challenge of shifting youth convicted of violent offenses out of secure facilities and into the community. This is a view that is shared by many researchers, juvenile justice advocates, practitioners, and perhaps most importantly, victims of crime.

The JPI/NCVC-convened roundtable and focus groups echo public opinion polling that reveal many victims of crime believe that youth convicted of violent offenses can be effectively served in the community. They feel their needs as victims of crime are not currently being adequately addressed. And finally, they recognize the fact that many youth who have committed violent offenses have themselves been victims of crime and are not receiving the trauma-informed care and services they need to heal. Focusing on these issues differently, they believe, would create a safer, healthier society for everyone.

To do that, however, we must focus on changing the many laws, policies, and practices still in place that prevent young people involved in violent crime from being served in the community. Only then will the justice system be altered so that fewer youth involved in violent crimes are confined, more crime victims' needs are met, and all of us can live in safer and fairer communities.

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