



## The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model

Patrick McCarthy, Vincent Schiraldi, and Miriam Shark

### Executive Session on Community Corrections

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### Introduction

*[F]airly viewed, pretrial detention of a juvenile gives rise to injuries comparable to those associated with the imprisonment of an adult.*

—Justice Thurgood Marshall

*It is, in all but name, a penitentiary.*

—Justice Hugo L. Black

Is America getting what it wants and needs by incarcerating in youth prisons young people who get in trouble with the law?

If not, is there a better way?

For 170 years, since our first youth correctional institution opened, America's approach to youth incarceration has been built on the premise that a slightly modified version of the adult correctional model of incarceration, control, coercion, and punishment — with a little bit of programming sprinkled in — would rehabilitate young people. Sometimes the names attempt to camouflage the nature of the facility, but whether they are called "training schools" or "youth centers," nearly all of these facilities are youth prisons.<sup>1</sup>

Whether the benefits and costs of youth prisons are weighed on a scale of public dollars, community safety, or young people's futures, they are damaging the very people they are supposed to help and have been for generations. It is difficult to find an area of U.S. policy where the benefits and costs are more out of balance, where the evidence of failure is clearer, or where we know with more clarity what we should be doing differently.

This ill-conceived and outmoded approach is a failure, with high costs and recidivism rates and institutional conditions that are often appalling. Our approach to youth in trouble with the law requires a watershed change to one that is more effective, more informed by evidence of what works, more likely to protect public safety, more developmentally appropriate, more humane, and more community based. Every youth prison in the country should be closed and replaced with a network of community-based programs and small facilities near the youth's communities. Closing these failed institutions requires a clear-headed, common-sense, bipartisan policy approach, and a commitment to replace these facilities with effective alternatives that are already available.

## History

Around 170 years ago, with the opening of Massachusetts' Lyman School for Boys in 1846 (Miller, 1991), American reformers began experimenting with a "new" approach to troubled youth (Schiraldi, Schindler,

and Goliday, 2011). As the social and economic forces of the time brought more rural and immigrant families into America's urban environments, philanthropists and child advocates of the 1800s struggled to resolve what they saw as rising misbehavior by the young, urban poor (Krisberg and Austin, 1993).

In a departure from the primacy of the family as the principal foundation of social control, reformers of the time turned to a new and untested institution — the reformatory. Viewed alternately as a humane response to poorhouses and prisons or as a means to control and punish unruly immigrant youth, "reform schools" became increasingly popular as a government response to what was perceived as a rising threat from ungovernable urban juveniles (Siegel and Senna, 1985). This struggle between the humanistic and punitive instincts of the youth justice system and its facilities is evident to the present day, and was woven into its very creation (Platt, 1977; Butts and Mitchell, 2000).

Reliance on these large, congregate facilities has resulted in scandalous abuses, unconstitutional conditions, and poor public safety outcomes almost since their inception, sometimes despite yeoman efforts to improve them. Although they were founded with great fanfare to remove wayward youth from city streets and reform them in rural environments, the facilities quickly revealed many of the ills that plague them to this day. Cruelly regimented schedules were enforced by whippings and isolation. Youth were leased out to sometimes harsh working conditions, leading to accusations of profiteering and concerns that cheap inmate labor was depressing wages. Although nominally dedicated to helping turn young people's lives around, many facilities were

merely warehouses, with scant differences from their adult cousin — the penitentiary (Rothman, 1980). Furthermore, the majority of youth confined in these 19th-century institutions were incarcerated not for law violations, but for status offenses such as running away from home and ungovernability.

Ironically, the zeal of Progressive Era reformers in the early 1900s may have served to justify and increase the use of institutions, renamed “reform schools” by Progressives to paint on them a more professionalized and hopeful veneer. After the founding of the first separate court for juveniles in Chicago in 1899, besieged wardens found solace in the court’s rehabilitative ethos as a defense for their beleaguered institutions, and admission rates rose in the aftermath of the new court’s inception (Rothman, 1980).

Despite their problems, youth prisons and the less formal court environments endured side by side without significant changes until the 1960s. That is when concern that youth were neither being helped to get back on track nor provided due process protections led to a raft of landmark decisions by the U.S. Supreme Court granting youth, for example, the rights to counsel, to confront witnesses, and to be “adjudicated delinquent” (the juvenile system’s euphemism for “convicted”) with proof beyond a reasonable doubt. Concerned that the rehabilitative ethic of the court was a poor excuse to deny due process to youth accused of crimes, the court wrote that juveniles in family court got the “worst of both worlds” — “neither the protection accorded to adults nor the solicitous care and regenerative treatment postulated for children.”

Responses to the drug epidemic of the late 1980s and early 1990s, along with a spike in violent youth crime, ushered in an era of even more stringent approaches to youth incarceration. Public fear was stoked by media coverage and by “tough-on-crime” stances taken by many public officials. Social scientists such as James A. Fox, John DiIulio, and others promulgated doomsday scenarios. In 1995, for example, Fox predicted a “bloodbath in about 10 years.”<sup>2</sup> In 1996, DiIulio predicted that there would be “270,000 more young predators on the streets” (DiIulio, 1996). Pronouncements like these were wrapped in racialized, demonizing language that further inflamed public alarm. “The black kids who inspire the fear seem not merely unrecognizable but alien,” wrote DiIulio (1996), calling young people who came into contact with the justice system “radically impulsive, brutally remorseless” (Bennett, DiIulio, and Walters, 1996). The most memorable and damaging description was “superpredator” (DiIulio, 1995).

Neither Fox nor DiIulio noted that violent youth crime had actually begun to decline a few years earlier. It has been plummeting ever since. Violent crime arrests of youth dropped by 68 percent between 1994 and 2014, and youth homicides, which peaked in 1993, have declined by 83 percent since then.

Although Fox and DiIulio have since acknowledged that their predictions were based on faulty analyses and recanted, the damage was done. The public was encouraged to see young people not as individuals who had gotten off track and needed help but as scary, dehumanized predators from whom they needed to be protected at all costs. Policymakers responded to

*I recall vividly my first visit to a youth prison many years ago. More than a hundred teenagers in a building built for 40. Bright, glaring lights everywhere. A constant barrage of noise, reverberating off hard surfaces. Kids in sweats, many with holes. Kids in shackles and handcuffs. Mace on the belts of the uniformed guards. A row of isolation rooms, every one with the face of a young boy in solitary confinement, staring out of a narrow window. The air dripping with pervasive stress, fear, anger and tension and a sense of imminent violence.*

Patrick McCarthy, Keynote Speech to the National Juvenile Defender Leadership Summit, Salt Lake City, Utah, October 23, 2015

DiIulio's exhortation that we "will need to incarcerate at least 150,000 juvenile criminals in the years ahead" (DiIulio, 1995), resulting in record numbers of young people confined in adult-style prisons and giving rise to a wave of youth prison construction. For example, at the heart of the Violent Crime Control and Law Enforcement Act of 1994 was a program that provided billions in federal funds for states to build or renovate prisons. With this funding, more than half of the states built, expanded, or renovated youth prisons and detention facilities, and contracted for additional detention and correctional beds. For example, California spent \$250 million of those funds to build nearly 3,500 beds in 38 counties (Bureau of Justice Assistance, 2012). The number of youth in juvenile prisons peaked in 1999 at 109,000.

Even though youth crime and youth incarceration have been steadily declining since the mid-1990s, we are left with the legacy of this era in the form of deeply ingrained images of young offenders as thugs, policies that still over-rely on incarceration, and youth prisons that stubbornly resist closure efforts, maintaining hundreds of empty beds waiting to be filled.

## Inherently Flawed Model

The failure of youth prisons to help young people get back on track, as well as their failure to protect public safety, flows from inherent flaws in the model itself. Adult-style prisons that emphasize confinement and control are devoid of the essentials required for healthy adolescent development — engaged adults focused on their development, a peer group that models prosocial behavior, opportunities for academic success, and activities that contribute to developing decision-making and critical thinking skills (Bonnie et al., 2013). At the same time, these facilities provide too many of the elements that exacerbate the trauma that most confined youth have already experienced and reinforce poor choices and impulsive behavior. Maltreatment is endemic and widespread.

*We have 100 boys sleeping in one room 40 by 80 feet, low ceiling, and the beds are 'two story'; there are no bathroom privileges of any kind in the building. ... Can we not prevail upon this assembly to give us relief? In the name of humanity!*

—*Superintendent, St. Louis House of Refuge, 1893*  
(Abrams, 2004)

It is not surprising that an incarceration-based approach is so ill-suited to its task when the mismatch between the intervention and the population is considered. Youth prisons contravene everything we know about adolescent development in general, and especially the population of youth who come into contact with the system. Instead of helping kids get back on track, these facilities exacerbate many of the factors that brought them to the attention of the courts in the first place.

Brain science, developmental psychology, and human experience underscore what developing youth in the catchment age of the juvenile justice system<sup>3</sup> need to become mature, successful adults. Adolescents differ from adults in important ways that make adult-model incarceration ill-matched to their needs. Adolescents have less capacity for self-regulation in emotionally charged situations; their sensitivity to environmental influences is heightened and they have not yet learned to make decisions with a future orientation (Bonnie et al., 2013).

In a series of decisions concluding that youth should not be eligible for the death penalty and limiting life without parole sentences for youth, the U.S. Supreme Court elevated the new science on youth development as never before. In *Roper v. Simmons*, 543 U.S. 551, 127 S.Ct. 1183 (2005), the Court wrote that youth have a “lack of maturity and an underdeveloped sense of responsibility,” leading to recklessness, impulsivity, and heedless risk-taking. In *Miller v. Alabama*, No. 10-9646, 567 U.S. (2012), the Court also found that children “are more vulnerable ... to negative influences and outside pressures”; they have limited “control over their own environment” and are therefore unable to extricate themselves from crime-producing settings; and since a child’s character is not as “well formed” as an adult’s, his traits are “less fixed” and his actions less likely to be “evidence of irretrievabl[e] deprav[ity].”<sup>4</sup>

Such youth need positive adult-youth interactions, feedback loops, and learning opportunities that help them with the developmental tasks of impulse control, judgment, future orientation, and emotional maturity. The punitive, coercive atmosphere of youth prisons provides none of these critical experiences.

*Beatings of children in custody were commonplace, inmates stuffed clothing around the toilets to keep out rats and cockroaches, young people were locked up for so long they often defecated or urinated in their cells. Youth who came in clean tested positive for marijuana after 30 days of confinement, suggesting it was easier to score drugs in my facility than on the streets of the District of Columbia.*

Vincent Schiraldi, *New York Times*, 2015

Justice-involved youth often have histories of abuse and failure by adults around them that add to the complexities of normal adolescent development. The trauma many of these young people have experienced makes them especially sensitive to environmental triggers, and yet, many are kept in institutional environments that seem designed to trigger trauma and rage: long periods of isolation; harsh, sterile surroundings; bright lights; a constant din; and a near-constant threat of violence.

A critical task of adolescence is to refine and deepen the sense of self and self-image (Erikson, 1959). Young people who come into contact with the juvenile justice system typically have experienced failure in a variety of settings and are in need of experiences that help them build a positive and prosocial self-image. Youth prisons communicate to young people constantly and in a variety of ways that they are dangerous, feared, worthless, and have no real future. With this identity firmly in place, with more trauma and more deeply entrenched behaviors, they are sent back to their communities with little follow-up or connection to help get them back on track (Schubert and Mulvey, 2014).

Many of the youth who come into contact with the youth justice system enter it with diagnosable mental health and substance abuse problems, yet few receive help with these issues. A longitudinal study of 1,300 youth who were confined for serious offenses noted that few received services related to mental health issues in the residential setting. Even fewer received care once released, despite the finding that each added month of service reduced the odds of recidivism by 12 percent (Schubert and Mulvey, 2014).

Finally, life-course criminological research has found that youth must cross several critical developmental “bridges” on the path to maturing out of delinquent behavior, with stable marriage and career path employment being two of the most important (Sampson and Laub, 1997). Yet commitment to a youth prison makes both less attainable (Holman and Ziedenberg, 2011).

*No new institutions for adults should be built and existing institutions for juveniles should be closed.*

—National Advisory Commission on Criminal Justice Standards and Goals, 1973

The failure of the institutional model is not a new insight. More than 40 years ago, in 1973, the National Advisory Commission on Criminal Justice Standards and Goals found “The prison, the reformatory, and the jail have achieved only a shocking record of failure. There is overwhelming evidence that these institutions create crime rather than prevent it” (National Advisory Commission on Criminal Justice Standards and Goals, 1973). The Commission recommended that “no new institutions for adults should be built and existing institutions for juveniles

should be closed.” Hundreds of thousands of young people have been subjected to these conditions since that report appeared.

### **Abuse is Endemic**

*Staff at the facilities routinely used uncontrolled, unsafe applications of force, departing both from generally accepted standards and [departmental] policy. Anything from sneaking an extra cookie to initiating a fistfight may result in a full prone restraint with handcuffs. This one-size-fits-all control approach has, not surprisingly, led to an alarming number of serious injuries to youth, including concussions, broken or knocked-out teeth, and spiral fractures.*

—U.S. Department of Justice, 2009

That the type of maltreatment outlined above is endemic, rather than idiosyncratic, argues convincingly to abolish, rather than attempt to reform, the youth prison model.

From 1979 to 2004, lawyers, the media, and advocacy organizations uncovered and documented abuses in state, local, or privately operated youth facilities in the District of Columbia and 23 states: Arizona, Arkansas, California, Connecticut, Florida, Hawaii, Idaho, Illinois, Kentucky, Maryland, Massachusetts, Missouri, Nevada, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, and Utah (Schiraldi and Soler, 2004).

In 2008, the Associated Press surveyed every youth justice agency overseeing youth in confinement in the U.S. for information on the number of deaths, as well as the number of allegations and confirmed cases of physical, sexual, and emotional abuse by



### Correctional...

Picture MJ, a 16-year-old who is on his way to the Elm Tree Correctional Center to begin serving an 18-month sentence. He is shackled and placed in the back of a van with three other teenage boys. He knows one of the guys, with whom he has hung out in his neighborhood, but the uniformed correctional officer tells them to shut up when anybody starts to talk. After about three hours, they arrive at an old and dingy building surrounded by two tall fences topped with razor wire. One big gate opens, they pull the van forward, and before the next gate opens, the one behind them clanks closed. The van doors open, and another officer yells his last name and tells him to get moving. They are directed into a vestibule where the door behind them bangs shut loudly. Then, the door in front of them buzzes and unlocks, and MJ is directed into a small cell. He hears doors clanging, voices yelling, walkie-talkies squawking, somebody barking out orders. After a while, two officers come in. He is told to strip naked and they conduct a detailed search of his body, including body cavities. He is handed an orange jumpsuit, underwear, socks, and slip-on shoes — most of which have obviously been worn by others in the past — and ordered to put them on. He is then led down a long hallway and into a large room with metal tables in the center, bolted down, ringed by a series of metal doors, each with a small window, some of which have faces staring blankly out of them. He doesn't see any youth out of their cells in the common area. He is taken over to one of the doors, the officer unlocks it and tells him to go in, and then the door is locked behind him. His cot has a thin blanket on it, with no sheets or pillow on his plastic mattress, and there is a metal toilet-sink combination in one corner of the room. There is another bunk with another guy on it who was sleeping before he got there. His "cellie" just glares at him. A little while later, the door bangs open and he follows the other guys in a line down the corridor into a cafeteria, putting his hands behind his back as he notices the other boys do. The noise reverberates all around him as he takes a seat at a metal table, on an attached metal stool. A tray of food is placed in front of him, with plastic utensils to eat it with. It is something full of tomatoes and he knows he gets sick if he eats those things, so he just sits and watches.

After dinner, he follows the line of boys back to their unit. When they get there, everyone hangs out in the big room, some watching TV, others playing cards. He starts to sit at one of the tables but realizes the only open seat is broken. And besides, the guys at the table glare at him, making it plain he is not welcome there. At 8 p.m., they are ordered into their cells. In there, he has nothing to do; his roommate has sneaked in a book (books are "contraband" in the rooms), so there's not much conversation with him. The metal door with a scratched-up, barely transparent window is locked behind them with one of many big keys that the officer wears on his belt. At 10 p.m., staff yell that it's "lights out" time and the light in his room is turned off from the outside.

He is awake most of the night, frightened by what he has seen and experienced during the day and the sounds he hears during the night. The next day, he is awakened at 6:30 a.m. by a bang on the door and his room's light being turned back on. He takes a group shower with a bunch of other guys while one of the male officers looks on. After breakfast, he and the others in his unit are lined up and moved to the school room. Class is supposed to run from 8:30 to noon, but a fight breaks out in the hallway, so classes don't start until 9:30. He hears a couple of the guys placing bets on how long this teacher will last. He has already been there a month, longer than some others. It is hard to tell when class officially gets under way, since kids keep getting into verbal — and sometimes physical — fights with other kids, staff, and teachers. Two of the guys get removed from the classroom, and he hears the officer tell one of them he's going to solitary confinement and that both of them will lose their weekly family visitation and calls.

At the end of his first 24 hours in Elm Tree, MJ has no idea what to expect next. All he knows is that he has never felt so alone and afraid in his life.



### ...Versus Home-Like Atmosphere

Now, picture DS, also 16 years old, who is on his way to the Back on Track House where he knows he will stay at least through the end of the school year, around six to nine months, depending on his behavior. He is driven about 10 minutes to the house by a guy who calls himself a “counselor” and wears khaki pants and a “Back on Track” polo shirt. DS recognizes the building and the block it’s on; it’s a former school just around the corner from the barber shop where his uncle works. When they arrive, the counselor walks him to the door and rings a doorbell. He notices a fence much like the one that was there when it was a school, but now there’s no way to enter it or exit the school yard from the street. Another staff member opens the door, says hello, and escorts him into what used to be the principal’s office, calling him by his first name and saying that he’s been expecting him. The two counselors explain the need to pat him down, after which they walk him into a room with “Imani” (the name of the unit) posted in wooden letters on the outside. The room has some sofas and beanbag chairs in the middle, and some desks with computers on the side.

There are three or four guys there who immediately introduce themselves to him. One of them, RM, comes over and says he is to be DS’s “buddy” to help him get settled and learn the ropes. With staff always within seeing and hearing range, RM takes DS down a short hallway with bedrooms on either side. The doors are open and he can see inside. Each has two beds; he can see people’s clothes and some family pictures on the walls. They get to his room and he meets his roommate, who tells him not to look so scared, that this place could actually help him if he works the program. He points to a poster on the wall that lists what is expected of every resident; he, his roommate, and his “buddy” go over the house rules while staff look on, chiming in occasionally. They show him where the bathrooms are, down the hall, and tell him to wash up for dinner. In the dining room, he sits next to his roommate at one of the wooden tables, along with eight or nine other guys and a counselor. The food is passed around family style, and there is a moment of silence so people can pray if they want to (but they don’t have to) before everyone starts eating. He is told that this room doubles as a place where kids’ families come and visit, which is allowed most evenings and is required with counseling staff twice a month. The counselor asks if anybody has something to bring up, and one of the guys suggests they give DS some pointers on what to expect and says he remembers how scared he was at the beginning. After dinner, his buddy tells him they are going back to the “day room” with the beanbags for “circle,” where they will talk about how their day went. After circle, everybody spreads out and starts to do homework. He doesn’t have any, so he picks a book from the bookshelves and reads. At 10 p.m., everybody heads to their rooms and to bed. The wooden door to their room is closed and locked for the evening by one of the counselors.

Before going to bed, his roommate helps him set his alarm clock and reminds him of the house rule that they’re all responsible for getting showered and to breakfast on time. The next morning, just as his alarm is going off, staff unlock the doors, greet the young people, and hang around the bathrooms while they shower in their own stalls and use the toilets. Breakfast, like dinner, is family style, and everybody cleans up after themselves. After breakfast and before school, they have a quick circle, more like a check-in to see where everyone is; people take special time to see how DS is doing, as it’s his first day.

After circle, he and the other nine boys in the Imani unit go to class together. In his classroom is a teacher, plus someone else he hasn’t met yet (he later learns that the man’s name is Raheem and he’s called an aide) as well as his unit’s counselor. The first class is history, and several of the guys make a PowerPoint presentation for a report they researched online about something he had never heard of (but which was really interesting) called the “Edmund Pettus Bridge.”

After school, which ended at 3 p.m., his buddy tells him he can choose from “electives” — that day, a computer class or a poetry class — that groups from outside the facility run and where kids from Imani mingle with boys from other units. He chooses the computer class, which lasts until 4 p.m. The boys head back to their units and have free time until dinner. DS calls his mom, who tells him she’ll be coming by to visit him on Saturday with his uncle after the barber shop closes. They’ll all be meeting with one of the counselors to discuss DS’s treatment plan. He gets a little more information about what to expect from that session, when, during circle that evening, it was explained that he soon would have to develop (with the counselors and feedback from the group) goals for his time in treatment as well as a poster that explains his autobiography. He could see a few examples that other kids had done hanging on the walls of the day room. The group asks DS how he feels about his first day and he explains that, although he still wishes he was home, he’s beginning to feel like this place might help him get back on track.

maltreatment has persisted even years after states signed consent decrees agreeing to remedy problematic conditions within their facilities.

- All told, since 2000, systemic maltreatment has been documented in the juvenile corrections facilities of 29 states, with substantial evidence of maltreatment in three additional states.

### Impervious to Reform

Almost from inception and continually through today, significant yet sporadic, uneven, and ultimately unsuccessful efforts have been made to reform these reformatories.<sup>5</sup> An impressive array of civil litigators arose at the national (e.g., Youth Law Center/National Center for Youth Law, 1970; the American Civil Liberties Union’s National Prison Project, 1972) and local (e.g., Juvenile Law Center, Pennsylvania, 1975; Prison Law Office, California, 1979) levels to litigate conditions of confinement. In 1980, the Civil Rights of Institutionalized Persons Act was enacted to protect the rights of people incarcerated in (among other places) youth facilities, energizing the U.S. Department of Justice’s role in youth prison litigation.

Although significant victories have been won by civil litigators working to improve conditions, the basic nature of youth prisons remains. In 1994, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) conducted a study of 995 public and private facilities in which youth were incarcerated in the U.S., including conducting site visits to 95 facilities and interviews with 475 youth. The agency reported “substantial and widespread” problems in living space, health care, security, and control of suicidal behavior. It also found deficiencies to be widespread

and that few facilities it examined were without deficiencies (Parent et al., 1994).

*Reformers come and reformers go. State institutions carry on. Nothing in their history suggests they can sustain reform, no matter what money, what staff, and programs are pumped into them. The same crises that have plagued them for 150 years intrude today. Though the cast may change, the players go on producing failure.*

—Jerome G. Miller, former Massachusetts Secretary of the Department of Youth Services

That these facilities have been impervious to reform efforts suggests that the harmful effects of incarceration are embedded in the physical facilities themselves and the nature of institutionalization. Changes in leadership, training, or enriched programming ultimately are trumped by correctional physical plants, the great distance most facilities are from families and oversight mechanisms, and the bureaucratization and institutionalization such facilities engender. Large, institutional structures, surrounded by razor wire and filled with noise and harsh lighting, create a toxic environment. The staff and kids are inevitably caught in their roles of guard and prisoner, locking both into a struggle of power and resistance. Life in these places is about violence and control, submission, and defiance, leaving little room for the guidance, learning, role-modeling, and caring relationships that young people need (Rothman, 1980). This guard versus prisoner dynamic, which is evident in adult settings as well (Zimbardo et al., 1972), is exacerbated by the general power differential that exists between youth and adults.

There have been efforts at reform, but they typically have been isolated and short-lived. In the 1970s, Massachusetts Secretary of the Department of Youth Services, Jerome G. Miller, attempted to reform the facilities under his jurisdiction, which included two of the first training schools opened in America, the Lyman and Shirley Schools. Miller sought to create therapeutic communities with humanized living environments in which youth were treated with dignity and respect. Therapeutic communities are characterized by self-help and peer-centered strategies, traits typically alien to youth prisons.

Miller's modest, incremental reform efforts were met with intense opposition — and occasional sabotage — from entrenched staff (Krisberg, forthcoming). Eventually, instead of trying to change what he came to believe was the essential nature of youth prisons, Miller decided to close them. Over a two-year period, he closed all eight Massachusetts youth prisons that housed more than 600 young people.

He described what led him to decide to close — rather than continue to attempt to reform — Massachusetts' training schools: "But whenever I thought we'd made progress [in reforming the training schools] something happened — a beating, a kid in an isolation cell, an offhand remark by a superintendent or cottage supervisor told me what I envisioned would never be allowed. Reformers come and reformers go. State institutions carry on. Nothing in their history suggests they can sustain reform, no matter what money, what staff, and programs are pumped into them. The same crises that have plagued them for 150 years intrude today.

Though the cast may change, the players go on producing failure" (Miller, 1991).

*When custody meets care, custody always wins.*

—David Rothman

Correctional historian David Rothman explains that it is the deep-rooted nature of these institutions that argues for their elimination: "There is [a] character to institutions that is not easily curbed — and this is in two senses. For one, institutions appear so convenient to the ordinary citizen, so easy a way of getting rid of troublesome or ugly or needy persons, that as long as the institutional option exists, alternatives will never be properly organized and supported. For another, the heads and direct beneficiaries of institutions, be they employees or building contractors, have a way of dominating the budgets so as to prevent the growth of quality alternatives. That this institutional tenacity ... is deep rooted and perhaps even inevitable, emerges from an examination of the fate of earlier Progressive efforts to move to community care" (Rothman, 1980).

Or, as Rothman later stated more succinctly, "When custody meets care, custody always wins" (*Newsweek* staff, 1994).

Rothman's analysis of the resistance of the institutional model to downsizing holds true to the present day. Gladys Carrión, former commissioner of New York state's Office of Children and Family Services, which manages the state's youth prisons, encountered fierce opposition from facility staff and local elected officials as she tried to (and did) close youth prisons in New York. The resistance

included numerous votes of no confidence in legislative bodies and intense organizing efforts to fight facility closures — even when facilities were fully or almost completely empty of youth (Bernstein, 2014). Department of Youth Rehabilitation Services Director Vincent Schiraldi was subject to two votes of no confidence by facility staff when he closed Washington, D.C.’s notorious Oak Hill Youth Center, despite the fact that the facility had been under a consent decree for abusive and unconstitutional conditions for more than 20 years when it finally closed (McCabe, 2006). And Jerome Miller experienced numerous acts of staff sabotage and enormous political pressure when he closed all of Massachusetts’ youth prisons in the early 1970s (Miller, 1991).

The recurring and ubiquitous scandalous conditions that have plagued youth prisons since their inception — sometimes despite the best efforts of very dedicated people — strongly suggest that it is the nature of these institutions themselves, rather than the temporary misbehavior of this superintendent or that juvenile corrections administrator, that is at the heart of the problem with the youth prison model. As Miller points out, the history of correctional reform reveals a cycle of scandal and abuse, followed by surface-level reforms; followed by gradual entropy during a period of calm; followed inevitably by scandal, abuse, and once again, calls for reform (Miller, 1987). The consistent failure of youth prisons to protect youth and improve their outcomes — along with the institutional model’s stubborn resistance to transformation — argues for the replacement, rather than the improvement, of youth prisons.

## High (and Rising) Costs, Negative Benefits

Youth prisons are not just a failed and harmful strategy. Their financial costs are enormous. According to a 2015 report by the Justice Policy Institute, the cost of incarceration varies from state to state, but averages \$401 per day and \$146,302 per year in each state’s high-cost facilities. Taking length of stay into account, 34 states report spending \$100,000 or more to incarcerate one young person (Justice Policy Institute, 2015). Moreover, the financial costs continue to grow long after release from confinement. Being incarcerated has lifelong negative effects on the young people whose prospects are dimmed. The long-term financial costs to society can be estimated in such terms as lost future earnings and government tax revenue, and higher spending on Medicaid and Medicare. It is estimated that the long-term societal costs generated by one year of incarcerating youth in the U.S. range from \$8 billion to \$21 billion (Justice Policy Institute, 2015).

*The practice of committing youth to large institutions that fail to provide for their developmental needs is both costly in financial terms and ineffective in furthering the goal of crime prevention.*

—National Research Council

It is reasonable to ask what we get when we subject young people, society, and public budgets to these human and financial costs. There is evidence that youth who have been institutionalized get into worse trouble, are more likely to commit worse crimes, are less employable, are more likely to be on a path toward lifelong failure, and are more likely to pass their problems on to their children.<sup>6</sup>

For example, Nguyen and colleagues (2016) found that correctional environments can facilitate the accumulation of “criminal capital” and might actually encourage offending by serving as a “school of crime” and increasing post-release earnings from crime. If one were looking to create a feeder system for adult prisons, one could hardly do better than our current approach.

Despite the high costs that states expend each year on juvenile prisons, the outcomes are sorely wanting. Even if our only goal was to improve public safety, youth prisons would be deemed a failure. Each state reports its own recidivism rate using unique definitions, so there is no single national measure. However, state-by-state data reveal that 70 to 80 percent of incarcerated youth are rearrested within two to three years (Mendel, 2011). Mounting evidence from the best statistical analyses suggests that incarceration of youth may actually increase the likelihood of recidivism (Aos et al., 2004; Baglivio, 2009; Greenwood et al., 1996; Lipsey, 1992).

For example, Aizer and Doyle (2013) used the incarceration tendency of randomly assigned judges to estimate the causal effects of youth incarceration on high school completion and adult recidivism. Examining more than 35,000 juvenile offenders over 10 years, they found that youth incarceration results in substantially lower high school completion rates and higher adult incarceration rates, including incarceration for violent crimes. Furthermore, they found that incarceration for this age group was extremely disruptive, greatly reducing the likelihood of ever returning to school, and, for those who do, significantly increasing their likelihood of being

classified with an emotional or behavioral disorder (Aizer and Doyle, 2013). Numerous other studies suggest that incarceration produces worse outcomes for low-risk youth when compared with home-based services.

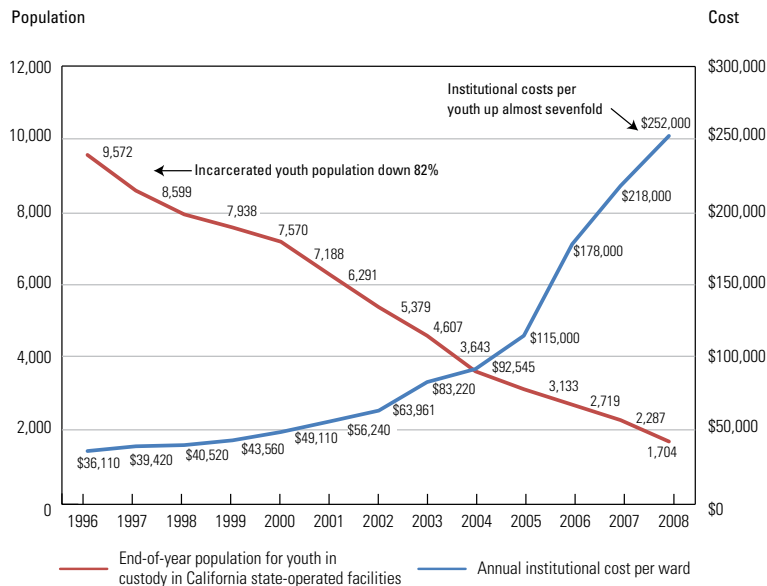
*An incarceration program is not an employment program... [We] don't put other people in juvenile justice facilities to give some people jobs.*

—New York Governor Andrew Cuomo

In 2013, the National Research Council, the nation's premier, nonpartisan research institute, published a comprehensive review of research on juvenile justice in the U.S. The Council concluded that well-designed community programs are more likely to reduce recidivism and improve youth well-being than institutionalization. Citing the harm from placement in large, distant institutions, they found that, for the small number of youth who require confinement, proximity to their communities is less disruptive. “The practice of committing youth to large institutions that fail to provide for their developmental needs is both costly in financial terms and ineffective in furthering the goal of crime prevention” (Bonnie et al., 2013).

As youth incarceration declines, it can lead to skyrocketing per-youth costs as staff reductions and facility closures fail to keep up with the decline in incarcerated youth. Connecticut's sole remaining youth prison, the 250-cell Connecticut Juvenile Training School, has a \$53 million annual budget but houses only 43 boys (Kovner, 2016). When he was first elected governor, New York's Andrew Cuomo toured a youth prison in upstate New York running

**Figure 2. Youth in California state-operated facilities and annual institutional cost per ward, 1996 to 2008**



Source: Steinhart, 2013 (population); Schiraldi, Schindler, and Goliday, 2011 (cost per ward).

with ample staff but housing no youth, prompting Cuomo to exclaim in his state-of-the-state address, “An incarceration program is not an employment program ... [We] don’t put other people in juvenile justice facilities to give some people jobs. That’s not what this state is all about, and that has to end.”

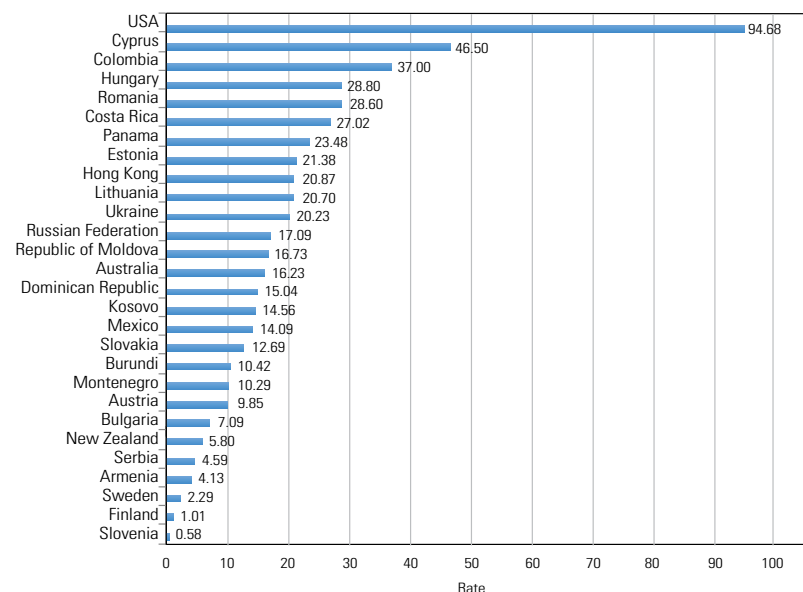
As youth crime declined in California and the state legislature passed a series of laws to reduce youth incarceration, the number of confined youth dropped from nearly 10,000 in 1996 to around 1,700 by 2008. During that time, the cost of incarceration in the state’s youth prisons rose almost sevenfold, from \$36,000 per youth per year to \$252,000 (Schiraldi, Schindler, and Goliday, 2011) (see figure 2). California policymakers learned this lesson and, effective in 2008, disrupted this pattern by banning commitments of all but the most serious juvenile offenders to state institutions, closing eight of its 11 large youth corrections facilities by 2012 (see

sidebar on page 21) (Steinhart, 2013). California’s state-incarcerated youth population plummeted to just 600 inmates by 2013; during this period, per-capita costs also declined, but then leveled out in order to support improved programming for the serious offenders who remained in state custody.

Although many systems need to increase their cost per youth to provide better staff-to-youth ratios and improve programming, it is clear from these and other examples that political pressures make it difficult for even cost-conscious policymakers to close youth prisons as fast as they downsize.

## Change at Scale Is Possible

With the right models, technical assistance, and leadership, incarcerated youth populations can be significantly downsized without negatively affecting public safety. In 1993, the Annie E. Casey Foundation launched the Juvenile Detention Alternatives Initiative (JDAI). At a time when adult and youth incarceration rates were sharply increasing nationally, JDAI challenged firmly rooted but outmoded beliefs, countering deeply entrenched interests and reinforcing the political courage of key leaders to reform the youth detention system. Working collaboratively with sites, advocates, experts, researchers, philanthropies, and providers, JDAI is now in place in nearly 300 local jurisdictions across 39 states.

**Figure 3. International youth incarceration rates (per 100,000 in 2010)**

Source: United Nations Office on Drugs and Crime, 2011.

The Chief Justice Earl Warren Institute on Law and Social Policy at the University of California, Berkeley (2012), found that within 23 states where JDAI was operating prior to 2010, detention populations had fallen 2.5 times more in participating counties (down 42 percent) than in the states as a whole (17 percent). Furthermore, the 112 JDAI sites that provide data reported that they sent 5,254 fewer youth to correctional facilities in 2011 than in the year prior to joining JDAI. Ninety percent of JDAI sites reported data showing improved public-safety outcomes versus pre-JDAI (Mendel, 2014). Although these findings focus on declining rates of youth in preadjudication detention, they suggest that it is possible to have both fewer incarcerated youth and less youth crime.

Policymakers and advocates will need to be mindful of both fiscal and political forces as they push for facility closures. In New York, for example, Governor Cuomo not only used the bully pulpit of the governor's office

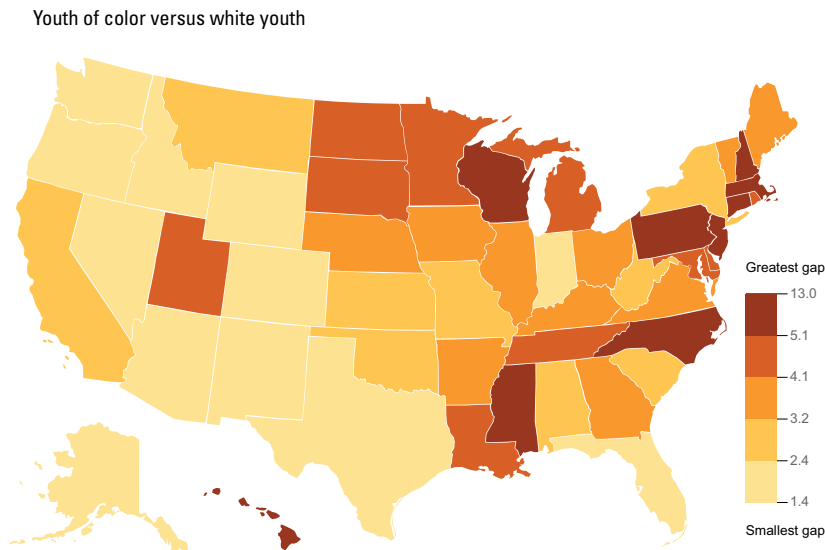
to spur closures, but he also created a \$50 million fund and tax credits to aid communities in which a youth or adult prison closed (King, 2011).

## International Context

Nations in the rest of the world either never went down this road or are far ahead of us in abandoning it in favor of more effective systems. By all measures available, the United States incarcerates youth at a substantially higher rate than does any other country. Although international comparisons of juvenile incarceration rates are challenging due to reporting variations, the U.S. is consistently found to be greatly “out-

incarcerating” other countries. For example, a study published in 2008 (Hazel, 2008) reported that the U.S. incarceration rate for our youth was nearly five times that of the next closest country, South Africa. Similarly, using 2006 data from the European Sourcebook of Crime and Criminal Justice Statistics and the United States’ Sourcebook of Criminal Justice Statistics, Killias, Redondo, and Sarnecki (2012) found that the youth incarceration rate in the U.S. consistently and dramatically exceeds that of European countries.

The latest data available from the United Nations Office on Drugs and Crime (UNODC) (Jandl, 2016) also show that rates of youth incarceration in the U.S. far exceed those of other countries (see figure 3). According to the UNODC data, published in 2011 (using data from 2010), the U.S. incarcerates youth at more than twice the rate of the next highest incarcerating country (Cyprus) and nearly six times the rate of the Russian Federation.

**Figure 4. Disparity in youth incarceration rates, 2013**

Source: W. Haywood Burns Institute, 2016.

in youth prisons underscores both the effect of socioeconomic disparities in American society on youth outcomes and the impact of race on dispositions. In 2013, rates of confinement were 2.7 times higher for youth of color than rates for white youth (Petteruti, Schindler, and Ziedenberg, 2014). Black youth that year were incarcerated at 4.7 times the rate of white youth, Native American youth were incarcerated at 3.3 times the rate of white youth, Latino youth were incarcerated at 1.7 times the rate of white youth, and Asian youth were incarcerated 30 percent more frequently than were white youth.

### Which Youth Are Behind Bars?

Higher rates of youth incarceration are not inevitable; rather, they are driven by policy choices made by adults. First, a substantial majority of youth incarcerated in the U.S. are not behind bars for the kinds of crimes that scare most Americans. Sixty-three percent of locked-up youth were incarcerated for something other than a person offense, such as drug or public order offenses or property crimes (Sickmund et al., 2015). This category includes 17 percent who were incarcerated for probation violations (technical violations) and five percent who were there for status offenses (behaviors that would not be considered a crime if committed by an adult) (Office of Juvenile Justice and Delinquency Prevention, 2013).

Furthermore, the likelihood of being incarcerated is influenced by individual, family, and social characteristics (Gatti, Tremblay, and Vitaro, 2009). The heavy concentration of boys of color

These national disparities mask much more profound disparities at the state level. For example, African-American youth in New Hampshire, New Jersey, and Wisconsin were incarcerated at 36.5, 25.3, and 16.3 times the rate of white youth in their states, respectively. The map in figure 4 depicts the varying rates of racial disparities in youth incarceration in the United States.

Even after controlling for present offense and prior record, researchers have found “race effects” — evidence of unwarranted racial disparities not explained by factors such as offense severity or prior record — in the youth justice system. A meta-analysis of 46 studies of youth justice processing and minority status conducted by Pope and Feyerherm revealed that two-thirds of the studies showed race effects at varying points in the system (Pope and



Feyerherm, 1995). After controlling for other case characteristics, they found unwarranted disparities in case-processing decisions such as detention, prosecution, and commitments to youth prisons. Furthermore, the meta-analysis revealed that these effects are cumulative. Relatively small differences in outcomes at early stages of the process became exacerbated as black and brown youth progressed through the system.

*Even after controlling for present offense and prior record, researchers have found ... unwarranted racial disparities ... in the youth justice system.*

Bridges and Steen analyzed 233 probation reports for youth in family court and found that, controlling for offense severity and prior record, probation officers ascribed black youth's delinquency to negative attitudinal and personality traits and white youth's delinquency to external environmental issues beyond their control. These perceptions led to a heightened assessment of the risk of African-American youth and more punitive sentencing recommendations for them (Bridges and Steen, 1998).

Disturbingly, as high disparities between people of color and whites have declined in the criminal justice system in the 1990s and 2000s (Travis, Western, and Redburn, 2014), black-white disparities in the incarceration of youth have increased (Rovner, 2016; Hager, 2015).

A fundamental reason that the failed youth prison model has persisted for 170 years is that the youth, families, and communities most affected are seen as "others," not as "ours" (Alexander, 2012).

For decades, adolescents in trouble with the law have been portrayed as scary, predatory, and less than human (Schiraldi, 2001).<sup>7</sup> Black and brown youth predominate in these images, invoking all of this country's predilection for negative racial stereotypes. These images dominate our understanding and prevent us from seeing them as they actually are (Dorfman and Schiraldi, 2001), as we would see them if they were our own children or a neighbor's child. They prevent us from seeing them as young people with creativity, and energy, and smarts, and possibility, in need of help to get back on track and very much worth the investment.

### **Recommendations — Reduce, Reform, Replace, Reinvest**

It is long past time to choose a different path, one that aligns the moral, ethical, and human imperative with fiscal prudence, safer communities, and better youth outcomes. The momentum is beginning to shift. Leaders from the President to the Pope are calling for a halt to heavy reliance on incarceration. Early-adopter states and localities are trying alternative approaches. Youth incarceration, while still high, is plummeting. Evidence-builders are showing the way.

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

The right solution is a comprehensive one, achieved through simultaneous and well-sequenced actions to reorient the system into one that is driven by the goal of helping youth get back on track, and prioritizing youth development and accountability over mindless punishment. To succeed, such systems will need to close down all publicly operated or contracted youth prisons and build a developmentally appropriate continuum of services. The necessary steps comprise four domains of action — **reduce, reform, replace, and reinvest.**

### **Reduce**

We can safely **reduce** the pipeline into youth prisons by at least half. States can do so by limiting commitment to youth prisons to only youth who have committed serious offenses and pose clear and demonstrable risks to public safety. Enacting statutes that limit the categories of youth who are eligible for correctional placement can help make this happen (Mendel, 2011). When Texas and California statutorily limited youth corrections to youth with more serious convictions and reallocated savings to counties to fund local solutions to youth offending, both states experienced marked declines in youth incarceration and offending.

Indeed, from 2001 to 2013, there was a 53-percent decline in youth incarceration in the U.S., with youth incarceration declining by double digits in 48 states. During that time, each of the nation's five largest states experienced youth incarceration declines of nearly two-thirds.

Driven largely by steep reductions in youth crime rates, the likelihood that a young person in our

country will be confined in an out-of-home placement is now the lowest in at least 40 years. Among youth who are committed to state custody, the percentage held in facilities with more than 200 beds shrunk from 52 percent to 18 percent between 2001 and 2013 (Sickmund et al., 2015). There were 970 fewer juvenile facilities operating in the U.S. in 2012 than in 2002, a 33-percent decline. The largest facilities have closed disproportionately; for example, there has been a 66-percent decline in the number of facilities with a capacity of more than 200 juveniles (Rovner, 2015).

The footprint of the youth corrections system and the facilities themselves have shrunk substantially in the past decade, offering a once-in-a-generation opportunity to eliminate youth prisons entirely. Closing these institutions would enable reinvestment of the savings into a system marked by rigorous in-home programming, and, for the small number of those who need to be incarcerated, small, homelike facilities that are close enough to the youth's home communities to maintain and encourage family involvement.

The normal course of adolescent development helps make reducing the pipeline by at least half a feasible goal. Most youth will age out of challenging behaviors if they do not experience the trauma and adverse conditions that convert normal, transitory risk-taking and impulsive behaviors into deeply embedded identity (Bonnie et al., 2013). A review of international evidence on young people who come into contact with the law found “[D]iversionary approaches may be appropriate for young people who commit low-level offences, given that some will

desist from crime without intervention and [that] drawing these young people into the formal youth justice system may increase their offending” (Adler et al., 2016).

Part of the reason that the pipeline can be reduced so significantly without risk to public safety is that so many of those who are sent to youth prisons are incarcerated for offenses that the public finds more amenable to community-based placement. Nearly half (46 percent) of the young people who spent time in youth prisons in 2013 were not there for offenses against persons or were incarcerated for status offenses; another 17 percent were incarcerated for technical violations of probation (Office of Juvenile Justice and Delinquency Prevention, 2013).

There are recent and long-standing examples of states that have successfully and significantly reduced their rates of incarceration without an increase in crime. Under the Close to Home initiative (see sidebar, page 23), New York City reduced the number of youth it confined and transferred nearly all city youth from distant, upstate facilities to small, local facilities. Youth incarceration in the city fell by 53 percent and youth arrests declined by half (Schiraldi, 2015b). Texas (see sidebar, page 20) achieved a 65-percent reduction in the number of youth in state secure facilities and a simultaneous 33-percent drop in youth arrests (Fabelo et al., 2015).

Massachusetts offers evidence from a decades-long example. Studies of the rapid deinstitutionalization there found that youth served in the community had levels of recidivism no worse than youth who

were previously incarcerated (Ohlin, Coates, and Miller, 1975). In California, youth arrests, property crime, and violent crime all steadily declined over a period in which the state was drastically reducing its incarcerated youth population from more than 10,000 to less than 1,000 (Krisberg et al., 2010).

The case studies that follow illustrate how different jurisdictions have experimented successfully with efforts to **reduce, reform, and/or replace** their youth prisons and, in some cases, **reinvest** savings into community-based programs. These vignettes are for illustration purposes and to spur local innovation. To be clear, none of these systems has found perfect solutions to all the complicated challenges of adolescent delinquency or systemic reform, and we know that innovations in one jurisdiction cannot be seamlessly transplanted into another. Nevertheless, they offer both examples and evidence of the feasibility of reducing the pipeline, reforming systems of intervention, replacing youth prisons, and creating opportunities for reinvestment into more effective approaches.

### Reform

We can reduce the pipeline and close youth prisons if we also **reform** the culture, configuration, and decision-making processes so that the entire system comes to focus on achieving positive outcomes for every youth. To do so means both programmatic and practice reforms.

Programmatically, this means expanding dispositional alternatives, especially community-based and family-centered programs that are proven to work with young people who have

serious problems, and ensuring that youth are matched with the right programs (Schiraldi, Schindler, and Goliday, 2011). Such an expanded array of alternatives would give judges better options for matching youth needs and the degree of supervision needed with effective options (Mendel, 2011). Effectively using an expanded array of services depends on changes in policies, practices, and procedures throughout the system, so that each youth is matched to the most appropriate services, including diverting those for whom no formal court procedure is necessary. Rigorous assessment of community programs to ensure that public dollars are being spent wisely, and that such programs are improving outcomes and public safety, are critical elements in maintaining the confidence of the public and system stakeholders in a community-based (rather than an institution-based) system. Programmatic and practice reforms go together hand-in-glove, and must be implemented simultaneously to maximize effectiveness.

The National Research Council of the National Academies, in *Reforming Juvenile Justice: A Developmental Approach*, describes a number of programmatic components that are essential to well-designed community-based programs. These principles include (Bonnie et al., 2013):

1. Limiting and structuring contact with antisocial peers and encouraging contact with prosocial peers.
2. Keeping youth proximate to their communities, which is less disruptive of their developmental progress.
3. Involving parents and ensuring family engagement.
4. Providing a social context that has ample opportunity and structures for healthy development and that provides youth with the tools to deal with negative influences that might be present in the settings they will encounter in the future.

### Texas — Reduce, Reinvest

In 2007, the Texas legislature enacted reforms intended to significantly reduce the pipeline of youth into state custody. SB 103 prohibits the commitment to state-run secure facilities of youth who are adjudicated delinquent for misdemeanors and limits stays in youth prisons to age 19. This policy change was accompanied by the creation of a formula-based block grant program that allocates funds to counties to help cover the costs of local supervision and treatment of youth who would no longer be sent to state facilities. Since these changes were enacted, the number of youth confined in state-run secure facilities has decreased by more than two-thirds (2,800 youth) and eight Texas state youth prisons have been closed, saving the state \$150 million. Over this period, state funds allocated for local programs have increased by 38 percent. However, it is up to each county to determine how to deploy the funds. Some counties have chosen to establish county-run secure facilities, so some number of the youth covered by SB 103 are still being housed in secure facilities. Partially as a response, the Community Connections Diversion Program was established in 2009, and \$50 million was appropriated to provide financial incentives to county governments to use alternatives to confinement. The overall Juvenile Justice Department budget also reflects the state's emphasis on alternatives. For fiscal year 2014, one-half of the department's total budget was allocated to community juvenile justice, including prevention and intervention, supervision, community programs, diversion initiatives, alternative education, and mental health services.

Source: Fabelo et al., 2015.

5. Offering opportunities for academic success and activities that contribute to developing decision-making and critical thinking skills.

This kind of prosocial, developmentally appropriate milieu creates the context in which youth can be provided with high-quality/high-expectation programs and early work experience that will enable them to get back on track and move forward on the school-to-work pathway. These types of skills and experiences are as vital to ensuring long-term success as are the prosocial cognitive and behavioral interventions.

Policies and practices that can divert youth from entering the system include rethinking zero-tolerance school discipline policies, making better use of police and diversion, and instituting detention reforms such as those implemented and proven effective at reducing detention populations without risk to public safety under JDAI. In addition, enhancing the legal representation that youth receive can help ensure that their individual circumstances and needs are taken

into account, reducing unnecessary confinement while also ensuring that rehabilitative needs are identified and met.

Probation reforms are needed to ensure a calibrated response to rule violations, so that each case is carefully considered and a decision to confine is carefully reviewed (Mendel, 2011). Community corrections staff, whether public employees or staff of nonprofits, should be thoroughly trained on adolescent development and on positive youth development so they can deliver asset-focused, trauma-informed care to the youth under their supervision, and can recommend removal from the home only when other options are exhausted.

Community-based services offer a public policy “win-win” — they achieve better outcomes than do institutional placements at lower cost. Compared with \$400 per day or more for incarceration, individualized, community-based wraparound services can cost as little as \$75 per day (Justice

### California — Reduce, Reform, Reinvest

Over the past 20 years, California has instituted a number of reforms aimed at reducing the number of youth in state custody. AB 2312, enacted in 1996, required counties to cover a share of the cost of committing local youth to state facilities and appropriated \$33 million to support local youth justice programs to provide counties with more options. Simultaneously, challenge and facilities grants gave counties funds to create a graduated series of sanctions and to build local youth facilities. In 2007, legislation was enacted that further narrowed the pipeline by reserving commitments to state facilities for youth who have committed serious offenses. Along with these changes, the state has also enacted programs to increase prevention (AB 1913 in 2000) and to incentivize diversion from state custody to county probation (the California Probation Subsidy Act). The result of these changes has been a dramatic 80-percent decrease in youth in state facilities (700 in 2015 versus 10,000 in 1996) and the closure of eight of California’s 11 large youth prisons (Steinhart, 2013). Nevertheless, some youth still are housed in prisonlike settings, managed by the county rather than the state. Moreover, Proposition 21 passed in 2000, making it much easier for youth to be tried as adults and sentenced to adult facilities. A ballot initiative, supported by Governor Jerry Brown, will appear on the ballot in November 2016 to overturn most of the provisions of Proposition 21 and return the decision about whether youth will be tried as adults to judges.

Source: Krisberg et al., 2010.

Policy Institute, 2014) for those youth who need such services (and many do not). Research confirms that there is no intervention that is more effective when delivered in an institutional setting than when delivered in a community-based one. Moreover, helping youth in community settings avoids the additional negative experiences of confinement in youth prisons (Howell and Lipsey, 2012).

*Any intervention that places youths within a deviant group therefore risks exacerbating and consolidating their antisocial behavior.*

—Gatti, Tremblay, and Vitaro (2009)

A continuum of community-based services should emphasize evidence-based family intervention models. A family is the best place for kids — birth families where possible, or other family settings such as kin or supportive foster care when it is not. Effective programs help families provide the guidance, support, and structure that help kids get back on track. A good example is Treatment Foster Care Oregon, an evidence-based alternative to incarceration or group placement for young people who have been adjudicated delinquent. Community families are recruited, trained, and closely supervised as they provide treatment and intensive supervision. Boys who participated in the program had fewer subsequent arrests, fewer days of incarceration, less self-reported drug use, fewer violent offense referrals, and fewer self-reported incidents of violence than did a control group (Blueprints for Healthy Youth Development, 2012). Other evidence-based family intervention models include Multisystemic Therapy and Functional

Family Therapy (for youth with tenable families), among others (Mendel, 2011).

But these kinds of family-based interventions are not enough. The youth justice system must also provide services, supports, and opportunities that connect young people to school; employment; and prosocial adults, peers, and activities. Butts, Bazemore, and Meroe (2010) have coined the phrase “positive youth justice” to describe an approach to building on the strengths of youth in the delinquency system, rather than merely trying to extinguish their deficits. In guidance to states that are creating their annual juvenile justice plans pursuant to the Juvenile Justice and Delinquency Prevention Act, OJJDP urges state advisory groups to create opportunities “for positive youth development that assist delinquent and other at-risk youth in obtaining (1) a sense of safety and structure, (2) a sense of belonging and membership, (3) a sense of self-worth and social contribution, (4) a sense of independence and control over one’s life, and (5) a sense of closeness in interpersonal relationships” (Butts, Bazemore, and Meroe, 2010).

In some cases, it becomes necessary to remove kids from their own families or neighborhoods for a period. Such removals should strive to maintain family and community ties as much as possible by using close-to-home/community-based facilities and limiting the duration to the shortest possible, as determined by the young person’s readiness.

Research supports the importance of having a continuum of community-based programs that can match services to youth’s needs. One study concluded that “any intervention that places youths

within a deviant group therefore risks exacerbating and consolidating their antisocial behavior” and that “the more restrictive and more intense the justice system intervention was, the greater was its negative impact” (Gatti, Tremblay, and Vitaro, 2009).

Research comparing placement in youth facilities with community-based treatment finds that community-based treatment is associated with

better overall outcomes in terms of schooling and other markers of successful adjustment for individual young people (Lipsey, Wilson, and Cohen, 2000).

### Replace

For the few youth for whom secure placement is necessary, a commitment is needed to **replace**

### New York City — Reduce, Reform, Replace, Reinvest

Over the past several years, New York state and New York City have taken steps to establish a continuum of options to match youth needs and decision processes that direct youth to the most appropriate level of supervision and custody. Beginning in 2003, a variety of reform efforts were instituted that, by 2011, reduced the number of youth being sent to residential placement by 55 percent (Ferone, Salsich, and Fratello, 2014). For instance, Esperanza, contracted for by the Probation Department (initially from the Vera Institute of Justice), and the Juvenile Justice Initiative (JJI), contracted for by the city’s Administration for Children’s Services, provide short-term crisis management and cognitive behavioral therapy (Esperanza) and Multisystemic Therapy or Functional Family Therapy (JJI) (Ferone, Salsich, and Fratello, 2014). Furthermore, the city initiated a new detention-risk-assessment instrument coupled with a range of detention alternatives that reduced detention and preadjudication arrest rates, likely resulting in a reduction in youth committed post-adjudication.

Then, in 2012, the legislature enacted Close to Home, which shifted responsibility for placements from New York state to the city. Unlike the distant, prisonlike state facilities traditionally used to house youth, the city’s placements are in small (24 beds or smaller) settings almost exclusively within the city’s boundaries and, therefore, close to family and community. In proposing Close to Home, Mayor Michael Bloomberg stated, “The current system is not helping kids, it isn’t helping taxpayers, and it isn’t helping public safety” (Brooks, 2010).

*The current system is not helping kids, it isn’t helping taxpayers, and it isn’t helping public safety.*

— New York City Mayor Michael Bloomberg

Since bringing placements into the city in smaller, noncorrectional settings, New York City has continued to see the number of placements fall considerably, as Close to Home has expanded its use of nonresidential alternatives and introduced a series of practice reforms aimed at keeping young people in the community. In addition to the continued use of Esperanza and JJI, the city has implemented several additional programs that focus on building skills and competencies. The programs include Advocate, Intervene, and Mentor (AIM), through which young people engage with an advocate from their community for at least seven hours per week; Every Child Has an Opportunity to Excel and Succeed (ECHOES), through which specialized probation officers build positive adult relationships, employment skills, and social-emotional competence; and Pathways to Excellence, Achievement, and Knowledge (PEAK), an educational day/evening school-based program for youth who are disconnected from school or are disruptive while in school (Ferone, Salsich, and Fratello, 2014).

An additional key element in New York’s approach is a new, structured decision-making process implemented by the probation department to ensure that dispositional recommendations are fair and balanced. This process helps to ensure that each young person is matched to the level of supervision and type of services warranted, limiting the use of secure confinement to a last resort.

Source: Schiraldi, 2015b.

## Virginia — Reduce, Reform, Replace, Reinvest

Virginia is one of the most recent states to take on the challenge of closing youth prisons and is doing so with a sequenced, multifaceted approach. At the front end, the state is reducing the pipeline through a variety of changes to detention policies, procedures, and training, decreasing the number of youth held in secure detention by 20 percent over two years.

For youth committed to state custody, the creation of alternatives, along with other changes, has helped to reduce the population by about 40 percent over two years. A key contributor to this decrease was a 12-percent decrease in the length of stay, achieved through improved case management and increased use of stepdown placements. The state's Secretary of Public Safety, Brian Moran, said of youth in state custody, "The longer they stay, the more we spend on them, the worse they are when they get out."

*The longer they stay, the more we spend on them, the worse they are when they get out.*

— Brian Moran, Virginia Secretary of Public Safety

Virginia is reinvesting savings from the reduction in the number of incarcerated youth and the closure of one of its large facilities into a wider array of alternative residential and nonresidential options located in communities around the state, enabling young people to be located closer to home and receive the kinds of assistance that will help them get back on track. The administration of Governor Terry McAuliffe has announced its intention to close the remaining two large institutions and continue the cycle of reinvesting those savings in expanded rehabilitative options.

For those youth who are in custody, the state has adopted the Community Treatment Model (CTM), based on the Missouri approach. The model is being implemented one living unit at a time, and is expected to be operating statewide by the end of 2016 to allow for the training, personnel, and policy changes needed to support the model. Key CTM features include revised visitation and phone call policies to promote family contact, and expansion of vocational and educational programs to help support youth development.

Source: Martz, 2016.

youth prisons with much smaller, noncorrectional programs that focus on turning lives around. These are treatment-intensive, developmentally appropriate, secure programs that emphasize stronger youth-staff relationships, nurture family engagement, and build community connections. From the day youth walk in the door, the focus of these programs must be on helping them succeed when they return to the community. The best place for these facilities is close to youth's home communities to facilitate maintaining family ties and gradual transitions into community-based programming.

Such facilities rely on close and respectful relationships with adults who are actively engaged with youth throughout the day. To make this work, staff must be caring, highly motivated, extensively trained, and well supported by supervisors. Missouri, a pioneer of this approach, describes this as "eyes on, ears on, hearts on" care. High-quality, rigorous programming throughout the day is essential, not just to keep young people engaged, but also to boost their educational, social, and emotional development.

Successful models like Missouri's have integrated several critical elements, including



## Missouri — Replace

The state of Missouri won a 2008 Harvard Kennedy School Innovations in Government award (Ash Center for Democratic Governance and Innovation, 2016) for its long-standing juvenile justice reforms. Thirty years ago, decision-makers in Missouri made a statewide, systemwide shift in their approach. They closed down youth prisons and replaced them with smaller, more treatment-oriented programs in communities around the state so that they are located closer to youth's families and communities (Mendel, 2010).

This multilayered treatment approach is designed to help youth make the behavioral changes that will get them back on track. This treatment approach is applied across programs and facilities, regardless of security or restrictiveness level, so that youth experience a consistent framework as they transition between settings. A core element of this systemwide approach is a rigorous group-treatment process, offering extensive and ongoing individualized attention. Another foundational element of the approach is the formation of strong, supportive peer and adult relationships that become the primary vehicle for compliance and security, rather than more coercive techniques.

While cross-state recidivism comparisons are challenging, Missouri reports a recidivism rate of 31 percent; only 6.6 percent of youth return to the juvenile justice system and only 6.6 percent are committed to the adult prison system within three years (Missouri Division of Youth Services, 2010). The National Research Council found that the Missouri model contained many of the elements that research suggests should be available in model facilities, but that rigorous evaluation of Missouri's approach had not yet been conducted (Bonnie et al., 2013).

Sources: Mendel, 2010; Missouri Division of Youth Services, 2010.

a homelike and noncorrectional environment, programming, staffing inside the facility, and parent-family engagement bridging the facility and the community. An overall orientation toward helping youth get back on track means that treatment and developmental programming are trauma-informed; delivered by well-trained, well-supervised, and well-supported staff; and address prosocial skill development, academic or vocational instruction, work readiness, and work experience. Positive youth development also implies that young people have leadership development experiences and opportunities to serve and give back to the community. One of the best opportunities for leadership development is to give youth a voice in their own treatment options and in informing general policy and practice.

In the National Academies report referenced previously (Bonnie et al., 2013), the key tenets of the Missouri model are described as follows:

1. Continuous case management.
2. Decentralized residential facilities.
3. Small-group, peer-led services.
4. Restorative rehabilitation-centered treatment environment.
5. Strong organizational leadership.
6. Organizational culture change — a shift from providing services under the court and correctional systems to instead using the department of social services as the primary service provider. Culture

### Washington, D.C. — Reduce, Reform, Replace, Reinvest

For nearly three decades, Washington, D.C.'s juvenile justice agency had been the subject of scathing media critiques, fierce community advocacy, lengthy litigation, and successful reform efforts. In 1985, the American Civil Liberties Union and the District of Columbia Public Defender Service sued the district alleging unconstitutional conditions of confinement at its three youth prisons, resulting in a consent decree in 1986 pursuant to *Jerry M. v. District of Columbia*. Despite the decree, conditions continued to deteriorate badly, resulting in more than a dozen remedial court orders, scathing reports by the district's inspector general and a Blue Ribbon Commission and finally, in 2004, a motion to place the department into receivership.

At that time, beatings of youth were common. The facility was badly overcrowded, with youth sleeping on plastic cots in common space meant for recreation. Youth reported that rats and cockroaches crawled on them while they were sleeping. Young people were left in their cells for so long that they often urinated or defecated in them. Youth who entered confinement drug-free tested positive for marijuana after 30 days (Schiraldi, 2015a). Solitary confinement and shackling were commonly used. The facility's school was so bad that it was placed under court receivership for a time.

In 2001, the district's Blue Ribbon Commission on Juvenile Justice Reform issued a report recommending the replacement of the lone remaining youth prison — the Oak Hill Youth Center — with a small, rehabilitative facility based on the Missouri model, coupled with a continuum of community-based programs for youth in lieu of confinement.<sup>1</sup> In 2004, after years of activism by philanthropies and the Justice for DC Youth coalition, the Council of the District of Columbia passed the Omnibus Juvenile Justice Act, which included provisions to close Oak Hill and redirect resources to community-based programs. That year, to fulfill the mission laid out in the Blue Ribbon Commission report and the Omnibus bill, the council and the mayor also created a new, cabinet-level juvenile justice agency, the Department of Youth Rehabilitation Services (DYRS), hiring Vincent Schiraldi as its first director in 2005.

Over the next 2.5 years, the population of more than 250 youth at Oak Hill was reduced, and Youth Link, a robust neighborhood-based and community-driven continuum of community services, supports, and opportunities, was created. The department's mission changed from a correctional approach to one based on the tenets of positive youth development, endeavoring to build on young people's strengths rather than merely extinguishing their deficits. The department consulted with the architects of the Missouri model to help dramatically improve the culture of its secure facility. The facility's failing school was replaced with the vibrant, nonprofit Maya Angelou School.

In May 2009, DYRS replaced the notorious Oak Hill Youth Center with New Beginnings, a state-of-the-art, 60-bed facility (Ryan and Schindler, 2011). The lead plaintiff's counsel in *Jerry M.*, Alan Pemberton, stated "We have seen more progress toward compliance in the last two years than we saw in the previous 20 years" (Mendel, 2008). The department's reforms were named a semifinalist in the prestigious Harvard Kennedy School Ash Center Innovations Awards (losing to the Missouri Division of Youth Services). As of June 29, 2016, there are only 26 youth confined in New Beginnings.

<sup>1</sup> By 2001, Washington, D.C.'s other two facilities — Receiving Home for Children and Cedar Knoll — had already been closed, one by order of the district's presiding judge and the other by an act of Congress.

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| <p>change also includes ensuring that staff are both highly qualified and highly trained.</p> <p>7. Highly effective treatment strategies and approaches and ensuring that the program consistently reflects on, improves on, and discards any ineffective initiatives.</p> | <p>8. Larger constituency and increased buy-in from stakeholders.</p> <p>To deliver such programming effectively, the physical plant must also reflect the commitment to youth development and success. The best place for this to occur is small units with normalized conditions</p> |
|---|--|

## Ohio — Reduce, Reform, Reinvest

At its core, RECLAIM<sup>1</sup> Ohio (Ohio Department of Youth Services, n.d.) has effectively changed the fiscal incentives of juvenile justice toward community-based innovation and away from youth corrections. Under RECLAIM, several policy and practice innovations have been implemented to reduce the number of youth sent to state-run youth prisons. RECLAIM began in the early 1990s, a period when being tough on crime was the prevailing policy stance. Between 1992 and today, annual admissions to the Ohio Department of Youth Services declined by 80 percent, from 2,500 to 500. The core of RECLAIM is to shift funding of youth corrections from the state to counties using a population-based formula. As continuing experience with RECLAIM has identified areas where further adjustments were needed, new elements have been added to fine-tune and expand the program.

For instance, the Behavioral Health and Juvenile Justice Initiative supports evidence-based community programs for youth who have mental health and/or substance abuse issues. Targeted RECLAIM delivers evidence-based programs in the community to youth with felony convictions, has reduced correctional facility admissions by 68 percent, and decreased the likelihood of youth being locked up in the future. The ongoing refinement of the program to continue to reduce youth in confinement anywhere in the state demonstrates the benefit of the state's continued engagement, data collection, and oversight.

<sup>1</sup> RECLAIM stands for Reasonable and Equitable Community and Local Alternatives to the Incarceration of Minors.

Source: Juvenile Justice Coalition, 2015.

such as family-style meals, personal clothing or school uniforms, sleeping quarters that are more like bedrooms than cells, and homelike furnishings. Large, institutional-style prisons cannot be retrofitted to provide such an environment. Moreover, most youth prisons are located far from home, making it much more difficult to maintain family ties or facilitate gradual transitions into community-based programming, both of which are critical to long-term success. The only viable option is to replace large youth prisons with smaller, more home-like facilities close to youth's communities.

### Reinvest

Implementing all three strategies simultaneously — reduce, reform, replace — makes a fourth “r” possible: **reinvest**. As systems start to shift their practice to keep more youth at home and to use more effective but less costly approaches to supervision and services, the dollars saved can be used to further expand the array of options available. The American public supports

this kind of reinvestment. A recent poll by the Pew Charitable Trusts found that 79 percent of respondents strongly supported “diverting lower-level juvenile offenders from corrections facilities and investing the savings into probation and other alternatives” (Pew Charitable Trusts, 2014). Likewise, in a national poll commissioned by Youth First, 83 percent of respondents supported “provid[ing] financial incentives for states and municipalities to invest in alternatives to youth incarceration, such as intensive rehabilitation; rehabilitative programming such as education, job training, [and] community services; and programs that provide youth the opportunity to repair harm to victims and communities” (Youth First, 2016).

In addition to capturing the savings from reducing youth prisons for services, supports, and opportunities for youth in the community, systems already established to help them — including child welfare and mental health systems — need to step up when it comes to addressing the needs of delinquent youth.

There is also a need to assess the processes and outcomes of these alternative services. Many kids are sent into placement because the alternatives in the community do not seem up to the task and, far too often, programs resist serving youth who have more challenging and complex problems. Attention must be paid to ensuring that youth actually receive the services, supports, and opportunities they need and that those services work.

Wraparound Milwaukee was established in 1995 to provide a system of care for children who were involved in Milwaukee's mental health, child welfare, and youth justice systems with coordinated, cross-system services in lieu of confinement or residential placement outside the home.

Since the creation of Wraparound, the average daily residential treatment population in Milwaukee has dropped by 71 percent, from 375 youth to 110 youth, while the average length of stay in residential treatment has dropped from 14 months to four months (Kamradt, 2014). Research shows that the recidivism rate for youth enrolled in Wraparound Milwaukee remains both constant and low (Kamradt and Goldfarb, 2015).

## Conclusion

The leadership, commitment, and courage that are beginning to be seen in efforts taking place across the country and highlighted here are needed in every state to, at long last, close every youth prison and replace this failed, harmful approach with one that can help youth get back on track. Seldom in American policy are incentives and imperatives so closely aligned — youth development, fiscal

prudence, and community safety would be far better served by closing every last youth prison and replacing these factories of failure with pathways to success for all youth.

## Endnotes

1. We are hardly alone in analogizing euphemistically named juvenile facilities to prisons. In 1967, for example, Justice Hugo Black, writing a concurring opinion in *In re Gault*, 387 U.S. 1, 87 S.Ct. 1428 (1967), wrote “It is, in all but name, a penitentiary.” In 1980, eminent correctional historian David Rothman wrote, “It was no easy matter to distinguish a training school from a prison” (*Conscience and Convenience*, Little Brown and Co., 1980). Writing for the minority in the 1984 case *Schall v. Martin*, 467 U.S. 253, 104 S.Ct. 2403, Justice Thurgood Marshall wrote, “[F]airly viewed, pretrial detention of a juvenile gives rise to injuries comparable to those associated with the imprisonment of an adult.” In the petition filed in *Schall v. Martin*, New York City Deputy Mayor and co-founder of the Vera Institute of Justice Herbert Sturz stated more succinctly that the detention center was “in many ways, indistinguishable from a prison.” Although Marshall and Sturz were referring to a youth detention facility, their observations easily apply to training schools.

2. Statement at American Association for the Advancement of Science, 1995. Reported by United Press International and Newsday.

3. For a discussion of the special developmental needs of court-involved emerging adults older than age 18, see Schiraldi, Western, and Bradner (2015).

4. *Roper v. Simmons* (03-633) 543 U.S. 551 (2005) 112 S.W.3d 397, affirmed, and *Miller v. Alabama* 132 S.Ct. 2455 (2012).

5. This does not mean that, for short periods of time and through great effort, large facilities have been unable to be run in a manner that is less institutional and abusive than is described in this paper. Still, large, locked facilities for youth degenerate into destructive environments with sufficient regularity to warrant a call for the abolition of the youth prison model.

6. See, for example, Holman and Ziedenberg (2011).

7. Schiraldi (2001) quotes DiIulio's warning against a "rising tide of juvenile superpredators" who are "fatherless, godless, and without conscience," further stating, "all that's left of the black community in some pockets of urban America is deviant, delinquent and criminal adults surrounded by severely abused and neglected children, virtually all of whom were born out of wedlock."

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## Author Note

Patrick McCarthy is President of the Annie E. Casey Foundation. He previously served as Director of the Division of Youth Rehabilitation Services in Delaware.

Vincent Schiraldi is a Senior Research Fellow at the Harvard Kennedy School, Program in Criminal Justice Policy and Management. He previously served as Commissioner of the New York City Department of Probation and as Director of the Department of Youth Rehabilitation Services in Washington, DC.

Miriam Shark is an Independent Consultant in Portland, Maine. She previously served as Associate Director of the Annie E. Casey Foundation.

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**Kendra Bradner** (Facilitator), Project Coordinator, Program in Criminal Justice Policy and Management, Harvard Kennedy School

**Barbara Broderick**, Chief Probation Officer, Maricopa County Probation Adult Probation Department

**Douglas Burris**, Chief Probation Officer, United States District Court, The Eastern District of Missouri, Probation

**John Chisholm**, District Attorney, Milwaukee County District Attorney's Office

**George Gascón**, District Attorney, San Francisco District Attorney's Office

**Adam Gelb**, Director, Public Safety Performance Project, The Pew Charitable Trusts

**Susan Herman**, Deputy Commissioner for Collaborative Policing, New York City Police Department

**Michael Jacobson**, Director, Institute for State and Local Governance; Professor, Sociology Department, Graduate Center, City University of New York

**Sharon Keller**, Presiding Judge, Texas Court of Criminal Appeals

**Marc Levin**, Policy Director, Right on Crime; Director, Center for Effective Justice, Texas Public Policy Foundation

**Glenn E. Martin**, President and Founder, JustLeadershipUSA

**Anne Milgram**, Senior Fellow, New York University School of Law

**Jason Myers**, Sheriff, Marion County Sheriff's Office

**Michael Nail**, Commissioner, Georgia Department of Community Supervision

**James Pugel**, Chief Deputy Sheriff, Washington King County Sheriff's Department

**Steven Raphael**, Professor, Goldman School of Public Policy, University of California, Berkeley

**Nancy Rodriguez**, Director, National Institute of Justice

**Vincent N. Schiraldi**, Senior Research Fellow, Program in Criminal Justice Policy and Management, Harvard Kennedy School

**Sandra Susan Smith**, Associate Professor, Department of Sociology, University of California, Berkeley

**Amy Solomon**, Director of Policy, Office of Justice Programs

**Wendy S. Still**, Chief Probation Officer, Alameda County, California

**John Tilley**, Secretary, Kentucky Justice and Public Safety Cabinet

**Steven W. Tompkins**, Sheriff, Massachusetts Suffolk County Sheriff's Department

**Harold Dean Trulear**, Director, Healing Communities; Associate Professor of Applied Theology, Howard University School of Divinity

**Vesla Weaver**, Assistant Professor of African American Studies and Political Science, Yale University, Institution for Social and Policy Studies

**Bruce Western**, Faculty Chair, Program in Criminal Justice Policy and Management, Harvard Kennedy School; Daniel and Florence Guggenheim Professor of Criminal Justice, Harvard University

**John Wetzel**, Secretary of Corrections, Pennsylvania Department of Corrections

**Ana Yáñez-Correa**, Program Officer for Criminal Justice, Public Welfare Foundation

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