



Presentation to San  
Francisco JJCC  
Subcommittee:

Lessons from Los  
Angeles County DJJ  
Transition Team

May 18, 2021

# Youth Justice Work Group and Youth Justice Reimagined

AGN NO. \_\_\_\_\_

MOTION BY SUPERVISORS MARK RIDLEY-THOMAS AND SHEILA KUEHL

August 13, 2019

Restructuring the Juvenile Justice System: Building a Health-Focused Model

Well-regarded research on adolescent brain development, positive youth development and trauma have demonstrated the ways youth are physiologically and fundamentally different from adults and require different interventions. Acknowledgement of these differences has resulted in the understanding that punitive models of juvenile justice not only result in worsened outcomes, which runs counter to the rehabilitative goals of the juvenile justice system, but also fail to make communities safer. Systems centered on healing and growth are essential for improving the well-being of young people.

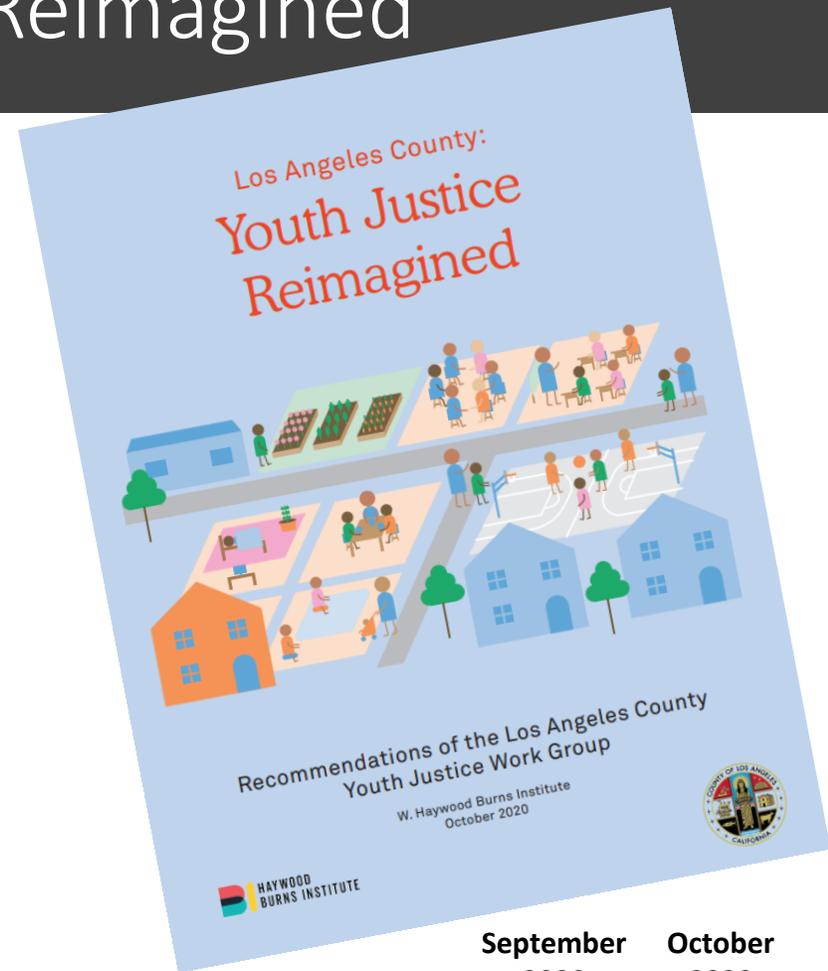
Over the past decade, many counties have attempted to reform what had become, at their core, overly punitive juvenile justice systems; Los Angeles County (County) is among them. While local reform efforts have resulted in some improvements, including reductions in incarceration, fewer low-risk youth on probation, and greater investments in diversion, the County has so far struggled to achieve major improvements in the treatment of youth in its care and custody. This year, rampant use of pepper spray has put into question youth safety, and the significant mental health needs of youth – 90% of youth in the juvenile halls have an open mental health case – puts into question whether a system of incarceration is even appropriate. If the County is to meet its obligation of adequately addressing the rehabilitative needs of the youth in its care, it must acknowledge that the juvenile camps and halls model is fundamentally flawed, and that housing supervision and services within an agency with a law enforcement orientation may be counterproductive. Shifting towards a rehabilitative, care-first

MOTION

- Solis \_\_\_\_\_
- Ridley-Thomas \_\_\_\_\_
- Kuehl \_\_\_\_\_
- Barger \_\_\_\_\_
- Hahn \_\_\_\_\_

“Explore the **transitioning of the Los Angeles County’s juvenile justice system out of the Probation Department into another agency**, with the goal of creating a rehabilitative, health-focused, and care-first system [that is] meaningfully different in operations and outcomes from the current system.”

– Motion by Supervisors Mark Ridley-Thomas and Sheila Kuehl, August 13, 2019



**August 13, 2019**  
BOS passes Motion to convene Youth Justice Work Group (YJWG)

**January 2020**

**May 2020**  
Governor’s May Revise Budget

**YJWG and Subcommittees Meets**

**September 2020**

**YJR Report Published**

**October 2020**

# May 26, 2020: LA County BOS Motion on DJJ Transition

AGN. NO.

REVISED MOTION BY SUPERVISORS MARK RIDLEY-THOMAS AND SHEILA KUEHL May 26, 2020

## Preparing Los Angeles County for the Closure of the State's Division of Juvenile Justice

On May 14, 2020, Governor Gavin Newsom announced, as part of the revised budget, that the Division of Juvenile Justice (DJJ) will be closing. Starting January 1, 2021, DJJ will no longer admit new youth and these youth would instead be housed at the county level. Over time, the three DJJ facilities will close. It is unclear whether any youth currently held at DJJ, or transferred there before January 2021, will be transferred to counties as well. It is also unclear whether courts and prosecutors will start to adjust their current practices, including those related to charging, plea-dealing and petitions for transfer, ahead of January 2021. As explained in the Governor's revised budget, this move is intended to help close a historic budget deficit created by the COVID-19 crisis, as well as to ultimately "enable youth to remain in their communities and stay close to their families to support rehabilitation."

While this change is sudden, last year Governor Newsom took steps to shift away from a punitive state system by moving DJJ into a separate department under the State's Health and Human Services Agency. This action was intended to bring about a cultural change to create opportunities to enhance educational, mental health and social service

- MORE -

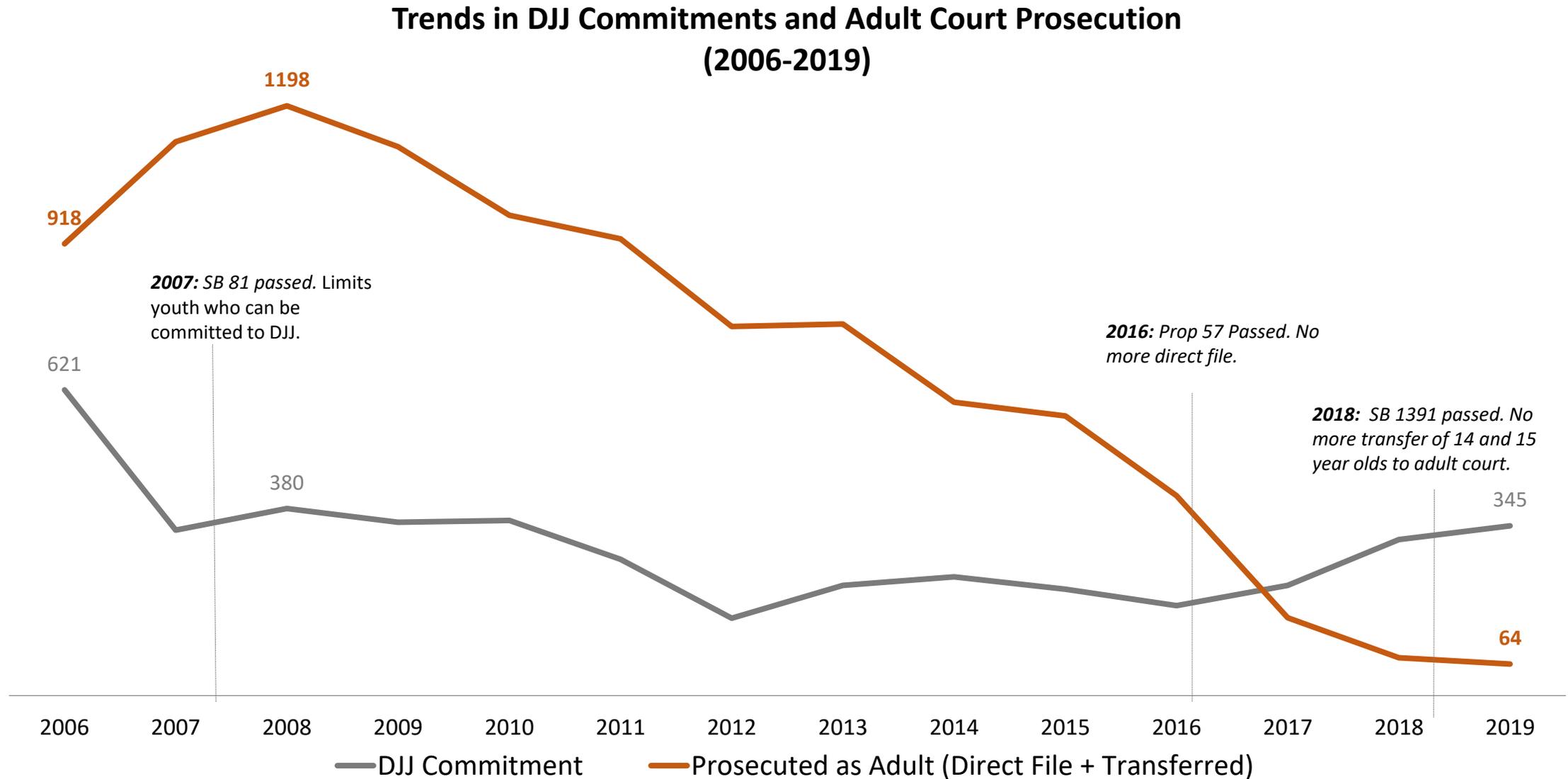
MOTION

SOLIS \_\_\_\_\_  
RIDLEY-THOMAS \_\_\_\_\_  
KUEHL \_\_\_\_\_  
HAHN \_\_\_\_\_  
BARGER \_\_\_\_\_

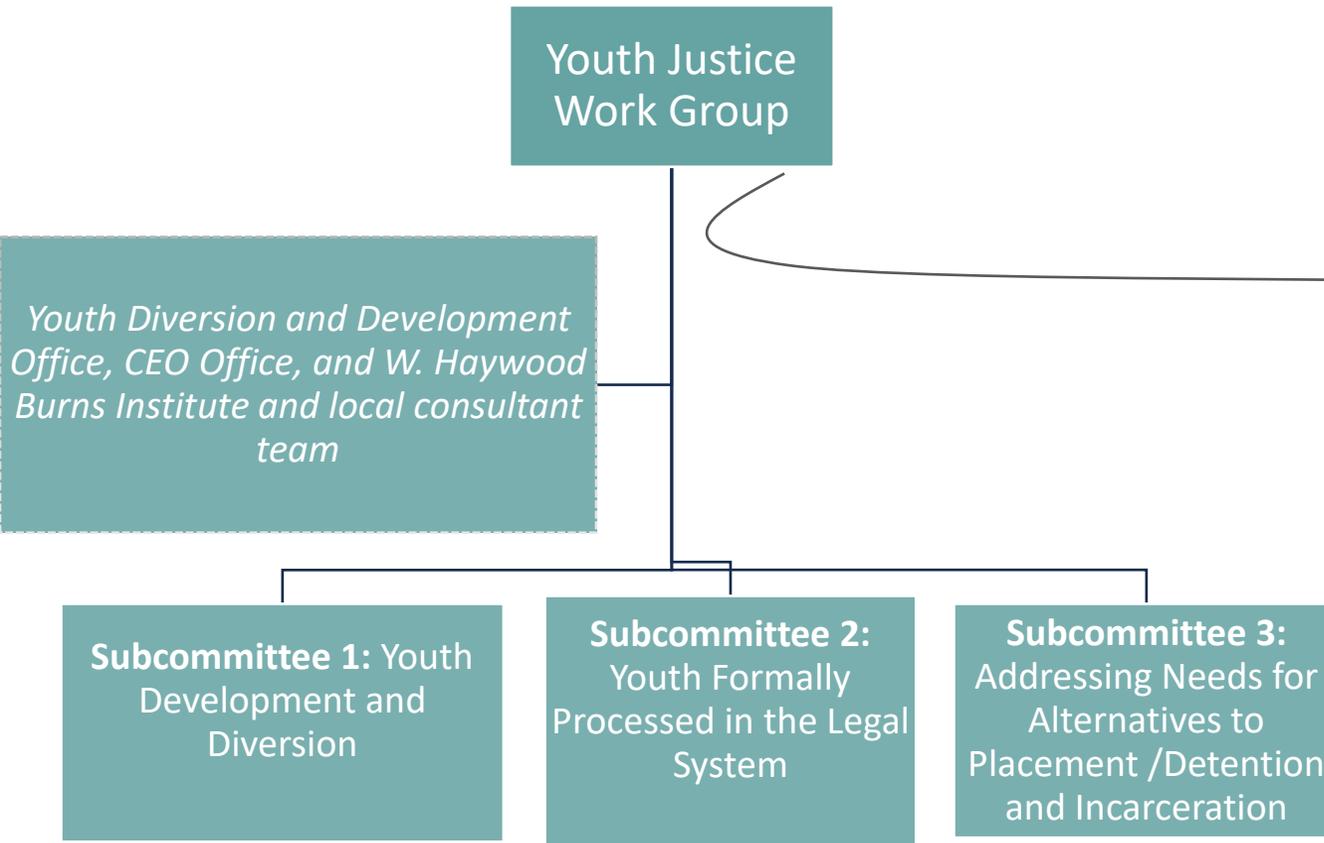
- a. An **analysis** of how the new DJJ population may be incorporated into the model and plan under development by the Youth Justice Work Group for all justice-involved youth in the County, including youth committed to DJJ who are currently held in the County due to the DJJ's COVID-19 related moratorium on new admissions;
- b. Strategies to **prevent more youth from being tried as adults** under the new system;
- c. Strategies to **increase community-based alternatives** to detention options for youth who would have previously been sent to DJJ;
- d. The **status and capacity of the County's current juvenile facilities** to adequately serve the needs of DJJ-committed youth justice populations, reserving any consideration of re-opening closed facilities, only as a last resort;
- e. **Preventing punitive practices** that were previously eliminated or are being phased out from being reinstated;
- f. **Ensuring robust oversight** of the treatment of this new population, as well as the DJJ re-entry population that is currently being supervised by the County; and
- g. **Any budgetary, legal or legislative implications** or changes needed to create the best system possible, including the potential of raising the age of jurisdiction in the County's juvenile justice system to align with DJJ's age limit, and ensuring the County receives sufficient funding from the State to fund the rehabilitative programs and services needed to serve this population.



# Trends in DJJ Commitments and Adult Court Prosecution (2006-2019)



# DJJ Transition Team



## Subcommittee 4: DJJ Transition Team

- ★ Grounded in values.
  - Includes diverse stakeholders.
  - Includes local experts on community driven models.
  - Establishes Advisory Committee of DJJ Impacted Youth And Community.
  - Uses data.

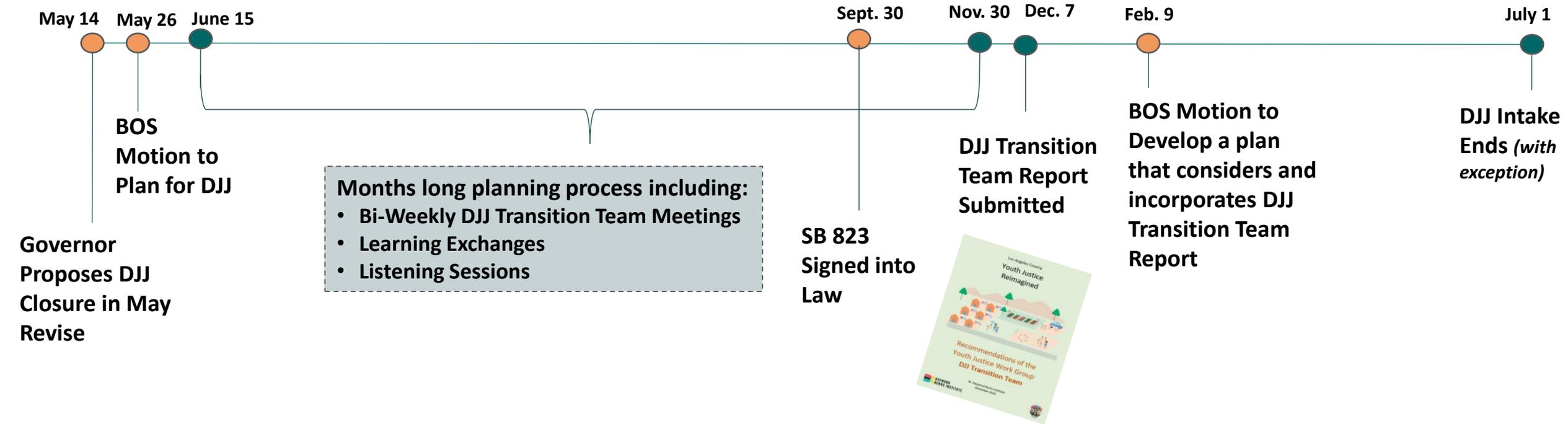


# Rooting Work in Core Values

1. Youth should be addressed through a holistic, trauma-informed approach. Responses to youth should focus on rehabilitation, healing, enhancing public safety and restorative justice.
2. Youth's family and community should be active participants in their healing.
3. Any form of out-of-home placement should promote healing in a therapeutic environment. Youth should not be warehoused in punitive, institutionalized settings.
4. Comprehensive educational and vocational opportunities should be provided.
5. Voices of victims and survivors should be heard, and perspectives considered.
6. Facility staffing should prioritize backgrounds in social work, healing, restorative and transformative justice.
7. Justice system should make intentional investment in CBOs rooted in directly impacted neighborhoods to provide support services for youth in and out of custody.
8. Reentry support with connection to the community is critical and should begin right away.
9. A model focused on punishment and retribution will undermine the progress achieved thus far in LA County.



# DJJ Transition Team Timeline



# DJJ Transition Team Participants

- Probation
- Defense Counsel
- District Attorney
- Justice System Impacted Youth
- Service Providers
- Mental Health
- County Office of Education
- Judge
- Community based organizations
- Community Leaders
- Crime Survivor Advocates
- County Counsel
- County Executives Office
- Youth Development and Diversion

# DJJ Youth Advisory Board Perspective

## Perspective on Failures of DJJ:

1. **Large size.**
2. **Unsupportive staff and staff culture.**
3. **Lack of mentorship inside.**
4. **Dehumanizing procedures.**
5. **Programming that doesn't work**
6. **Disconnection and distance.**
7. **Lack of trust.**
8. **Lack of hope and opportunity.**
9. **Lack of safety and violence.**
10. **Lack of fairness in accountability.**
11. **Lack of consistency.**

## Perspective on Ideal Components for a DJJ Alternative

1. **Supportive, relatable staff**, especially those with lived experience similar to the youth
2. **Campus-like environment** with teachers, counselors, mentors on site throughout the weekdays
3. **Education, skills and vocational programs, opportunities and equipment** (books, laptops, internet, etc.) that expose youth to new learning and ways of thinking
4. **Fair rules applied to all youth** that avoid favoritism
5. **Access to community and relationship-building** off-site and through CBOs
6. **A positive incentive-based system**, especially the opportunity to step-down from more restrictive to less restrictive housing.
7. **Dignity and privacy.** For instance, bedrooms that have basic amenities like a good bed and allow for some privacy and individuality.
8. **Security through a sense of safety.** While programming, youth feel safe with their peers and staff; there is security overall in the environment.



# Facility Attributes

Facility	Facility Attributes					Other Considerations		
	“Security”	Capacity for Vocational and Educational Training	Therapeutic Environment	Not Prison-like	Vast, Outdoor, green spaces	Benefits as DJJ Alt.	Concerns for use as DJJ Alt.	Renovations needed to align facility with core values
The Compound (Barry J. Nidorf)								
Traditional “Camps”								
<b>Dorothy Kirby</b>								
<b>Campus Kilpatrick</b>								
Gonzales								
STRTP								
New Small Home-like Model- (ARC )								

*For each facility, the DJJ Transition Team discussed how the facility attributes aligned or deviated from core values. The DJJ Transition Team concluded that:*

- Facility at “The Compound” at Barry J Nidorf were fundamentally in contrast with the core values.*
- The facilities with the most promise included Campus Kilpatrick, Camp Gonzales and Dorothy Kirby.*

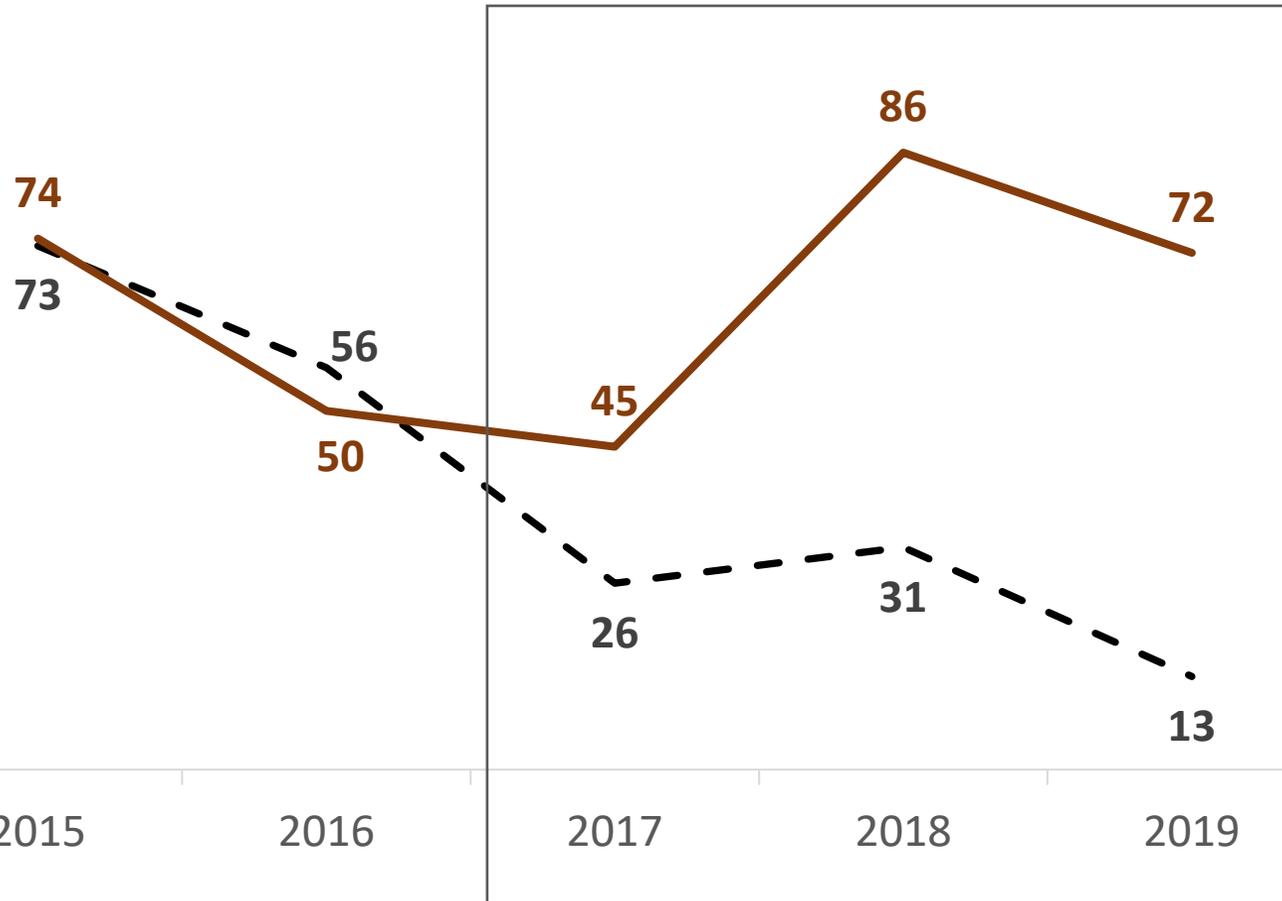
\* Programming and Staffing for each facility assessed separately.



# Alternative Models: Healing Centered Approach



# Capacity Assessment: Estimating Annual Commitments



**Conservative Estimate,  
not accounting for any reduction:**

**Annual Average (2017-2019):**

- DJJ Commitments → 67.7
- Adult Court Prosecution → 23.3

**Monthly Average (2017-2019):**

- DJJ Commitments → 5.64 youth
- Adult Court Prosecution → 1.94 youth

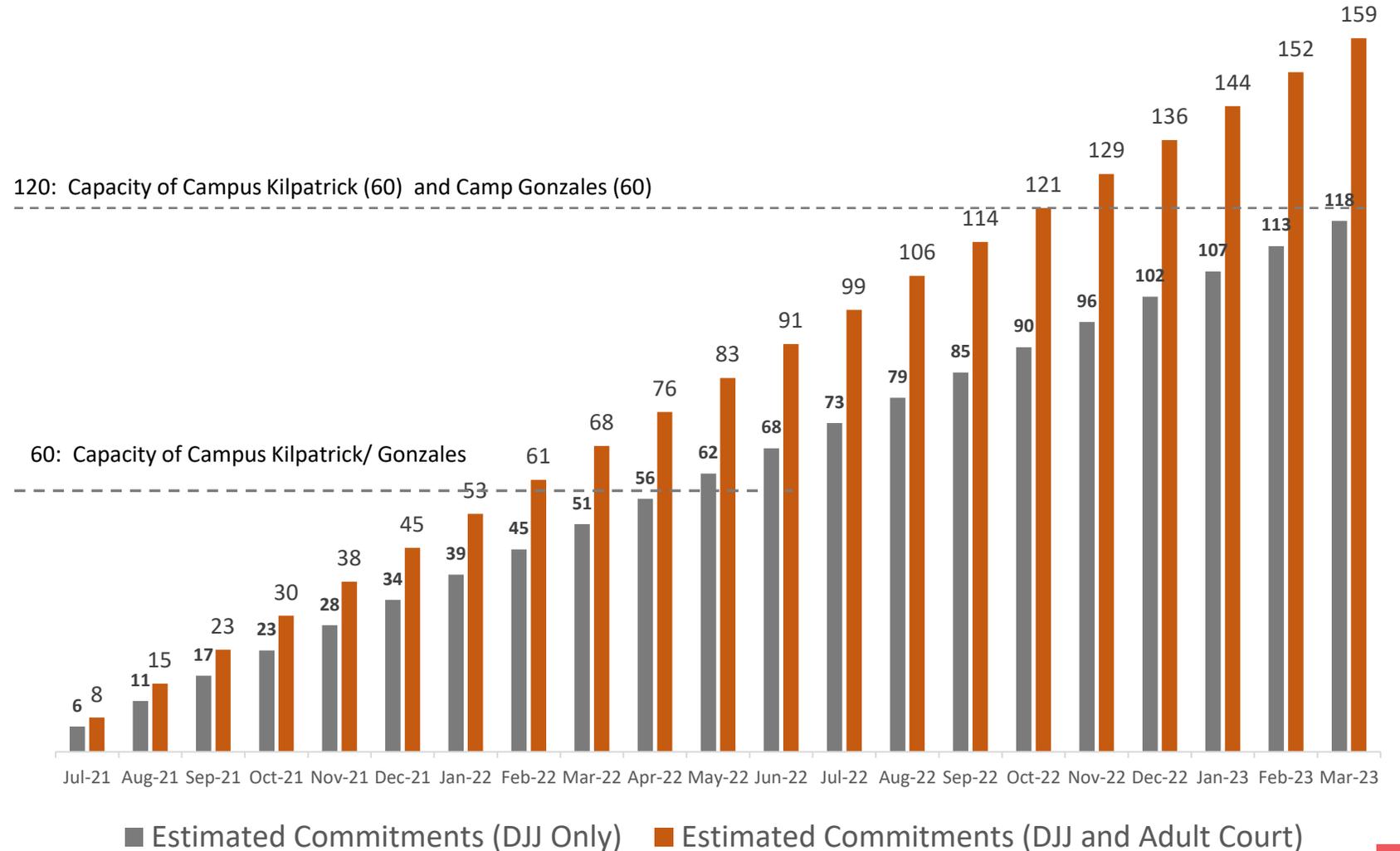
--- Youth Prosecuted as Adults    — Youth Committed to DJJ by Juvenile Court

# Capacity Estimates

Understanding that Youth Justice Reimagined (YJR) anticipates a dramatic decrease in the number of young people who are subject to justice system involvement, using monthly averages:

- 5.6 youth committed to DJJ;
- 7.6 youth committed to DJJ *and* prosecuted as adults),

a capacity at a 60-bed facility would reach capacity in May 2022 if used strictly as an alternative to DJJ, and in February 2022 if used as an alternative to both DJJ and adult court prosecution.



# DJJ Data

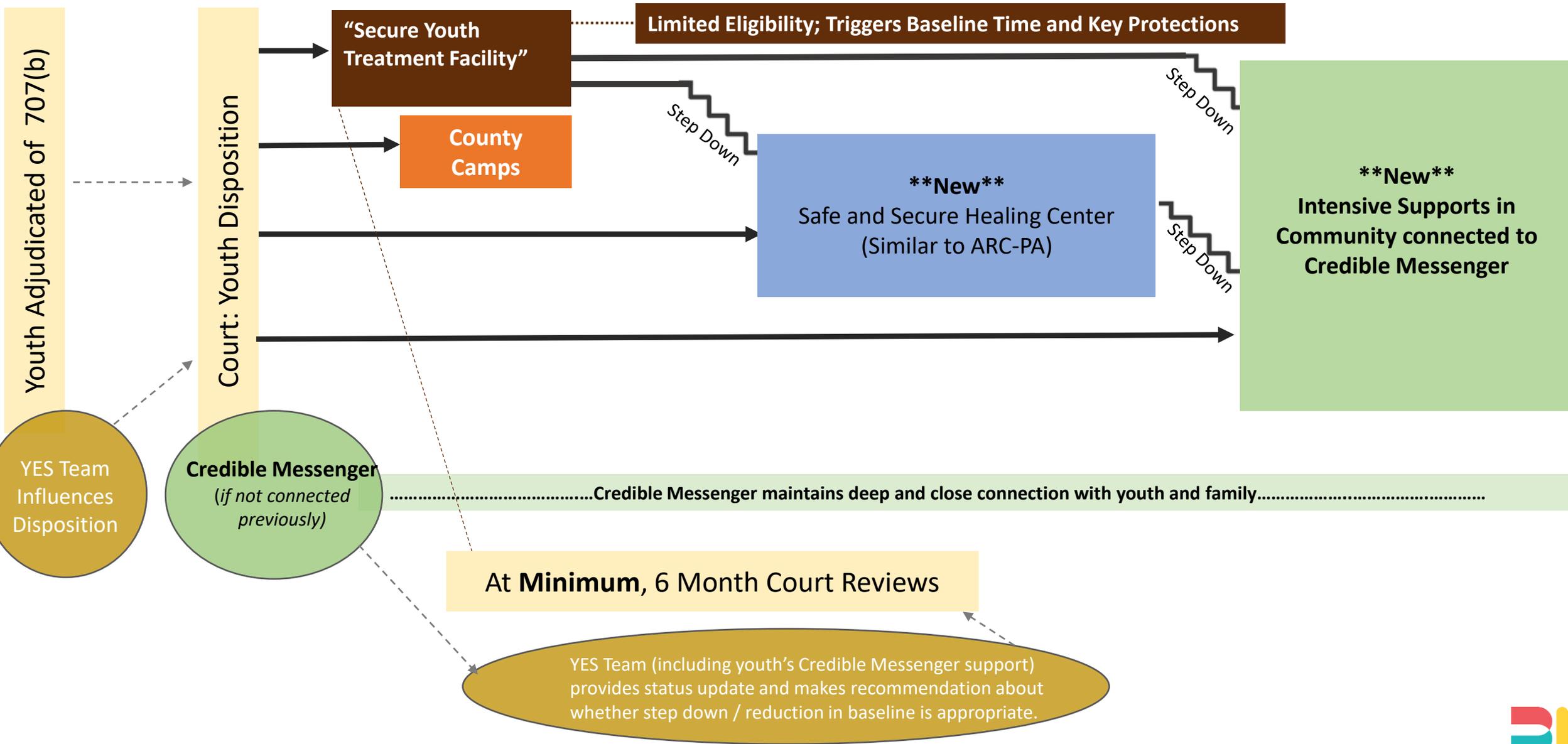
Bay Area DJJ  
Commitments

2016-2019

COUNTY	Population	2016	2017	2018	2019	Total
Alameda	1.5M	4	5	8	-	17
Contra Costa	1.0M	17	13	12	14	56
Marin	252K	1	1	-	-	2
Monterey	415K	10	5	17	12	44
Napa	136K	-	-	1	-	1
<b>San Francisco</b>	881K	1	4	4	2	11
San Mateo	218K	3	2	4	3	12
Santa Clara	1.8M	3	15	8	20	46
Santa Cruz	262K	1	5	2	1	9
Solano	413K	3	5	4	9	21
Sonoma	484K	4	7	3	6	20

# LA County Disposition Decision Making -Secure Youth Treatment Facility

Most Restrictive .....Less Restrictive



# Secure Youth Treatment Facility:

Limited Eligibility

And Triggers Baseline Time and Legal Protections

1

Designation of Secure Youth Treatment Facility

2

Eligibility

3

Criteria for  
Judicial  
Determination

4

Individualized  
Rehabilitation  
Plan

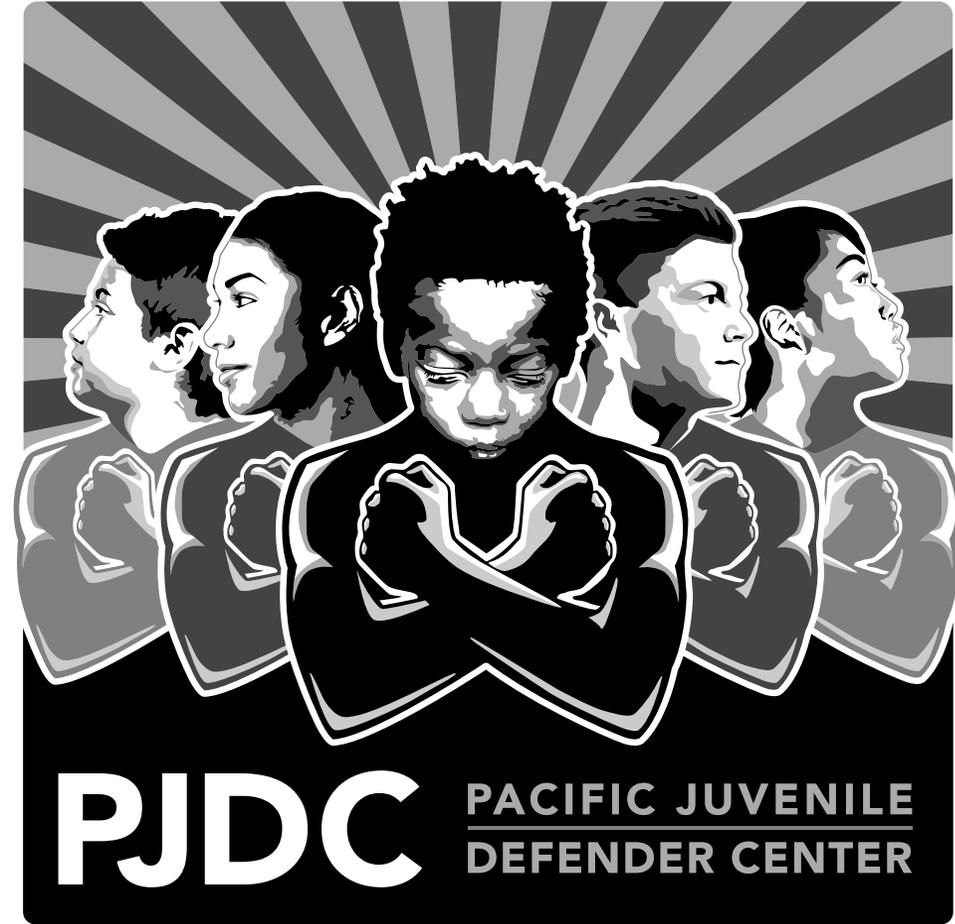
5

Baseline  
Confinement  
Term

6

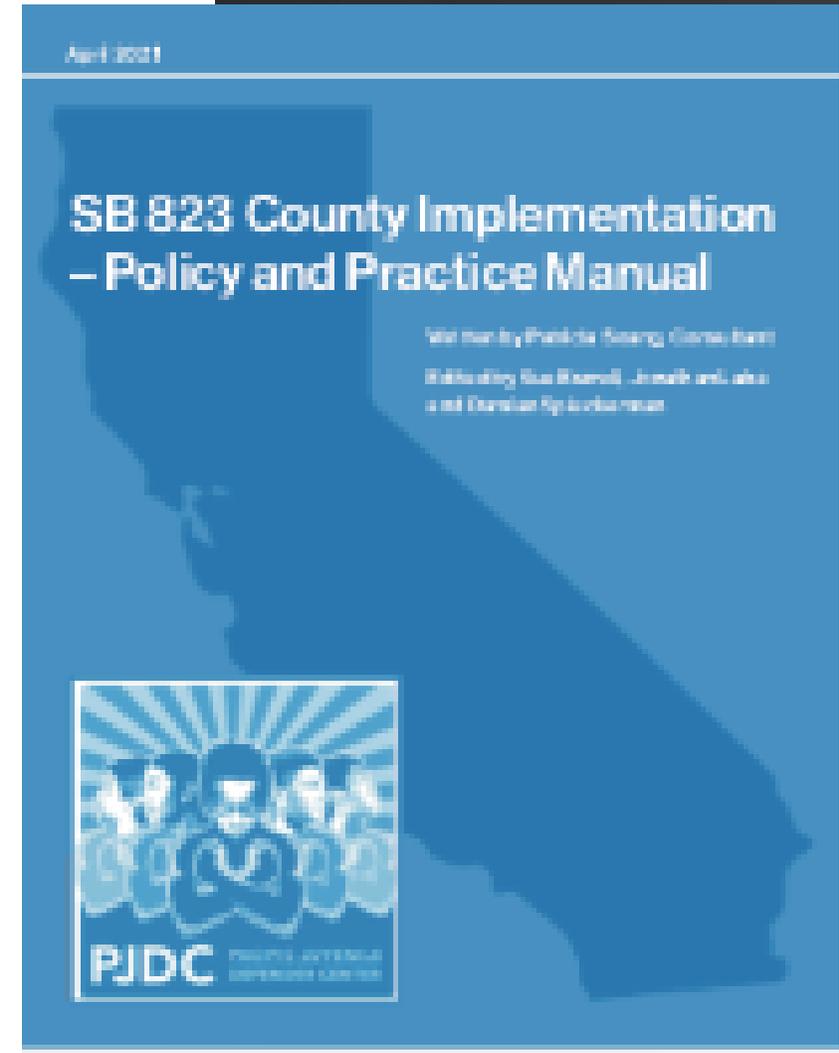
Six Month  
Review Hearings

# SB 823 Implementation - Manual



# Manual Overview

- **Background** (Principles, SB 823 Overview, Juvenile Justice Realignment Block Grant and JJCCs)
- **Arguments and Supporting Research**
  - Harmful Practices to Avoid or Minimize
  - Best and Promising Practices to Advocate For
- **Special Populations**
  - Youth Adjudicated of Sex Offenses
  - Girls
  - Mental Health
- **Applying the Research to Your County**
- **Confinement and Housing Models**



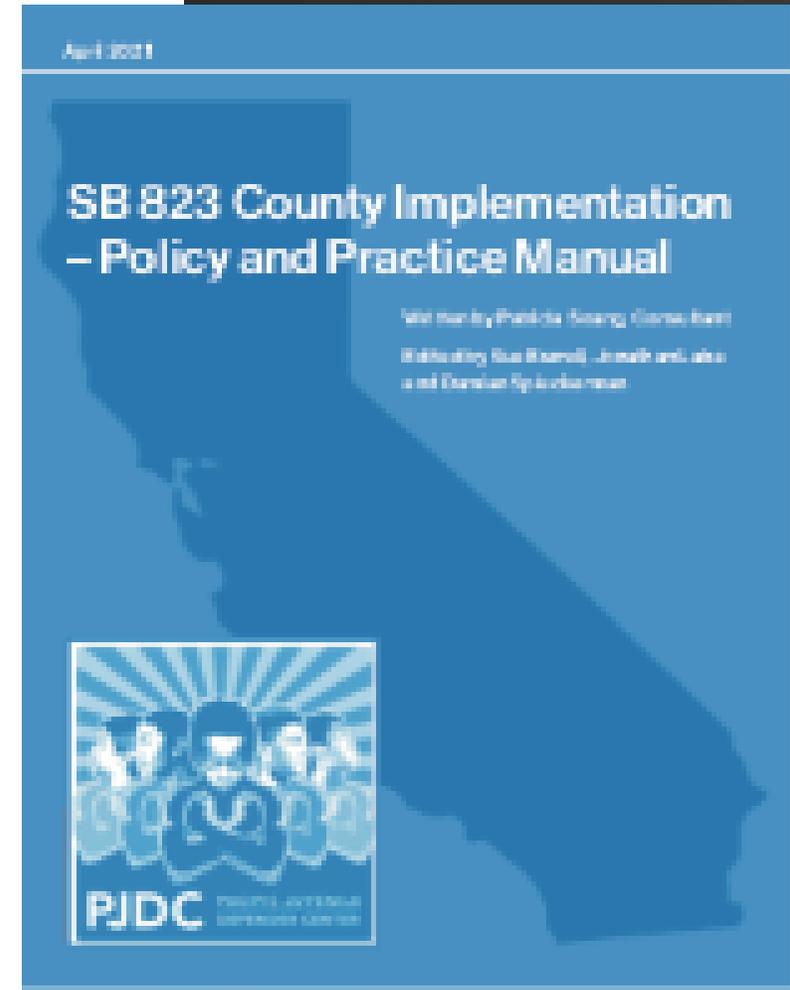
# SB 823 Intent

- Justice system-involved youth “are more successful when they remain **connected to their families and communities.**”
- Justice-involved youth should be “receive **age-appropriate treatment.**”
- Counties should provide and implement “**public health approaches** to support positive youth development, building the capacity of a continuum of community-based approaches, and reducing crime by youth.”
- Counties should “use **evidence-based and promising practices and programs** that improve the outcomes of youth and public safety.”
- Counties should “**reduce the transfer of youth** into the adult criminal justice system.”
- Dispositions must be in **the least restrictive appropriate environment** and “**reduce the use of confinement** in the juvenile justice system by utilizing community-based responses and interventions.”
- **Racial and ethnic disparities** must be eliminated.



# A Few Highlights

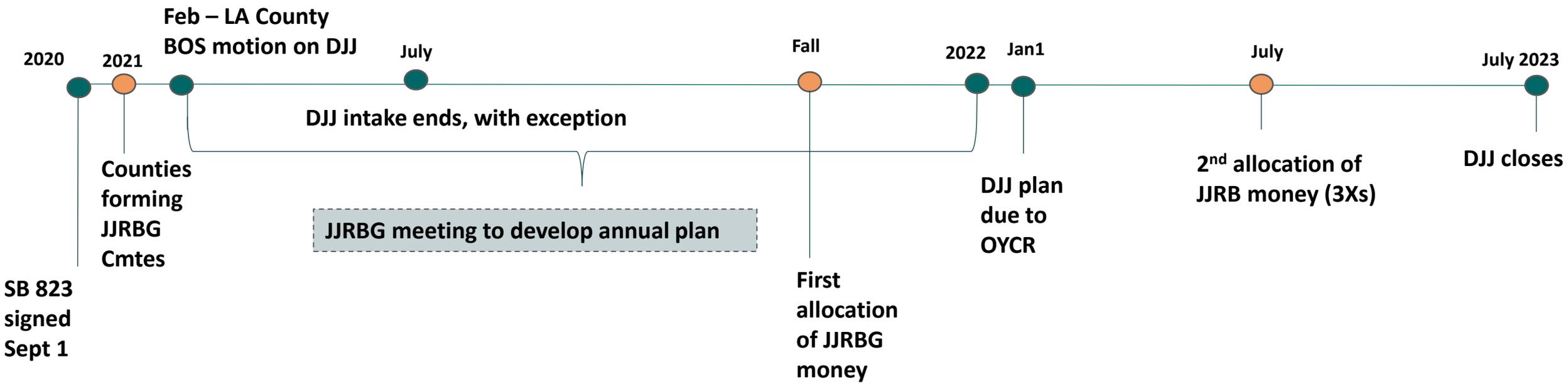
- Large focus on **secure facilities**, with caveats
- Proposals may look **short of ideal**
- **Staffing, programming and collaborative decision-making** are just as important
- **Planning Process** – engaging JJCC, Board of Supervisors, public and state oversight body
- **Security**
- **Lengths of stay and Periodic Review**



SB 823  
Implementation  
– Los Angeles



# SB 823 Timeline in LA



What is due by June?

# JJRBG Process

## Surveying Facilities and Services

- Presentations (Burns Institute, agencies, CBOs)
- Site visits

## Identifying Values and Selecting a Facility

- Values alignment
- Capacity
- Need for renovation
- Community/board support

## Prioritizing Program and Staffing Approach

- Youth Development
- Restorative justice
- Staffing ratios
- Credible Messengers

Overriding  
DDJ Vision  
(Draft)

**To improve youth and family wellness and community safety by increasing access to opportunities to strengthen resiliency and reduce delinquency.**

# Draft Summary of Values

## **1) Holistic, trauma-informed youth development approach**

- Continuum of holistic youth development responses
- Positive, strengths-based and social justice orientation to working with youth, families and communities, characterized by opportunities that promote a sense of belonging, usefulness and power by helping youth develop competencies enabling them to grow and lead healthy, responsible and caring lives
- Effective secure and non-secure alternatives to the criminal court system and Department of Juvenile Justice
- Intentional investment in effective community-based organizations rooted in directly impacted neighborhoods to provide support services for youth in and out of custody

# Draft Summary of Values

## **2) Therapeutic, home-like environments**

- Out-of-home placements should promote healing in a safe, therapeutic, home-like environment; engage/deliver services within a therapeutic milieu; and provide reentry services to ensure a seamless and positive return to the community.
- Facility staffing should prioritize hiring from backgrounds in evidence-based, youth development approaches to working with youth. All staff must be trained in and committed to adopting a trauma-informed, positive, youth-centered approach.



# Other Draft Values Headers

- 3) Further reducing reliance on incarceration**
- 4) Countywide systems coordination**
- 5) Family and community engagement**
- 6) Period reviews and collaborative decision-making**
- 7) Transparency and Accountability, Centering Impacted Voices**
- 8) Evaluation and System Improvement**
- 9) Racial Equity**

# Questions

- What is the timeline to develop plan?
- What is the role of the broader JJCC and Board of Supervisors?
- How is youth and public engagement assured?
- How do we relate this plan to Youth Justice Reimagined and others in the County?
- How do implement short-term plans that may be fall short of long-term visions?
- How do we allocate dollars based on need and other available funding/budgets?



# SB 823 State/Regional Updates

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San Francisco Juvenile Justice Coordinating Council's

SB 823 Subcommittee

5.18.21, Agenda Item 4

# Updates

## State

- Status of Law
  - SB 823 is the large anchor legislation; SB 92 outlines the secure commitment track
  - SB 92 was signed into law on 5/14/21
- “Consortium” Concept

## Regional

- County Approaches
  - Creating their own solutions
  - Entering into contractual arrangements
  - Having regional conversations



# Short Term San Francisco SB 823 Plan for July 1, 2021

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San Francisco Juvenile Justice Coordinating Council's  
SB 823 Subcommittee  
5.18.21, Agenda Item 5

# Timeline & Requirements

- **07/01/21:** Interim plan in place for “secure track” commitments
  - Not required to submit to the state/Office of Youth & Community Restoration (OYCR)
- **09/01/21:** First annual allocation released to counties
  - BOS must approve use of funds
- **01/01/22:** Robust plan created by Subcommittee to be submitted to state/OYCR



# San Francisco SB 823 Subcommittee Meeting Schedule

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San Francisco Juvenile Justice Coordinating Council's  
SB 823 Subcommittee  
5.18.21, Agenda Item 6

# Proposed Meeting Schedule

- Every two weeks until July 1, 2021
  - Tuesdays at 4 or 4:30pm (90 minutes)
    - June 1, 2021
    - June 15, 2021
    - June 29, 2021
- Stay virtual throughout June meetings
- No meetings in July
- Resume monthly, in person meetings in August - December
  - Small group meetings to work on specific topics in between full subcommittee meetings (in person or virtual)



# Requests for Future Agenda Items

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San Francisco Juvenile Justice Coordinating Council's

SB 823 Subcommittee

5.18.21, Agenda Item 7

# Possible Agenda Items

- 6/1/21 Meeting:
  - Data review of SF DJJ Commitments
  - Possible Sonoma County Plan Overview (unconfirmed)

Los Angeles County:  
**Youth Justice  
Reimagined**



Recommendations of the  
Youth Justice Work Group  
**DJJ Transition Team**

W. Haywood Burns Institute  
December 2020

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## Executive Summary

In August 2019, the Los Angeles County Board of Supervisors (BOS) passed a motion tasking the Office of Diversion and Reentry's Division of Youth Diversion and Development (YDD) and the Chief Executive Office (CEO) with establishing the Youth Justice Work Group (YJWG) to "explore the transitioning of the Los Angeles County's juvenile justice system out of the Probation Department into another agency, with the goal of creating a rehabilitative, health-focused and care-first system." The CEO hired the W. Haywood Burns Institute (BI) to lead the consultant team. Nationally recognized for expertise in convening and engaging community and system stakeholders to address structural racism within the administration of justice, BI contracted five experienced consultants from Los Angeles: Patricia Soung, Dr. Danielle Dupuy, Isaac Bryan, Kent Mendoza and Anthony Robles. Together, the team launched the YJWG whose approximately 150 members included youth, community, justice partners and government stakeholders.

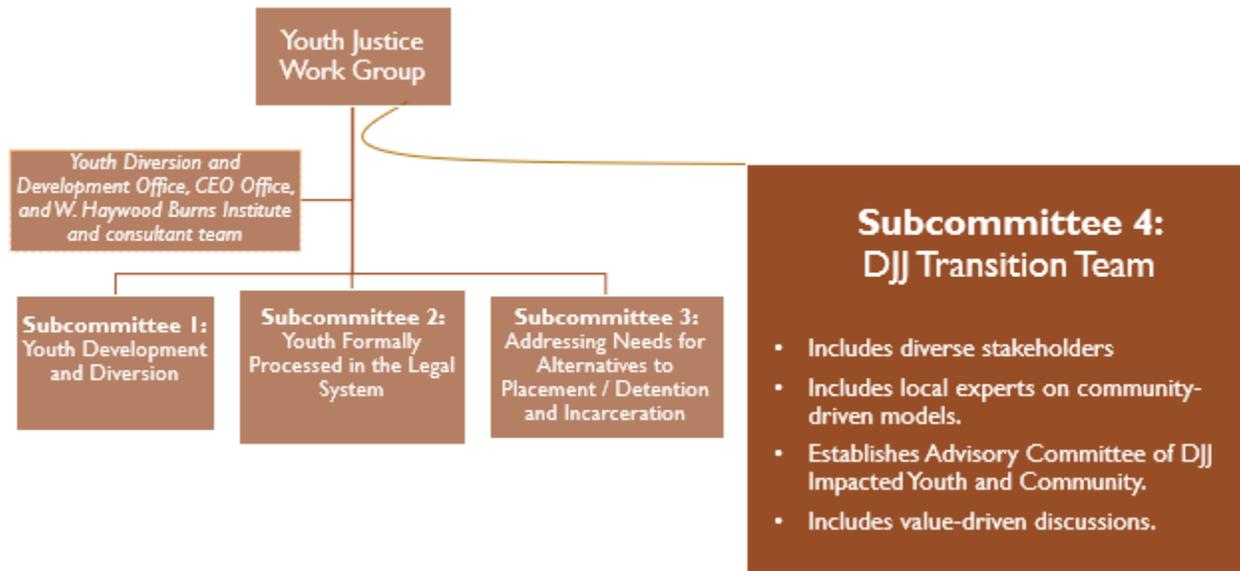
In January 2020, the YJWG began the work of reimagining youth justice. YJWG established three subcommittees focusing on distinct areas: 1) expanding youth development support in the community; 2) rethinking the approach to youth formally processed in the legal system such that it is more restorative and transformative; and 3) addressing needs for alternatives to placement, detention and incarceration.

As the YJWG convened to reimagine youth justice, on May 14, 2020, Governor Newsom announced the intention to close California's Division of Juvenile Justice (DJJ) addressed in his revised budget. On May 26, 2020, the BOS passed a motion directing the YJWG to help lead the first phase of planning for DJJ Closure. The motion named the YJWG as best equipped to plan for DJJ Closure "in a way that is consistent with and informed by ongoing work to reimagine the juvenile justice system in the County and improve treatment for youth in the County's care."

### **The motion directed the DJJ subcommittee to develop recommendations that consider:**

1. An analysis of how the new DJJ population may be incorporated into the model and plan under development by the Youth Justice Work Group for all justice-involved youth in the County, including youth committed to DJJ who are currently held in the County due to the DJJ's COVID-19 related moratorium on new admissions;
2. Strategies to prevent more youth from being tried as adults under the new system;
3. Strategies to increase community-based alternatives to detention options for youth who would have previously been sent to DJJ;
4. The status and capacity of the County's current juvenile facilities to adequately serve the needs of DJJ-committed youth justice populations, reserving any consideration of re-opening closed facilities, only as a last resort;
5. Preventing punitive practices that were previously eliminated or are being phased out from being reinstated;
6. Ensuring comprehensive oversight of the treatment of this new population as well as the DJJ reentry population currently being supervised by the County; and

7. Any budgetary, legal or legislative implications or changes needed to create the best system possible, including the potential of raising the age of jurisdiction in the County’s juvenile justice system to align with DJJ’s age limit, and ensuring the County receives sufficient funding from the State to fund the rehabilitative programs and services needed to serve this population.



In June 2020, the YJWG established an additional subcommittee to focus on promoting alternatives to DJJ that align with the ongoing YJWG’s progress. The subcommittee includes diverse representation and was led by Laura Ridolfi and Tshaka Barrows of BI and consultants Kent Mendoza and Patricia Soung. In addition, the DJJ Transition Team established an Advisory Committee of youth directly impacted by DJJ to guide the Transition Team and provide critical feedback to inform the work.

The DJJ Transition Team embraced the opportunity to challenge commonly held notions of justice for youth accused of more serious offenses. There was much discussion about the opportunity to shift away from a failed punishment approach focused on custody, suppression and control and to instead embrace an enlightened approach to the administration of justice, one centered in racial and ethnic equity, anchored in principles of youth development and focused on healing and rehabilitation of youth aligned with Youth Justice Reimagined.

Black, brown and indigenous youth bear the brunt of all justice system decision-making in Los Angeles County but particularly the most punitive and harmful decisions. In 2019, 100% of the youth that were tried as adults and all but two of the youth committed to DJJ youth of color. The inequities that exist today are evidence of structural, institutional and historical racism that stain any notion of the legal system as just and fair. The DJJ Transition Team had the opportunity to question why the most punitive sanctions are reserved for youth of color, to challenge traditional notions of justice that rely on punishment, suppression and control, and to reimagine an approach to justice that honors youths’ humanity, sees their potential and focuses on their healing.

The DJJ Transition Team benefited from various outreach efforts including an impactful meeting with Judge Greg Davis from New Zealand, who shared powerful insights regarding their efforts to keep youth

in the community rather than institutions. In addition, facilitators reached out to DJJ Director Heather Bowlds, Psy.D and Michael Farmer to gain insights on programs to consider in establishing local options. The facilitation team also held a meeting with probation leadership to ensure their perspectives were heard. Facilitators also reached out to Rising Scholars to discuss future collaboration to promote involvement of community colleges and higher education in DJJ alternatives. Finally, there was a powerful learning exchange hosted by Healing Dialogues in Action, which focused on the importance of connection and healing through modalities outside the traditional punishment system that benefit both those who survive crime as well as those who commit crime. The discussion highlighted ways to center restorative practices within the new alternative, including focusing on the needs of youth for connection, safety, trust, and redefining accountability in terms of healing.

On October 21, 2020, BI submitted to the offices of the CEO and YDD "Youth Justice Reimagined," a report outlining a care-first approach and calling for a Department of Youth Development (DYD) to resource and build a countywide Youth Development Network of CBOs providing support services and community development as well as responding to issues that arise.

On November 24, the LA County Board of Supervisors unanimously passed a motion to move forward with initial components of Youth Justice Reimagined (YJR). The motion establishes a Youth Justice Transition Advisory Group (YJTAG) to "inform continued planning and implementation of the recommendations of the YJWG." The motion calls for a proposal that reflects an objective of making an initial investment of \$75 million in Fiscal Year 2021-2022 toward establishing the DYD. The framework of YJR was considered and built upon in the recommendations of the DJJ Transition Team.

On December 7, 2020, District Attorney elect George Gascón was sworn into office and announced as part of his directives that the office would no longer prosecute youth as adults. Based on this policy, the implementation of DJJ alternatives should assume that most youth otherwise subject to adult court prosecution will be served by a local DJJ alternative.

### **Summary of Recommendations (detailed Recommendations found on page 31).**

- 1.** Build upon Core Values of Youth Justice Reimagined by creating a plan to phase the transition of probation operations of Secure Alternatives to DJJ to DYD as soon as DYD has capacity.
- 2.** Establish and fund a DJJ Youth Advisory Body to ensure the experience of youth impacted by DJJ remains centered in the implementation of SB 823.
- 3.** Create a subcommittee of the multiagency Juvenile Justice Coordinating Council (JJCC) to immediately follow up on recommendations included in this report, designating four seats to community members, promoting continuity in representatives that participated in the DJJ Transition Team, and establishing a policy for no fewer than one annual convening to review programs and interventions serving as DJJ alternatives.
- 4.** Develop a plan for immediate repurposing of Campus Kilpatrick to serve as a first Secure Alternative to DJJ by July 2021, a pod within either Campus Kilpatrick or Dorothy Kirby Center to serve girls and youth with acute mental health needs who would otherwise be subject to DJJ and, if deemed necessary, Camp Gonzales by February 2022.

5. Direct Probation to immediately conduct a safety and security assessment of any facility or pod under consideration to serve as a Secure Alternative to DJJ and to immediately request an onsite Title 24 compliance assessment of Camp Gonzales by the Board of State and Community Corrections (BSCC).
6. Continue efforts to reduce the number of youth committed to camp aligned with YJR and ensure all youth committed to camp benefit from a care-first, healing-centered approach across all facilities.
7. Direct Probation to collaborate with YDD and the Youth Justice Transition Advisory Group (YJTAG) to develop a plan to ensure initial staffing of Secure Alternatives to DJJ prioritizes backgrounds in social work, cultural healing, and youth development practices, and an initial cohort of Credible Messengers are hired and trained to work at Secure Alternatives to DJJ.
8. Develop a policy around dispositional decision-making to (i) involve recommendations from Youth Empowerment and Support (YES) Teams, (ii) when dispositions result in youth commitment to Secure Alternatives to DJJ, ensure regular and frequent court reviews to evaluate youths' progress with insight from the YES Teams; and (iii) create a process for "Step Down" to less restrictive settings as soon as permissible by law.
9. Direct Probation, YDD and the YJTAG to develop a plan for augmenting existing therapeutic programming at the Secure Alternatives to DJJ, including partnering with CBOs to provide youth development services.
10. Establish a practice of regular collection and reporting of key data regarding youth eligible for and committed to Secure Alternative to DJJ and youth subject to adult court prosecution disaggregated by race/ethnicity, age and gender and most serious adjudicated offense.

## Implications of Senate Bill 823

On September 30, 2020, Governor Newsom signed Senate Bill 823 which legislates a plan for closing the DJJ by transferring the responsibility for the custody, treatment and supervision of youth currently subject to DJJ to the counties. Per SB 823, DJJ intake will end beginning July 1, 2021 (with exception outlined below), but SB 823 provides no final closure date. It provides funding—estimated at \$225,000 per youth per year—to counties to provide services and improve facilities in order to increase local capacity to serve youth otherwise subject to DJJ. SB 823 increases local court jurisdiction and age of confinement in local youth facilities to align with the current upper age of confinement at DJJ.

### SB 823 includes important protections against the adult court prosecution of youth:

- 1. Intent for new dispositional track.** SB 823 codifies the Legislature’s intent to establish by March 1, 2021 a special dispositional track for “higher-need” youth to be used as an alternative to DJJ and adult court prosecution. The framework referenced by the legislature’s intent language identifies Secure Youth Treatment Facilities (SYTF) as a commitment option for select youth otherwise subject to DJJ. The framework referenced by the legislature’s intent language puts limits youth who would be subject to this track, restricting eligibility to youth adjudicated of a 707(b) offense who was 14 years or older when the offense was committed and for whom the 707(b) offense was the most recent offense for which the youth was adjudicated. Under the framework, the court must then make a determination on the record that a less restrictive disposition is unsuitable after considering the severity of offense(s), including youth’s role and harm that may have been done; youth’s offense and commitment history; whether programming offered and provided at the SYTF is appropriate to meet treatment and security needs of youth; and whether the goals of rehabilitation and community safety can be met by assigning youth to an alternative, less restrictive disposition available to the court.

Under the framework, commitment to an SYTF would be accompanied by an individual treatment plan developed in concert with a multidisciplinary team of youth-serving experts and counsel for the youth. Commitment to an SYTF would trigger a baseline term of confinement with regular progress review hearings to evaluate youths’ progress and to determine whether the baseline term should be modified.

- 2. Extension of Juvenile Court Jurisdiction.** SB 823 extends the age of local juvenile court jurisdiction for youth adjudicated of offenses in WIC 707(b) to age 23 and to age 25 for youth adjudicated of offense in WIC 707(b) and who would face a sentence of seven years or more in the adult system.
- 3. Extension of Age of Local Confinement.** Under SB 823, youth whose case originated in juvenile court will remain in a local youth facility pending disposition of their cases until age 21, unless the probation department petitions the court to transfer a youth age 19 or older and a judge decides according to criteria to move the youth to an adult facility. Youth adjudicated guilty for serious and

violent offense and committed to a post-disposition program in a local juvenile facility can remain housed in a juvenile facility up to age 25, similar to court jurisdiction above.

**4. Extension of DJJ Intake for Transfer Cases.** SB 823 closes intake for new youth commitments to DJJ on July 1, 2021. However, youth otherwise eligible for DJJ in whose case a motion for transfer was filed may still be committed to DJJ until final its closure. Youth committed to DJJ will remain in the state system until discharged, released, or otherwise moved to an authorized facility. Any of these youth committed to DJJ after July 1, 2021, counties will be required to pay the state \$125,000 until the youth turns age 23.

SB 823 creates a Juvenile Justice Realignment Block Grant (JJRBG) administered by the state for counties to develop a local continuum of care that ranges from nonresidential community-based services to local or regional residential treatment facilities for youth. The Board of Supervisors in each county will make local funding allocations based on plans created by the counties.

Counties will receive funding based on a funding formula that includes various factors, including a county's youth population and number of youths adjudicated for DJJ eligible offenses. The by-county allocation during fiscal years 2021-2024 will be based on the following formula:

- 30% of the per-county percentage of the average number of youth committed to DJJ;
- 50% of the by-county distribution of youth adjudicated for certain violent felony offenses according to DOJ data; and
- 20% based on by-county distribution of youth population, ages 10-17.

The first funding allocation for counties eligible to receive JJRBG will be made by September 1, 2021 and each September 1 annually thereafter. Governor Newsom's DJJ Realignment Bill Summary estimates that by fiscal year 2023/24, Los Angeles County will receive \$40,725,895 per year to work with youth otherwise subject to DJJ.

To be eligible for JJRBG funding, counties must create a subcommittee of the multiagency Juvenile Justice Coordinating Council (JJCC) to develop and submit a plan to the newly established Office of Youth and Community Corrections describing the facilities and placements, programs and services, and reentry and supervision strategies developed to provide appropriate rehabilitation and supervision services for youth treated locally.

The JJCC subcommittee must comprise the chief probation officer, as chair, and one representative from the district attorney's office, the public defender's office, the department of social services, the department of mental health, the county office of education or a school district, and a representative from the court. The subcommittee must also include no fewer than three community members with experience providing community-based youth services, youth justice advocates, or people with direct experience in the juvenile justice system.

The plans created by the JJCC subcommittee must describe programs and interventions supported by grant funds, any regional agreements or arrangements to be supported by the block grant, how the plan

will incentivize or facilitate the retention of realigned youth in the juvenile system, how data will be collected on the youth served, and outcome measures to determine the results of local programs.

In addition, SB 823 establishes a state agency, the Office of Youth and Community Restoration (OYCR), to provide meaningful oversight of youth justice and to administer state youth justice funding programs. The first plan regarding JJRBG funding and strategies to serve youth otherwise subject to DJJ at the local level must be submitted to OYCR by January 1, 2022. The plans submitted by the JJCC subcommittee must be approved by the new OYCR to ensure it contains all necessary elements. OYCR will provide support and guidance to local systems to implement evidence-based, health-centered approaches to serving high-needs youth, and to prevent transfers of youth to the adult system.

Finally, SB 823 directs the Department of Justice (DOJ) to develop a plan for updating and improving the state's outdated juvenile justice data collection system.

***Note on Terminology: Secure Youth Treatment Facilities (SYTF) and Secure Alternative to DJJ***

Throughout this report, the terms Secure Alternative to DJJ and Secure Youth Treatment Facility (SYTF) are used interchangeably. SB 823 includes intent language that references SYTF as a facility designated for a limited number of "higher need" youth to serve as an alternative to DJJ and adult court prosecution. In our meetings, the DJJ Transition Team described the facilities as Secure Alternatives to DJJ.

## Alternatives to DJJ Rooted in Core Values

The BI and consultant team first worked to ground the planning process in shared values, understanding that stakeholders hold different views and strong beliefs about how best to administer justice and promote healing and rehabilitation for youth accused of more serious offenses. It was important to take the time to identify values shared across the group, to build cohesion, engender trust and build a solid foundation for the planning process.

From these discussions the facilitation team identified themes which became the Core Values of the DJJ Transition Team:

1. Youth should be addressed through a holistic, trauma-informed approach. Responses to youth should focus on rehabilitation, healing, enhancing public safety and restorative justice.
2. Youth's family and community should be active participants in their healing.
3. Any form of out-of-home placement should promote healing in a therapeutic environment. Youth should not be warehoused in punitive, institutionalized settings.
4. Comprehensive educational and vocational opportunities should be provided.
5. Voices of victims and survivors should be heard and perspectives considered.
6. Facility staffing should prioritize backgrounds in social work, healing, restorative and transformative justice.
7. Justice system should make intentional investment in CBOs rooted in directly impacted neighborhoods to provide support services for youth in and out of custody.
8. Reentry support with connection to the community is critical and should begin right away.
9. A model focused on punishment and retribution will undermine the progress achieved thus far in LA County.

### Challenging the Notion of Whether Secure Custody Time Equates to Accountability

It is important to acknowledge points of tension within the DJJ Transition Team—key among them being the connection between custody time, rehabilitation, accountability and public safety. While all participants valued the goals of rehabilitation, accountability and public safety, their beliefs diverged in how longer or shorter lengths of confinement facilitate such goals. Specifically, conflicting opinions existed on whether shorter lengths of stay in secure facilities and stepping youth down into more homelike settings at the earliest, safe point possible would mean the new model lacks accountability and threatens public safety.

Commitments to DJJ Alternatives designated as secure youth treatment facilities will likely be subject to minimum confinement times defined by state law. As a result, the DJJ Transition Team has little authority to weigh in on custody time. However, there is ample discretion among juvenile courts with the input of multidisciplinary teams to conduct periodic reviews of youth's progress in secure confinement, adjust commitment times and consider step-downs to less restrictive residential settings or release.

The discussion about custody time will likely continue throughout implementation and as the details of the secure dispositional track and the designation of Secure Youth Treatment Facilities or other designated Secure Alternative to DJJ contemplated in SB 823 is codified. As decisions are made about the overall approach and in individual cases, research about custody time should be considered. Research<sup>1</sup> establishes that: 1) when youth need to be removed from their home, incarceration as we know it is ineffective and too often harmful; it is most effective when "time away" is healing-focused, close to home, and focused on youth development; 2) more time away has diminishing returns, regardless of whether the environment is therapeutic; and 3) incarceration and removal from home disproportionately impacts youth of color.

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<sup>1</sup> See e.g. Lovins, B. (2013). "Putting Wayward Kids Behind Bars: The Impact of Length of Stay in a Custodial Setting on Recidivism" (PhD diss., University of Cincinnati, 2013); Virginia Department of Juvenile Justice (2015). "Guidelines for Determining the Length of Stay (LOS) of Juveniles Indeterminately Committed to the Department of Juvenile Justice (DJJ)." Walker, S. C., & Bishop, A. S. (2016). "Length of stay, therapeutic change, and recidivism for incarcerated juvenile offenders." *Journal of Offender Rehabilitation*, 355–376; Winokur, K.E., Smith, A., Bontrager, S., Blankenship, J., (2008). "Juvenile Recidivism and Length of Stay," *Journal of Criminal Justice*, 126-137; Gonzalez, T., (2017). "Youth Incarceration, Health, and Length of Stay," *Fordham Urban Law Journal*; Mulvey, E. Schubert, C and Piquero, A., (2014). "Pathways to Desistance: A study of serious adolescent offenders as they transition to adulthood and out of crime," U.S. Department of Justice; Justice Policy Institute and The National Center for Victims of Crime. (2018) "Smart, Safe, and Fair: Strategies to Prevent Youth Violence, Heal Victims of Crime, and Reduce Racial Inequality."

## DJJ Youth Advisory Board: Youth Perspective and Youth Statement

To ensure that the DJJ Transition Team centered youth voice and leadership in reimagining an alternative to DJJ, a DJJ Youth Advisory Board was created and facilitated by consultant Kent Mendoza. Over the course of two months, the YJWG facilitated a series of nine virtual youth listening sessions with youth who are formerly and currently incarcerated at DJJ facilities; specifically, 14 former DJJ youth (13 males and 1 female) and 4 currently incarcerated youth at Ventura Youth Correctional Facility (3 males and 1 female) participated in these sessions.

This group had two goals: 1) to discuss and develop recommendations based on their own experience and 2) to highlight and bring to light concerns or issues in response to the DJJ Transition Team's discussions and brainstorming. These sessions and youths' insight were crucial in informing the recommendations in this report. Below are summaries of what youth with first-hand experience of DJJ shared about how DJJ failed and what an ideal system should include.

### DJJ Youth Advisory Board's Perspective on Failures of DJJ:

- 1. Large size.** The large size of DJJ prisons made youth unsafe and de-individualized.
- 2. Unsupportive staff and staff culture.** With some exceptions, too many staff were uncaring, unsupportive or encouraged and instigated gang culture and negative behavior.
- 3. Lack of mentorship inside.** Mostly youth found mentorship opportunities in people and CBOs who came into and did not work for DJJ.
- 4. Dehumanizing procedures.** Procedures like strip searches, or undignified shower protocols made youth feel less than human.
- 5. Programming that doesn't work.** Much of the programming within DJJ, like the substance abuse/addiction programs, felt ineffective.
- 6. Disconnection and distance.** The long distances to DJJ facilities contributed to disconnection from familial support and community-based services.
- 7. Lack of trust.** Youth struggled to trust other youth, as well as staff.
- 8. Lack of hope and opportunity.** Especially when someone had been committed for a long term and had difficulty in seeing the end in sight, feelings of hopelessness were common, a challenge and even a danger, whether it contributed to depression or aggression. Hopelessness to the youth is contrary to safety inside and outside of the facilities.
- 9. Lack of safety and violence.** The overall environment inside DJJ felt unsafe, especially with the kind of gang environment and political divisions that exist and are perpetuated.
- 10. Lack of fairness in accountability.** Youth believed that rule enforcement was inconsistent or unfair. For instance, petty reasons were used to issue unnecessary write-ups against youth and served little, meaningful purpose.
- 11. Lack of consistency.** The movement of youth from facility to facility (hall to DJJ, and among DJJ facilities) is disruptive to the programming, relationships and overall stability of youth.

### DJJ Youth Advisory Board's Perspective on Ideal Components for a DJJ Alternative:

- 1. Supportive, relatable staff**, especially those with lived experience similar to the youth
- 2. Campus-like environment** with teachers, counselors, mentors on site throughout the weekdays
- 3. Education, skills and vocational programs, opportunities and equipment** (books, laptops, internet, etc.) that expose youth to new learning and ways of thinking
- 4. Fair rules applied to all youth** that avoid favoritism
- 5. Access to community and relationship-building** off-site and through CBOs
- 6. A positive incentive-based system**, especially the opportunity to step-down from more restrictive to less restrictive housing.
- 7. Dignity and privacy.** For instance, bedrooms that have basic amenities like a good bed and allow for some privacy and individuality.
- 8. Security through a sense of safety.** While programming, youth feel safe with their peers and staff; there is security overall in the environment.

### The DJJ Youth Advisory Board also discussed specific facility options, honing in on two models as the most viable to them:

- 1. Campus Kilpatrick.** Youth believed that Campus Kilpatrick sounded like the nicest County facility option but expressed concern that the staffing and the description of the facility did not live up to the positive ideals of the LA Model.<sup>2</sup>
- They believed a DJJ alternative would need to include better implementation of the LA Model, with a focus on education and vocational programming, as well as different, more credible staffing.
- 3. Transitional Housing like those of the Anti-Recidivism Coalition in California and Alternative Rehabilitation Communities in Pennsylvania.** Many youth who have been released from DJJ have transitioned through supportive housing and believe these housing settings should be part of the continuum of placement options for DJJ youth, either immediately or gradually after progressing from more restrictive facilities. The youth believed that the onsite staffing (including coaches, therapists and other mentors) created a safe and hopeful environment.

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<sup>2</sup> The LA Model as was developed through a multi-stakeholder process as a vision for juvenile facilities to provide "supportive and collaborative learning environments where youth develop interpersonal, educational, career technical and life skills; create healthy and supportive relationships with adults and peers; and discover their true potential. A culture of healing and thriving is nurtured, focusing on positive community reintegration and forged through a safe, open, and holistic partnership involving all staff, families, and communities." The County began to implement the LA Model at Campus Kilpatrick in 2017. Korman, H. et al, "A Culture of Care for All: Envisioning the LA Model" (May 2017), available at <https://probation.lacounty.gov/wp-content/uploads/LA-Model-A-Culture-of-Care-for-All-2.pdf>.

## DJJ Youth Statements

The DJJ Transition Team process was supported by an additional group of youth with direct experience in DJJ and local facilities. These young leaders demonstrated courage for sharing their deeply personal stories and commitment to the process by holding their own meetings to discuss important issues of safety, programming and staffing needs for the new DJJ alternative. Directly impacted youth possess a certain expertise about the system, understanding the depths of its problems as well as the nuanced solutions needed. In recognition of this expertise, space has been provided within this report for a statement from youth leaders. The DJJ Transition Team was grateful to these youth leaders for courageously sharing their stories, providing their analyses and solutions, and for continuously grounding the Team in cultural practices and the principles of Youth Development.

### Several youth leaders came together to draft the following statements:

**For far too long** we have deemed a juvenile prison adequate to rehabilitate and transform our youth into the individuals they were destined to be. Decades of trauma, pain and emotional scars have been inflicted on the minds of entire generations without a single attempt of truly recreating and innovating this 'fundamentally flawed system'. Youth Justice Reimagined and an alternative to DJJ rooted in youth development is the solution to reversing the punitive measures of defunct rhetoric.

In this new model we envision creating a new culture, where staff and youth build meaningful relationships, trust, accountability and support. We encourage autonomy, building youth's identities and allow them to make decisions for themselves. Communication is key, as is positive reinforcement. We do not bring youths' self-esteem down or treat them as not worthy. We see the individual for who they are. We promote growth and do not hinder the imaginations of our youth. We no longer create walls and barriers that hold them back. We allow them to grow wings and soar. Education of mind, body and soul are fundamental for our youth. With a strong foundation all buildings stand tall. Let us build our youth strong and tall.

We support this vision because the entirety of this new model is grounded and rooted in youth development core values, education/vocational training and creating an environment where youth can become autonomous. The biggest disservice the current system in place does to our youth is make them solely dependent on the system. Their identities are stripped away, and all decisions are made for them. This leads to complacency which then turns into an inability for youth to think and act for themselves.

We serve as testaments to youth who have overcome the adversities of the system. Take heed to the knowledge we possess because it is paramount for the new one.

*"I remember going through these systems trying to rehabilitate myself. I realized there are many things our system lacks and believe that's why change is crucially needed. I ask myself: what things did my community need to have in place so that I, as a youngster, could have been supported in my growth and leadership? For myself and my peers being given the opportunity to step up into leadership has been an important role in our everyday lives. While learning the tools for success I can pass this knowledge to my peers so they can have the ability to ultimately be the better version of themselves. I envision a model where youth would have the opportunity to step into the power*

*of being a leader with the determination to test themselves to go past their limit and learn new skills, they never thought they could achieve in life.”*

**—Ezekiel Nishiyama, Youth Advocate**

*“After being incarcerated for a total of 7 years and being released from DJJ less than a year ago, I strongly believe the punishment model needs to be replaced with a healing approach. The system has invested in the tools of punishment like pepper spray, rubber bullets guns, batons, tasers, tear gas and other lethal weapons that have no place in a care- first model. The people who will work with these youth should not have to use violence and harsh punitive practices to de-escalate or respond to any situation. These staff must have empathy, understanding, and real-life connection with the youth in order to work together. The system should invest in people who have the ability to elevate and mentor youth.”*

**—Kenzo Sohoue, Youth Advocate**

*“As a female that was incarcerated for 3 years and who is now a 24-year-old youth advocate, the reason I believe we must not recreate DJJ and the bad things from it but rather something better because I personally do not want other young girls to end up in prison like I once did. It is important that when creating this new model, we give youth the ability to communicate with the staff in a real way. When I was incarcerated, I wanted someone to guide me and support me on my way to reentry and after getting out. Youth in our current system don’t receive this, instead we put them on lockdown and in cells where we are hurt and traumatized. We have to create a place where we are helping youth build self-esteem, confidence, and leadership. Youth need people like me that can relate to them to help them. Especially young women and girls.”*

**—Alexia Cina, Youth Advocate**

*“I spent 10 years incarcerated in both the juvenile and adult justice systems, the last one being DJJ where I spent 2 years until coming home less than a year ago. This new model must not look or feel like a prison for youth. It should be designed to look like a real fun camp or school that provides high-level resources and opportunities. There should be incentives that can provide real hopes for a step-down process. This can be done by allowing youth to partake in educational and/or trade courses that teach them about the important things they need to know about the real world and how to navigate it. Keeping in mind that male and female youth are different, we must ensure they are both treated equally. Ensuring each youth’s needs are met before and upon reentry is important.”*

**—Sophia Cristo, Youth Advocate**

*“The entirety of this new model is grounded and rooted in youth development core values, education/vocational training and creating an environment where youth can become autonomous. The biggest disservice the current system in place does to our youth is make them solely dependent on the system. Their identities are stripped away, and all decisions are made for them. This leads to complacency which then turns into an inability for youth to think and act for themselves.*

*Our new system is what brings humanity to our youth, nurtures our growth and encourages us to dream. As someone who was in juvenile hall until the age of 21, I was lucky to be able to positively influence youth who were younger than me as they saw me accomplish the things I did. I unfortunately had been incarcerated for a few years and the younger kids who were considered to be ‘troublemakers’ respected and took heed to my advice. This too I believe can be implemented for this model. The older youth serve as testament to what can be accomplished if the younger youth strive to better themselves.”*

**—Ronaldo Villeda, Youth Advocate**

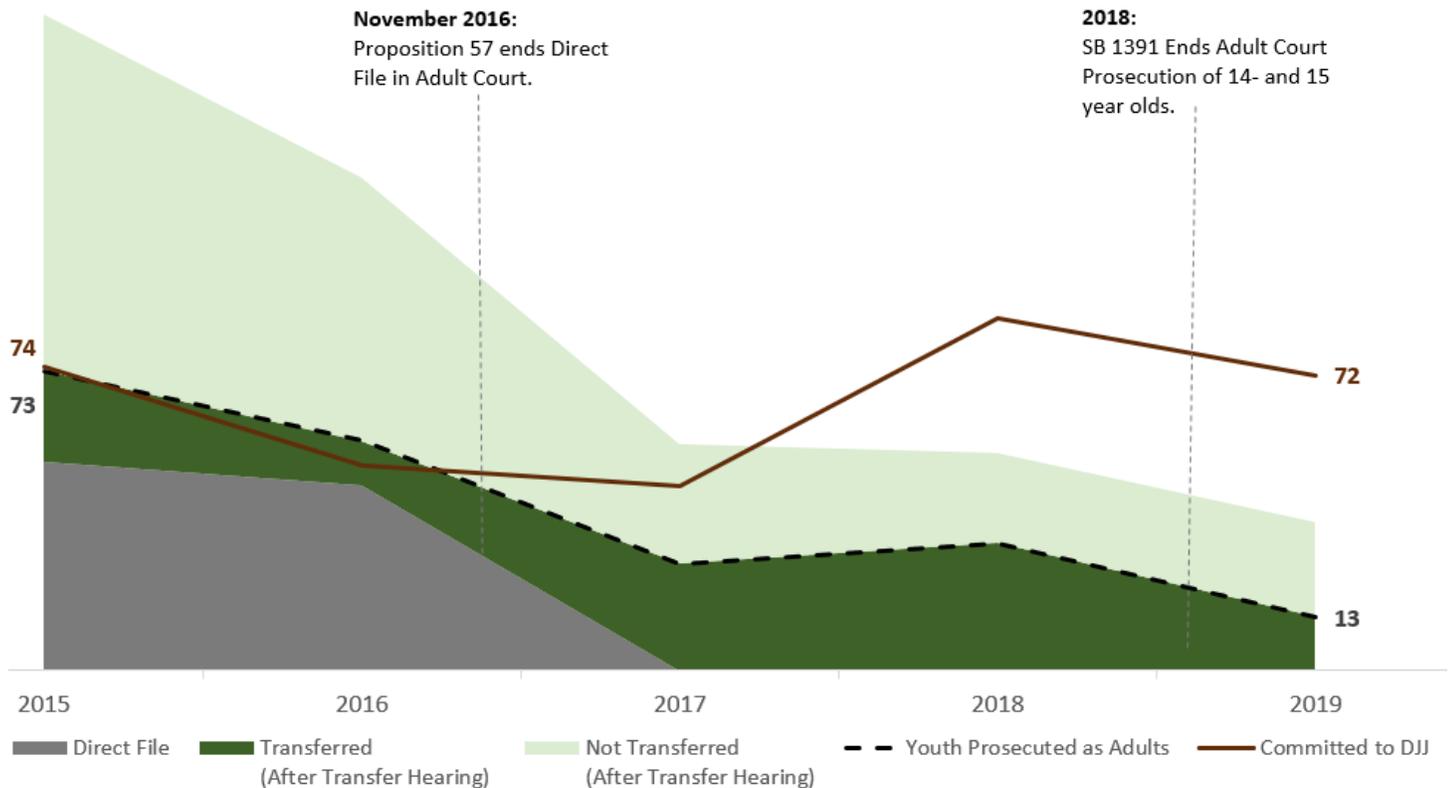
## Key Data Related to Los Angeles County DJJ Commitments

To advance the work of the DJJ Transition Team, on May 27, 2020, BI requested data from the Probation Department and the District Attorney’s Office. Analysis of these data were shared with the DJJ Transition Team in early meetings and served as a foundation for the Team’s work. Key data included:

### 1. Los Angeles County DJJ Commitment and Adult Court Prosecution Trends (2016-2019).

From 2015 to 2019, adult court prosecutions decreased by 82%, from 73 youth prosecuted as adults in 2015 to 13 youth prosecuted as adults in 2019. Commitments to DJJ decreased 39% from 2015 (74 commitments) to 2017 (45 commitments) but then increased by 60% between 2017 and 2019 (72 commitments). The reduction in adult court prosecutions and increase in youth committed to DJJ may be attributed to the changes in law that limited adult court prosecution of youth. In 2016, Proposition 57 ended the direct file of young people in adult court. In 2018, SB 1391 ended the adult court prosecution of 14- and 15-year olds. At the same time, DJJ increased the age of confinement to 23 in certain circumstances and 25 in other circumstances.

**Figure 1: Trends in DJJ Commitments and Adult Court Prosecutions.**

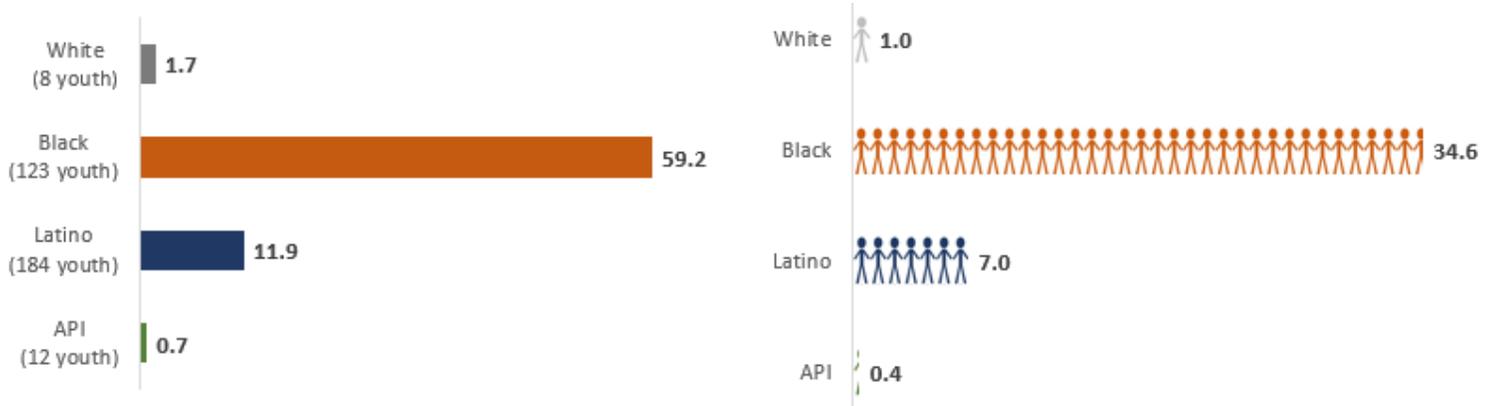


**Source:** Los Angeles County Probation Department; Los Angeles County District Attorney

## 2. Significant Racial and Ethnic Disparity in Persist in DJJ Commitments.

Over the last five years, youth of color in Los Angeles County are significantly more likely than white youth to be committed to DJJ. For every 100,000 white youth in the County, fewer than two were committed to DJJ; for every 100,000 Black youth, nearly 60 were committed; for every 100,000 Latino youth, nearly 12 were committed. Compared to white youth, Black youth are nearly 35 times more likely to be committed to DJJ, and Latino youth are 7 times more likely.

**Figure 2: Rate of DJJ Commitments per 100,000 youth ages 13-17 in Los Angeles County (Average 2015-2019).**

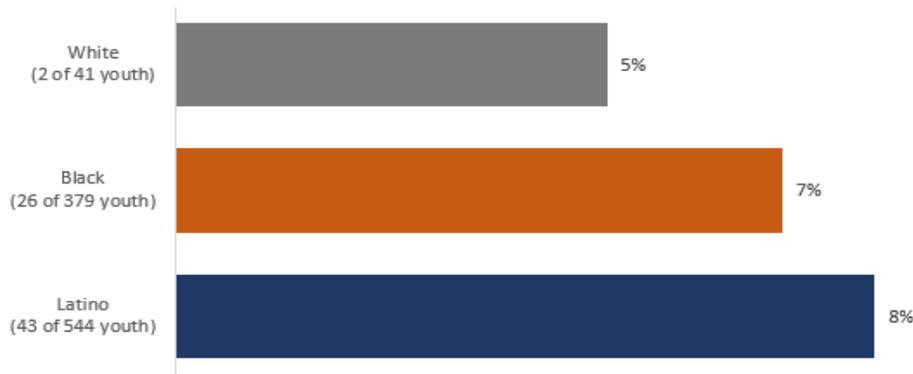


**Source:** Los Angeles County Probation Department

## 3. Youth of Color with Eligible Offenses are More Likely to be Committed DJJ.

Only youth adjudicated of an offense listed within Welfare and Institutions Code (WIC) 707(b) or Penal Code (PC) 290.008 may be committed to DJJ. In 2019, the vast majority of Los Angeles County youth who were eligible for DJJ based on their most serious sustained adjudication were kept local. Overall, 7% of youth adjudicated of DJJ eligible offenses were committed to DJJ. Youth of color who were adjudicated of eligible offenses were more likely than white youth to be committed. Whereas five 5% of eligible white youth were committed, 7% of eligible Black youth and 8% of Latino youth were committed.

**Figure 3: Percent of Youth Eligible for DJJ who were Committed to DJJ (2019).**

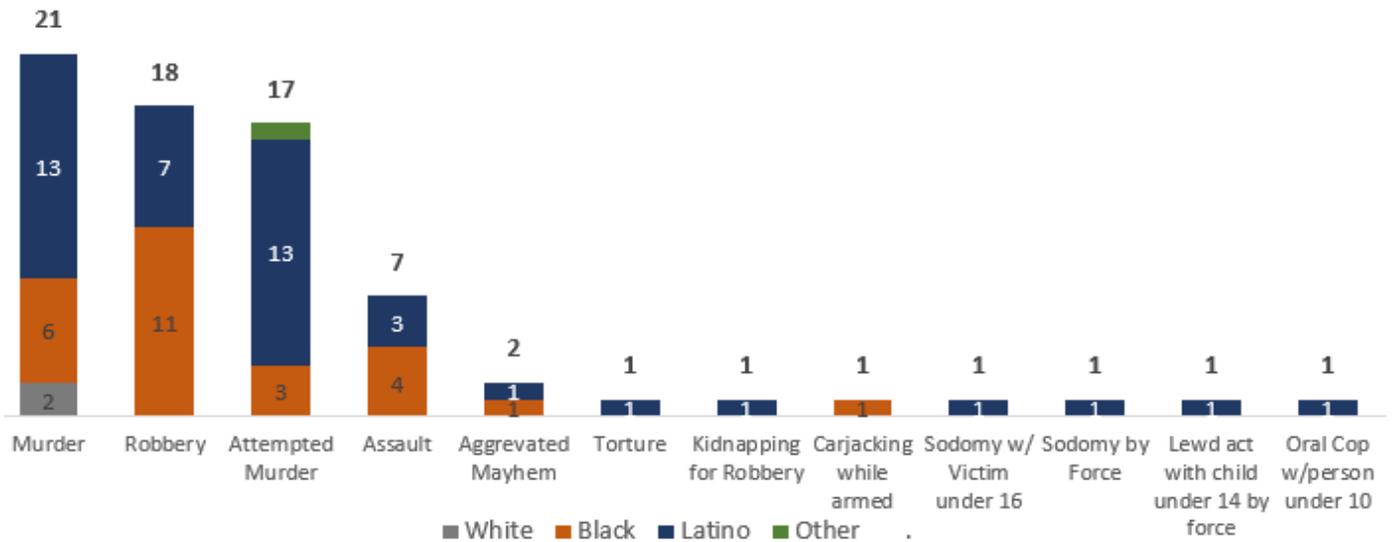


**Source:** Los Angeles County Probation Department.

#### 4. Most Serious Offense Sustained that is Associated with DJJ Commitments.

In 2019, the most frequent offense associated with DJJ commitments included murder, robbery and attempted murder. Together, these offenses accounted for 78% of commitments to DJJ. Importantly, additional details regarding youth committed to DJJ, including the youth’s role in the offense, were not unavailable.

**Figure 4: Youth Committed to DJJ: Most Serious Offense Sustained (2019).**

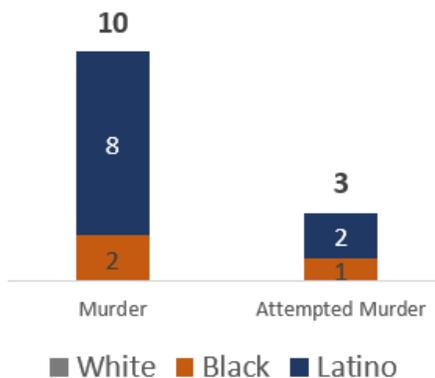


**Source:** Los Angeles County Probation Department

#### 5. Most Serious Offenses Associated with Adult Court Transfers.

In 2019, the most frequent offense associated with transfer to adult court were murder and attempted murder. Again, additional details regarding youth prosecuted as adults, including the youth’s role in the offense, were unavailable.

**Figure 5: Youth Committed to DJJ: Most Serious Offense Sustained (2019).**



**Source:** Los Angeles County Probation Department.

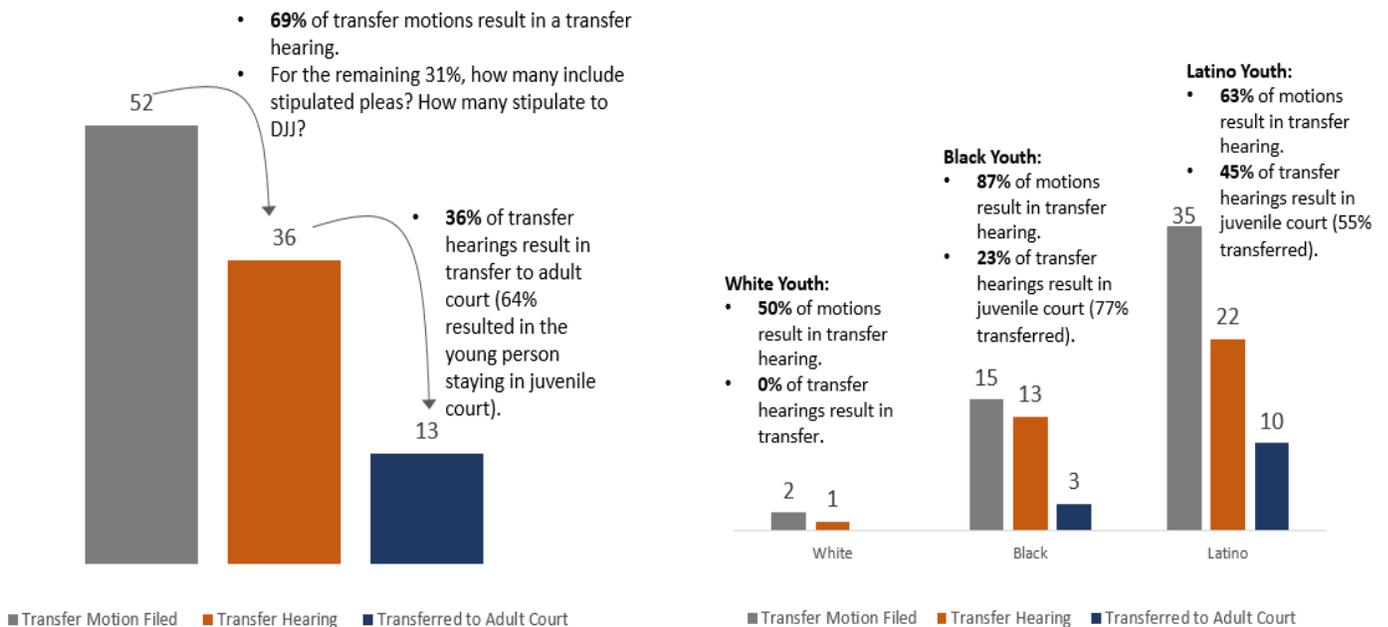
## 6. Adult Court Transfer Motions Compared to Adult Court Transfers.

The DJJ Transition Team reviewed not only cases in which youth were transferred to adult court, but also the series of decisions leading up to transfer including: (i) Number of youth who had a motion for transfer filed; (ii) Number of motions that resulted in a hearing; and (iii) Number of hearings that resulted in transferring the youth to adult court.

As illustrated in Figure 6 below, in 2019, 52 youth had a motion for transfer filed. Of those, 69% (36 youth) went on to have a transfer hearing. Of those who had a transfer hearing, 36% (13 youth) were transferred to adult court. Youth of color comprise 100% of youth transferred to adult court in 2019. There were only two motions for transfer filed on white youth—only one white youth had a transfer hearing and that hearing resulted in the youth remaining in juvenile court. Of the 15 Black youth for whom a transfer motion was filed, 13 had a transfer hearing and 3 were ultimately transferred. Of the 35 Latino youth for whom a transfer motion was filed, 22 had a transfer hearing and 10 were ultimately transferred.

It is unknown how many of the youth with a transfer motion filed and later withdrawn had a stipulated plea that resulted in a DJJ disposition. It is also unknown how many transfer hearing decisions resulting in juvenile court relied in part on the possibility of DJJ as a court disposition<sup>2</sup>. Based on recent court experience, DJJ Transition Team members speculate that it is a high proportion and underscore the need to ensure the DJJ alternative is considered a credible alternative to adult court prosecution.

**Figure 6: Tracking Adult Court Transfer Motions, Hearings, and Transfers (2019).**



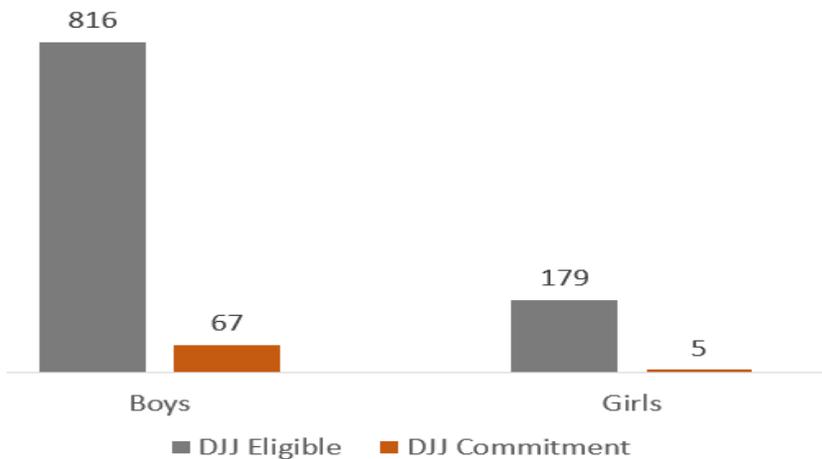
Source: Los Angeles County Probation Department

<sup>2</sup> Under WIC 707(a)(3), in a transfer hearing, the court must consider several factors, including whether the young person “can be rehabilitated prior to the expiration of juvenile court’s jurisdiction.” Under existing law, age of confinement for youth committed to DJJ extends to age 23 and in some cases 25, which may compel judicial officers that there is sufficient time for rehabilitation prior to the expiration of juvenile court jurisdiction if the youth’s case is maintained in juvenile court.

### 7. Special Populations: Girls and Youth Accused of Sex Offenses.

In 2019, girls comprise only seven 7% of the youth committed to DJJ by Los Angeles County. Further girls eligible for DJJ are less likely than boys eligible for DJJ to be committed. Whereas eight 8% of eligible boys were committed to DJJ (67 commitments out of 816 boys eligible), only 3% of eligible girls were committed (5 commitments out of 179 girls eligible). The five girls committed to DJJ in 2019 were adjudicated of murder, robbery, attempted murder and assault.

**Figure 7: Gender Breakdown of youth Eligible for DJJ and DJJ Commitments (2019).**



**Source:** Los Angeles County Probation Department.

In 2019, there were 4 youth committed to DJJ by Los Angeles County whose most serious adjudicated offense was sex-related. Youth accused of sex-related offenses who are committed to DJJ may be assigned to a specialized program at DJJ, the “Sexual Behavior Treatment Program.” Data regarding the number of youth from Los Angeles County who participated in the Sexual Behavior Treatment Program were unavailable to the Transition Team.

**Figure 8: Youth Committed to DJJ for Sex-Related Offenses (2019).**

Top Offenses of Youth Committed to DJJ (2019)	Total
PC187(A) - (Murder)	21
PC211 - (Robbery)	18
664/187(A) - Attempted Murder	17
PC245(A)(1); PC245(A)(2); PC245(A)(4) – Assault	7
PC205 - Aggravated Mayhem	2
PC206 – Torture	1
PC209(B)(1) - Kidnapping for Robbery	1
PC215(A) - Carjacking while armed	1
Sodomy w/ Victim under 16	1
PC286(C )(2)(A) - Sodomy by Force	1
PC288(B)(1) - Lewd act with child under 14 by force	1
PC288(C )(1) - Oral Cop w/person under 10	1

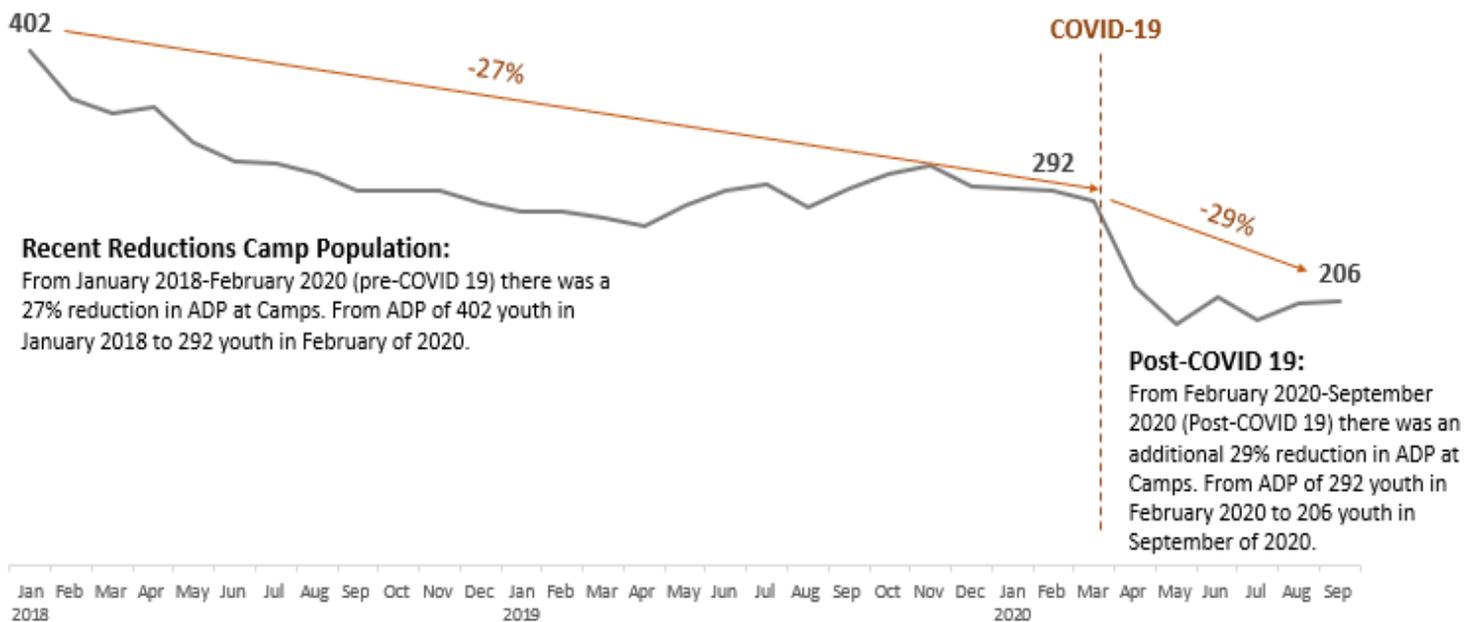
Not all youth adjudicated of a sex-related offense are in the sex offender treatment program, but in 2019, there were **4 youth** who had an offense that was sex-related.

**Source:** Los Angeles County Probation Department

### 8. Reduction in Camp Population.

As the result of numerous reform initiatives focused on alternatives to incarceration, the number of youth who are committed to local camps has decreased dramatically over the past decade and have declined significantly in recent months. Policies and practices instituted in response to the COVID-19 pandemic have affected the number of youth in Camps in recent months, but prior to COVID-19, the number of youth detained in Camps was already decreasing. The average number of youth in Camps in February 2020, just prior to COVID-19, was 292 youth, down 27% from 402 youth in January 2018. From February 2020 to September 2020 (Post-COVID-19) there was an additional 29% reduction in the average daily population (ADP) at Camps. From an ADP of 292 youth in February 2020 to 206 youth in September 2020.

**Figure 9: Recent Reduction in Average Daily Population (ADP) of Camps (2018-2020).**

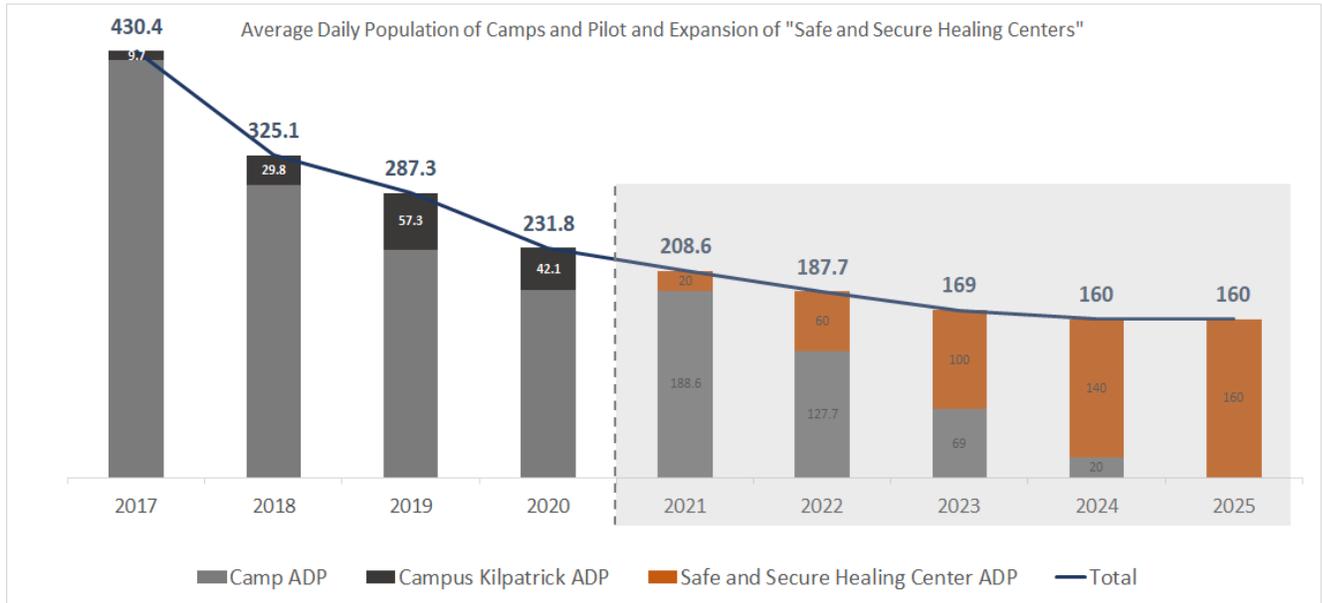


**Source: Los Angeles County Probation Department**

The piloting and expansion of Safe and Secure Healing Centers as recommended will diminish the need for the already decreased use of camps. As illustrated in Figure 10, commitments to Camp have decreased by between 12-24% annually from 2017-2020<sup>3</sup>. As is anticipated with YJR, if commitments continue to decrease (conservatively projected at a 10% reduction annually), the need for Camps or Safe and Secure Healing Centers that may serve as alternatives to camp will continue to decline. As is illustrated in Figure 10, YJR anticipates the piloting of Safe and Secure Healing Centers in Phase 1, and for the expansion of Safe and Secure Healing Centers in Phases 2 and full replacement of Camps in Phase 3.

<sup>3</sup> The average daily population (ADP) in Camps decreased from 430 in 2017 to 325 in 2018, a 24 percent reduction; from 325 in 2018 to 287 in 2019, a 12 percent reduction, and from 287 in 2019 to 232 in 2020, a 19% reduction

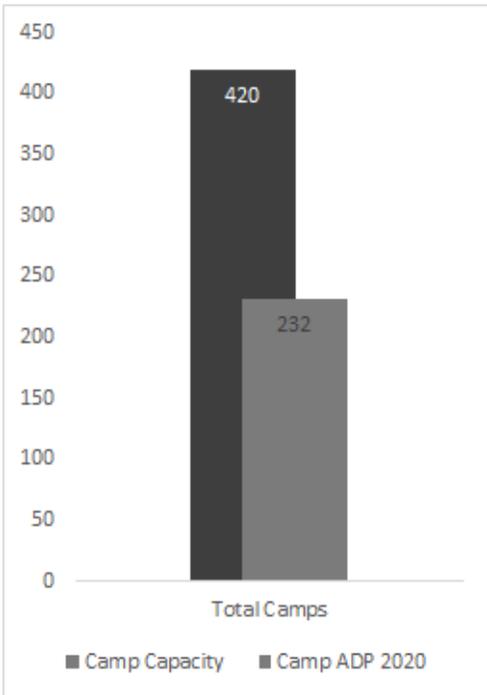
**Figure 10: Average Daily Population (ADP) of Camps and Projected Pilot and Expansion of "Safe and Secure Healing Centers."**



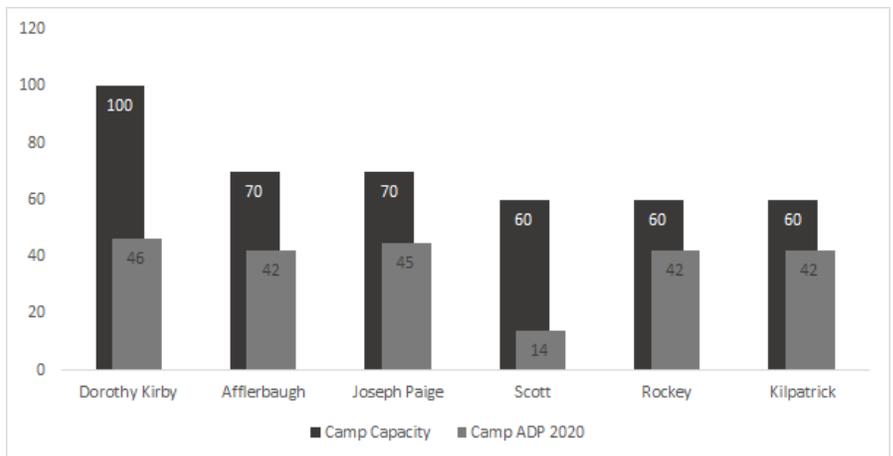
**Source:** ADP—Los Angeles County Probation Department; Projections, based on 10% decrease in commitments and phased expansion of Safe and Secure Healing Centers.

As illustrated in Figure 11, Camps in Los Angeles County continues to decline, signaling a reduced reliance on incarceration.

**Figure 11: Average Daily Population (ADP) of Camps and Camp Capacity.**



Reductions in the number of youth committed to Camps signals the County's commitment to decarceration strategies overall and reinforce the viability of a movement to continue to close Camps and shift to Safe and Secure Healing Centers.



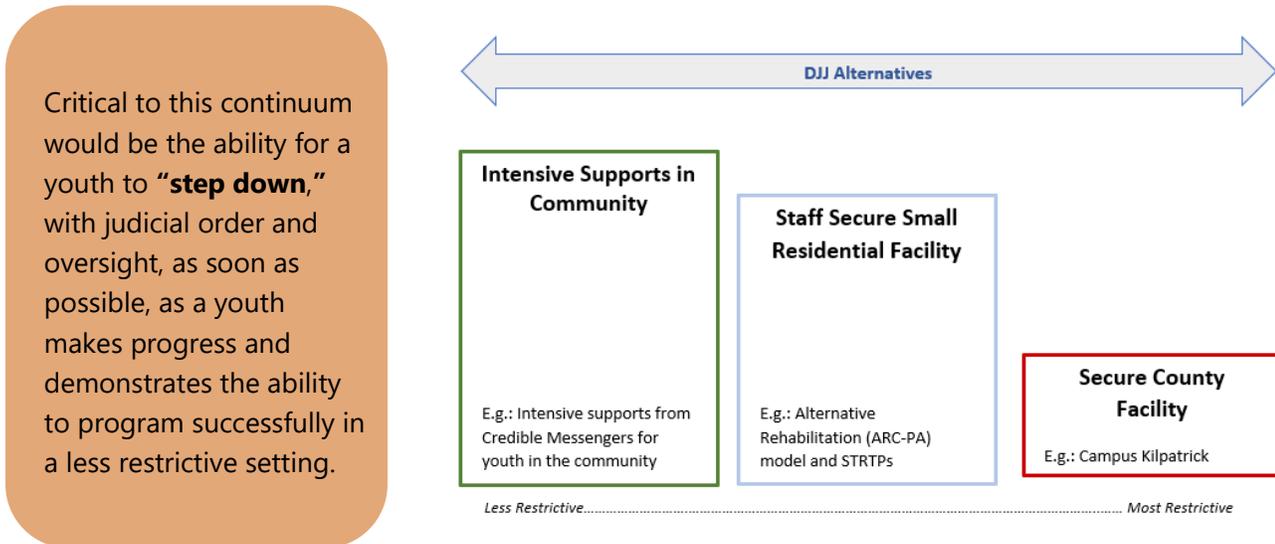
## Considerations for DJJ Alternatives

The DJJ Transition Team identified a number of key considerations for DJJ Alternatives to align with the described values. Chief among these considerations were: 1) continuum of responses that align with YJWG recommendations; 2) security and staffing; 3) facility attributes; 4) the perspectives of victims and survivors; 5) dispositional decision-making; and 6) programming.

### 1. Continuum of Responses that Align with YJWG Recommendations

The DJJ Transition Team discussed the need for a continuum of responses to the closure of DJJ that align with the overall YJWG’s principles rooted in youth development and racial equity, and that range from least to more restrictive, including:

- Intensive supports through community-based service providers;
- Small home-like residential facilities with a range of security; and
- Secure facilities.



The DJJ Transition Team examined an inventory of current facilities in Los Angeles to explore opportunities to leverage, build on and improve existing resources. Among the existing, small, home-like and staff-secured settings discussed were Short-Term Residential Therapeutic Programs and housing administered by Anti-Recidivism Coalition and A New Way of Life in Los Angeles and Alternative Rehabilitation Communities (ARC) in Pennsylvania.

Many felt like expanding and strengthening such small home-like settings are the ideal—such that some youth could be immediately sent to such settings, and others could progress to them from more restrictive settings. Some stakeholders felt strongly this would pose a public safety risk while others believed that for these settings to be viable as an alternative, at least some would need to be secure and locked; others think such settings can be viable and safe with proper monitoring, staffing, programming and locations.

At the other end of the continuum, the DJJ Transition Team discussed Barry J. Nidorf Juvenile Hall in Sylmar as the most restrictive option available for a DJJ alternative. Through informal polling and further discussion, the subcommittee dismissed Sylmar Juvenile Hall as a viable Secure Alternative to DJJ.

The DJJ Transition Team discussed numerous available facilities that could serve as a viable Secure Alternative to DJJ. Facility attributes and other considerations were discussed for each of the following facilities: Barry J. Nidorf; Other Camps; Dorothy Kirby Center; Campus Kilpatrick; Camp Gonzales; Short-Term Residential Therapeutic Programs (STRTPS) and new, small and home-like models akin to Alternative Rehabilitation Communities (ARC), in Pittsburgh Pennsylvania. For each facility, the DJJ Transition Team noted where attributes either aligned or conflicted with identified values.

**The facility attributes discussed included:**

- Security;
- Capacity for vocational and educational training ;
- Therapeutic environment;
- Institutional/ Non-prison like; and
- Availability of vast outdoor green space.

**Other considerations discussed included:**

- Benefits to facility being used as a Secure Alternative to DJJ;
- Concerns regarding facility being used as a Secure Alternative to DJJ; and
- Renovations needed to align the facility with core values.

**The DJJ Transition Team largely agreed to focus its most restrictive options on:**

- **Campus Kilpatrick (Location—Malibu Hills; capacity— 60 youth).** Kilpatrick is a locked, fenced camp facility that was renovated and reopened in 2017 for the implementation of the “LA Model” focused on a therapeutic milieu. Despite critiques and real challenges with adhering to the LA Model, Kilpatrick continues to hold promise for many stakeholders as the newest, most conducive to healing option among facilities in LA County.  
Concerns for using Campus Kilpatrick as a Secure Alternative to DJJ include its remote location contributing to disconnection from families and community, its large size and displacing the current camp population to less healing-focused facility options.
- **Camp Gonzalez (Location—Malibu Hills; Capacity— 60 youth).** Camp Gonzales has been undergoing a repurposing since June 2017 and involves a partnership between a CBO and Probation, with an ultimate plan for the facility to be run by a CBO for non-detention services. The County is currently looking for a CBO partner on programming and also recalibrating budgets based on the current economic climate. Current target populations for the repurposed facility are: transition-age males (ages 18-25); at-risk of/or experiencing homelessness or juvenile justice involvement; system-involved from Probation and Children and Family Services; exposed to trauma; underserved ethnic and cultural populations. The intended programming for the new facility focuses on two vocational tracks— construction and culinary training through LA Trade Tech, based on assessment of employment trends.

Concerns for using Camp Gonzalez as a DJJ alternative include its remote location and the potential need for significant renovations for it to become a secure alternative because recent investments were made to repurpose the facility as a non-secure residential center.

- **Dorothy Kirby Center (Location—Commerce; Capacity—100 youth).** Dorothy Kirby Center (DKC) is a locked, fenced secure facility focused on providing youth with intensive mental health supports. Over time, staffing has shifted so that 50% of the staffing and management of Kirby comprises workers from the Department of Mental Health.

Support for the use of DKC as a Secure Alternative to DJJ includes that it is closer geographically and more of a treatment model. Others believe it is not secure enough and will displace current camp populations.

As Los Angeles County considers and implements the recommendations for both alternatives to DJJ and the YJWG's Safe and Secure Healing Centers, it should ensure that the overall reliance on existing camps continues to decrease, and current and new placement options have capacity to serve all justice-involved youth consistent with the values of the YJWG.

## 2. Security and Staffing

Security is an essential priority to youth and staff—inside any alternative DJJ facility, and outside for community safety. Youth who are currently or formerly incarcerated in DJJ provided critical insight into two particular questions that the DJJ Transition Team discussed as well: 1) What would make it safe inside a facility for you? and 2) What would make you stay and not try to run? For youth who grow up in communities familiar with crime and violence, and who enter detention settings that can also pose such threats, they of course care deeply about such notions as safety and security for themselves and the broader community.

Like many probation staff and youth surveyed through the YJWG, the DJJ youth underscored first and foremost the interconnection between staffing, and their safety and sense of security. This emphasis on cultivating trust, support, motivation and opportunity through staff as well as programming is consistent with a core tenet of the LA Model in Los Angeles County—that psychological and physical safety inside a facility are a priority for everyone, and are “promoted through a variety of positive mechanisms integrated into daily interactions and activities.” Diverse stakeholders agree that the security of staff flows from the security of youth—when youth feel safe, stable and secure, staff are more so too. Thus, discussion explored how facility staffing should shift away from staff with corrections backgrounds to backgrounds in social work and healing.

In keeping with the overall YJWG principles, there was also strong alignment that staff with personal experience going through the justice system and who are relatable to youth (called “Credible Messengers” for the purposes of this work) are critical and an essential part of security. The Credible Messenger movement has emerged based on a core belief that communities have within them transformative resources to lift up justice-involved people in a comprehensive and positive way. It works from the inside out: justice-involved/at-risk youth who have a higher risk of future justice system contact are matched with specially trained adults with relevant life experiences (often previously incarcerated, Returned Citizens) called Credible Messengers, who share their background.

Beyond staffing, many subcommittee members also believe that the ultimate security of the community and sometimes for youth themselves requires some measure of physical restrictions. Brainstorms generated and focused on ideas of physical restraints that, importantly, avoid an appearance and sense of institutionalization as much as possible. Most agreed that for Secure Alternatives to DJJ, the perimeter must be secure, but beyond that, the space inside should allow for considerable freedom of movement. Ideas included invisible bars, hidden cameras, high walls, gated grounds with security officers and remoteness from communities. During DJJ Transition Team meetings, Probation and other DJJ Transition Team members expressed the need to assess whether Campus Kilpatrick, Camp Gonzales, and the Dorothy Kirby Center have adequate security to serve youth otherwise subject to DJJ.

DJJ Transition Team members discussed concerns regarding whether contemplated facilities comply with relevant Title 24 Regulations. According to a subsequent conversation with staff from the Board of State and Community Corrections (BSCC), the version of Title 24 regulations that applies to secure County facilities depends on the year the facility was built. Facilities remain under the requirements of Title 24 under the year they were built unless significant changes to the facility trigger compliance with more recent standards. The version of Title 24 that applies to the recently closed Camp Gonzales is contingent on an inspection of BSCC where several factors will be considered, including but not limited to: 1) condition of facility when closed; 2) how long ago facility was closed; 3) whether County maintained fire and life safety inspections of the facility when closed; and 4) the type of infrastructure changes have been made since closure.

### 3. Facility Attributes of Secure Alternative to DJJ

The DJJ Transition Team further discussed the attributes of an alternative to DJJ that would avoid a prison-like environment and feeling of institutionalization.

#### Specifically, facilities would require:

- A more **therapeutic, home-like environment**;
- **Vast, outdoor green spaces**; and
- Capacity for **vocational/ed training**;
- Healing space to **accommodate family visits**.

#### Additional emphasis was placed on:

- **Programming and staffing** as part of a therapeutic approach. Staffing and programming facilitate rehabilitation and development of youth, as well overall security for youth, staff and community.
- **Family Transportation**, especially for any remote facility, is vital to ensure ongoing contact, connection and relationship-building between youth and their families—contributing to their overall wellbeing during and after commitments.
- **Specialization** in programming—there is a need to consider specialized, separate programming based on offense types and youth needs, including for those accused of sex-related offenses.

#### 4. Victims and survivors' voices

At the outset, various subcommittee members and coordinators agreed that a victim or survivor's voice was central to include and consider in developing DJJ alternatives. In response, the facilitation team took the following steps:

- Outreach to Javier Stauring, director of Healing Dialogues and Action (HDA), to join the DJJ Transition Team as well as to conduct a learning exchange with HDA. HDA is an organization of family survivors of homicide, incarcerated and formerly incarcerated people, and communities affected by violent crime that creates healing spaces and advocacy opportunities. The learning exchange featured both formerly incarcerated individuals who were sentenced as youth, and survivors—challenging the adversarial divide and definitions of “victim” and “offender,” as many formerly incarcerated individuals were also subjects of violence and harm.
- Continued outreach efforts were made to other victim and survivor rights organizations including Crime Victims Assistance Network and Crime Survivors for Safety and Justice but were unsuccessful.
- Several stakeholders were concerned that the voice of victims and survivors were not adequately heard. This came up on several occasions, and each time, the facilitators requested DJJ Transition Team members provide contacts to solicit insight from victims or victims' rights organizations to offer that perspective. All DJJ Transition Team participants agreed that additional outreach will be required to ensure that a broad perspective from victims are included in implementation.

#### **The Learning Exchange with HDA underscored the following themes:**

**Needs.** Youth who become justice-involved, including at the deepest end, have fundamental, universal needs, including the need for connection, safety, trust.

**Prior traumas.** The childhood conditions of the panelists who were sentenced to lengthy terms highlight the trauma/harms that existed prior to and were related to their system involvement. In many instances, they were victims/survivors too.

**Need for healing and “accountability.”** There is a shared need for healing and investment in the healing of individuals, families and whole communities. Accountability is possible when a person who inflicted harm reaches healing.

**Spaces and supports for connection and healing in a safe environment.** The spaces (whether through courses, therapy, individual mentorships and relationships) that allowed individuals to explore who they are and how they felt were the most conducive to healing. There is a scarcity of safety, care and supports inside prisons to facilitate connection and healing.

**Time.** Panelists proposed that we should be able to allow for this healing (and thus accountability) without caging people the way we do and for the amount of time that we do.

**Healing of survivors and connection.** The healing of survivors who lost someone is tied to the healing of the person who took that life. Without true healing and connection, harm and pain can cycle and generate further harm and pain.

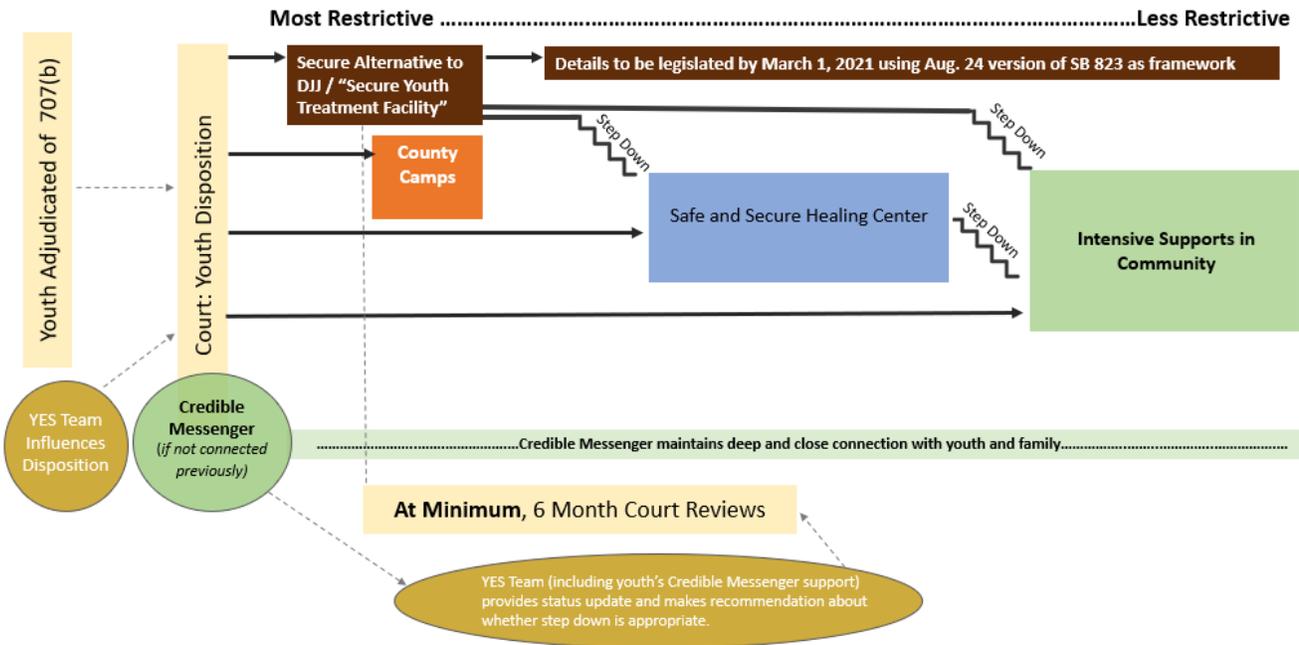
## 5. YES Teams Influence Dispositional Decision-Making

A foundational component of Youth Justice Reimagined (YJR) includes community-driven input in decision-making along the youth justice continuum with Youth Empowerment and Support (YES) Teams. As described in YJR, YES Teams focus on providing healing, repairing and support in equal measure to those who have caused harm and those who have been harmed—as a paradigm shift from a system of punishment, suppression and control. YES Teams shift to and embody an opportunity to contribute to effective team decision-making. The YES Teams will establish authentic and deep relationships with youth, families and communities, and be resourced to bring a community lens to decision-making. The relationships and connections uniquely position YES Team members to influence decisions ensuring racial, cultural and restorative responses reflecting Youth Development principles.

### The DJJ Transition Team discussed the influence of YES Teams in four primary ways:

- **Court Disposition.** With their deep knowledge of the young person, including their strengths and needs, YES Teams will be well-positioned to recommend an appropriate disposition for youth adjudicated of an offense enumerated in WIC 707 (b), drawing on the range of dispositional options available to youth, from the most restrictive option of the Secure Alternative to DJJ to less restrictive options including Safe and Secure Healing Centers as they are developed and intensive supports in a community-based setting.
- **Individual Treatment Plan for Youth Committed to a Secure Alternative to DJJ.** As noted, the version of SB 823 that serves as a framework for developing the dispositional track for “higher needs” youth (to be established by March 1, 2021), indicates that a commitment to a Secure Youth Treatment Facility must be accompanied by an individual treatment plan developed with a multidisciplinary team of youth-serving experts and counsel for the youth. The DJJ Transition Team discussed how YES Teams may be well-positioned to fulfill this function.
- **Progress Reports for Youth Committed to a Secure Alternative to DJJ.** Another requirement included in legislation that serves as a framework for the dispositional track for “higher needs” youth is that the court schedule and hold a progress review hearing for youth committed to Secure Youth Treatment Facilities not less frequently than once every six months. At this hearing, the court would consider recommendations from a broad array of stakeholders who maintain relevant information regarding the youth’s healing and progress in programming. The DJJ Transition Team reinforced the importance of ensuring progress reviews be periodic and non-adversarial and focus on the youth’s treatment plan and progress in programming. Recommendations at review hearings should focus on enhancing or expanding programs that promote youth’s healing. Again, the DJJ Transition Team discussed the YES Teams as being well-positioned to serve this function.
- **Reentry.** Drawing upon the experience of youth recently released from DJJ, the DJJ Transition Team discussed the need for YES Teams to begin reentry planning upon entry into a Secure Alternative to DJJ.

**Figure 12: Dispositional Decision-Making Schematic Discussed during DJJ Transition Team Meetings.**



## 6. Programming

The DJJ Transition Team and the DJJ Youth Advisory Board discussed the importance of ensuring programming be culturally rooted and trauma-informed. In addition, the Team discussed the need to ensure programming in Secure Alternatives to DJJ promote healing and education, inspire creativity and offer a range of opportunities that uphold the principles of youth development.

The DJJ Youth Advisory Board shared a common notion that peer-to-peer support should be included in various programming models. They discussed the importance of mentors to support the development of emotional intelligence and help youth to stay on the right track and find their way back when they stumble. They emphasized the urgent need for access to services both while in the Secure Alternative to DJJ but also in the community, as a component of reentry. They identified the need for connection to a support network with paths and access to opportunities.

Building on prior efforts to develop more holistic and effective programming for justice system involved youth through a youth development approach, the following list reflects the range of programming discussed within the process:

- Secondary Education - GED
- Post-Secondary Education
- Law Library Access
- Food Service and Chef Training
- Plant/Agriculture Program
- Technology Program
- Music-Production
- Dog Training
- Furloughs
- Job Internships
- Programming that incorporates frequent visits with family and friends
- Assistance with SS cards/IDs
- Training in Professional Trades including: Carpentry, Welding, Plumbing, Construction etc.
- Advocacy, Social Justice and Non-Profit Development
- Sports, exercise and physical health
- Small Business Development and Management
- Parenting and Family Support
- Personal Nutrition and Health
- Emotional Intelligence and Wellness

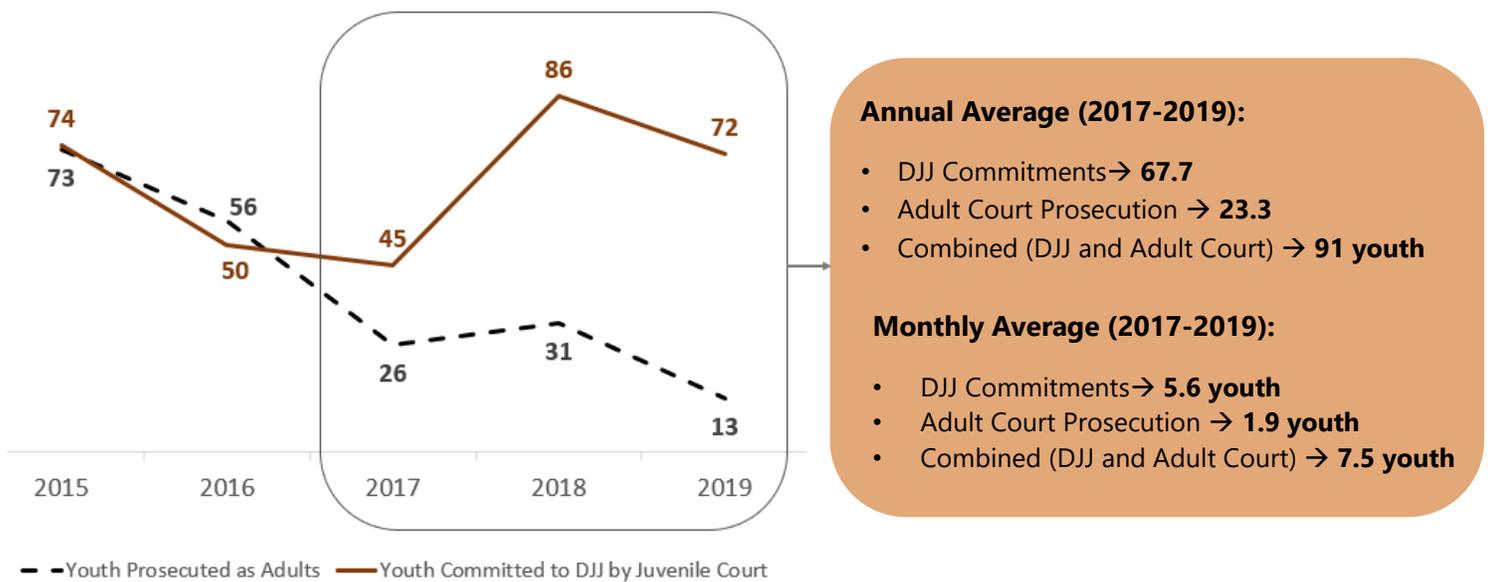
## Capacity and Facilities

YJR anticipates a dramatic decrease in the number of youth subject to justice system involvement. Despite the anticipated reductions, for the purposes of planning for capacity needs when DJJ intake closes on July 1, 2021, the DJJ Transition Team reviewed recent trends in youth committed to DJJ and prosecuted as adults to make conservative estimates on local capacity needs for a “higher need” dispositional track and to serve as “Secure Youth Treatment Facilities.”

### Using averages of data for the last three years (2017-2019), analysis revealed:

- An average of **5.6 youth** are committed to DJJ by the juvenile court per month.
- An average of **1.9 youth** are transferred to adult court per month.

**Figure 12: Annual Commitments to DJJ and Adult Court Prosecutions (2015-2019)**



**Source:** Los Angeles County Probation Department and Los Angeles County District Attorney

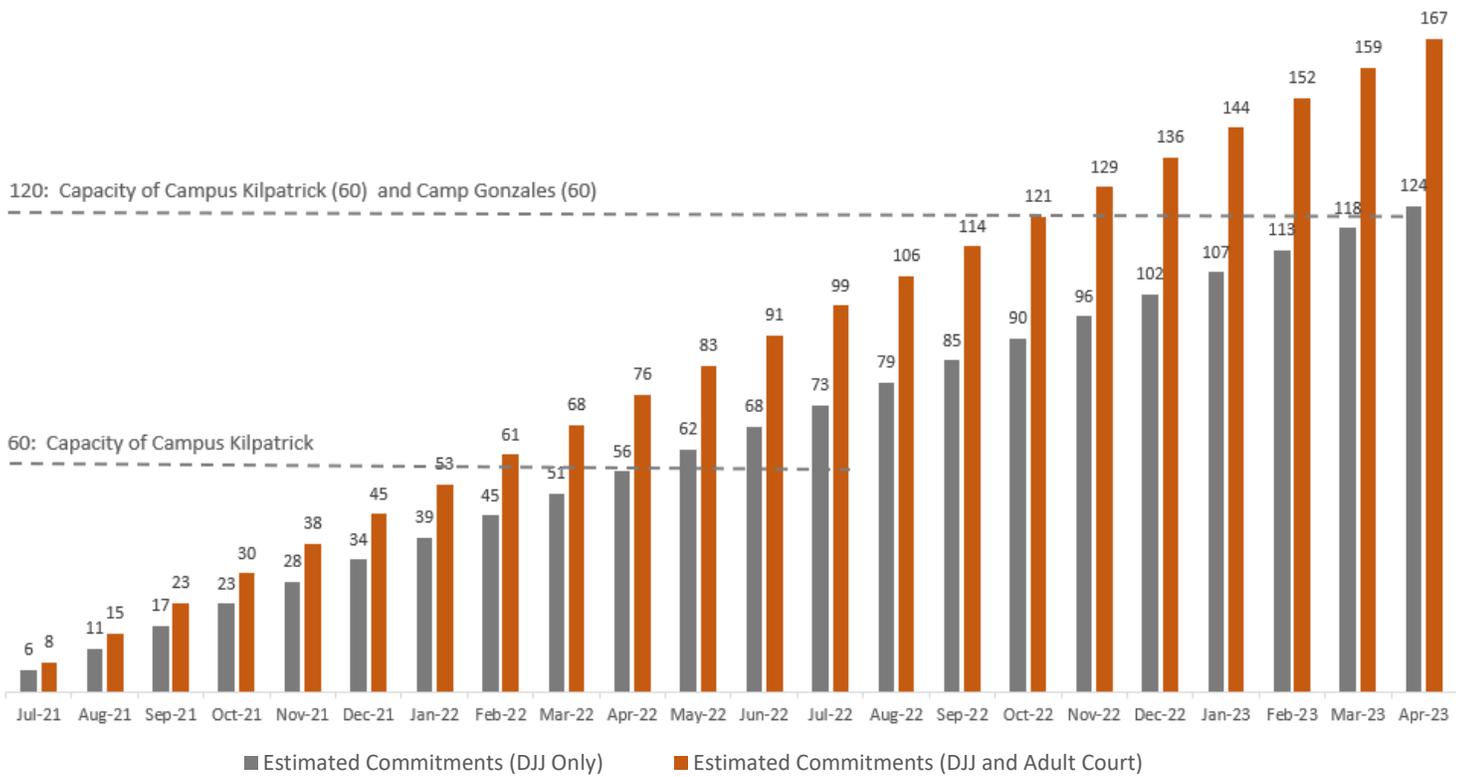
If these average monthly trends continue, and all youth who would have been committed to DJJ and, in line District Attorney Gascón’s recent policy directive- all youth previously transferred to adult court are instead committed to a Secure Alternative to DJJ, the County would need capacity for an average of **7.5 youth** per month (an average of 5.6 youth committed to DJJ per month plus an average of 1.9 youth transferred to adult court per month). DJJ Transition Team conversations identified both Campus Kilpatrick and Camp Gonzales as potential facilities that could offer a secure alternative to DJJ that would align with named values. Both facilities currently have a capacity of 60 youth. If one facility were used, with 7.5 youth committed per month (conservative estimate using average number youth committed to DJJ and transferred to adult court), the facility would reach capacity in February 2022.

If one facility were used, with **5.6 youth** committed per month (conservative estimate using average number of youth committed to DJJ only), the facility would reach capacity in May 2022. If both facilities

were used under current capacity, capacity would be reached in October 2022 or April 2023, at which point some youth committed in July 2021 would likely be released from custody.

Including Dorothy Kirby Center could offer an additional capacity of 100 youth. As the DJJ Transition Team continues to discuss viable options for special populations, including girls, youth with unique mental health needs, and youth in need of treatment for sex offenses, the capacity at Dorothy Kirby will be further explored.

**Figure 13: : Conservative Estimate of Monthly Commitments to Alternative to DJJ .**



**Source: Los Angeles County Probation, estimates based on average monthly commitments and adult court prosecution for 2017-2019**

## DJJ Transition Team Recommendations

### 1. Recommendations building on Youth Justice Reimagined

- a. Create a plan to phase the **transition of Probation operations of Secure Alternatives to DJJ to the new Department of Youth Development (DYD)** as soon as DYD has capacity.

### 2. Recommendation regarding DJJ Youth Advisory Body

- a. **Establish and fund a DJJ Youth Advisory Body** to ensure the experience of youth impacted by DJJ remains centered in the implementation of SB 823, to inform and provide comments on any plan established by the JJCC Subcommittee, and to provide recommendations regarding programming for Secure Alternatives to DJJ.

### 3. Recommendations regarding Juvenile Justice Coordinating Council (JJCC) Subcommittee

- a. **Create a subcommittee of the multiagency Juvenile Justice Coordinating Council (JJCC)** to immediately follow up on recommendations included in this report and to develop a plan for the use of Juvenile Justice Realignment Block Grant Funds to be allocated to Los Angeles County.
- b. In line with the DJJ Transition Team's priority to center impacted youth voice and consistent with the motion from the Board of Supervisors in December 2017 to diversify and expand community representation the JJCC, **designate no fewer than four seats on the JJCC Subcommittee authorized by SB 823 to community members** with experience providing community-based youth services, youth justice advocates, or people with direct experience in the juvenile justice system.
- c. To promote continuity, **designate representatives who participated in the DJJ Transition Team** to the JJCC Subcommittee.
- d. Continue to utilize the services of experienced consultant(s) to support and provide facilitation of the planning process.
- e. **Add representative(s) from YDD and other relevant county agencies** relevant to the implementation of SB 823.
- f. **Establish a policy for no fewer than once annual convening of the JJCC Subcommittee** to review programs and interventions supported by JRBG funds, data on youth served on the continuum of DJJ alternatives, including the use of Secure Alternatives to DJJ, data on youth prosecuted as adults, available outcome measures data, to receive feedback from the DJJ Youth Advisory Board and to modify their plan as needed.

#### 4. Recommendations regarding facilities to serve as Secure Alternative to DJJ

- a. **Develop plan for immediate repurposing of the following existing County facilities to serve as Secure Alternative to DJJ, ensuring ideal facility attributes discussed by DJJ Transition Team are considered and implemented:**
  - i. Campus Kilpatrick by July 2021;
  - ii. A pod within either Campus Kilpatrick or Dorothy Kirby Center to serve girls and youth with acute mental health needs who would otherwise be subject to DJJ by July 2021; and
  - iii. Camp Gonzales by February 2022, if additional capacity is deemed necessary.
- b. **Develop a policy prohibiting the use of Barry J. Nidorf Juvenile Hall** as a long-term post-dispositional track for any youth, including youth otherwise subject to DJJ.

#### 5. Recommendations regarding Facility Renovation

- a. **Direct Probation to immediately conduct a safety and security assessment** of any facility or pod under consideration to serve as a Secure Alternative to DJJ, contemplating the following considerations:
  - i. The existing or potential capacity of staff to establish safety and a sense of security within the facility through cultivating trust, communication and connection, a sense of belonging, and motivation among youth;
  - ii. The existing or potential capacity of programming to inspire and engage youth in opportunities for growth and learning; and
  - iii. The existing level of security versus the needed level of security through physical restraints that minimize the appearance and sense of institutionalization as much as possible; ideas included invisible bars, hidden cameras, high walls, gated grounds with security officers and remoteness from communities.
- b. **Direct Probation to request an onsite Title 24 compliance assessment** of Camp Gonzales by the Board of State and Community Corrections (BSCC).
- c. **Direct Probation, YDD and the Youth Justice Transition Advisory Group (YJTAG) to develop a budget using existing funds or JJRBG funds** on any renovations necessary to establish Secure Alternatives to DJJ.

#### 6. Recommendations regarding Camps

- a. **Continue efforts that reduce the number of youth committed to camp**, including the recommendations in YJR to pilot and expand the use of Safe and Secure Healing Centers to serve as alternatives to Camp.
- b. **Direct Probation to implement elements of the LA Model<sup>4</sup> in existing camps**, ensuring that youth who previously benefited from any healing-based, care-first approach promoted at Campus Kilpatrick will receive the same benefits in other existing facilities.

## 7. Recommendations regarding staffing of secure alternatives to DJJ

- a. Direct Probation to collaborate with YDD and the YJTAG to immediately develop a plan and corresponding budget to submit to the JJCC subcommittee for **the initial recruitment and training of a cohort of Credible Messengers** to serve as staff at Secure Alternative to DJJ by July 2021 and to provide mentorship and reentry support for youth stepping down or exiting the facility.
- b. Direct Probation to collaborate with YDD and the YJTAG to **develop a plan to ensure staffing of Secure Alternatives to DJJ prioritizes backgrounds in social work and cultural healing practices.**
- c. Direct YDD and a new DYD, as it is erected, to **continue to expand Credible Messengers beyond an initial pilot as part of a core staffing** model of the continuum of DJJ alternatives, including Secure Alternatives to DJJ.

## 8. Recommendations regarding Youth Empowerment and Support Teams (YES) Teams and dispositional decision-making

- a. **Develop a plan to incorporate the influence of YES Teams** in:
  - i. Court Dispositions for youth adjudicated of offenses enumerated in W.I.C. 707(b)
  - ii. Individual Treatment Plans for youth committed to Secure Alternatives to DJJ
  - iii. Progress Reports for youth committed to Secure Alternatives to DJJ
  - iv. Reentry Planning
- b. **Create a process for Step Down**, as permissible by law, for youth committed to Secure Alternatives to DJJ, allowing youth to step down to home-like, therapeutic settings such as Safe and Secure Healing Centers or community-rooted supports and supervision as soon as a

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<sup>4</sup> For more information on The LA Mode, see Korman, H. et al, "A Culture of Care for All: Envisioning the LA Model" (May 2017), available at <https://probation.lacounty.gov/wp-content/uploads/LA-Model-A-Culture-of-Care-for-All-2.pdf>.

youth makes progress and demonstrates the ability to program successfully in a less restrictive setting.

## 9. Recommendations regarding Programming

- a. Direct Probation, YDD, and the YJTAG along with the DJJ Youth Advisory Group to **further flesh out the programming to be provided within the DJJ Alternative and develop corresponding budget projections.**
- b. Direct Probation, YDD and the YJTAG to develop a plan, including a budget, to **ensure transportation for family visitation at the Secure Alternatives to DJJ** given their remote locations. Family visitation is vital to ensure ongoing contact, connection and relationship-building between youth and their families—contributing to their overall wellbeing during and after commitments.
- c. Direct Probation, YDD and the YJTAG in partnership with the JJCC to **identify and resource the needed specialization in programming** based on offense types and youth needs, including for girls and youth accused of sex-related offenses.

## 10. Recommendations regarding data collection

- a. To ensure that there are no net-widening effects in the implementation of Secure Alternative to DJJ and that the significant racial and ethnic disparities so pronounced in previous commitments to DJJ and adult court prosecutions in Los Angeles County are not replicated with the implementation local alternatives, **collect and make publicly available reports with data** disaggregated by race/ethnicity, gender, and age at alleged offense and most serious adjudicated offense<sup>5</sup> regarding:
  - i. Youth eligible for Secure Alternative to DJJ
  - ii. Youth committed to Secure Alternative to DJJ
  - iii. Youth for whom a motion for transfer to adult court is filed
  - iv. Youth with a transfer hearing
  - v. Youth transferred to adult court

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<sup>5</sup> For youth committed to DJJ, data regarding the most serious offense adjudicated should be collected and reported. For youth with a motion for transfer to adult court, most serious offense alleged should be collected and reported.

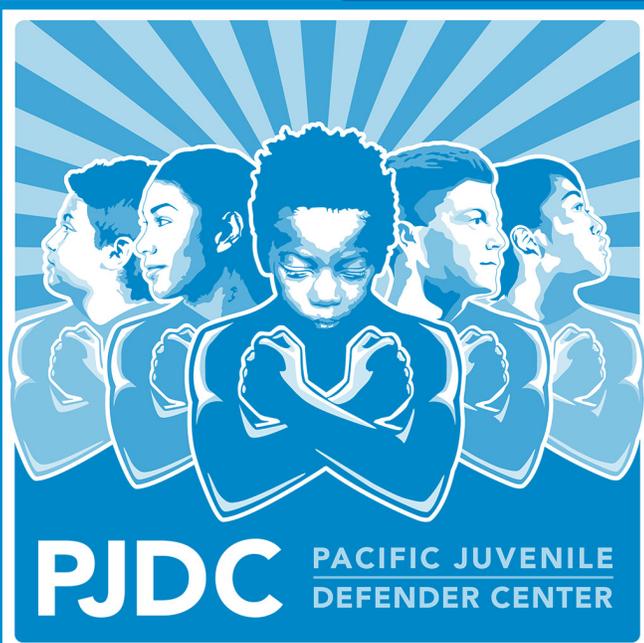
- b. Collect and make publicly available data regarding dispositional outcomes for all youth adjudicated of offenses enumerated in WIC 707(b) disaggregated by disposition, race/ethnicity, gender and age at alleged offense.
- c. Collect and make publicly available data regarding sentences of youth prosecuted as adults disaggregated by most serious offense convicted, adult court disposition, race/ethnicity, gender, and age at alleged offense.
- d. Develop a strategy for collecting, analyzing and making publicly available key outcome data for youth served by the continuum of alternatives to DJJ, including Secure Alternatives to DJJ.

April 2021

# SB 823 County Implementation – Policy and Practice Manual

Written by Patricia Soung, Consultant

Edited by Sue Burrell, Jonathan Laba  
and Damian Spieckerman



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- A. Youth Adjudicated of Sex Offenses
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## IV. APPLYING THE RESEARCH TO YOUR COUNTY

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## VI. CONCLUSION

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## VII. APPENDIX

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- A. Youth Adjudicated of Sex Offenses – Expanded Discussion

On September 30th, 2020, Governor Gavin Newsom signed SB 823, historic legislation to close California's Division of Juvenile Justice (DJJ) – the state youth prison system founded in 1942 on a nineteenth century training model and the subject of many legal challenges and reform efforts over its approximately 80 year existence.<sup>1</sup> DJJ houses youth adjudicated for more serious cases up to the age of 25. The shutdown of DJJ ultimately transfers all responsibilities over the custody, treatment, and supervision of youth in the delinquency system to counties.

## A. Goals of the Manual

As DJJ ends intake and closes over a multi-year timeline, counties are working fast to develop plans to serve youth who may have otherwise been committed to DJJ. The primary goals of this manual are twofold – to:

1. **Strengthen youth policy advocacy** across California counties in developing and using effective alternatives to DJJ through JJCC and other county collaboration; and
2. **Strengthen juvenile defense advocacy** on behalf of individual youth impacted by DJJ closure.

The implementation of SB 823 will take place over 58 diverse counties in California, and in phases in the near future and over a period of time. In light of the challenges of the timeline and scope of implementation, the manual considers the reality that every county will be balancing:

- The prevailing research, wisdom and long-term vision around serving justice-involved youth in a more transformative way, versus the available resources and specific needs and limitations of their locality in implementing more ideal alternatives to DJJ;
- Compromises in adopting short-term implementation plans to respond immediately and practically to the closure of DJJ, and commitment to longer-term implementation to advance the ultimate goals of SB 823;
- Needed responses for individual youth who would otherwise be committed to DJJ, and needed policies, programs and systems for whole populations of youth.

## B. Principles Underlying the Manual

The principles underlying this manual flow from the powerful framing language articulated in SB 823.<sup>2</sup> Thus, the recommendations discussed here are based on the ultimate conclusions and principles that:

- Justice system-involved youth “are more successful when they **remain connected to their families and communities.**”
- Justice-involved youth should be “**receive age-appropriate treatment.**”
- To meet the needs of youth, counties should provide and implement “**public health approaches to support positive youth development**, building the capacity of a continuum of community-based approaches, and reducing crime by youth.”
- Counties should “**use evidence-based and promising practices and programs** that improve the outcomes of youth and public safety.”
- Counties should “**reduce the transfer of youth into the adult criminal justice system.**”
- Dispositions must be in the **least restrictive appropriate environment** and “**reduce the use of confinement** in the juvenile justice system by utilizing community-based responses and interventions.”
- **Racial and ethnic disparities** must be eliminated.

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1. Daniel E. Macallair, *After the Doors Were Locked: A History of Youth Corrections in California and the Origins of Twenty- First Century Reform*, Rowman & Littlefield (2015).

2. Senate Bill 823 §1(a) (October 10, 2020).

## C. SB 823 Overview

Pursuant to SB 823, DJJ intake will end beginning July 1, 2021 – except for youth facing potential transfer to criminal court. The legislation so far provides no final closure date. SB 823 also increases local court jurisdiction and age of confinement in local youth facilities to age 25 - to align with the current upper age of confinement at DJJ. It includes important protections against criminal court prosecution of youth as well. Specifically, the key provisions of SB 823 provide for:

1. **Intent for new secure facilities track.** SB 823 codifies the Legislature’s intent to establish by March 1, 2021 a special dispositional track for “higher-need” youth to be used as an alternative to DJJ and adult court prosecution. As of this date, the legislature continues to develop statutory language regarding the track.

As legislated, the dispositional track will build on a framework from an earlier version of SB 823, delineating parameters for “Secure Youth Treatment Facilities” (SYTFs) and limiting youth eligible for the track to:

- Youth adjudicated of an offense enumerated in Welfare and Institutions Code section 707(b) who was 14 years or older when the offense was committed and
- Youth for whom the 707(b) offense was the most recent offense for which the youth was adjudicated.<sup>3</sup>

Under the framework, the court must then make a determination on the record that a less restrictive disposition is unsuitable after considering the severity of offense(s), including youth’s role and the harm inflicted; youth’s offense and commitment history; whether programming offered and provided through an SYTF is appropriate to meet treatment and security needs of youth; and whether the goals of rehabilitation and community safety can be met by assigning youth to an alternative, less restrictive disposition available to the court.

Commitment to an SYTF would be accompanied by an individual treatment plan developed in concert with a multidisciplinary team of youth-serving experts and counsel for the youth. Commitment to an SYTF would trigger a baseline term of confinement with regular progress review hearings to evaluate youths’ progress and to determine whether the baseline term should be modified.

2. **Extension of Juvenile Court Jurisdiction.** SB 823 extends the age of local juvenile court jurisdiction for youth adjudicated of WIC 707(b) offenses to age 23 and to age 25 for youth adjudicated of WIC 707(b) offenses and who would face a sentence of seven years or more in the adult system.<sup>4</sup>
3. **Extension of Age of Local Confinement.** Under SB 823, youth whose case originated in juvenile court and are detained in a local youth facility pending disposition of their cases can remain in such a facility until age 21, unless the probation department petitions the court and the court decides according to certain criteria described under Welfare and Institutions Code section 208.5 to move a youth age 19 or older to an adult facility. Youth adjudicated for serious and violent offenses and committed to a post-disposition program in a local juvenile facility can remain housed in a juvenile facility up to age 25, following the court jurisdiction parameters above.<sup>5</sup>
4. **Extension of DJJ Intake for Transfer Cases.** SB 823 closes intake for new youth commitments to DJJ on July 1, 2021. However, youth otherwise eligible for DJJ in whose case a motion for transfer was filed may still be committed to DJJ until its final closure. Youth currently committed to DJJ will remain in the state system until discharged, released, or otherwise moved to an authorized facility.<sup>6</sup> For youth committed to DJJ after July 1, 2021, counties will be required to pay the state \$125,000 until the youth turns age 23.<sup>7</sup>

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3. Senate Bill 823 § 30 (August 24, 2020).

4. Welfare and Institutions Code § 607.

5. Welfare and Institutions Code § 208.

6. Welfare and Institutions Code § 736.5.

7. Welfare and Institutions Code § 912

5. **Creation of state oversight and data collection.** SB 823 creates the Office of Youth and Community Restoration (OYCR) to provide meaningful oversight of youth justice in California and administer state youth justice funding programs.<sup>8</sup> The legislation also directs the Department of Justice (DOJ) to develop a plan for updating and improving the state's outdated juvenile justice data collection system.<sup>9</sup>
6. **State funding and local planning for county alternatives to DJJ.** As discussed in greater detail below, SB 823 creates both one-time and annual funds for counties to realign and assume responsibility over youth who otherwise may have been committed to DJJ. Accompanying that funding will be an obligation to develop and submit county plans for DJJ alternatives by a subcommittee of county Juvenile Justice Coordinating Councils. Juvenile Justice Realignment Block Grant and Juvenile Justice Coordinating Councils.

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## D. Juvenile Justice Realignment Block Grant and Juvenile Justice Coordinating Councils

SB 823 creates the Juvenile Justice Realignment Block Grant (JJRBG), awarded by the state to counties to provide county-based custody, care, and supervision of youth otherwise eligible for commitment to DJJ.<sup>11</sup> To be eligible for JJRBG funding, counties must create a sub-committee of the multiagency Juvenile Justice Coordinating Council to develop and submit a plan to the newly established Office of Youth and Community Restoration. Juvenile Justice Coordinating Councils (JJCCs) are existing county, multi-agency legislative bodies, created in 2000 to disburse state funding under the Juvenile Justice Crime Prevention Act (JJCPA). JJCPA was meant to establish an annual juvenile justice funding source for California counties to develop and fund a continuum of local programs and supports for youth involved or at risk of involvement in the delinquency system. JJCPA funds have totaled approximately \$100 million per year.

The plan developed by the JJCC for the JJRBG must describe:

- **The realignment target population** in the county that is to be supported or served by allocations from the block grant program, including the numbers of youth served, disaggregated by factors including their ages, offense and offense histories, gender, race or ethnicity, and other characteristics, and by the programs, placements, or facilities to which they are referred;
- **The facilities, placements, programs, services and service providers, supervision and other responses** to provide appropriate rehabilitation and supervision services for the target population of youth;

**How grant funds will be applied** to address each of the following areas of need or development for realigned youth:

- » Mental health, sex offender treatment, or related behavioral or trauma-based needs.
- » Support programs or services that promote the healthy adolescent development.
- » Family engagement in programs.
- » Reentry, including planning and linkages to support employment, housing, and continuing education.
- » Evidence-based, promising, trauma-informed, and culturally responsive.
- » Whether and how the plan will include services or programs for realigned youth that are provided by nongovernmental or community-based providers.

8. Welfare and Institutions Code § 2200.

9. Welfare and Institutions Code § 13015.

10. Welfare and Institutions Code § 1995.

11. Welfare and Institutions Code § 1995.

- **A detailed facility plan** indicating which facilities will be used to house or confine realigned youth at varying levels of offense severity and treatment need, and improvements to accommodate long-term commitments. This element of the plan shall also include information on how the facilities will ensure the safety and protection of youth having different ages, genders, special needs, and other relevant characteristics.
- **How the plan will incentivize or facilitate the retention of realigned youth** within the juvenile justice system in lieu of transfers of realigned youth into the adult criminal justice system.
- **Any regional agreements or arrangements** to be supported by the block grant allocation.
- **How data will be collected on the youth served, including local program outcomes for youth** that will be utilized to measure or determine the results of interventions supported by block grant funds.

The deadline for a county to submit a plan to OYCR is January 1, 2022, to then be approved by OYCR to ensure it contains all necessary elements. The Board of Supervisors in each county will make local funding allocations based on these plans submitted by the subcommittee of the JJCC. OYCR will provide support and guidance to local systems to implement evidence-based, health-centered approaches to serving high-needs youth, and to prevent transfers of youth to the adult system.

**PRACTICE TIP** — JJRBG money will be first disbursed in September 2021 – before the January 1, 2022 deadline for the plan developed through the JJRBG subcommittee.

Given these varying deadlines, it is in a county's interest to develop a plan at least by the disbursement deadline of September 2021 so that funds may be timely directed according to a county's plans for realigned youth. Prior to that, counties should also be ready to use local alternatives by July 1, 2021 when local intake ends for youth who may otherwise have been committed to DJJ and where no transfer motion is filed.

Counties should thus begin forming and convening their JJCC subcommittees as soon as possible ahead of that deadline.

The JJCC subcommittee must be composed of the chief probation officer, as chair, and one representative from the district attorney's office, the public defender's office, the department of social services, the department of mental health, the county office of education or a school district, and a representative from the court. The subcommittee must also include no fewer than three community members with experience providing community-based youth services, youth justice advocates, or people with direct experience in the juvenile justice system.

The annual budget allocations for counties will be approximately \$40 million in fiscal year 2021-22, \$118 million in fiscal year 2022-23, and \$192 million in fiscal year 2023-24. In fiscal year 2024-25 and every year thereafter, the annual budget allocations for counties will be \$209 million, adjusted annually for growth. Counties will receive funding based on a funding formula that includes various factors, including a county's youth population, and the number of youths charged and adjudicated of DJJ eligible offenses. At minimum, a county will receive \$250,000 annually. The by-county allocation during fiscal years 2021-2024 will be based on the following formula:

- 30% of the per-county percentage of the average number of youth committed to DJJ;
- 50% of the by-county distribution of youth adjudicated for certain violent felony offenses according to DOJ data;
- 20% based on by-county distribution of youth population, ages 10-17.

**PRACTICE TIP** — JJCCs vary widely across California, including in their scope of work, frequency of meeting, and composition. Because JJCCs focus on a wide continuum of responses to youth's system involvement, the individuals who currently sit on the JJCC may or may not be best suited to serve on the JJRBG to plan alternatives to DJJ. Ensure that the individuals assigned from county and community-based agencies have relevant expertise to inform SB 823 implementation.

This section provides arguments and supporting research for policies and practices in both individual client and policy advocacy. Section A focuses on practices that counties should guard against, while section B outlines and discusses best and promising practices to advocate for.

## A. Harmful Practices to Avoid or Minimize

As counties develop local alternatives to DJJ in keeping with SB 823, it is important to consider research demonstrating the harmful and inequitable impacts of severe justice responses like adult criminal court prosecution, incarceration and prison-like institutionalization. All should be avoided wherever possible.

### a. Adult Prosecution

- PRACTICE TIP** —
- Defenders should advocate for juvenile court jurisdiction in every case of a youth who would otherwise be subject to DJJ, citing to research about the inefficacy and harms of adult court prosecution and imprisonment in promoting short and long-term rehabilitation and safety goals.
  - For JJCOs and other policymakers and advocates identifying programs and facilities to serve youth locally per SB 823, policies must be developed to guard against adult criminal court prosecution per Welfare and Institutions Code section 1995.

Transferring young people to the adult criminal system is harmful to both youth and public safety. Extensive research has shown that sending youth to the adult court and prison system is ineffective and more harmful than keeping youth in the juvenile system:

- Substantially higher recidivism rates exist** among youth who had been transferred to criminal court compared with those who were retained in the juvenile system, according to an analysis of six major studies by the federal Office of Juvenile Justice and Delinquency Prevention.<sup>12</sup> The Centers for Disease Control has also concluded: “[T]ransfer policies have generally resulted in increased arrest for subsequent crimes, including violent crime, among youth who were transferred compared with those retained in the juvenile justice system. To the extent that transfer policies are implemented to reduce violent or other criminal behavior, available evidence indicates that they do more harm than good.”<sup>13</sup>
- Transfer laws have little or no general deterrent effect in preventing serious juvenile crime, as concluded by a Department of Justice analysis of studies on the impact of transfer law.<sup>14</sup>

The results are not surprising in light of fewer, less accessible rehabilitative services overall and a lack of age-appropriate, evidence-based programs to serve young people in adult prisons. In addition to missing the potential rehabilitative benefits of the juvenile system, young people are at great risk of physical and psychological harm in adult prisons. Although California does incarcerate individuals in prison until age 18, the youngest in adult prisons are more likely to be violently victimized than in juvenile facilities. A Human Rights Watch survey of youth serving Life without the Possibility of Parole in California prisons found that more than half of those responding had been physically or sexually assaulted.<sup>15</sup> Nearly half reported witnessing stabbings, and some described witnessing murders, rapes, strangulations, and severe beatings.

12. Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, *Juvenile Justice Bulletin*, Office of Juvenile Justice and Delinquency Prevention (June 2010).

13. Robert Hahn et al., *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force*, Centers for Disease Control and Prevention, *Morbidity and Mortality Weekly Report*, p. 9 (Nov. 30, 2007).

14. Redding, *supra* note 12, pp. 2-4. Although there was some indication that if juveniles were aware of the transfer laws, and if they believed the laws would be used against them, there might be a deterrent effect, especially when the youth turned 18, but those conditions were not generally found. For the most part, the studies found higher recidivism rates among offenders who had been transferred to criminal court, compared with those who were retained in the juvenile system.

15. Human Rights Watch, *When I Die They'll Send Me Home*, pp. 54-55 (2008).

In particular, youth held in adult facilities are at risk of sexual victimization.<sup>16</sup> The National Prison Rape Elimination Commission found that more than any other group of incarcerated persons, youth incarcerated with adults are at the highest risk for sexual abuse.”<sup>17</sup>

Researchers have suggested a number of reasons for the higher recidivism rates of youth convicted of violent offenses in adult court as compared to their peers who are adjudicated of violent offenses in juvenile court. They include: a sense of resentment and injustice youth often feel about being tried and punished as adults; the adult system’s lesser focus on rehabilitation and family support as compared to the juvenile system; youth absorbing criminal behavior while incarcerated; the stigmatization and other negative effects of labeling youth as felons, loss of civil rights and privileges, and the difficulty in obtaining employment.<sup>18</sup>

Additionally, youth of color bear the brunt of adult court prosecution. In California, Black and Latino youth are significantly more likely than white youth to face adult court prosecution.<sup>19</sup> For each white youth facing adult court prosecution, there are more than 11 Black youth and nearly five Latino youth. Put another way, Black youth are more than 11 times as likely and Latino youth nearly five times as likely to face adult court prosecution.

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### b. Youth Incarceration

#### PRACTICE TIP

- Defenders should advocate against incarceration wherever possible, citing to research on the inherent harm of separating youth from their communities. When deemed necessary by the court, advocate for the shortest duration possible to achieve youth rehabilitation and for periodic reviews of the youth’s progress to consider stepping youth down and releasing them from a locked facility as soon as feasible. While incarcerated, youth should be connected to family and community supports that can continue after their return home.
- Policy advocates should request and analyze data about the County’s youth incarceration rates, demographics and needs and about facility capacity, staffing and programming to understand the current local landscape of existing youth need and available interventions. Advocate for the development of policies to further reduce reliance on incarceration overall as part of the work to develop DJJ alternatives. Advocates should then consider articulate the ideal facility attributes of a local secure treatment option, and evaluate current or potential facilities for these attributes to determine what local secure treatment options should be designated or developed as a DJJ alternative. Policies on the use of secure facilities should be coupled with policies to reduce reliance on such options.

Incarceration is by definition not therapeutic. A strong body of research has proven that:

- **Detention has profoundly negative impacts** on young people’s mental and physical well-being, their education, and their employment.<sup>20</sup> The harms of incarceration include removal from school, internalized negative labels, and trauma, such that exposure to the justice system itself leads to greater risk for negative health outcomes.<sup>21</sup>

16. Liz Ryan, *Youth in the Adult Criminal Justice System*, 35 *Cardozo Law Review* 1167, 1171 (2014).

17. National Prison Rape Elimination Act Commission, *National Prison Rape Elimination Commission Report*, p. 18 (2009).

18. Redding, *supra* note 12, pp. 7-8.

19. Human Rights Watch and Haywood W. Burns Institute, *Futures Denied: Why California Should Not Prosecute 14- and 15-year-olds as Adults*, pp. 14-16 (2018).

20. Barry Holman and Jason Ziedenberg, *Dangers of Detention*, Justice Policy Institute, p. 2 (2011).

21. Walker, S.C. and Herting, J.R, *The Impact of Pretrial Juvenile Detention on 12-Month Recidivism: A Matched Comparison Study*, *Crime & Delinquency* (2020); Walker, S.C. and Bishop, A.S., *Length of Stay, Therapeutic Change, and Recidivism for Incarcerated Juvenile Offenders*, *Journal of Offender Rehabilitation* (2016).

- **Youth are less likely to engage with services in juvenile correctional institutions** than they would in the community, even when these services are of quality.<sup>22</sup>
- **Any incarceration during adolescence or young adulthood is associated with higher odds of worse physical and mental health during adulthood** – worse general health, severe functional limitations, stress-related illnesses, such as hypertension, and higher rates of overweight and obesity during adulthood.<sup>23</sup> This relationship holds true even when accounting for baseline health and key social determinants of health.
- **Youth incarceration fails to reduce recidivism.**<sup>24</sup> Specifically, imprisonment is an ineffective long-term intervention for violence prevention.<sup>25</sup>
- **Quite the opposite, increased youth incarceration has been correlated with increased recidivism.**<sup>26</sup> Specifically, youth who are incarcerated are more likely to be incarcerated as adults.<sup>27</sup>

Based on their first-hand experience, youth correctional leaders and prosecutors have joined widespread calls to reduce and end youth incarceration as we know it, recently issuing public statements about the overreliance on and inherent harms of separating youth from their families and communities.<sup>28</sup> These leaders call for “shuttering youth prisons in favor of new, community-based approaches” and argue that youth needs would be better served by education, child welfare, and behavioral health systems instead.

### c. Juvenile Hall as a Long-Term Commitment Facility

**PRACTICE TIP** — Both defenders and policy advocates should guard against confinement of youth – especially long-term confinement – in any facility or unit that is isolating, deindividualizing, cold or otherwise built physically on a punitive, dehumanizing psychology. Prohibit use of these specific facilities in court arguments on behalf of individual youth, or in policies on behalf of all youth. Couple the argument and policy with what should be done instead.

By and large, juvenile halls across California have been designed in the likes of adult jails, and are thus antithetical to the values and best practices supported by research and experience in youth justice and corrections (as further described in subsequent sections). As jail-like facilities meant to incarcerate youth temporarily, before their cases have been adjudicated in juvenile court, juvenile halls are designed to severely restrict youth’s freedom of movement and access to the community.<sup>29</sup> It is because of its jail-like conditions that Welfare and Institutions Code section 730, subdivision(a), has long allowed counties to house youth serving post-dispositional commitments in juvenile halls only “[i]f there is no county home, ranch, camp, or forestry camp within the county.” In a 2020 report, Pacific Juvenile Defender Center and Youth Law Center studied juvenile halls across California and concluded that: “[Juvenile halls] operate much like jails, relying on hardware and control measures that are antithetical to developmentally appropriate services for youth. They separate youth from the support of their families and communities and often fail to provide the very services upon which commitment is premised. They are expensive and lack oversight and accountability.”<sup>30</sup>

Jail and prison-like settings have been criticized broadly as unfitting for any individual, not just youth. The Vera Institute’s Reimagining Prison report from 2018 critiques the traditional features of detention facilities: a small, cement and brick cell, with a metal or cement bed with a thin mattress, an open metal sink and

22. Guarino-Ghezzi, Susan & Loughran, Edward J., *Balancing Juvenile Justice* (2004).

23. Elizabeth S. Barnert et al., *How Does Incarcerating Young People Affect Their Adult Health Outcomes?*, 139:2 PEDIATRICS 1 (February 2017).

24. Barry Holman and Jason Ziedenberg, *Dangers of Detention*, Justice Policy Institute (2011); Pew Charitable Trusts, *Re-Examining Juvenile Incarceration: High cost, poor outcomes spark shift to alternatives* (2015).

25. Harding, D.J., *A Natural Experiment Study of the Effects of Imprisonment on Violence in the Community*. *Nature and Human Behavior* (2019). <https://doi.org/10.1038/s41562-019-0604-8>.

26. McCarthy, P., Schiraldi, V. and Shark, M., *The Future of Youth Justice: A Community-Based Alternative To The Youth Prison Model*, *New Thinking in Community Corrections* (2016).

27. Aizer, Anna and Doyle, Joseph J. Jr., *Juvenile Incarceration, Human Capital and Future Crime: Evidence From Randomly-Assigned Judges*, National Bureau of Economic (June 2013) (a study in Cook County, Illinois finding confined youth were more likely to be incarcerated as adults)

28. Youth Correctional Leaders for Justice on Youth Prisons and Fair and Just Prosecution, *Joint Statement*, <https://yclj.org/joint-statement> (last visited February 20, 2021).

29. Pacific Juvenile Defender Center and Youth Law Center, *California’s County Juvenile Lockups: Expensive, Overutilized, and Unaccountable*, p. 2 (2020).

30. *Id.* at p. 4.

toilet, maybe a small window, and interior spaces that are “similarly utilitarian in nature, with hard fixtures and fittings, cinder blocks, and little color, ornamentation, or natural light.”<sup>31</sup> Their report concludes that “[b]y their very design and aesthetics, the physical buildings and layout of American prisons cultivate feelings of institutionalization, immobilization, and lack of control among the people who live there.” The spaces are “designed to maximize control of people’s movement” and thus are configured in rigid ways and “reinforced through gates, locks, bars, and Plexiglas or Lexan.” Architects have joined in the recognition that “isolation breeds violence and anger”<sup>32</sup> and “[b]rutally functional designs and the use of cold, hard materials both inflict psychological harm on inmates and staff, and symbolically shape and reflect the public perception of prisoners as cold, hardened criminals.”<sup>33</sup> The physical space and treatment of incarcerated people thus “crushes one’s individual identity and robs one of dignity; it also produces long-term effects—including social and psychological adaptations to prison conditions and the lasting effects of trauma resulting from incarceration.”<sup>34</sup>

In contrast, a “more normalized” and home-like environment can encourage socialization and “minimize physical and psychological barriers” between those incarcerated and staff.<sup>35</sup> That normalcy of environment coupled with dignified treatment and support promotes calm and more therapeutic opportunity in a setting. Yet the reality is that the typical design of juvenile halls in California reinforces barriers, traumas and violence, and fails to encourage positive individual or group experience.<sup>36</sup> Implementation at the county level should thus guard against use of juvenile halls for long-term, post-adjudication commitments, including as a DJJ alternative.

## B. Best and Promising Practices to Advocate For

This section offers a menu of practices and approaches to adopt in developing county plans for supporting realigned youth. It is ideal for a county to take these approaches together. It is also possible for a county to pick and prioritize several practices here in light of their county’s particular strengths, needs and limitations to ensure local responses are as effective as possible. Counties may also need to sequence the implementation of various policies in the short and long-term, for instance adopting compromise measures as SB 823 ends intake immediately in 2021 and committing to implementing more ideal DJJ alternatives longer-term.

### a. Collaborative Visioning and Governance

**STEP 1.** ————— The JJCC subcommittee charged with designing a DJJ alternative plan as part of the County’s work to receive a Juvenile Justice Realignment Block Grant is meant to be a collaborative, diverse set of stakeholders. Advocates should ensure diverse composition and perspectives on the subcommittee, and engagement beyond that subcommittee so that its work and recommendations are inclusive, transparent and accountable to the broader community. Because the Board of Supervisors will review and be the final decisionmakers about DJJ alternatives, engage the Board where appropriate in robustly composing the subcommittee, designing a planning process that is meaningful and collaborative, and urging the adoption of effective therapeutic alternatives to DJJ even as the JJCC subcommittee works to develop a plan to submit to the Board. Ensure in particular that the voices of impacted communities are included.

Stakeholder engagement in designing and implementing DJJ alternatives is critical. Indeed, the benefits of cross-system collaboration, innovation and decision-making has been well-documented in justice and other sectors; they include more efficiency and commitment to implementation and thus more continuous

31. Ruth Delaney et. al, *Reimagining Prison*, Vera Institute, p. 74 (2018), available at [https://www.vera.org/downloads/publications/Reimagining-Prison\\_FINAL3\\_digital.pdf](https://www.vera.org/downloads/publications/Reimagining-Prison_FINAL3_digital.pdf).

32. Rachel Slade, *Is There Such A Thing as ‘Good’ Prison Design?*, *Architectural Digest* (April 2018), available at <https://www.architecturaldigest.com/story/is-there-such-a-thing-as-good-prison-design>.

33. Jerry Adler, *Architecture and Prison Reform*, *Architectural Record* (March 2019), available at <https://www.architecturalrecord.com/articles/13919-architecture-and-prison-reform>.

34. Delaney et. al, *supra* note 31 at p. 112.

35. Slade, *supra* note 32.

36. Delaney et. al, *supra* note 31; Megan Fowler, *The Human Factor in Prison Design: Contrasting Prison Architecture in the United States and Scandinavia* (paper presented at Association of Collegiate Schools of Architecture Annual Meeting, March 19-21, 2015); Philip Hancock and Yvonne Jewkes, *Architectures of Incarceration: The Spatial Pains of Imprisonment*, 13:5 *Punishment & Society* 13 611-29, 617 (2011).

support and services for youth ultimately.<sup>37</sup> The process facilitated through the JJCC subcommittee working on DJJ planning – from identifying values to thoroughly assessing and proposing changes to the local youth justice system – should thus be fully participatory and engage all key stakeholders.<sup>38</sup> Key stakeholders should possess relevant knowledge and experiences, including for example, an understanding of the local community; the necessary knowledge and skills to tailor a system and programs to local needs; or the know-how and power to get implementation done.<sup>39</sup> Equally important is the involvement of stakeholders beyond design – and in the ongoing implementation of local alternatives to DJJ. Broader public engagement through the JJCC subcommittees is also important to hearing and incorporating concerns and ideas into planning and implementation; although some counties have deemed their subcommittees for JJRBG grant planning to be non-Brown Act bodies, other have determined that their committees are subject to Brown Act, thus making their meetings open to the public and requiring certain notice and hearing practices. Regardless, there should be a public forum in counties to allow broad education and engagement with the community on the topic.

Courts can also benefit from engaging in greater collaboration through multi-disciplinary teams, that include youth and families themselves, to inform its decision-making. Thus, policy advocates and defenders should work to include these diverse perspectives in judicial consideration and decision-making, including on whether a youth in confinement can be stepped down to less restrictive environment.

**Special Note on Impacted Voices and Leadership:** The inclusion and dedicated support of youth who have been system-impacted, especially those who are currently or formerly DJJ incarcerated, are important as a matter of principle and practice. Including impacted youth ensures that their experiences shape more effective alternatives to DJJ at the county-level.

The voices of survivors of serious crimes are imperative too. To meaningfully address the harm, healing and sense of justice impacted communities desire when youth commit serious harms, restorative models of justice have worked with survivors to define the healing and justice they need, and to understand and connect to the positive transformation of the person who inflicted harm as part of their own healing and sense of justice.

### b. Core Values and Therapeutic Approach

**STEP 2.** ————— As a first task, the JJCC subcommittee and others involved in the DJJ transition planning should articulate and adopt a set of values to begin and drive their planning. Look for any existing values statements in reports and other documents that emerged out of justice collaborations – counties have often already defined some values that are worth building upon.

Stakeholders should take the time to identify and agree upon core values as a starting point for all meaningful reform.<sup>40</sup> These core values become both the what and how. They can provide the foundation on which to design physical spaces, programs, policies and practices to achieve a set of desired outcomes – in this context, the rehabilitation and development of youth as well as public safety and accountability. The values also become the measuring stick by which to assess implementation and impacts. Additionally, the very process of articulating and solidifying core values can build cohesion and common ground among stakeholders, facilitate discussion and identify points of alignment and tension early on, and in the long-term, cultivate relationship and trust-building.

37. Macon Stewart, *Cross-System Collaboration*, Center for Juvenile Justice Reform (2013) [concluding cross-system collaboration enhances the ability of agencies to promote continuous support and services for youth]; Jonathan A. Supovitz & Namrata Tognatta, *The Impact of Distributed Leadership on Collaborative Team Decision-Making*, 12:2 *Leadership and Policy in Schools* 101 (2013) (discussing the advantages to collaborative decision making, including more information contributed for the decision-making process, diverse perspectives to inform discussions and deliberations, greater efficiency for implementation of the decision, and an individual's perceived influence over decisions and trust within the team); Richard Schmuck, *Developing Collaborative Decision-Making: The Importance of Trusting, Strong, and Skillful Leaders*, 12:10 *Educational Technology* 43 (1972) (arguing that consensus decision making can increase problem solving and the commitment to implementing decisions).

38. Shelley Zavlek, *Planning Community-Based Facilities for Violent Juvenile Offenders as Part of a System of Graduated Sanctions*, Office of Juvenile Justice and Delinquency Prevention, p. 9 (2005).

39. *Ibid.*

40. See Juvenile Justice Leadership Network, *A Roadmap to the Ideal Juvenile Justice System* (2019), available at <https://cjjr.georgetown.edu/news/a-roadmap-to-the-ideal-juvenile-justice-system>.

As an example, the Juvenile Justice Leadership Network (created and convened by the Center for Juvenile Justice Reform at Georgetown University's McCourt School of Public Policy, the Council of Juvenile Correctional Administrators and the Public Welfare Foundation) recommends that youth justice system's change should be rooted in the following eight principles: (1) developmentally appropriate, (2) research-based, data-driven, and outcome-focused, (3) fair and equitable, (4) strengths-based, (5) trauma-informed and responsive, (6) supportive of positive relationships and stability, (7) youth- and family-centered, and (8) well-coordinated across systems of care. Youth Development in particular has become recognized as positive framework for youth justice systems that emphasizes a strengths-based approach to working with youth, families and communities.<sup>41</sup> A positive youth justice approach based on youth development focuses on strengths and assets instead of deficits and problems; emphasizes building positive relationships; supports the development of skills and competencies; and connects youth to educational, employment, civic, and cultural opportunities.

In Los Angeles County, a workgroup developed the following core values – informed by research – for the local development of alternatives to DJJ:

- Youth should be addressed through a **holistic, trauma-informed approach**. Responses to youth should focus on rehabilitation, healing, enhancing public safety and restorative justice.
- Youth's **family and community should be active participants** in their healing.
- Youth **should not be warehoused** in punitive, institutionalized settings. Any form of out of home placement should promote healing in a therapeutic environment.
- **Robust educational and vocational opportunities** should be provided.
- Facility staffing should shift away from staff with corrections background and prioritize backgrounds in **social work, healing, restorative and transformative justice**.
- The justice system should make intentional investment in community-based **organizations rooted in directly impacted neighborhoods** to provide support services for youth in and out of custody.
- **Re-entry support** with connection to the community is critical and should begin right away.
- **Voices and perspectives of victims and survivors** should be heard and considered.
- A model focused on **punishment and retribution will undermine** the progress achieved thus far in LA County.

In sum, core values can help stakeholders articulate and develop a coherent, overall approach to DJJ alternatives that then ensures the county's plans and practices align with the values. Each county can tailor their core values to their locality to ensure that the recommendations for and implementation of DJJ alternatives meet local needs.

### c. Secure Confinement and Continuum of Alternatives to DJJ

**STEP 3.** ————— The JJCC subcommittee and other advocates involved in the DJJ transition planning should understand and map out the continuum of services and placement/facility options currently available in the County.

Alongside data about the demographics and needs of youth, advocates should then determine what could be better utilized and expanded for current youth in the local juvenile justice system, as well as for youth who otherwise would have been committed to DJJ. Although SB 823 calls for the development of a secure youth treatment facility track for “higher-need youth,” doing so is an opportunity to strengthen the entire continuum of care, including reduce the county's overall reliance on pre- and post-adjudication detention.

Note that counties can already commit youth to any existing facilities under current law, without committing them as part of a secure youth treatment facility track that triggers baseline commitment terms and other state provisions.

SB 823 calls for the establishment of “a separate dispositional track for higher-need youth by March 1, 2021.” (See Welf. & Inst. Code § 736.5.) Lawmakers are thus working to draft and pass further guidelines for

<sup>41.</sup> Annie E. Casey Foundation, *Building on Strength: Positive Youth Development in Juvenile Justice Programs* (2008); Butts, J. et al., *Positive Youth Justice: Framing Justice Interventions Using the Concepts of Positive Youth Development*, Coalition for Juvenile Justice (2010); Haywood W. Burns Institute, *Youth Justice Reimagined* (2020).

counties to develop a track of “Secure Treatment Facilities” – designated for a limited number of “higher need” youth to serve as an alternative to DJJ as well as adult court prosecution.

In designating or creating a secure local option for higher need youth, the implementation of SB 823 and DJJ closure is and should also be an opportunity to reexamine the entire continuum of supports and out-of-home settings (both non-secure and secure) in local youth justice systems. Any effort to improve or use secure confinement for youth at the local level should recognize and address the simultaneous need to reduce a county’s overall reliance on incarceration and cultivate effective alternatives to incarceration. These simultaneous goals of conditions reform and reducing detention are rooted in evidence that home and community-based supports have generally proven to be more effective and less harmful than incarceration.<sup>42</sup> In keeping with the overall direction of decreasing incarceration then, counties should thus resist re-opening or building new secure facilities as part of SB 823 implementation.

Accordingly, “[i]mproving both public safety and youth development demand more effective interventions than correctional facilities provide. In every jurisdiction, a continuum of high-quality alternatives to incarceration that supervise, sanction and treat youth effectively in their homes and communities should be established.”<sup>43</sup> OJDDP has long advised that “[i]n developing such a facility, it is critical to understand that the facility should not stand alone but rather should be designed as an integrated part of this continuum.”<sup>44</sup> “For example, by providing space and access for community-based service providers, the facility design can make it possible for these providers to begin working with youth while they are still in custody, thus ensuring continuity of services and helping the facility tap into the strengths and resources of the community.”<sup>45</sup> A comprehensive model would reserve secure confinement only for youth who have committed serious, violent offenses and cannot be successful in a less restrictive environment or pose a threat to public safety.<sup>46</sup>

This comprehensive “master plan” has been described as a prerequisite for developing new facilities and programs to ensure an appropriate continuum of residential and nonresidential services.<sup>47</sup> OJDDP advises that the masterplan include:

- An analysis of the populations served;
- The best approaches for meeting the needs of youth and the community, based on clearly defined values and goals; and
- An active plan for all essential services and programs, addressing issues such as funding, staffing, and space needs.

Thus, counties should assess the availability and potential greater use of both community-based supports and out-of-home settings, from least to more restrictive, for all justice-involved youth in the county, including DJJ aligned youth. In Los Angeles County, for instance, stakeholders involved in initial SB 823 planning identified the need to have a continuum of interventions, ranging from least to more restrictive, that includes:

- Intensive supports through community-based service providers,
- Small home-like residential facilities with a range of security, and
- Secure facilities.

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<sup>42.</sup> See e.g., Loughran, Thomas A. et. al., *Estimating a Dose-Response Relationship Between Length of Stay and Future Recidivism in Serious Juvenile Offenders*, 47 *Criminology* 699 (2009) (a large “Pathways to Desistance” multi-site longitudinal study that followed nearly 2,000 youth who had committed violent offenses for seven years, found that incarceration was not more effective than community supervision at reducing anti-social activity).

<sup>43.</sup> Annie E. Casey Foundation, *Reducing Youth Incarceration in the United States* (2013).

<sup>44.</sup> Zavlek, *supra* note 38 at p. 7.

<sup>45.</sup> *Ibid.*

<sup>46.</sup> *Id.* at p. 5.

<sup>47.</sup> *Id.* at p. 9.

#### d. Practices in Secure Confinement

**STEP 4.** ————— Regardless of the actual setting chosen as a DJJ secure alternative, the JJCC subcommittee and other stakeholders should develop strong recommendations regarding the culture, programming and staffing that play a central role in making a facility both therapeutic and safe for youth as well as staff. They should also advocate for designating a secure treatment track that is the most home-like, small, community-based available for a DJJ alternative. In many counties, the physical plant or unit designated as a DJJ may be less than the ideal. At minimum, advocates should ensure that a county avoid choosing a setting that is fundamentally antithetical to a youth’s therapeutic programming and progress, and demonstrate why that setting is incapable of serving a youth’s development and well-being. Advocates should consider and propose possible physical, staffing and programmatic changes to all settings to make it more conducive to rehabilitation and less harmful and institutional.

Recommendations in this section are ideally implemented altogether in designating or creating an alternative to incarcerating youth at DJJ. Where impracticable, ensuring any of these components are part of a local secure alternative can be a significant improvement upon both DJJ and existing practices.

It should also be noted that overlaying these recommendations are the minimum standards for juvenile facilities as designated in Titles 15 and 24 of the California Code of Regulations. Those minimum standards thus create the floor for local secure confinement conditions and practices, and additional recommendations build on those minimum standards.

#### i. A Culture of Care and Therapeutic Milieu

A fundamental tenet in youth justice, including secure confinement, should be that the approach be holistic and trauma-informed to facilitate youth development and healing as well as public safety.<sup>48</sup> In recent years, former correctional leaders and prosecutors with Youth Correctional Leaders for Justice on Youth Prisons and Fair and Just Prosecution have agreed that: “In those cases where public safety absolutely requires that youth are in out-of-home care, we believe that this should **only** be for the minimum time necessary to address this risk – in a warm, nurturing environment close to home, with well-trained staff, that treats all children the way we would want our own children to be treated.”<sup>49</sup>

For decades, research has showed that when placement is used, settings that incorporate treatment elements focused on needs related to youth delinquency are more effective than placements without these elements.<sup>50</sup> For institutionalized youth, home-type settings focused on skills-development and treatment have been most strongly associated with reduced offending. This finding has also been found to hold for youth who abuse substances – those who resided in a therapeutic community achieved the strongest outcomes with skill-based treatment.<sup>51</sup> Research also suggests that environmental quality and responsiveness to the developmental level of youth are directly related to youth outcomes. A study of institutional environment, including level of services, order and safety, found higher quality environments to be significantly and positively related to recidivism reductions.<sup>52</sup>

Efforts to develop and implement the “LA Model” in Los Angeles County exemplify one county’s application of such research promoting therapeutic approaches in secure confinement. After a multi-year, cross system collaboration in the county revamped the model of secure confinement in juvenile camps in 2017, the LA Model is now being implemented as a “care first” approach based on a “therapeutic milieu.” A therapeutic milieu “refers to and includes all aspects of the environment within which youth live and staff work. That

48. Annie E. Casey Foundation, *Building on Strength: Positive Youth Development in Juvenile Justice Programs* (2008); Butts, J. et al., *Positive Youth Justice: Framing Justice Interventions Using the Concepts of Positive Youth Development*, Coalition for Juvenile Justice (2010).

49. Youth Correctional Leaders for Justice on Youth Prisons and Fair and Just Prosecution, *Joint Statement*, <https://yclj.org/joint-statement> (last visited February 20, 2021).

50. Mark W. Lipsey et. al, *Effective Intervention for Serious Juvenile Offenders*, Office of Juvenile Justice and Delinquency Prevention (2000).

51. Fumia et. al, *Washington’s Coordination of Service Programs for Juvenile Offenders: Outcome Evaluation and Benefit-Cost Analysis*, Washington Institute of Public Policy (2015).

52. Schubert et. al, *Perceptions of Institutional Experience and Community Outcomes for Serious Adolescent Offenders*, 39:1 Criminal Justice and Behavior 71 (2012).

milieu is characterized by a culture of care and respect among all persons in the setting (e.g., probation staff, youth, kitchen staff, medical providers, mental health clinicians, administrators, educators, volunteers, and any other person who provides services) as well as the formal programming and education elements that are critical to each young person's growth and wellbeing. Developing and maintaining a therapeutic milieu requires a commitment to shared goals from all staff at all levels. In order to achieve this, the goals must be common knowledge. Those goals are communicated through initial cross-training, ongoing reinforcement and modeling, and retraining and also through relevant data collection, tracking, and accountability mechanisms. This feedback helps to ensure consistency of therapeutic environment and fidelity to the model.<sup>53</sup>

Similar proposals have called for "system-wide positive behavior supports" as another kind of culture shift towards therapeutic, strengths-based programming.<sup>54</sup> Implementing system-wide positive behavior supports has been shown to drastically reduce behavioral infractions among detained youth.<sup>55</sup> To implement positive behavior supports, institutional staff and educators must:

- Establish 3-5 clear behavior expectations that are positively stated (e.g., "everyone treats everyone else with respect," or "we all support each other to be our best selves");
- Consistently teach and model these behavior expectations;
- Formally, regularly, and positively acknowledge youth when they display desired behavioral expectations and engage in established routines; and,
- Form and sustain supportive rather than coercive relationships with youth.
- Staff must also examine and shift their own attitudes about "positive" supports.<sup>56</sup>

Probation staff, particularly those working inside detention facilities, may have difficulty adjusting from a punitive frame to one oriented toward positive behavior, as punishment is an assumed function of juvenile detention for many institutional staff. Changes in policy and practice can, however, result in less punitive attitudes among juvenile detention personnel.<sup>57</sup>

The emphasis on a therapeutic environment is a discrete goal and task – articulating, espousing and reinforcing it among all youth and staff. But it also orients and defines the approaches in all key aspects of a facility. The aspects discussed below are: physical plant; programming and services; staffing; and security.

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## ii. Physical Plant: Small, Home-like Community-based or Regional Facilities

Across the country, the use of smaller facilities located in communities has long been touted to have significant advantages over large congregate care settings.<sup>58</sup> For several decades, "most authorities agree that such 'large congregate-care juvenile facilities . . . have not proven to be particularly effective in rehabilitating juvenile offenders.'<sup>59</sup> "[A]lternatives to secure confinement for serious and chronic juveniles are at least as effective in suppressing recidivism as incarceration, but are considerably less costly to operate."<sup>60</sup> When secure confinement is necessary, small, community-based facilities that provide intensive services in a secure environment "offers the best hope for successful treatment of those juveniles who require a structured setting."<sup>61</sup>

53. Korman, H. & Dierkhising, C. B., *A Culture of Care for All: Envisioning the LA Model*, Children's Defense Fund-California, pp. 6-7 (2016).

54. Resource Development Associates, *LA Probation Governance Study: Final Report*, p. 65 (2018).

55. Kristine Jolivet and C. Michael Nelson, *Adapting Positive Behavioral Interventions and Supports for Secure Juvenile Justice Settings: Improving Facility-Wide Behavior*, 36:1 Behavioral Disorders 28 (2010).

56. C. Michael Nelson et al., *Positive Behavior Support Offered in Juvenile Corrections*, The National Association of State Directors of Special Education (2005); Richard A. Mendel, *The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders*, Annie E. Casey Foundation (2010).

57. See Nelson, *supra* note 56.

58. Zavlek, *supra* note 38 at p. 6.

59. *Id.* at p. 5.

60. *Ibid.*

61. *Ibid.*

Small, community-based or regional facilities can, for instance, better<sup>62</sup>:

- **Engage local community partners** to forge relationships and provide services and supports inside a facility. A key factor for healthy development as well as delinquency prevention is the “capacity, ability, and opportunity to build relationships with caring adults.”<sup>63</sup>
- **Promote family contact and engagement**, recognized as a protective factor in supporting youth development. Frequent family visits are correlated with good behavior and improved school performance for youth who are incarcerated.<sup>64 65</sup>
- **Facilitate independent living** through its location in the community and phased reentry plans that work with youth and their support networks to participate in a gradual and successful transition back into the community.

In short, facilities that are located in close proximity to youths’ community resources and support networks (parents, other supportive family members, and mentors) can facilitate more humane, developmentally appropriate treatment and better outcomes for youth development and public safety. Furthermore, when those facilities are locally versus state run, they are also better rooted in community ties and needs.<sup>66</sup>

In addition to meeting basic standards of decency and state regulatory codes, every effort should be made to ensure that secure facilities are as home-like and developmentally appropriate as possible; they should thus avoid appearing or operating like a jail or other institution as much as possible.<sup>67</sup> Detention facilities should be physically reconfigured into as welcoming of a physical space possible to help both staff and youth feel safe and to work on behavioral and cognitive change.<sup>68</sup> Examples of reconfiguring the physical space within a facility – large or small – include creating:

- Small group living in residential cottages with open, dormitory-style housing to accommodate “core groups” of 8-12 youths;
- Cottages furnished with comfortable beds, amenities, and ample natural light and fresh air;
- Allowing youth and staff attire to be individualized and consistent with a home-like model; and
- Living room areas and private restrooms.

### iii. Programming

Programming (and the staff that facilitate programming) is an essential part of supporting youths’ development and promoting an overall therapeutic culture and environment – and by extension, is fundamental to instilling a sense of safety and security for youth and staff inside. The most effective programs for youth in secure confinement have focused on cultivating prosocial skills and behavioral change and thereby reduced recidivism rates by as much as 40 percent.<sup>69</sup> Programming thus should be driven by the goals of prosocial skill-building, improving behaviors, and overall mental and physical wellbeing. Services categories identified as critical in youth justice and youth development have been found to fall into the following categories:<sup>70</sup>

62. d. at p. 6; see also Catherine McCracken and Selena Teji, *An Update: Closing California’s Division of Juvenile Facilities: An Analysis of County Institutional Capacity*, Center on Juvenile and Criminal Justice, pp. 2-3 (2010); Annie E. Casey, *Reducing Youth Incarceration in the United States (2013)*.

63. Zavlek, *supra* note 38 at p. 6.

64. Sandra Villalobos Agudelo, *The Impact of Family Visitation on Incarcerated Youth’s Behavior and School Performance: Findings from the Families as Partners Project*, Vera Institute of Justice (April 2013).

65. Kathryn C. Monahan, Asha Goldweber, and Elizabeth Cauffman, *The Effects of Visitation on Incarcerated Juvenile Offenders: How Contact with the Outside Impacts Adjustment on the Inside*, 35:2 Law and Human Behavior 143 (April 2011).

66. See Zavlek, *supra* note 38 at p. 5; see also, e.g., Jeffrey Butts et. al, *Staying Connected: Keeping Justice-Involved Youth “Close to Home” in New York City*, Research & Evaluation Center, John Jay College of Criminal Justice, City University of New York (2015).

67. Haywood Burns Institute, *Recommendations of the Youth Justice Work Group DJJ Transition Team (“DJJ Transition Team”*, p. 25 (2020); Annie E. Casey Foundation, *Juvenile Detention Facility Assessment: A Guide to Juvenile Detention Reform (Facility Assessment)*, p. 3 (2014).

68. Michelle Newell and Jorja Leap, *Reforming the Nation’s Largest Juvenile Justice System*, Children’s Defense Fund – California and UCLA Luskin School of Public Affairs (2013); Korman, H. & Dierkhising, C. B., *supra* note 53 at pp. 6, 10.

69. See Zavlek, *supra* note 38 at p. 6.

70. Resource Development Associates, *Juvenile Justice Crime Prevention Act: A Gap Analysis Report*, pp. 14-20 (2018).

- **Behavioral Health** – such as therapy and substance use interventions;
- **Education** – including access to quality secondary and post-secondary education, tutoring, academic supports and educational advocacy;
- **Employment and Career** – such as career readiness and professional skill-building courses, and paid jobs and internships;
- **Housing** – including transitional housing for youth who cannot live at home;
- **Life Skills** – such as financial literacy and other independent living skills;
- **Social-Emotional/Relational Support** – like peer and adult mentoring services, and conflicts resolution, anger replacement training;
- **Parent/Caregiver Support** – such as wraparound services that include the family, parenting support, and support with basic needs;
- **Arts and Recreation** – such as writing, performing arts, music and sports programs.

A program plan for a particular youth should also:

- **Be individually tailored;**
- **Include youth, families and other necessary stakeholders** in the process of planning;
- **Address family strengths, risks, and needs** and identify positive community supports for youth and family;
- **Integrate evidence-based, community-based services**, including mental health services, substance-abuse services, trauma treatment, cognitive behavioral therapy/skills, academic support, enrichment programs, and physical activity;<sup>71</sup>
- **Immediately involve re-entry planning** that identifies goals and a pathway towards successful release and transition;
- **Assist with removing or overcoming barriers to success:** tickets and fines, school access, immigration status, securing vital documents and other legal and administrative challenges.<sup>72</sup>

In addition to individual program planning, a therapeutic environment integrates programming into all daily and nighttime activities, so that both adults and youth consistently practice and reinforce positive behaviors, vocabulary and strategies, and take advantage of every opportunity to provide youth with choice, autonomy and practice of learned skills.<sup>73</sup>

Of especial note, programming recommendations have been consistently explicit that services and supports be “community-based” – and not be delivered by law enforcement, including probation. SB 823 itself calls for building the capacity of “a continuum of community-based approaches” and utilizing “community-based responses and interventions.” Such prioritization of community-based programs and supports draws from evidence of probation failures, the conflicting duties of probation as a compliance officer and social worker that create confusion and challenges for youth served, and evidence of success by community-ownership.<sup>74</sup>

#### iv. Staffing

All aspects of staffing within a more effective, therapeutic model must support holistic, integrated programming. These include:

- **Sufficient staffing** – Appropriate staffing ratios provide for the security and effective treatment and support of both staff and youth. Minimum requirements for staffing ratios in all juvenile facilities in California are found in section 1321 of the Juvenile Title 15 Minimum Standards, set by the California Board of State and Community Corrections (BSCC). Currently, the BSCC staff-to-youth ratios for day and night times are 1:10 and 1:30, respectively. These ratios fall short of the national standards (of 1:8 and 1:16 for day and night times) that have been promulgated by the United States Department of Justice

71. Korman, H. & Dierkhising, C. B., *supra* note 53 at pp. 6-7, 9.

72. *Id.* at p. 9.

73. *Ibid.* at p. 6.

74. Annie E. Casey Foundation, *Transforming Juvenile Probation: A Vision For Getting It Right*, pp. 6-17 (2018).

per the federal Prison Rape Elimination Act (PREA), the National Partnership for Juvenile Services,<sup>75</sup> Council of Juvenile Correctional Administrators<sup>76</sup>, National Institute of Corrections<sup>77</sup> and the Juvenile Detention Alternatives Initiative<sup>78</sup>.

In Los Angeles, committees who designed the LA Model for juvenile facilities recommended a probation supervision staff-youth ratio of 1:6 and a student-teacher ratio of 1:12<sup>79</sup>. Other educational staffing, health and mental health and program staff should also be specified.

**Priority in recruiting and hiring staff who embrace best practice and evidence-based approaches to working with youth and with personal experience with the justice system<sup>80</sup>** – Facility staffing should shift away from staff with corrections training to backgrounds in social work and healing. Staff should also be hired who have experience with the justice system and who are relatable and credible to youth (in some cases called “Credible Messengers”).

Credible messenger initiatives in New York and Washington, D.C. are two examples of transformative mentoring through staff who are “neighborhood leaders, experienced youth advocates and individuals with relevant life experiences whose role is to help youth transform attitudes and behaviors around violence.”<sup>81</sup> These credible messengers serve the most challenging young people “whose needs go far beyond the traditional mentoring approach of companionship, confidence-building and typical academic, social or career guidance” because they have come from the same communities; are formerly incarcerated or involved in the justice system; demonstrate integrity and transformation; and are skilled and trained in mentoring youth. Research has shown that credible messenger mentoring works – for example, reducing felony recidivism by 50-57 percent in New York.<sup>82</sup> Other approaches grounded in leadership by local, respected, relatable staff that are not necessarily called credible messengers have also long existed and proven their efficacy.<sup>83</sup>

- **An effective and holistic staff training plan** – Holistic trainings should be ongoing and collaboratively designed on a variety of topics, including at minimum youth development and trauma-informed care.<sup>84</sup> Trauma training should include how staff can reduce their likelihood of triggering a trauma response, or inadvertently escalating youth who are dysregulated because of trauma histories.<sup>85</sup>
- **Supportive staffing patterns and schedules** – Staffing structures should accommodate program delivery and improvement, including for instance, allowing for consistent work with a small group of youth, regular multidisciplinary team meetings, or sufficient time for planning and debriefing activities.<sup>86</sup>
- **Staff mental health and wellness** – must be prioritized in policy and practice so that staff can implement programs and interact with youth effectively. Issues such as vicarious trauma and secondary traumatic stress should be addressed in team meetings and staff should be given time to debrief following incidents with (or disclosures from) youth. Staff must have sufficient backup and support to allow for de-escalation and processing of issues (for themselves and with youth).
- **Adequate staff oversight and accountability** – Staff supervision and oversight are important on a routine basis. Any allegations of staff misconduct or abuse of youth should be safely reported to and investigated thoroughly and disciplined by an independent unit.<sup>87</sup>

<sup>75.</sup> National Partnership for Juvenile Services, *Minimum Direct Care Staff Ratio in Juvenile Detention and Correctional Facilities* (October 2013).

<sup>76.</sup> Council of Juvenile Correctional Administrators, *Toolkit: Reducing the Use of Isolation*, p. 8 (October 2015).

<sup>77.</sup> National Institute of Corrections, *Desktop Guide to Quality Practice for Working with Youth in Confinement*.

<sup>78.</sup> Juvenile Detention Alternatives Initiative standards, *Juvenile Detention Facility Assessment: 2014 Update*,

<sup>79.</sup> Korman, H. & Dierkhising, C. B., *supra* note 53 at p. 13.

<sup>80.</sup> Korman, H. & Dierkhising, C. B., *supra* note 53 at p. 9; Haywood Burns Institute, “*DJJ Transition Team*”, *supra* note 67 at p. 24.

<sup>81.</sup> Vincent Schiraldi, *Can We Eliminate Youth Prisons, The Square One Project*, p. 40 (2020); District of Columbia Department of Youth Rehabilitation Services, “Credible Messenger Initiative” (last visited January 27, 2021); see also Ruben Austria and Julie Peterson, *Credible Messenger Mentoring for Justice-Involved Youth, The Pinkerton Papers* (2017).

<sup>82.</sup> See *id.*, p. 1; Schiraldi, p. 41; Credible Messenger Justice Initiative, “*New Research on Transformative Mentoring*” (last visited January 27, 2021).

<sup>83.</sup> Ruben Austria and Julie Peterson, *supra* note 81 at pp. 5-6.

<sup>84.</sup> Korman, H. & Dierkhising, C. B., *supra* note 53 at p. 13; Resource Development Associates, *LA Probation Governance Study: Final Report*, *supra* note 54 at 64.

<sup>85.</sup> *Id.* at p. 65, citing National Center for Mental Health and Juvenile Justice, *Trauma Among Youth in the Juvenile Justice System* (2016).

<sup>86.</sup> Korman, H. & Dierkhising, C. B., *supra* note 53 at p. 9.

<sup>87.</sup> Annie E. Casey Foundation, *Facility Assessment*, *supra* note 67 at pp. 154-156.

### v. Security

Security within and outside a facility is essential to youth and staff, as well as the broader community. It can be important and useful to underscore and build unity around this point – that all stakeholders, especially youth and communities who are intimately impacted by both crime and violence in their neighborhoods and inside detention settings, deeply share this concern for safety.

Below are some core tenets of safety and security inside a facility based on general research and a recent series of focus groups with youth who are currently or formerly incarcerated at DJJ:

- **Staffing and programming are the foundation for establishing a youth's sense of a safety and security.** In other words, a positive climate is a safe one. Thus, cultivating trust, support, motivation and opportunity through programming and supportive staff are the foundational elements of safety inside a facility. Without this culture of care and support, even a secure, state-of-the-art physical plant that is designed for rehabilitation and healing can lack safety.
- **In addition to supporting a positive climate, there should be sufficient level staffing and training to supervise youth and safeguard against and deescalate triggers** that are likely to result in conflicts, violence, and injury.<sup>88</sup> As discussed above, staff require specific training in handling and deescalating conflict.
- **Staff should never use room confinement for discipline, punishment, administrative convenience, retaliation, staffing shortages, or reasons other than a temporary response** to behavior that threatens immediate harm to a youth or others.<sup>89</sup>
- **Adequate staff oversight and accountability are a part of accomplishing safety and security.** See above.
- **Beyond staffing and programming, some physical security measures can be necessary for the sake of community safety or youth themselves.** To the extent possible, such restraints should avoid an appearance and sense of institutionalization as much as possible – for instance, invisible bars, hidden cameras, secure perimeters by security officers, and remoteness from communities in some cases.
- **Counties should aim to soften facilities only as a back-stop and not a long-term solution,** if counties in the short-term must adapt dated, cold and prison-like settings and work longer-term to develop more transformative alternatives – Agencies can take intermediary measures to soften the sense of institutionalization through more homelike furniture, allowing unlocked and open doors, more freedom of movement, increased access to outdoor activity, greater access to family visitation and other practices that facilitate the overall well-being, sense of dignity and individuality among youth.

As with every component of DJJ alternatives, stakeholder engagement can provide critical insight into what measures of safety should be implemented inside a secure facility.

### e. Length of Stay

**STEP 5.** ————— Defenders should ensure periodic court reviews during a youth's confinement term to discuss the progress a youth has made – highlighting the skills they have developed to be able to step down to a less restrictive setting as soon as possible, and engaging multi-disciplinary perspectives in reporting on the progress of a youth to inform a court's consideration. In addition, defenders can cite research linking skills-development to reduced recidivism and safety concerns. While youth are committed, defenders should also ensure they have access to adequate programs and supports to develop such skills. They should challenge the argument that time in confinement or any out-of-home setting beyond any rehabilitative value serves any meaningful goal other than retribution.

Policy advocates should promote policies locally that reframe length of stay in terms of the time needed for a youth to develop healthy skills, citing evidence of how youth development is tied to greater public safety. As the Judicial Council of California works

<sup>88</sup>. Resource Development Associates, *LA Probation Governance Study: Final Report*, *supra* note 54 at 64; Department of Justice, *Juvenile Federal Performance-Based Detention Standards Handbook* (2011).

<sup>89</sup>. Annie E. Casey Foundation, *Facility Assessment*, *supra* note 67 at p. 6.

to develop guidelines on length of stay for a secure youth treatment facility track by July 2023, advocates should weigh in and advocate for rehabilitation-focused rubrics for determining any confinement term.

While stakeholders may otherwise agree the youth justice system is meant to achieve rehabilitation and community safety, their frameworks for defining and accomplishing these goals can diverge significantly. In implementing SB 823, one subject of debate has thus focused on the length of stay for youth in local DJJ alternatives – specifically, the connection between custody time, rehabilitation, accountability and public safety. Stakeholders may thus differ significantly on the question: even assuming that “time away” is spent in a healing-focused and therapeutic environment, what length of confinement for the DJJ youth population at the local level maximizes public safety and any therapeutic benefits of confinement? As of 2020, the average length of stay in DJJ was 29 months.<sup>90</sup>

Research about custody time is rather scant but nonetheless should be considered. Overall, studies show no consistent relationship between the length of out-of-home placements and recidivism.<sup>91</sup> Some studies show a correlation between longer lengths of stay and an increased chance that a youth will be rearrested.<sup>92</sup> Although some research has demonstrated a relationship between longer treatment periods or more contact hours and reduced recidivism, general agreement exists that extended treatment times show diminishing returns.<sup>93</sup> These findings are consistent with related conclusions that longer confinement interferes with healthy development; for instance, the National Research Council finds that:

Being in an institutional environment for extended periods, away from community opportunities to experiment with developing conceptions of self, might not allow for the developmental experiences needed in adolescence. Spending time in an institutional setting provides few opportunities to freely develop skills and competencies like learning job-related expectations or discovering qualities in a life partner that are a good match. Regimented schedules and restrictions reduce opportunities to develop the skills critical to a successful adolescent transition to adulthood (Mulvey and Schubert, 2011). Although some adolescents may receive essential skills for later life relationships, a great many others may just not catch up when they return to the community.<sup>94</sup>

Meanwhile, even in an environment that is therapeutically oriented, there is no empirical support for the relationship between length of stay and felony recidivism occurring within one year of release, or subsequent improvement in prosocial and problem-solving skills.<sup>95</sup> However, there is a strong relationship between higher skills acquisition and reduced likelihood of a felony charge 12-months post-release.<sup>96</sup> Regardless of age, parent contact also appears to be an important correlate of skill acquisition after holding the quality of family relationships constant, as well as with improved youth mood and decreased risk of reoffending.<sup>97</sup> In sum, facilities confining youth should focus on skills-acquisition and family contacts as the most effective ways to reduce recidivism.

Accordingly, calculating and reviewing commitment times should be focused on the progress a youth makes in acquiring pro-social skills. The Judicial Council of California will be tasked with developing a rubric for the SYTF for the highest needs youth.<sup>98</sup> And juvenile courts will have the ultimate authority to decide dispositions, including keeping youth in the community, committing youth to existing placement or facility options or committing youth to a SYTF. Thus, advocates should urge both Judicial Council and the courts to frame and calculate length of stay in terms of the time needed for youth’s skills-building – at the outset

<sup>90</sup>. Data compiled by California Department of Corrections and Rehabilitation (2020).

<sup>91</sup>. Pew Charitable Trusts, *Re-Examining Juvenile Incarceration: High cost, poor outcomes spark shift to alternatives*, p. 3 (2015).

<sup>92</sup>. Sarah Cusworth Walker and Asia Sarah Bishop, *Length of stay, therapeutic change, and recidivism for incarcerated juvenile offenders*, 55:6 *Journal of Offender Rehabilitation* 355 (2016); Kristin Winokur Early et. al., *Juvenile Recidivism and Length of Stay*, 36:2 *Journal of Criminal Justice* 126 (2008).

<sup>93</sup>. Pew Charitable Trusts, *supra* note at p. 3.

<sup>94</sup>. National Research Council, *Reforming Juvenile Justice: An Adolescent Development Approach*, National Academies of Science (2013), pgs. 157-158.

<sup>95</sup>. Walker and Bishop, *supra* note 92 at p. 371; Thomas A. Loughran, et al., *Estimating a Dose-Response relationship Between Length of Stay and Future Recidivism in Serious Juvenile Offenders*, 47 *Criminology* 699 (2009).

<sup>96</sup>. Walker and Bishop, *supra* note 92 at p. 372.

<sup>97</sup>. *Id.* at pp. 372-373.

<sup>98</sup>. Senate Bill 823 § 53 (August 24, 2020).

in determining disposition and setting an initial commitment length, and throughout as courts consider adjustments to step-down youth to less restrictive residential settings or release them altogether. Both Judicial Council and courts should engage multi-disciplinary teams in informing its decision-making.

#### f. Restorative Justice and Survivors

**STEP 6.** Policy advocates should consider a restorative justice program for survivors of crime and youth who are ready and willing to engage in such a process – at any point viable before, during or after adjudication and confinement. Advocate for funding partnerships with or piloting community-based restorative justice programs as part of a DJJ alternative plan. Advocate for the District Attorney, Public Defender, Courts, Probation and the restorative justice providers to develop a plan for working with youth and survivors to facilitate the goals of repair and accountability through an alternative.

Policy proposals to develop DJJ alternatives must reckon not just with the needs of youth who committed more serious offenses, but also with the needs of survivors and the harms inflicted on them. Restorative justice is an alternative approach responding to crime that can be implemented at any point in the criminal justice process from pre-trial to post-sentencing, where the philosophy is based on restoration and healing of impacted individuals, rather than retribution and punishment.<sup>99</sup> Restorative justice at its core “is about relationships—how you create them, maintain them, and mend them. It’s based on the philosophy that we are all interconnected, that we live in relationship with one another, and that our actions impact each other.”<sup>100</sup> Restorative justice models vary and can be molded based on the preferences of the parties involved, but ultimately strive to achieve similar goals of repair towards healing and accountability.

Restorative justice approaches have been shown to be successfully applied in cases of serious crime, as it facilitates active participation of survivors as well as individuals who committed harms in the decision-making process, developing a reparation plan and in some way defining a more satisfying version of justice.<sup>101</sup> Other research has shown that restorative justice had the strongest impact in reducing recidivism with high-risk repeat offenders.<sup>102</sup>

Restorative justice has been found to improve post-traumatic stress symptoms in victims of crimes as well.<sup>103</sup>

There are many reasons why implementation of restorative justice programs for serious and violent crimes has proceeded cautiously – including concerns for the survivor's safety, the traumatic impact of the offence as well as the concern that the restorative justice process itself may compound the trauma, and the lack of psychological readiness of parties to participate in a restorative justice process. Thus, legal and procedural safeguards are fundamentally important to ensure that restorative justice processes are not detrimental to participants, especially to victims.<sup>104</sup>

99. See Rugge, T. et al., *Evaluation of the Collaborative Justice Project: A Restorative Justice Program for Serious Crime*, Ottawa: Public Safety Canada (2005).

100. Impact Justice, *Restorative Justice Project*, available at <https://impactjustice.org/wp-content/uploads/RJD-Brochure-August-2020.pdf> (last visited March 1, 2021).

101. See Rugge et al., *supra* note 99.

102. See Sherman et al., *Are Restorative Justice Conferences Effective in Reducing Repeat Offending? Findings from a Campbell Systematic Review*, *Journal of Quantitative Criminology* (2015).

103. See Alex Lloyd and Jo Borrill, *Examining the Effectiveness of Restorative Justice in Reducing Victims' Post-Traumatic Stress*, *Psychological Injury and Law* (2019).

104. See Rugge et al., *supra* note 99.

Unique needs among youth who may have otherwise been committed to DJJ may warrant specialized policy and program responses in a county's implementation of SB 823. This section addresses three specific population needs of: youth adjudicated of sex offenses, girls and youth with serious mental health issues.

## A. Youth Adjudicated of Sex Offenses

(see Appendix A for further detail)

Developing local supports for youth adjudicate of sex offenses has been a special concern in planning and implementing local alternatives to DJJ. Policies and programs addressing the needs of these youth should be grounded in research about the wide range of behaviors labeled as sex offenses – from developmentally normal, to inappropriate to abusive, aggressive and violent behaviors. In sum, that research has established that the motivations underlying adolescent sex offenses are often sexual exploration, rather than sexual exploitation,<sup>105</sup> and that any sexual misbehavior underlying a youth's adjudication is a symptom or extension of other problems for most youth. For only a small percentage of adolescent sex offenses does the underlying motivation involve a true disorder or deviancy.<sup>106</sup> One-size-fits-all approaches focused on containing and treating youth adjudicated of sex offenses have resulted in many negative consequences, including isolation, depression, increased suicidal ideation and suicide attempts, denied access to education, and fear for their own safety.<sup>107</sup>

Thus, counties should focus intensive, individually tailored interventions on the small number of youth who struggle with an actual sexual disorder. Otherwise, counties should challenge overly sweeping characterizations of sex offenses that can be stigmatizing and misunderstand the nature of the underlying behavior. Instead of treating sexual deviancy as something specific and distinct, counties should respond to most youth adjudicated of sex offenses with holistic, youth development supports, working with a youth's family and community.<sup>108</sup>

### PRACTICE TIP

- Given that the needs of youth underlying most sex offense adjudications resemble those of youth generally involved in the justice system, advocate for them to be served through holistic community-based and family-centered supports that address their environment and ecology, as for any youth. Advocate against unnecessary labelling and the stigmatization of sex offender treatment that sees the misbehaviors as deviancy or something "special."
- For the rare youth adjudicated of aggravated cases with criminal or abusive elements, advocate for an expert to be appointed to develop an individualized treatment plan that may include MST adapted to address healthy sexual behaviors.

## B. Girls

While the number of girls in the overall youth justice system, and committed to DJJ, are relatively low compared to boys, responses to their involvement are needed and must consider their unique histories, needs and experiences. Overall, a youth development framework focused on strengthening various competencies apply to youth of all genders. Additionally, advocates and policymakers should keep in mind the following factors that especially contribute to punishable behavior for girls:

- **Abuse and Trauma** – Trauma for all youth increases behavioral symptoms that may trigger justice system contact, but young women and girls report a higher rate of traumatic life events and mental health problems like depression and anxiety than their male counterparts.<sup>109</sup>

<sup>105</sup>. Paul Stern, An Empirically-Based Approach for Prosecuting Juveniles Sex Crimes, Child Abuse Prosecution Project, p. 7 (2018).

<sup>106</sup>. *Id.* at p. 12, citing Seto, M. et. al, *The discriminative validity of a phalometric test for pedophilia interests among adolescents sex offenders against children*, 12 Psychological Assessment 39 (2000).

<sup>107</sup>. See Letourneau, E. and Caldwell, M., *Expensive, Harmful Policies That Don't Work Or How Juvenile Sexual Offending Is Addressed In The U.S.*, 8:3-4 International Journal of Behavioral Consultation and Therapy 23 (2013); see Human Rights Watch, *Raised On The Registry: The Irreparable Harm Of Placing Children On Sex Offender Registries In The US* (2013).

<sup>108</sup>. See Dopp, A. et al, *Evidence-Based Treatments For Youths Who Engage In Illegal Sexual Behaviors*, *Journal of Clinical Child and Adolescent Psychology* (2016).

<sup>109</sup>. See Berkeley Center for Criminal Justice, *Gender Responsiveness and Equity in California's Juvenile Justice System* (August 2010).

- **Romantic partners and maturation** – Early puberty is linked to increased risk of system involvement – as the discrepancy between biological and social maturity can cause conflict with parents or negative associations with older males, including exploitative and unsafe relationships.<sup>110</sup>
- **Sexual exploitation and prostitution** – Young women and girls are more likely to be referred and charged for prostitution.<sup>111</sup> Black girls and young women are a disproportionate number of juvenile arrests for prostitution compared to their white counterparts. Black young women and girls are also more likely to be detained in a locked facility, even if they are identified as a victim of sexual trafficking.<sup>112</sup>
- **Negative perceptions** – Girls, and black girls in particular, have been found to be described as being manipulative and more verbally aggressive. Overall, they are described as being harder to work with, with complicated issues and needs. Practitioners often report feeling unprepared to work with girls.<sup>113</sup>

In response to the unique needs of girls, pushes have been made to adopt programs that are gender-specific, gender-responsive, or both. A gender-specific program or resource serves a specified gender, though it may or may not be programmatically adapted to address needs specific to the gender of individuals served. A gender-responsive program or resource includes staffing and training, service delivery and content that is informed by differences in gendered needs, although it may or may not serve a specified gender. Programs that are gender-responsive may be able to more meaningfully address the gendered needs of justice-involved girls by recognizing the ways in which poverty, trauma, sexual harassment, sexual violence, domestic violence, mental health, human trafficking, substance abuse, self-esteem, body image, eating disorders, reproductive health, parenting and more may uniquely impact girls. Without a gender-responsive lens, community and system responses may fail to meaningfully address the needs and behaviors impacting girls' system-involvement.<sup>114</sup>

It is worth noting that there is no evidence that boys and young men would not also benefit from shifts shown to better support the needs of young women and girls. In other words, such shifts to include gender-responsive interventions for girls help ALL youth – by being developmentally appropriate and identity-sensitive, and by exploring the entrenched notions of gender that can equally harm young men and boys and young women and girls.

**PRACTICE TIP** ——— Girl-focused reforms do not necessarily need to be separate, even as counties have girl-specific placements or units within a placement. Advocates should call for and integrate any gender-responsive programs across the youth justice system so that the overall approach is developmentally appropriate and identity-sensitive, and thus effective for girls as well as boys.

## C. Mental Health

Youth who are realigned to county care from DJJ may have serious mental health needs – it has been estimated that between 50-75 percent of youth in juvenile detention facilities have diagnosable mental disorders.<sup>115</sup> Yet detention facilities have been found to be ill-equipped to provide adequate mental health treatment to such youth, resulting in their extended lengths of stay.<sup>116</sup> Moreover, the very conditions of detention settings pose inherent challenges in treating youth's mental health issues (“youth cannot get well in a cell”, as some say). Thus, proposals to address mental health issues of youth in the delinquency system have tended to focus on:

<sup>110.</sup> See Margaret A. Zahn et. al, *Girls Study Group: Understanding and Responding to Girls' Delinquency*, Office of Juvenile Justice and Delinquency (2008).

<sup>111.</sup> See Berkeley Center for Criminal Justice, *supra* note 109.

<sup>112.</sup> Priscilla Ocen, *(E)racing Childhood: Examining the Racialized Construction of Childhood and Innocence in the Treatment of Sexually Exploited Minors*, 62 UCLA L. Rev. 1586, 1591 (2015).

<sup>113.</sup> Kimberly Crenshaw et. al, *Black Girls Matter: Pushed Out, Overpoliced, and Underprotected*, African American Policy Forum, Center for Intersectionality and Social Policy Studies (2015).

<sup>114.</sup>

<sup>115.</sup> Edward Cohen and Jane Pfeifer, *Costs of Incarcerating Youth with Mental Illness: Final Report, Prepared for the Chief Probation Officers of California and the California Mental Health Directors Association*, p. iii (2011); National Center for Youth Law, *Supporting The Mental Health Of Youth In Juvenile Court (California): Resource Guide And Bench Cards* (2019).

<sup>116.</sup> See Cohen and Pfeifer, *supra* note 115 at p. iii.

- **Front-end diversion** or improving ways to identify youth with mental health needs and divert them into treatment and therapeutic settings as early in the process as possible, to avoid unnecessary system involvement and detention; and
- **Education and training** or enhancing community education and training to recruit and retain staff better equipped to work youth with mental health needs involved with the juvenile justice system.<sup>117</sup>

For youth who may have been committed to DJJ who struggle with mental health issues, most are better served through community-based services and/or outside of the juvenile justice system. For the short small number of youth who need residential care, treatment should be provided in a therapeutic setting that is conducive to mental health improvement.

Because the topic of mental health is so multi-faceted, this manual does not aim to be comprehensive in its recommendations on treatment delivery and supports – indeed, mental health issues vary from trauma to developmental disorders to psychiatric disorders. It is worth noting that the idea of “treatment” has evolved to take into account social and ecological factors, or “social determinants of health”, rather than focus on an individual’s “disease” and symptoms. Holistic mental health thus “isn’t merely an attempt to alleviate the fatigue, anger and anxiety that often come along with mental and emotional struggles, but to address the roots of the disorders themselves. This type of intervention involves treating the whole person and their ecosystem— that includes looking not only at the individual, but at the effects of family, school, peers and community on the life of a young person.” For example, Multisystemic Therapy (MST) is one evidence-based intervention that is premised on a holistic treatment philosophy and that has become a standard intervention for youth involved in the juvenile justice system.<sup>118</sup> In addition to more holistic approaches, studies on the gaps in mental health provision in the youth justice system have also identified the need for services to be more culturally responsive and gender focused.

**PRACTICE TIP** ————— Counties should ensure that holistic mental health evaluation, supports and settings are provided for all youth in the juvenile justice system in community-based settings to the extent possible. Residential care should be as therapeutic as possible in its physical design as well as programming and staffing to avoid institutionalization that exacerbates or impedes progress on mental health issues.

<sup>117</sup>. Models for Change, “Mental Health/Juvenile Justice Action Network”, <http://www.modelsforchange.net/about/Action-networks/Mental-health-Juvenile-justice.html>.

<sup>118</sup>. MST Services, “The Holistic Approach to Mental Health”, <https://info.mstservices.com/blog/holistic-mental-health>.

Below is a summary of the practice tips that are interwoven in the above discussion of policy arguments and supporting research. Additional practice tips are provided about maneuvering the process and decision-makers involved in planning county alternatives to DJJ.

## A. Policy and Plan Development and Client Advocacy

### Argue against:

- **Adult court transfer and prosecution**, and advocate for juvenile court jurisdiction in each and every case.
- **Incarceration wherever possible in any given case** – when deemed necessary by the court, advocate for periodic reviews and the shortest duration possible to achieve youth rehabilitation.
- **Confinement – especially long-term confinement** – of youth in any facility or unit that is isolating, deindividualizing, cold or otherwise built on a punitive, dehumanizing psychology.

### Advocate for:

- **Data** about the County's youth incarceration rates and demographics, and available facility attributes to better understand local options, practices and needs.
- **Development of policies to reduce reliance on incarceration** overall as part of the work to develop DJJ alternatives.
- **Articulation and adoption of a set of values to begin and drive planning** – look for any existing values statements in reports and other documents that emerged out of justice collaborations.
- **Mapping of the continuum of services and placement/facility options currently available in the County, and determination of what could be better utilized** and expanded for current youth in the local juvenile justice system, as well as for youth who otherwise would have been committed to DJJ.
- **Culture, programming, staffing to ensure a facility is both therapeutic and safe for youth as well as staff.**
- **Advocate for the most home-like, small, community-based setting available for a DJJ alternative** – and oppose settings that are fundamentally antithetical to a youth's therapeutic programming and progress, and demonstrate why that setting is incapable of supporting youth's rehabilitation. Advocates may consider possible physical changes to the setting to make it more conducive to rehabilitation and less harmful and institutional.
- **A level and length of confinement both at the outset and throughout be grounded in the therapeutic and skills-building benefits** of a setting. Challenge the argument that time in confinement or an out-of-home setting beyond any rehabilitative value serves any meaningful goal other than retribution.
- **Holistic, community-based and family-centered supports** that address youth's environment and ecology, including for youth adjudicated of sex offenses. Advocate against unnecessary labelling and the stigmatization of sex offender treatment treating the misbehaviors as deviancy or something "special."
- **An expert to be appointed to develop an individualized treatment plan** for the rare youth adjudicated of aggravated cases with criminal or abusive elements.
- **A community-based restorative justice program** that is implemented as a partnership among the District Attorney, Public Defender, Courts, Probation and the restorative justice providers to facilitate the goals of repair and accountability.

## B. Process and Decision-Making

### Juvenile Justice Coordinating Council Subcommittee

- **Ensure diverse composition** and perspectives on the subcommittee
  - » **Ensure that the individuals assigned from county and community-based agencies have relevant expertise to inform SB 823 implementation.**
- **Advocate for engagement beyond the subcommittee** with relevant system and community stakeholders, so that its work and recommendations are inclusive, transparent and accountable to the broader community through surveys, public town halls and other engagement strategies.
- **Solicit and support the leadership and involvement of community leaders and youth** with first-hand, relevant experiences and stories to engage in the development and implementation of DJJ alternatives.

- **Connect to any existing entities and work relevant to the DJJ planning** to build upon, given the short timeframe for developing at least a short-term DJJ alternative plan in 2021. Avoid starting from scratch if possible.

#### **County Board of Supervisors**

- **Engage the Board of Supervisors in supporting meaningful alternatives** supported by values, research and experience. Recognize that the ultimate decisions about what DJJ alternative facilities, programs and funding exist will be made by the County Board of Supervisors.
- **Engage the Board of Supervisors in supporting diverse, inclusive composition on the JJCC subcommittee** and a process that is transparent and accountable to the broader community.

#### **Courts, Defenders and Prosecutors**

- **Educate and advocate that the court in individual youth's cases** support and place youth in meaningful alternatives to DJJ, and to conduct periodic reviews based on skills-building and rehabilitative progress, rather than a preconceived notion of time-away that serves no other goal than retribution.
- **Engage the court in policy development** to reduce any overreliance on incarceration, and punitive settings and practices, and invest in, expand and utilize meaningful alternatives, including restorative justice processes.
- **Ensure that defense attorneys are guarding** against adult court prosecution and punitive settings and practices that are harmful to youth.
- **Advocate that prosecutors** use more rehabilitative alternatives to DJJ, and not worse alternatives like adult court prosecution and long-term confinement in traditional institutionalized settings.

#### **Community**

- **Spread the word and engage the community** in understanding the significance and opportunity in closing DJJ, and the decision-makers who need to hear from them about their ideas and experiences relevant to developing robust local alternatives.

Below are confinement and residential service models to consider as counties designate and develop a continuum of more and less restrictive out-of-home settings as alternatives to DJJ. In addition to maintaining and furthering an overall movement to reduce this country's reliance on detention altogether, many attempts have been made to transform approaches within secure and staff-secured settings to improve outcomes for youth and community safety. These models are all based on beliefs that youth should not be institutionalized in prison-like, dehumanizing setting.

## A. Missouri Model

For several decades, the Missouri Model has been a gold standard for transforming large, congregate confinement facilities into smaller, homelike and non-correctional environments, and associated with substantially lower recidivism rates compared to conventional youth custody practices.<sup>119</sup> Implemented between 1994 and 2001, the model includes secure facilities housing just 30-36 youth who work in smaller groups that participate in education, treatment, meals, and recreation. Staff engage families in reentry planning, and programming is 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. The state of Missouri divided itself into five regions and developed a continuum of programs in each.<sup>120</sup> Facilities in the Missouri model are also characterized by:

- Carpeted, warmly appointed dorm rooms containing 10-12 beds, with a dresser and closet space for each youth;
- Pods containing living rooms, couches, and coffee tables; and,
- Policies that allow youth to dress in their own clothes rather than uniforms, and keep personal mementos in their rooms.<sup>121</sup>

### Key tenets of the Missouri Model are:

- Continuous case management;
- Decentralized residential facilities;
- Small-group, peer-led services;
- Restorative, rehabilitation-centered treatment environment;
- Strong organizational leadership;
- An organizational culture shift from providing services under the court and correctional system to using the department of social services as the primary service provider, and ensuring that staff are both highly qualified and highly trained;
- Highly effective treatment strategies and approaches and ensuring that the program consistency reflects on, improves, and discards any ineffective initiatives; and,
- Larger constituency and increased buy-in from stakeholders.<sup>122</sup>

Commentary about the Missouri Model has underscored that it does indeed serve older teens who have committed serious offenses that otherwise could have led to adult prison, as well as youth with serious mental health problems. Furthermore, it is important to maintain the supportive role of courts and protection of youth's basic legal rights, including their right to due process, even where the confinement approach has been transformed.<sup>123</sup>

- For a video overview of the Missouri model, visit: [https://www.youtube.com/watch?time\\_continue=137&v=4A8sXYGOLto&feature=emb\\_logo](https://www.youtube.com/watch?time_continue=137&v=4A8sXYGOLto&feature=emb_logo)

<sup>119</sup>. Marian Wright Edelman, *Juvenile Justice Reform: Making The "Missouri Model" An American Model*, Children's Defense Fund, Childwatch Column (2018); Missouri Youth Services Institute, [https://www.youtube.com/watch?time\\_continue=137&v=4A8sXYGOLto&feature=emb\\_logo](https://www.youtube.com/watch?time_continue=137&v=4A8sXYGOLto&feature=emb_logo) (2017).

<sup>120</sup>. Richard A. Mendel, *The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders*, Annie E. Casey Foundation, p. 16 (2010).

<sup>121</sup>. *Id.* at p.19.

<sup>122</sup>. See *id.*

<sup>123</sup>. Jessica Martin, *Missouri's Juvenile Justice System In Crisis, Finds Report*, Washington University in St. Louis (2013).



Non-secure placement in  
New York City



Non-secure placement in New York City



Limited Secure Placement in  
New York City



Limited Secure Placement in  
New York City

## B. New York – Close-to-Home

In 2012, New York launched “Close to Home” (C2H), which included realignment legislation passed to formally shift the care and custody of New York City youth in upstate youth prisons to the city. To keep justice system-involved youth in their own communities, the initiative sought to:

- Improve pre-dispositional (or pre-sentencing) recommendation process;
- Expand and reconfigure placement alternatives;
- Shift or realign youth to local residential care and custody; and
- Create more expansive educational options for youth while in care.<sup>124</sup>

The changes started by expanding “non-secure placements” in 2012, the least restrictive out-of-home settings, and then broadened to include limited-secure placements in early 2014. Non-secure facilities, sometimes known as staff-secure, tend to be smaller facilities run by community-based organizations and have locked doors (providers must obtain a waiver if they do not want to lock doors). Limited-secure facilities are more restrictive, with perimeter fencing, locked doors, and controlled movement. The average length of stay in a residential program is 6 to 7 months. Youth may make phone calls to their family while in C2H. In non-secure placements, youth may also have the opportunity to go home for a day or overnight visit with the permission of the provider, and receive visits from approved family members.

Supporting positive youth development is a core goal of C2H. For the small number of youth who might require an out-of-home placement for some period of time, C2H is guided by a set of principles for residential facilities, which emphasize family engagement, education, and aftercare and release planning. The Administration of Children’s Services, the City’s lead juvenile justice agency, uses a more expeditious procurement process to engage existing providers in training and peer learning as the system grew. Finally, the design of the new system benefitted from hearings held in communities, particularly the neighborhoods where the C2H facilities would be sited. The key takeaways from the design process were:

- Have a clear vision of what you want your future system to look like
- Consider which agency(ies) should house and oversee key parts of the system
- Learn from other jurisdictions
- Involve advocates and other entities in the planning and implementation of reforms
- Listen to the numbers
- Include key constituencies in reform discussions.<sup>126</sup>

<sup>124.</sup> See Butts, Jeffrey A et. al, *Staying Connected: Keeping Justice-Involved Youth “Close to Home” in New York City*, Research & Evaluation Center, John Jay College of Criminal Justice, City University of New York (2015); Jennifer Jensen Ferone et al., *The Close to Home Initiative and Related Reforms in Juvenile Justice*, Vera Institute of Justice (2014).

<sup>125.</sup> Administration for Children’s Services, *Close to Home Frequently Asked Questions*, <https://www1.nyc.gov/site/acs/justice/close-home-frequently-asked-questions.page> (last visited March 1, 2021).

<sup>126.</sup> Marsha Weissman, Vidhya Ananthakrishnan, and Vincent Schiraldi, *Moving Beyond Youth Prisons: Lessons from New York City’s Implementation of Close to Home*, Columbia University Justice Lab (February 2019).

<sup>127.</sup> See Korman, H. & Dierkhising, C. B., *supra* note 53.



Campus Kilpatrick

## C. LA Model - Campus Kilpatrick

Over the course of two years starting in 2014, more than 100 stakeholders collaborated in Los Angeles County to articulate the features of a new small-group therapeutic facility in Los Angeles County characterized by a culture of care rather than a culture of control.<sup>127</sup> The process involved studying the Missouri Model and other best practices, and issuing detailed recommendations about the vision, mission, programming, staffing and training, and education and data collection desired for the “LA Model.” The vision of the LA Model was “supportive and collaborative learning environments where youth develop interpersonal, educational, career technical and life skills; create healthy and supportive relationships with adults and peers; and discover their true potential. A culture of healing and thriving is nurtured, focusing on positive community reintegration and forged through a safe, open, and holistic partnership involving all staff, families, and communities.” Key components of the LA Model include small residential hubs, education and community-based supports, and staffing from different training backgrounds (youth and community development, jobs development, arts, recreation and social work).

### The 10 core principles of the LA model are:

1. Multidisciplinary team planning occurs with collaboration across agencies and at all levels.
2. Programming is engaging and meaningful for youth and staff with a focus on skill-building, mental health, healing, and personal growth. It consistently includes families and community members as critical partners.
3. Families are engaged early and often, treated with respect and seen as partners in the treatment and aftercare process.
4. Aftercare and reentry are the core drivers of case planning from the day of arrival, in order to build a continuum of care and to support stability when back in the community.
5. The small-group care model includes cohort consistency, a focus on relationships, homelike living spaces and shared responsibility for daily activities, self-care and ordinary maintenance of shared spaces.
6. Safety, both psychological and physical, is a priority for staff and youth and is promoted through a variety of positive mechanisms integrated into daily interactions and activities.
7. Academic achievement and engagement are critical to each youth’s program, and input from education providers is a fundamental element of case and reentry planning.
8. Probation and all other staff are mentors and are consistently integrated into program delivery. Support for staff mental health and wellness is provided as an integral component of the LA Model.
9. Approach to programming is individualized, strengths-based and developmentally-appropriate, meeting youth where they are in the process of change and focusing on empowerment, problem-solving and the promotion of protective factors.
10. Data is continuously collected and analyzed to drive decision-making, guide case planning, support continuous improvement and evaluate implementation and effectiveness of activities/programming.

Six components for success were also spelled out for the implementation of the LA Model:

1. The Juvenile Courts and stakeholders, including judges, District Attorneys and Juvenile Defenders, must be trained on the LA Model and its goals in rehabilitating youth. These stakeholders should be invested in the model so that they can be held accountable for maintaining its mission once it has been formalized and implemented.
2. Prospective employees will have access to this document, as well as orientations and training, to have a baseline understanding of the LA Model and the expectations for staff.
3. Budgeting for programming will contemplate the long-term cost savings of effective intervention.
4. CBOs and partnerships, which can often provide high-quality services at a reduced cost, must be recognized and incorporated.
5. The Probation Chief, Superintendent of the Office of Education, Board of Supervisors, and other political stakeholders must endorse and advocate for the LA Model. The success of the model relies on ongoing public support.
6. As part of their continued involvement, experts and stakeholders from the subcommittees will provide consultation and feedback, including guidance in the selection and evaluation of providers.

The additional recommendations of the LA Model are well-documented in the Culture of Care report. For a video tour of Campus Kilpatrick, visit: <https://probation.lacounty.gov/campus-kilpatrick/>

## D. Santa Clara Enhanced Ranch Program

In 2006, the Santa Clara County Probation Department (SCCPD) overhauled its approach at two juvenile facilities, the William F. James Boys' Ranch and the Muriel Wright Center, to provide therapeutic services to youth and families through a cognitive-behavior model similar to the Missouri Model while maintaining a commitment to public safety. Called the Enhanced Ranch Program, the new model focuses on working with youth deeply involved in the juvenile justice system through positive, peer-based, small group interactions and a holistic case plan. Youth's daily activities emphasize their critical thinking, personal development, and group processes. The facility was designed to be open with a home-like atmosphere, "where the staff were counselors rather than guards, the family was an active participant, and the rules were enforced by youth leaders."<sup>128</sup>

An evaluation showed that the County's implementation of the program had a high level of integrity and fidelity to the model. Youth in the Enhanced Ranch Program had improved outcomes over their counterparts in the old model – 25 percent of youth versus 47 percent had probation violations and new arrest under the new model compared to the old while at the facilities, and 37 percent of youth versus 42 percent had probation violations and new arrest under the new model compared to the old after leaving the facilities.

## E. Alternative Rehabilitation Communities, Pennsylvania

Alternative Rehabilitation Communities (A.R.C.) is a family-run rehabilitative program that was founded by Daniel Elby in Harrisburg, Pennsylvania in 1975. A.R.C.'s residential services are located in the community in small, home-like settings and are the hallmark of the agency's continuum of service. A.R.C.'s staff-secure programs serve youth who are adjudicated of serious offenses, who have had multiple prior contacts with the justice system, including prior institutional placements. A.R.C. homes serve approximately 12 students at a time. The agency's philosophy supports a home-like, community-based focus for their students. The programs are highly structured, peer oriented, and provide Individual Service Plans for each student, individual and group counseling, individual and group education, and recreation as well as group living skills. A.R.C. has been a pioneer in providing staff-secure programs in the Commonwealth of Pennsylvania. A.R.C.'s approach to working with young people and families is founded on relationship building and staff who understand and relate to young people.

## F. Germany

The primary goals of the German corrections systems are rehabilitation and resocialization – and every aspect of the system from individual treatment to physical design is meant to further these goals.<sup>129</sup> "As a result, life in prison aims to inculcate fundamental skills that offenders will need in the community. For example, prisoners are allowed individual expression and a fair amount of control over their daily lives, including the opportunity to wear their own clothes and prepare their own meals; and, in order to instill self-worth, both work and education are required and remunerated. In addition, respect for prisoners' privacy is practiced as a matter of human dignity."<sup>130</sup> German corrections staff are trained to use positive incentives and rewards, and rely on disciplinary measures only sparingly. Incarcerated individuals are also given the right to appeal negative administrative decisions to independent review boards or courts and may be owed damages upon winning an appeal. To facilitate resocialization and reintegration, they retain the right to vote, continue to receive certain social welfare benefits, and earn short-term or extended leave



Neustrelitz Youth Prison

<sup>128</sup>. Isami Arifuku, *Assessing the Enhanced Ranch Program of the Santa Clara County Probation Department*, National Council on Crime and Delinquency, pp. 1, 14 (2010).

<sup>129</sup>. Ram Subramanian, *Sentencing and Prison Practices in Germany and the Netherlands: Implications for the United States*, Vera Institute, p. 11 (2013).

<sup>130</sup>. *Id.* at pp. 11-12.

<sup>131</sup>. *Id.* at p. 12-13.

to return home to strengthen their relationships with their families and communities, or practice various skills through reentry programming. Physically, German facilities are designed to be conducive to rehabilitation, with features like moderate temperatures, ample windows and light, and wide hallways.<sup>131</sup>

Neustrelitz Youth Prison is an example of secure confinement striving for normalization and rehabilitation.<sup>132</sup>

According to Germany's Youth Courts Law, when a youth is confined, it should "arouse the youth's sense of self respect," "be structured in an educational manner" and "help the youth to overcome those difficulties which contributed to his commission of the criminal offense." To facilitate such goals, Neustrelitz offers extensive vocational program for youth, including professional wood-working, metal working, culinary instruction and farming. Staff are highly professionalized and do not use pepper spray or solitary confinement to maintain order or punish youth. There are even horses and rabbits around the prison grounds.<sup>133</sup>

Almost all of the young men and women at Neustrelitz are between 19 and 25 years old, and all have committed serious and/or violent crimes.<sup>134</sup> Youth under 18 cannot be tried as adults, youth under 21 years old can be treated as juveniles, and youth can remain in juvenile facilities up to age 24.<sup>135</sup>

- **Video link to** "The German prison program that inspired Connecticut" (60 Minutes, March 2019): <https://www.youtube.com/watch?v=yOmcP9sMwIE>
- **Video link to** "What's behind Germany's steep drop in juvenile crime?" (France 24, February 2018) <https://www.youtube.com/watch?v=vOkmJVhZewg>

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<sup>132.</sup> Ram Subramanian, *Sentencing and Prison Practices in Germany and the Netherlands: Implications for the United States*, Vera Institute, p. 11 (2013).

<sup>133.</sup> *Id.* at pp. 11-12.

<sup>134.</sup> *Id.* at p. 12-13.

<sup>135.</sup> Vincent Schiraldi, *In Germany, It's Hard to Find a Young Adult in Prison*, The Crime Report (2018).

SB 823 and the closure of DJJ presents a momentous opportunity for the State of California and local counties to reduce the harmful, costly incarceration of youth, and adopt and advance youth development approaches that better promote youth well-being and community safety. Its implementation may equally be rife with challenges that require the dedicated participation and advocacy of diverse stakeholders, including by juvenile defense lawyers, advocates, impacted communities and the broader community, to ensure that alternatives to DJJ live into the law's intent and spirit. Although not exhaustive, this manual attempts to support the ongoing leadership and work of local advocates.

## About The Pacific Juvenile Defender Center

The Pacific Juvenile Defender Center (PJDC) was founded in 1999 to provide regular training and support to California lawyers representing young people in juvenile court. Its overall mission is to promote justice for all youth by ensuring excellence in juvenile defense and advocating for systemic reforms to the delinquency system. Today, PJDC has expanded to a membership to over 1,600 juvenile defenders and advocates.

To further its mission, PJDC provides support to and engages its members through: **Training and Technical Assistance** – to provide critical updates, support and ongoing education to defenders and advocates through its listserv, periodic trainings, resource materials; **Communications and Outreach** – to facilitate statewide discussion, connection and collaboration among its members; and **Policy and Legal Reform** – to make systemic changes to delinquency law and policy at the state and local levels through litigation and legislative and administrative reforms.

While maintaining its powerful statewide presence, PJDC is also rooted in the work of our members with boots on the ground. Juvenile defenders are in a unique position to identify systemic issues across California's diverse counties and to connect its work directly to families and community-based organizations.

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## A. Youth Adjudicated of Sex Offenses – Expanded Discussion

In doing so, counties should be informed by the many research-informed understandings about this population's characteristics:

- **The literature concerning juveniles who have committed sexual offenses shows significant differences between this population and adult sexual offenders.**<sup>136</sup>
- **Most adolescents who have engaged in sexually inappropriate or abusive behavior are not some “special” group of offenders** – and treating them as such will not bring about the change that the justice system desires.<sup>137</sup>

As a group, these youth are more like other generally misbehaving youth, rather than as miniature versions of adult sex offenders.<sup>138</sup> Youth who commit sex offenses are “similar in their characteristics to other youth who commit delinquency and do not represent a distinct or unique type of offender.”<sup>139</sup>

- **Sexually abusive behavior by children and adolescents rarely persists into adulthood.** “[M]ost adolescents who have engaged in sexually abusive behavior do not continue to sexually abuse and are not on a life trajectory for repeat offending.”<sup>140</sup> The vast majority of adolescents adjudicated of sex offenses “are not unyielding sex offenders.” (Stern, P. 8.) A comprehensive meta-analysis suggests that “the most current sexual recidivism rate is likely to be below 3%.”<sup>141</sup>
- **Youth who have committed sexual offenses are much more likely to recidivate for a non-sexual offense** rather than a sexual offense.<sup>142</sup>
- **The motivations underlying adolescent sex offenses are often sexual exploration**, rather than sexual exploitation.<sup>143</sup>
- **For only a small percentage of adolescent sex offenses does the underlying motivation involve a true paraphilic preference or a deviant sexual preoccupation.**<sup>144</sup>
- **For many of these youth, sexual misbehavior and offending is a symptom or extension of other problems** – their own victimization, serious mental health or early onset neurological issues, substance abuse, or general impulsiveness and immaturity. As one leading researcher explained, “...youth captured under the sex offender label, although presumed to share common features, are actually incredibly diverse, and may have little in common with each other aside from their administrative classification under law and policy.”<sup>145</sup>

Additionally, the influences of widespread mobile technologies and social media have introduced a new phenomenon of sexual exploration and potential exploitation – sexting.<sup>146</sup> Research to consider in addressing these behaviors show that:

<sup>136</sup>. Chris Lobanov-Rostovsky and Jesse Hansen, *Evidence-Based Practices for the Treatment and Management of Adults and Juveniles Who Have Committed of Sex Offenses*, Colorado Sex Offender Management Board, p. 2 (2014), citing Burton, D. & Duty, K. & Leibowitz, G., *Differences between sexually victimized and non- sexually victimized male adolescent sexual abusers: Developmental antecedents and behavioral comparisons*, 20:1 Journal of Child Sexual Abuse 77 (2010).

<sup>137</sup>. Stern, *supra* note 105 at p. 13.

<sup>138</sup>. *Id.* at p. 18.

<sup>139</sup>. Letourneau, E., and Miner, M., *Juvenile Sex Offenders: A Case Against The Legal And Clinical Status Quo*, 17:3 Sexual Abuse: A Journal of Research and Treatment 293 (2005).

<sup>140</sup>. ATSA Adolescent Practice Guidelines (2017).

<sup>141</sup>. Stern, *supra* note 105 at p. 13.

<sup>142</sup>. *Id.* at p. 8.

<sup>143</sup>. *Id.* at p. 7.

<sup>144</sup>. *Id.* at p. 12.

<sup>145</sup>. Chaffin, M., *Our Minds Are Made Up Don't Confuse Us With The Facts: Commentary On Policies Concerning Children With Sexual Behavioral Problems And Juvenile Sex Offenders*, 13:2 Child Maltreatment 110 (2008).

<sup>146</sup>. Stern, *supra* note 105 at p. 4.

- **Approximately 1 in 5 youth** (22% of teenage girls and 18% of teenage boys) had engaged in sexting.<sup>147</sup>
- **Sexting among youth can fall into two categories:** (1) aggravated cases seen to have criminal or abusive elements, and (2) experimental cases, which do not involve any form of malice.<sup>148</sup>
- **Much of sexting is common for teens, may be more of an inappropriate boundary issue, and is not indicative of deviancy or sexual offending.**

With more research-informed understandings about the ranging nature of sexually normal, inappropriate or abusive, aggressive and violent behaviors, counties can focus their intensive interventions on the last category. Approach should consider:

- **Specialized treatment programs for adolescents who have engaged in aggressive sexual behavior have been widely available for more than three decades, but those have largely been modeled after those designed for adults with few adaptations for youth.**<sup>149</sup> More than 80% of these treatment programs are based on cognitive behavior therapy (CBT) or relapse prevention models, designed originally for adults.<sup>150</sup>
- **For youth with problematic sexual behaviors, there is some limited support for treatment through cognitive-behavioral treatment (CBT).**<sup>151</sup> CBT is considered a standard sex offense specific treatment intervention for youth, though available literature only “provides limited support for the effectiveness of CBT with youth who have engaged in sexual behaviors.”
- **Researchers have found “a host of other negative consequences” of current legal policies that are one-size-fits-all and focused on containing and treating sexual deviancy among youth.**<sup>152</sup> These consequences have included: isolation, depression, increased suicidal ideation and suicide attempts, denied access to education, fear for their own safety.
- **Thus, many juvenile sex offender treatment programs are typically designed to target the “deviancy” and not the ecology.** As described earlier though, for most of adolescents any sexually abusive behavior is not ingrained in sexual deviancy, but the multitude of developmental, ecological and maturation issues which have been the primary contributors to their conduct.<sup>153</sup>
- **Treatments that effectively target ecological causes and contributors of delinquency are more effective than specific programs treating sexual deviancy as something “special.”**<sup>154</sup> Given the vast majority of youth adjudicated of even more serious sexual offenses, interventions that are developmentally appropriate, and focus on risk factors for general delinquency are more effective than treatment assuming that such youth are a “special” and different group of offenders. Yet “a common response to youth adjudicated of a sexual offense is to send them into a prolonged sexual deviancy treatment program typically modeled after those used for adults.”<sup>155</sup>
- **The most effective treatments with adolescents who have engaged in sexually abusive behavior are those which involve working with their family and community.**<sup>156</sup>
- **Multi-Systemic Therapy (MST) has been shown to be both cost- and clinically-effective with the youth populations.**<sup>157</sup> MST is a family and community-based treatment model that “integrates structural and strategic family therapies, behavioral parent training and cognitive behavioral treatment aspect

147. *Id.* at p. 5.

148. *Id.*

149. *Id.* at p.12, citing Knopp, F. H et. al. *Report Of Nationwide Survey Of Juvenile And Adult Sex-Offender Treatment Programs And Providers*, Safer Society (1986); Letourneau, E. and Borduin, C. *The Effective Treatment Of Juveniles Who Sexually Offend: An Ethical Imperative*, 18:203 *Ethics and Behavior* 286 (2008).

150. Stern, *supra* note 105 at p. 12.

151. *Ibid.*

152. Letourneau and Caldwell, *supra* note 107 at pp. 23-29.; see also Human Rights Watch, *supra* note 107.

153. Stern, *supra* note 105 at p. 12.

154. *Id.* at p. 13.

155. *Ibid.*

156. *Id.* at p. 15.

157. Lobanov-Rostovsky and Hansen, *supra* note 136 at p. 3.

to reduce adolescent antisocial behaviors.”<sup>158</sup> The adaptation of MST for the treatment of youth with illegal sexual behaviors is known as MST for Problem Sexual Behaviors: MST-PSB.<sup>159</sup> A review of the studies of the effectiveness of MST-PSB on youth populations “demonstrated significant reductions in posttreatment sexual offense rates in two randomized clinical trials.”<sup>160</sup>

- **MST and CBT can also be used in custodial-based settings.** Mendota Juvenile Treatment Center in Wisconsin program is an example of a custodial-based treatment program focused on youth accused of sexually abusive or aggressive behaviors.
- **Other promising therapeutic, holistic models have emerged for responding to youth accused of sexually abusive behaviors.** Models like the Good Lives Model (GLM) proposes a holistic framework premised upon a strengths-based approach to treatment, including components related to youths’ health,
- educational or vocational fulfillment, pro-social attitudes, a sense of community, and spirituality, among others. These components foster a more positive, future-focused and goal-oriented approach.<sup>161</sup> Research has shown that participants about the GLM model endorse the importance of establishing these positive components, and negative behaviors related to a lack of effective strategies to achieve these components.<sup>162</sup>
- **The regular use of quality assessments of adolescents who have engaged in sexually abusive behavior** can help to evaluate their level of risk and their needs.<sup>163</sup> Standards for assessment of adolescents who have engaged in sexually abusive behavior have been set by the Association for the Treatment of Sexual Abusers (ATSA), the world’s leading multidisciplinary organization committed to preventing child sexual abuse through research, practice guidelines and policy advocacy. In 2017, ATSA published Practice Guidelines for the Assessment, Intervention and Management with Adolescents Who Have Engaged in Sexually Abusive Behavior. Each community should debate the pros and cons of the timing of these evaluations, and decide what information is most needed and when it is best to receive that information.<sup>164</sup>

For sexting cases, it is recommended that each jurisdiction also establish criteria for classifying “sexting” based on the belief that the behavior is normal, impulsive and experimental in the vast majority of cases. For such youth, adjudication for a sex crime should be avoided and corrective action should be sought through education, boundary setting and other diversion interventions.<sup>165</sup> Factors to consider in determining whether sexting is more malicious and inappropriate include:

- History of prior sexual offenses, whether charged or uncharged;
- Use of force, threats, coercion, or illicit substances to obtain the photos;
- History of prior non-sexual offense history;
- Indication that images were sent to others without consent;
- Age, and power differences between the parties involved.

<sup>158</sup>. See Dopp, A et. al, *supra* note 108.

<sup>159</sup>. Stern, *supra* note 105 at p. 18.

<sup>160</sup>. See Dopp, A et. al, *supra* note 108.

<sup>161</sup>. Lobanov-Rostovsky and Hansen, *supra* note 136 at p. 16.

<sup>162</sup>. Danielle M. Loney and Leigh Harkins, *Examining The Good Lives Model And Antisocial Behavior*, *Psychology, Crime & Law* (2018).

<sup>163</sup>. Stern, *supra* note 105 at p. 19; see also Association for the Treatment of Sexual Abusers, [www.atsa.com](http://www.atsa.com).

<sup>164</sup>. Stern, *supra* note 105 at pp. 19, 22.

<sup>165</sup>. Lobanov-Rostovsky and Hansen, *supra* note 136 at pp. 5, 28.