

## State Approaches to Implementing Community-Based Alternatives to Incarceration for Youth Involved in the Justice System

### Introduction

In many states, governors have led bipartisan juvenile justice reform to improve youth outcomes and public safety. Guiding those efforts are: a better understanding of brain development; recent U.S. Supreme Court decisions; and evidence of the benefits of certain community-based, family-focused alternatives to incarceration through state and local models. The latest research on adolescent brain development shows that the brain remains malleable until children reach their early to mid-20s.<sup>1</sup> This research informed recent Supreme Court decisions that affect the field of juvenile justice—decisions that turned on the idea that adolescents are less culpable and more amenable to rehabilitative treatment than adults and thus should be held to different standards than adults.<sup>2</sup>

Given the science and federal court decisions on juvenile crime, many states have moved to change legal determinations of culpability as well as dispositional options and detention policies.<sup>3</sup> Specifically, states are adopting alternatives to residential placement that move youth back into their communities, where families can support them and secure access to developmentally-appropriate and evidence-based interventions. These approaches promote healthy family engagement, mark a shift in states away from the era of mass incarceration and support programs and services that address significant racial and ethnic disparities. As such, many community-based alternatives can help improve outcomes for youth and, ultimately, public safety at lower costs.<sup>4</sup>

To provide guidance to governors looking to advance juvenile justice reforms, the National Governors Association Center for Best Practices convened

leading national experts—state juvenile justice directors, governors’ criminal justice policy advisors, governors’ cabinet secretaries, juvenile justice experts and academics—to discuss the latest research on effective alternatives to incarceration. From that conversation emerged several recommendations for governors, including:

- Safely transition away from and replace large correctional facilities, and establish a continuum of community-based alternatives that use new or redirected funding;
- Provide a new vision for juvenile justice systems that promotes greater awareness of research on youth development, advocates for wider adoption of community-based alternatives and seeks a full continuum of care for youth and their families; and
- Ensure effective cross-agency coordination and intergovernmental collaboration to support youth in communities and promote more effective resource allocation.

This issue brief details those recommendations, identifies recent state efforts to adopt alternatives to incarceration and discusses effective approaches that governors can take to implement reform strategies.

### How States Are Changing Their Approach to Juvenile Justice

Increasingly, states are encouraging implementation of developmentally appropriate policies and practices in residential facilities. Inside facilities, this work emphasizes youth rehabilitation through trauma-informed therapeutic interventions, connections to caring adults, education, workforce development, and substance use disorder and mental health treatment

rather than traditional incarceration practices. It also calls for greater use of humanized living spaces, rather than institution-like settings and environments, in which youth are treated with dignity and respect by staff who are trained in adolescent development and behavior.<sup>5</sup>

Much of the recent juvenile justice reform work in states has focused on pursuing policies that seek to strengthen public safety by limiting correctional placements for youth. In many states, high youth recidivism rates led states to examine their existing practices, evaluate the costs of these approaches and subsequently seek changes in policy to limit the number of youths entering the justice system and being placed out-of-home. In lieu of sending large numbers of juveniles to detention or confinement facilities, states instead sought to direct youths who committed status offenses or posed a low risk to the community back into their own communities to receive support and treatment.<sup>6</sup> For example, in places like **Georgia**, **Utah** and **Ohio**, recidivism rates exceeding 50 percent for youth placed in correctional facilities helped lead these states to reform correctional placement policies.<sup>7</sup>

In addition to limiting correctional placement, states have increasingly adopted community-based alternatives to incarceration, which serve youth in the community instead of incarcerating them in institutional facilities.<sup>8</sup> Community-based alternatives exist on a continuum and include: in-home, nonresidential, community-based programs; and smaller treatment-oriented facilities located within the youth's community that focus on intensive rehabilitation (including through engagement with their families), education and job training, community service and restorative justice opportunities through which youth can repair the harm they have done to victims and communities.<sup>9</sup> Research has shown that these alternatives can shield low-risk youth from institutionalization and help them successfully transition out of state care by maintaining ties with their families and communities.<sup>10</sup>

Community-based alternatives can lead to significant

cost savings as well as benefits such as improved public safety and better youth outcomes. Confining young offenders in institution-like settings is expensive; in fact, a majority of states reported that the most expensive option they have to confine a young person can cost, on average, \$150,000 annually (or as much as \$400 a day).<sup>11</sup> In comparison, some community-based programming costs as little as \$75 per day.<sup>12</sup>

Through wider adoption of community-based alternatives to placement, states are signaling a shift in how they frame and approach juvenile justice.

## **How States Are Implementing Developmentally Appropriate, Community-Based Alternatives**

In implementing juvenile justice reforms, states are crafting solutions that: limit youth incarceration by building a continuum of community-based approaches (either at home or at a facility close to their home); and ensure that youths who must be confined because of risk, need and offense level be served within a rehabilitative environment. Overall, the efforts to implement community-based, family-focused interventions are rooted in evidence, science and risk assessment instruments.

### ***Limiting Correctional Placement***

First, states are pursuing policies that limit correctional placements for youths. For example, **California** prohibits placements to state facilities for low-level and nonviolent youth offenders.<sup>13</sup> Only youth found guilty of serious violent offenses, such as murder, rape, robbery, kidnapping, torture and assault, are sent to secure confinement.<sup>14</sup> In Georgia, juvenile justice reforms focused on limiting confinement to youth who score as medium or high risk on a validated risk assessment tool.<sup>15</sup> Such efforts reduced secure confinement by 17 percent, cut the number of youth awaiting placement by 51 percent and reduced overall juvenile commitments by 33 percent. These results indicate that more youth are being served in their home communities.<sup>16</sup> Further, states like **Alabama**

have prohibited placements for status offenses (and probation violations where a status offense was the original charge), which are typically noncriminal acts such as truancy, running away and violating curfew.<sup>17</sup>

States have further limited detention for youth by building a continuum of community-based alternatives that include smaller, more treatment-oriented facilities closer to home and nonresidential community-based programs. In **Virginia**, state officials closed a large institutional facility, with local centers serving as an alternative that provide more opportunity to tailor services and programs.<sup>18</sup> Similarly, **New York**'s Close to Home initiative redirected youth closer to their families, and **Florida** moved at-risk youth from confinement to in-home or community-based treatment, resulting in savings of more than \$211 million.<sup>19</sup> In **Texas**, reforms have led to a more than 70 percent reduction in the number of youths in state-run juvenile correctional facilities.<sup>20</sup>

### ***Focus on Positive Youth Development***

Second, states have adopted services and programming within facilities that focus on positive youth development. In **Oregon**, the state's Youth Authority formally adopted a culture of positive human development for youth and facility staff.<sup>21</sup> The model adheres to the tenets of safety and security, caring and supportive relationships, high expectations and accountability, meaningful participation, and community connection.<sup>22</sup> In **Colorado**, low-security facilities give youth access to libraries and high school coursework as well as a system of privileges for those who do well. In addition, Colorado is developing a pilot to implement the **Missouri** juvenile justice program, whereby an increase in staffing ratios (one staff for every six juveniles) can help facilitate positive youth development.

States have also provided youth in the juvenile system with individual care and services within a group treatment model. Oregon's Youth Authority is constructing six new housing units that will be situated at an existing youth facility, with a maximum capacity

of 16 young people each.<sup>24</sup> In addition, these facilities will house higher need youths who have mental, developmental or behavioral issues.<sup>25</sup> These changes will provide ample space for group and individual treatment sessions and thus more developmentally appropriate settings within existing facilities.<sup>26</sup>

In addition, states have attempted to sustain reforms by allocating funding for developmentally appropriate settings and community-based support services. For example, states have worked with local and county entities to reduce placement expenditures across government and create incentives for localities to increase developmentally appropriate programs.<sup>27</sup> In Virginia, state and local officials aim to invest operational savings from the closure of larger facilities—estimated at up to \$20 million per year—into community-based programs.<sup>28</sup> California provided counties with increased funding to provide care for youth who were no longer headed to state facilities.<sup>29</sup>

### ***Focus on Evidence-Based Interventions***

Finally, state efforts to provide community-based interventions have led to a heightened focus on ensuring that youth services are based on evidence and research. For example, **Washington** has partnered with the Washington State Institute for Public Policy and other state research institutions to evaluate juvenile justice interventions for recidivism outcomes and through cost-benefit analyses.<sup>30</sup> Such efforts have led to independent research groups creating an inventory of state evidence-based (for example, multisystemic therapy), research-based (for example, dialectical behavior therapy) and promising practices and services (for example, Juvenile Detention Alternatives Initiative).<sup>31</sup> In addition, **Nevada** recently passed legislation to provide for the establishment of a program resource center to support the implementation of evidence-based policies and programs and act as a resource clearinghouse.<sup>32</sup> Likewise, states have turned to Blueprints for Healthy Youth Development, which provides a registry of evidence-based positive youth development and community-based programs for all levels of need, to select and implement promising evidence-based programs.

## **The Role the Governor Plays in Advancing New Approaches to Juvenile Justice**

Governors can lead statewide initiatives to reduce reliance on incarceration and improve outcomes for young people. Such initiatives can seek to transition away from and eliminate large correctional facilities. Additionally, initiatives can help establish a continuum of community-based alternatives that use new or redirected funding for alternatives to incarceration and community-based services.

Governors can provide a new vision for their state's juvenile justice system by promoting greater awareness of research on youth development, advocating for wider adoption of community-based alternatives, and seeking a full continuum of care for youth and their families that includes small residential facilities and nonresidential community-based programs, supports and services. For those residential facilities that remain, developmentally appropriate programs and services should be prioritized.

Governors can also ensure effective cross-agency coordination between, for example, behavioral health, child welfare, housing, and education, and intergovernmental collaboration to support young people in their communities and ensure that resources are used effectively. For example, governors can empower state and local officials to use risk and needs assessment tools and mandate screenings to identify youth who require supervision or who may benefit from mental health and substance use disorder treatment.

Finally, they can convene stakeholders who are a necessary part of a system-wide solution, including legislators, judges, prosecutors, law enforcement, state agency officials and program staff, state advisory groups, service providers, youth development specialists, community organizations, system-impacted youth and families and the public.

By leveraging the tools and authorities they have, governors are uniquely positioned to lead state efforts to increase public safety, improve outcomes for young people, and build more effective juvenile justice systems.<sup>33</sup>

*Jeffrey Locke*  
*Senior Policy Analyst*  
*Homeland Security and Public Safety Division*  
*NGA Center for Best Practices*  
*202-624-5348*

*September 2017*

Recommended citation format: Locke, J. *State Approaches to Implementing Community-Based Alternatives to Incarceration for Youth Involved in the Justice System*. Washington, D.C.: National Governors Association, 2017.

## Endnotes

- <sup>1</sup> Adams, G. R., Montemayor, R., & Gullotta T. P. (Eds.). (1996). *Psychosocial development during adolescence: Progress in developmental contextualism*. Thousand Oaks, CA: Sage Publications; Ortiz, A. (2004, January). *Cruel and unusual punishment: The juvenile death penalty. Adolescence, brain development and legal culpability*. Retrieved from American Bar Association, Juvenile Justice Center website: [http://www.americanbar.org/content/dam/aba/publishing/criminal\\_justice\\_section\\_newsletter/crimjust\\_juvjus\\_Adolescence.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_juvjus_Adolescence.authcheckdam.pdf); and Steinberg, L. (2014). *Age of opportunity: Lessons from the new science of adolescence*. New York, NY: Houghton Mifflin Harcourt.
- <sup>2</sup> *Miller v. Alabama*, 567 U.S. 460 (2012); *Graham v. Florida*, 560 U.S. 48 (2010); and *Criminal justice and the juvenile brain*. Retrieved from Columbia Law School website: [https://www.law.columbia.edu/media\\_inquiries/news\\_events/2013/july2013/scott-brain-research](https://www.law.columbia.edu/media_inquiries/news_events/2013/july2013/scott-brain-research).
- <sup>3</sup> Donald, B. B. (2015). On the brain: Neuroscience and its implications for the criminal justice system. *Criminal Justice*, 30(3), 1, 44–48. Retrieved from [http://www.americanbar.org/content/dam/aba/publications/criminal\\_justice\\_magazine/2015\\_fall\\_cj.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/criminal_justice_magazine/2015_fall_cj.authcheckdam.pdf).
- <sup>4</sup> Public Safety Performance Project (2015, April 20). *Re-examining juvenile incarceration (Issue Brief)*. Philadelphia, PA: Pew Charitable Trusts. Retrieved from <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/04/reexamining-juvenile-incarceration>.
- <sup>5</sup> McCarthy, P., Schiraldi, V., & Shark, M. (2016, October). *The future of youth justice: A community-based alternative to the Youth Prison Model*. *New Thinking in Community Corrections*, 2, 1–35. Retrieved from [https://www.hks.harvard.edu/ocpa/cms/files/criminal-justice/research-publications/ntcc\\_the\\_future\\_of\\_youth\\_justice.pdf](https://www.hks.harvard.edu/ocpa/cms/files/criminal-justice/research-publications/ntcc_the_future_of_youth_justice.pdf).
- <sup>6</sup> Office of Juvenile Justice and Delinquency Prevention. (2014, August). *Literature review: Alternatives to detention and confinement*. Retrieved from <https://www.ojjdp.gov/mpg/litreviews/AlternativesToDetentionandConfinement.pdf>.
- <sup>7</sup> Utah Juvenile Justice Working Group. (2016). *Final report*. Retrieved from <https://justice.utah.gov/Documents/CCJJ/Justice%20Policy/Research/Final%20Report/Utah%20JJ%20Final%20Report.pdf>; Georgia Council on Criminal Justice Reform. (2017). *Report of the Georgia Council on Criminal Justice Reform*. Retrieved from [http://gov.georgia.gov/sites/gov.georgia.gov/files/related\\_files/press\\_release/Report%20of%20the%20Georgia%20Council%20on%20Criminal%20Justice%20Reform%202017.pdf](http://gov.georgia.gov/sites/gov.georgia.gov/files/related_files/press_release/Report%20of%20the%20Georgia%20Council%20on%20Criminal%20Justice%20Reform%202017.pdf); and Public Safety Performance Project. *Re-examining juvenile incarceration*.
- <sup>8</sup> *Community-based alternatives*. Retrieved from the Juvenile Justice Information Exchange website: <http://jjiie.org/hub/community-based-alternatives>.
- <sup>9</sup> Development Services Group. (2010). *Restorative justice*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention. Retrieved from [https://www.ojjdp.gov/mpg/litreviews/Restorative\\_Justice.pdf](https://www.ojjdp.gov/mpg/litreviews/Restorative_Justice.pdf); and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. *Guide for implementing the Balanced and Restorative Justice Model (Report No. NCJ 167887)*. Retrieved from <https://www.ojjdp.gov/pubs/implementing/accountability.html>.
- <sup>10</sup> Austin, J., Johnston, K. D., & Weitzer, R. (2005, September). *Alternatives to the secure detention and confinement of juvenile offenders*. *Juvenile Justice Bulletin*. Retrieved from <https://www.ncjrs.gov/pdffiles1/ojjdp/208804.pdf>.
- <sup>11</sup> P. McCarthy. *The future of youth justice*.
- <sup>12</sup> Justice Policy Institute. (2014). *Sticker shock: Calculating the full price tag for youth incarceration*. Retrieved from [http://www.justicepolicy.org/uploads/justicepolicy/documents/sticker\\_shock\\_final\\_v2.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/sticker_shock_final_v2.pdf).
- <sup>13</sup> Mendel, R. A. (2011). *No place for kids: The case for reducing juvenile incarceration*. Baltimore, MD: The Annie E. Casey Foundation. Retrieved from <http://www.aecf.org/m/resourcecod/aecf-NoPlaceForKidsFullReport-2011.pdf>.
- <sup>14</sup> California State Commission on Juvenile Justice. (2009). *Juvenile justice operational plan: Blueprint for an outcome oriented juvenile justice system*. Retrieved from [http://www.cdcr.ca.gov/reports\\_research/docs/JJOMP\\_Final\\_Report.pdf](http://www.cdcr.ca.gov/reports_research/docs/JJOMP_Final_Report.pdf).
- <sup>15</sup> Przybylski, R., & Yeager, C. (2016, August). *Key principles for strategically planning, implementing and sustaining reform efforts*. Paper presented at the National Criminal Justice Association Center for Justice Planning State Strategic Planning and Leadership Summit, Denver, CO.
- <sup>16</sup> Georgia Council on Criminal Justice Reform. (2016). *Report of the Georgia Council on Criminal Justice Reform*. Retrieved from [https://gov.georgia.gov/sites/gov.georgia.gov/files/related\\_files/document/GA%20Council%20on%20Criminal%20Justice%20Reform\\_2016%20Report\\_Final.pdf](https://gov.georgia.gov/sites/gov.georgia.gov/files/related_files/document/GA%20Council%20on%20Criminal%20Justice%20Reform_2016%20Report_Final.pdf).
- <sup>17</sup> R. A. Mendel. *No place for kids*, 29.
- <sup>18</sup> Bonnie, R. J. (2016, February 18). *Bonnie: It's time to transform juvenile justice in Virginia*. *The Roanoke Times*. Retrieved from [http://www.roanoke.com/opinion/commentary/bonnie-it-s-time-to-transform-juvenile-justice-in-virginia/article\\_5ff5c1e-9c5d-53a8-acf0-254a5af09a33.html](http://www.roanoke.com/opinion/commentary/bonnie-it-s-time-to-transform-juvenile-justice-in-virginia/article_5ff5c1e-9c5d-53a8-acf0-254a5af09a33.html); Martz, M. (2016, June 1). *Virginia works toward smaller juvenile prisons*. *Richmond Times-Dispatch*. Retrieved from [http://www.starexponent.com/news/virginia-works-toward-smaller-juvenile-prisons/article\\_b2dd36ec-ccfd-5d45-9af2-2155b1401014.html](http://www.starexponent.com/news/virginia-works-toward-smaller-juvenile-prisons/article_b2dd36ec-ccfd-5d45-9af2-2155b1401014.html); McFarland, Laura (2017, June 22). *Beaumont Correctional in Powhatan County closes its doors*. *Richmond Times-Dispatch*. Retrieved from [http://www.richmond.com/news/local/central-virginia/powhatan/powhatan-today/beamont-correctional-in-powhatan-county-closes-its-doors/article\\_235360fa-57bb-11e7-aabe-27b0eec0a0bb.html](http://www.richmond.com/news/local/central-virginia/powhatan/powhatan-today/beamont-correctional-in-powhatan-county-closes-its-doors/article_235360fa-57bb-11e7-aabe-27b0eec0a0bb.html).
- <sup>19</sup> *New York State Social Services Law § 404*. Retrieved from [http://ocfs.ny.gov/main/rehab/close\\_to\\_home/Enabling%20Legislation.pdf](http://ocfs.ny.gov/main/rehab/close_to_home/Enabling%20Legislation.pdf); and Elliot, D. (2016, August). *Selecting evidence-based prevention and treatment interventions*. Paper presented at the National Criminal Justice Association Center for Justice Planning State Strategic Planning and Leadership Summit, Denver, CO.
- <sup>20</sup> Thompson, M. (2016, October). *National Association of State Budget Officers Justice Reform Meeting*.
- <sup>21</sup> *History of juvenile justice in Oregon*. Retrieved from Oregon Youth Authority website: <https://www.oregon.gov/oia/pages/history.aspx>.
- <sup>22</sup> *Ibid.*
- <sup>23</sup> Brown, F. (2007, September 27). *From gangs to grads*. *The Denver Post*. Retrieved from [http://www.denverpost.com/opinionheadlines/ci\\_7020634](http://www.denverpost.com/opinionheadlines/ci_7020634).
- <sup>24</sup> Francke, T. (2016, January 27). *Big changes planned as MacLaren expansion gets underway*. *Woodburn Independent*. Retrieved from <http://www.pamplinmedia.com/wbi/152-news/290628-168070-big-changes-planned-as-maclaren-expansion-gets-underway>.
- <sup>25</sup> *Ibid.*
- <sup>26</sup> Pakersesht, F., & Komp, B. (2015, February 11). *OYA seeks to make changes at MacLaren*, *Woodburn Independent*. Retrieved from <http://portland-tribune.com/wbi/153-opinion/250110-119095-oia-seeks-to-make-changes-at-maclaren>.
- <sup>27</sup> Ananthkrishnan, V. *Addressing fiscal barriers to juvenile justice reform in New York State*. Retrieved from Vera Institute of Justice website: <https://www.vera.org/projects/addressing-fiscal-barriers-to-juvenile-reform-in-new-york-state/learn-more>.

<sup>28</sup> Martz, M. (2016, May 31). Virginia works toward smaller juvenile prisons, but how small and where? Richmond Times-Dispatch. Retrieved from [http://www.richmond.com/news/virginia/government-politics/general-assembly/article\\_909aeb13-6bde-54c3-a1fb-aca2b0d546fb.html](http://www.richmond.com/news/virginia/government-politics/general-assembly/article_909aeb13-6bde-54c3-a1fb-aca2b0d546fb.html).

<sup>29</sup> Berkeley Journal of Criminal Law. (2008). California youth and criminal law: 2007 juvenile justice reform and gang prevention initiatives. Berkeley Journal of Criminal Law, 13(1), 145–174. doi:10.15779/Z383P64.

<sup>30</sup> Fumia, D., Drake, E., & He, L. (2015). Washington's Coordination of Services program for juvenile offenders: Outcome evaluation and benefit-cost analysis (Document No. 15-09-1901). Olympia: Washington State Institute for Public Policy.

<sup>31</sup> Inventory of evidence-based, research-based, and promising practices for prevention and intervention services for children and juveniles in child welfare, juvenile justice, and mental health systems. (2016, June). Seattle, WA: Washington State Institute for Public Policy. Retrieved from [http://www.wsipp.wa.gov/ReportFile/1640/Wsipp\\_Updated-Inventory-of-Evidence-Based-Researched-Based-and-Promising-Practices-For-Prevention-and-Intervention-Services-for-Children-and-Juveniles-in-the-Child-Welfare-Juvenile-Justice-and-Mental-Health-Systems\\_Inventory.pdf](http://www.wsipp.wa.gov/ReportFile/1640/Wsipp_Updated-Inventory-of-Evidence-Based-Researched-Based-and-Promising-Practices-For-Prevention-and-Intervention-Services-for-Children-and-Juveniles-in-the-Child-Welfare-Juvenile-Justice-and-Mental-Health-Systems_Inventory.pdf).

<sup>32</sup> Nevada. Legislature. Assembly. An Act Relating to Juvenile Justice. No. 472. Reg. Sess. 2017. 2.

<sup>33</sup> The NGA Center would like to thank The Annie E. Casey Foundation for their support. In addition, The NGA Center would like to extend our thanks and appreciation to the states and external partners that have reviewed this issue brief, including Evidence-Based Associates, Justice Policy Institute, The Council of State Governments, The Tow Foundation, Youth Advocate Programs, Inc., and Youth First.