

Beyond Juvenile Justice: A Case for Reinvestment in Youth and Community

The calls to defund Probation and other law enforcement agencies have arisen amidst growing evidence from empirical research and youth and family experiences that consistently highlight failed juvenile justice policies that disproportionately impact communities and people of color. The pervasive nature of failed policies and systemic racism must be addressed immediately. While these voices for change have mostly grown out of community-based organizations and grassroots advocacy movements, they are also echoed throughout decades of empirical research on juvenile justice.

As the State Advisory Group for Juvenile Justice and Delinquency Prevention in California, per the Juvenile Justice and Delinquency Prevention Act (JJDP A), our role is to advise Governor Newsom on juvenile justice practice and policy in the State. Our Committee membership is diverse and rich with expertise on a range of practice and policy issues related to juvenile justice and delinquency prevention, as is mandated by the JJDP A. Membership includes formerly incarcerated individuals, probation administrators, advocates, psychologists, judicial officers, and more.¹

This brief includes a small set of recommendations that the State Advisory Group for Juvenile Justice and Delinquency Prevention have identified as critical areas of need to reduce racial and ethnic disparities in the State of California. In 2018, Congress passed H.R. 6964, the Juvenile Justice Reform Act of 2018 which amended the JJDP A in a variety of ways. One important change was the focus on reducing racial and ethnic disparities. The reauthorized JJDP A now requires, among other items, that states develop and implement a work plan with measurable objectives for policy, practice, or other system changes based on the needs identified through data collection and analyses of racial and ethnic disparities. We recommend the following items as part of the work plan so that California can take specific and actionable steps to address systemic racism, reduce racial and ethnic disparities in juvenile justice, and take a conscious approach to reinvest in youth and communities.

¹ A full list of membership and their expertise is provided in Appendix A.

Dear Governor,

Today not only am I formerly incarcerated but I am also the Executive Director at a community-based organization in Salinas, CA called Motivating Individual Leadership for Public Advancement (MILPA) where we work, employ and organize with those who are formerly incarcerated and otherwise bruised by the criminal legal system. We focus on policy and systemic change because we know the current juvenile justice system has failed our youth and that its overly resourced budgets have shown no evidence of success.

The over reliance on youth incarceration along with racist policies and practices have led to deteriorating community conditions and amplified youth trauma. The over-emphasis on the need for “deputized” probation supervision within schools and communities is harmful. At MILPA many of the people we work alongside were caught in the vicious cycle of arrest, probation, probation violation, juvenile hall, prison, and parole. This cycle often starts within the social and political context of the school to prison pipeline on the day that youth go from having to “visit” a school or community counselor to having to “report” to a school resource officer or a probation officer. At MILPA, success is almost never attributed to a probation officer, rather, we hear stories of failed promises, empty rhetoric, and reckless and invasive probation oversight.

Many in our communities share similar stories for many in our families and communities have been entrenched in the criminal legal system. We fell victim to the vicious cycle of racial profiling, community poverty, and systemic racism. We suffer from disproportionate contact with the police and other carceral systems. It often starts with the classification systems that designate youth as at-risk, high risk, truant or in need of diversion. These are all categories that fail to acknowledge the roots of systemic racism, trauma, and marginalization. Worse yet, these state sanctioned algorithms ignore and drown out the potential inherent in all youth.

As long as we prioritize and fund probation as a catch all for failed carceral funded programs, California dollars will always bleed into maintaining mass incarceration. I believe Californians would prefer to see their tax dollars spent on community-based approaches to youth development that focus on public health, mental health, and healing. If the community, advocates, and experts continue to be ignored, the next round of “reform” funding will increase the funding allotments for law enforcement, including the Probation Departments which currently sit as next of kin. Probation as an institution is standing in the way of progress, which offers band-aid solutions and reporting standards that are not held accountable to metrics of meaningful youth development, cultural healing, or improved educational success. Essentially, Californians will write a blank check in the next round of “public safety” reallocation dollars if we continue to be ignored.

Its time to stop the incarceration and move towards bold restoration and reparations.

Juan Gomez, Executive Director of MILPA, SACJJDP member

Recommendations from the State Advisory Committee on Juvenile Justice and Delinquency Prevention (SACJJDP)

Recommendation 1: Utilize the SACJJDP as a true State Advisory Group on critical issues related to juvenile justice including the implementation of Senate Bill 823.

The SACJJDP is a federally mandated State Advisory Group with each member appointed by the Governor. One of our primary functions is to advise the Governor on critical issues related to juvenile justice in the State of California including but not limited to alternatives to detention, reentry, evidence-based programming, conditions of confinement, racial/ethnic disparities, tribal and native youth issues, addressing trauma among justice-involved youth, community-based programming, and delinquency prevention.

The Committee is specifically eager to support the Governor in the implementation of Senate Bill 823 with the overarching goals of creating the Office of Youth and Community Restoration in the California Health and Human Services Agency, realigning the Department of Juvenile Justice, and coordination and administration of juvenile justice grants.

Recommendation 2: Ensure that Federal and State funds are routed directly into the community.

A significant amount of research and lived experience has confirmed that community-based programming and resources are more effective in reducing recidivism, improving public safety, promoting youth wellbeing, and saving tax dollars. In order to ensure that funding for such programming makes it into the community, local jurisdictions (e.g., Probation Departments, Law Enforcement Agencies, etc.) must be held accountable when receiving funds that are intended for youth-focused community-based programming. For example, state and

federal dollars through the Juvenile Justice Crime Prevention Act (JJCPA) provided \$321 million to counties in Fiscal Year 2018-19 (BSCC, 2020). However, these funds are often spent on supplemental funds to staff probation departments or, even more concerning, are left unspent rather than being spent on community-based programs for which they were intended¹. In addition, legislation that earmarks taxpayer dollars for youth-focused programming should not require a pass through with a City or County agency.

FUNDING FOR COMMUNITY-BASED PROGRAMMING MUST BE PRIORITIZED

Juvenile incarceration is associated with reduced likelihood of graduating from high school and an increased likelihood of adult incarceration by up to 40% for either outcome.

Most incarcerated youth have significant trauma histories and incarceration increases their risk for ongoing victimization and trauma. For example, one in eight youth report being sexually abused while in a secure facility.

It is estimated that incarcerating *one youth* in California costs \$304,259 a year.

Recommendation 3: Decisions about practice and policy must be data driven.

The collection of actionable data at the County level is essential to reducing racial/ethnic disparities, identifying best practices, and developing evidence-principled policies. This first step in reducing racial/ethnic disparities is identifying the point(s) of contact in the system that contribute to the disparities at the County level which is required per the JJDP (XX). Because juvenile justice data is decentralized in the State of California there is no uniform data collection occurring across counties and access to data are extremely limited. This makes data driven decision-making through research and evaluation extremely difficult, if not impossible in some areas. Per Senate Bill 823, a workgroup must be convened to develop a plan for ‘a modern database and reporting system’. This provides an opportunity to begin to address the lack of juvenile justice data across the state (insert footnote to JJWG report on JJ data in CA).

RACIAL AND ETHNIC DISPARITIES IN CALIFORNIA

BIPOC youth are more likely to be arrested in California compared to White youth. Yet, self-report data reveal that BIPOC youth *do not* commit more crime than White youth.

In California, compared to White youth, Black youth are 8.7 times more likely to be arrested, Native youth are 2.6 times more likely to be arrested, and Latinx youth are 2.1 times more likely to be arrested.

Systemic Racism has led to the increase of racial and ethnic disparities at each subsequent point of contact with the juvenile justice system. BIPOC youth are more likely to have their arrest referred to court, get sentenced, have their petition filed with the court, be transferred to adult court, be detained at arrest, and be incarcerated for longer periods of time.

Recommendation 4: Implement a State level mandate for Counties to systematically reduce racial and ethnic disparities.

Based on data analysis at the County level, actionable steps must be taken to reduce racial and ethnic disparities in measurable ways. Reputable organizations have been successfully addressing racial and ethnic disparities for many years, such as the Haywood Burns Institute, the Annie E. Casey’s Juvenile Detention Alternatives Program, and the Center for Juvenile Justice Reform. Probation departments should be partnering with these organizations through technical assistance contracts in order to provide evidence of the reduction of racial and ethnic disparities.

Recommendation 5: Encourage the use of community-based diversion as the primary approach to justice-involvement.

As soon as a young person has contact with the juvenile justice system the goal should be figuring out how to successfully get them out of the system. Prioritizing diversion has been shown to positively impact youth of color given their increased likelihood of juvenile justice contact and disproportionate risk for more severe sanctions (XX). If a youth can't be diverted away from the system initially, the system must continue to work to successfully transition each youth out of the system no matter where they are in the system. The best way to do that is with community-based organizations not through informal or formal probation. Community-based organizations are more likely to hire those with lived experience, who can address the root causes of trauma and focus on healing and mentoring in order for youth to thrive.

TOO MANY AVENUES TO PROBATION SUPERVISION AND NOT ENOUGH
COMMUNITY-BASED DIVERSION OPTIONS

Youth who are arrested and referred to Probation can be placed under Probation supervision despite ever being referred to the juvenile court *or* adjudicated of a crime.

About one in four youth petitioned to court receive some type of mandated supervision despite *NOT* being adjudicated of a crime. Once under Probation supervision youth who have not been adjudicated of a crime are at increased risk for continued and/or more in-depth justice involvement

Recommendation 6: Counties must have an effective and comprehensive plan for initial and ongoing training for those who work with youth involved in the juvenile justice system.

It is essential that those who work with youth involved in the juvenile justice system are trained on issues related to racial/ethnic disparities, implicit bias, child and adolescent development, trauma-informed care, how to be anti-racist, evidence-based practices, principles and programs in juvenile justice, mental health, and positive youth development. Training must be interdisciplinary, ongoing, and skills based. Trainers should include individuals in the community who work directly with youth and/or individuals who have experience in the system themselves to ensure cultural appropriateness and community relevance. Technical assistance must be provided following trainings to ensure that skills learned in the trainings are applied, practiced, and become routine in daily practices.

Recommendation 7: Hire individuals that understand the vast potential youth possess.

The Supreme Court has recognized that “children are different” and should be treated as such. This means that those who work with youth involved in the juvenile justice system must understand the developmental differences between adolescents and adults, take a non-punitive approach to youth justice, and recognize that working with youth and families should draw on the principles of social work, adolescent development, public health, and racial equity. Adolescence is an age of opportunity, during which youth are highly sensitive to and influenced by their environments and their relationships such that when they are surrounded by positive people and experiences, they are most likely to succeed. Conversely, incarceration, punishment, and discrimination have the opposite effect by increasing the risk for adult criminal justice involvement, reducing educational attainment, and increasing racial and ethnic disparities.

Recommendation 8: Reduce the use of detention.

Youth of color bear the brunt of punitive detention practices which means many youth are detained for reasons that are not related to public safety such as certain violations of probation, status offenses, bench warrants for missing a court date, or pre-trial detention for youth who have not been charged with a violent or serious crime. In fact, pre-trial detention makes up 75% of local juvenile detention admissions across the nation (ref) and in California about one-third of youth petitioned to juvenile court experience pre-trial detention (xx). The use of detention, and its disproportionate impact on youth of color, can be dramatically reduced in very simple ways. For instance, notifying a family when a youth’s court date is coming up, not detaining youth for truancy in alignment with the JJDPA, or only detaining a youth on a probation violation when it includes a new crime.

Recommendation 9: Detained and incarcerated youth must have access to resources.

In the rare occurrences that youth need to be detained or incarcerated (i.e., for violent crimes or if they are an immediate threat to public safety), they must have access to programming. This should include, at minimum, education services, mental health services, and access to community-based organizations. For example, [we want to include a concrete example of why having CBOs come into facilities is important for youth support and reentry – ideas??]. As soon as youth are removed from the community, planning must begin for their return to the community so that there is a smooth transition and warm handoff between the facility and the community.

YOUTH OF COLOR
DISPROPORTIONATELY
EXPERIENCE DETENTION

Compared to White youth in California, Black youth are 7.7 times more likely to be detained when their petition is referred to court.

Compared to White youth in California, Latinx youth are twice as likely to be detained and Native American or Alaskan Native youth are nearly four times as likely to be detained.

Pre-trial detention is associated with a 33% increase in felony recidivism and 11% increase in misdemeanor recidivism.

NEED TO INSERT REFERENCES THROUGHOUT STILL

APPENDIX A TO BE INSERTED – LIST OF SACJJD P MEMBERS AND EXPERTISE

ⁱ CJCJ brief on DJJ - Washburn and Menart 2020