



BIG SHIFT ideas for Juvenile Justice Reform: A working draft for discussion

INTRODUCTION:

We wanted to put some big shift ideas for juvenile justice and detention reform on paper for discussion. The following is a working draft of ideas that could reorient our system in ways that we think might reduce racial and economic disparities in the juvenile justice system, improve long-term outcomes for children of color and those living in poverty, and substantially reduce the use of and perceived need for secure detention. The bottom line is that we need more investment in strategies that give teenagers and their families the ability to go directly into services and programs that address their needs without having to be processed and punished in the juvenile criminal justice system. We also need to recognize that youth of color and their families suffer a disproportionate level of crime and violence, and that the equation for addressing racial disparities should consider how we reduce victimization in addition to improving public safety.

It will take a big shift in our thinking and practices so that our response to behavior is to quickly understand and address the reasons behind it. Before we can get there, we need to recognize some things about our law enforcement and the juvenile justice system. First, they are set up to react to behavior, and react with punishment (and the threat of more punishment) as the default intervention. Services, support, and youth development programming are sometimes, but not always, added on or offered after youth have been arrested, detained and processed through the court process. At the front end, formal diversion is currently only available to youth who face low level or first time offenses, so many youth do not get the chance to benefit from a more community oriented approach. And, even those formal diversion programs don't reach and meet youth of color in a meaningful way. Second, we need to acknowledge that youth and their families experience overt and implicit bias everywhere. Teenagers that are getting the attention of the police and courts are more likely to be a youth of color. This negative attention has an impact on how young people view themselves and perceive the world around them. Our strategies and efforts need to recognize the dynamic created by years of over policing and punishing communities of color. While the people working within juvenile justice institutions may be well meaning, they may still be viewed as part of a system that has for generations served to incarcerate and undermine the success of certain individuals and communities.

In an ideal world, we would altogether stop police from targeting youth of color. When there are legitimate concerns about safety and well-being, we would make sure that families



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and youth who need support can get it without being charged with a crime. On the road to getting there, the following are some “big shift” ideas that could significantly reduce the need for formal court processing and detention with potential time frames for implementation. We have no doubt that many others that could be suggested. Time frames for considering or moving the ideas forward are suggested, though we recognize that a dedicated team of people, with perspectives from government, courts and community should be convened to dig into and inform the design and implementation of any of these Big Shift ideas.

Big Shift Strategies and Potential Time Frames

- 1) Commit to Restorative Justice as a shift in philosophy and approach for the whole system, not just a program or pilot project.** *Take for example the work of the Partnership for Safety and Justice and hard work they have been doing around recognizing the common ground on which both victims and offenders are standing. In their [Moving Beyond Sides](http://www.safetyandjustice.org/files/Moving%20Beyond%20Sides%20Report%20Final_0.pdf) report (http://www.safetyandjustice.org/files/Moving%20Beyond%20Sides%20Report%20Final_0.pdf), they say "Communities of color often suffer a disproportionate level of crime and violence while being simultaneously damaged by criminal justice policies that have an exaggerated emphasis on incarceration as the primary public safety tool." In this report, they also talk about the mutual goal of reducing recidivism and victimization.*
- 2) Implement a Reinvestment Strategy that takes savings in incarceration and court costs and reinvests them into communities and community based programs.** Consider the work done around Reinvesting in Youth and in the Youth Safely Home report. *This recommendation should be considered immediately.*
- 3) Include in the county’s proposed Best Starts Levy a dedicated dollar (\$) or percentage (%) commitment to fund community-based services for youth and communities that will reduce the overrepresentation of youth of color and poor youth in the juvenile justice system.** Ensure that programs are directly linked to diverting youth from justice system involvement and replace arrest and detention. Incorporate the Youth Safely Home criteria for levy funded community based programming that will reduce the need for and use of incarceration. Site services in geographic areas in King County with high need. *This recommendation should be considered immediately.*



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- 4) Prioritize and direct MIDD (mental health sales tax dollars) funds to address the acute and chronic needs of youth who are being detained for serious offenses.** If a youth is already tiered into mental health services and is having an acute behavior incident, utilize an appropriate crisis response from the mental health system and not arrest and detention. Incorporate the Youth Safely Home criteria for MIDD funded community based programming that will reduce the need for and use of incarceration. Site services in geographic areas in King County with high need. *This recommendation should be considered immediately.*
- 5) Ensure that the county's Youth Action Plan incorporates recommendations related to the reduction of the use of detention, the elimination of race and ethnic disparity in the child welfare, juvenile justice and education systems, and accountability measures for the county to achieve these goals.** *This recommendation should be considered immediately.*
- 6) Provide a mechanism for collaborative oversight of all juvenile justice and detention programming with public and/or behavioral health with strong collaboration and emphasis on education and well-being.** Oversight of the juvenile justice system has not always been with adult corrections. A shift in responsibility and oversight with a shared and collaborative approach with child serving systems would help to reorient the system towards prevention and intervention. *This goal could be articulated immediately with planning and implementation over the next 18-36 months.*
- 7) Shift the emphasis to services up front rather than after the fact.** Put in place a goal of putting the intense array of services (FFT, FIT, MST, ART, case management, drug and alcohol assessments, employment programs) up front and available to youth without charging them, without adjudicating them (a paradigm shift in what we divert)-- so they get all the available help and programming right away without having to get a juvenile criminal record. *This recommendation should be considered immediately.*
- 8) Use alternative housing or electronic home monitoring instead of secure detention for all youth 14 years old or younger.** There is substantial research that describes the negative impact of incarceration on children and youth and the questionable efficacy as an intervention that reduces future delinquent behavior. EHM has been an effective alternative to detention that allows youth to continue to go to school and live at home.



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Currently our use of EHM is limited because of resources. It is also limited when youth do not have an adequate family or physical infrastructure to support the current technology (phone, home, responsible adult). Expanding EHM as well as creating alternative housing for youth would substantially reduce the need for detention and reduce the disruption that detention stays have on education, counseling and other youth development activities. Identifying barriers to current use, researching and putting better technology in place, and rethinking how the system could respond differently when a youth is not successful under EHM would be important aspects related to making this shift. *This shift could be implemented in the next year.*

9) **House all youth subject to decline (to the adult system) in the youth facility instead of the adult jail.** As changing policy and practice reduce the number of youth in secure detention, plans should be made to ensure that all youth are housed in a youth facility instead of adult jail. Currently youth subject to decline are in the Kent Regional Justice Center. Under the federal law, youth are required to be separated by sight and sound from adults. This isolation and the lack of programming for youth can be a source of additional trauma and create substantial disruption in their ability to complete education and get continue any community-based counseling. Since the length of time for incarceration in these cases can be quite long, it is even more important that services are developmentally appropriate and trauma informed. These important shifts in treatment are not likely to be priorities in the adult system. *Plans for this shift can begin immediately and could be implemented when the new facility is opened.*

10) **Ensure that any youth that is arrested and detained receives trauma informed and developmentally appropriate care and treatment.** This shift requires us to review in detail how we process youth through arrest, detention and the court system. Much of the way we do business has been informed and shaped by the adults who work in the system. “Walking through” the current process from the perspective of youth and families and with the expertise of educators, counselors, psychologists and doctors would help to inform how we could put better practices in place. For example, handcuffing, shackling, being searched are all common correctional practices. Are they the best approach given our current detention population that has high prevalence of disability and trauma? What counseling is available to youth when they are incarcerated? Can we do things differently? Also consider our system’s responses to specific groups of children and specific offenses and work on



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developing recommendations for policy changes that allow us to go directly to treatment rather than the criminalization of disability related behavior. Foster youth, youth with disabilities, youth with developmental delay, LGBTQ youth and girls all have unique needs and strengths and would benefit from a holistic approach to their care and treatment. Considering an example of a specific offense type, children who are accused of sexually acting out within the home (intrafamily) may be better served through an intensive treatment oriented program that addresses the health and mental health needs of the child and family. Saddling youth with sex offender status, mandatory registration, and severing contact with family creates more trauma and victimization. *This analysis could begin immediately with a shift in practice and policy taking place within 18-24 months.*

11) Provide an adequately resourced holistic defense/advocacy team (see Bronx Defender's model) to support the youth and family throughout their contact with the juvenile justice system. With the restructuring of public defense in King County, there has already been discussion about creating a more holistic defense practice. There are examples like the Bronx Defenders as well as the collaborative approach that TeamChild is currently practicing with the juvenile defenders in King County. A true holistic defense/advocacy team should be piloted for youth. While this may be more expensive than the current model because it means lower caseloads and more staffing from other professional disciplines, it reduces costs in the long run because the team can secure more sustainable solutions that address not only the presenting behavior, but also the underlying reasons for the behavior. *A pilot could be put in place in the next 12 months.*

12) To address the school to prison pipeline,

- a) Instead of arrest and detention for school based offenses, create restorative school and community based responses as the default response.** *This shift would take 24-36 months.*
- b) For all students having contact with the juvenile justice system, instead of other sanctions, provide educational support, special education, assessment, tutoring and advocacy.** Consider participation in these activities as THE way to satisfy the offender matter, which means that the court and prosecutor would give up the other sanctions and processing associated with the initial referral. *This shift would take 12-36 months.*



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- c) **Ensure that court expectations (hearings, detention, etc.) do not contribute to disruption in a youth's education.** *This recommendation should be considered immediately.*

13) Reduce and Ultimately Eliminate the Use of Secure Detention for the following groups: status offenders, probation warrants and probation violations, minor offenses, and drug/alcohol offenses. (12-36 months)

a) Status Offenses¹

- i) Rather than staffing a separate “detention wing” for the status offenders, use savings to pay for field workers and education support and advocacy, family counseling, mental health support, housing assistance, and other youth development activities.
- ii) If a youth fails to appear or if there is an allegation of noncompliance with an order, deploy a field worker to meet with youth at school or home and to connect with them and to identify reasons for not coming to court or for problems complying with conditions.
- iii) Identify and pay for additional community support that the youth and family need. Consider and address transportation challenges. Tap into existing social services (mental health, child welfare, school, etc.) and have a plan to incentivize progress.

b) Probation Warrants and Probation Violations²

¹ **Status offenses** refer to those behaviors for which youth (and not adults) can be subjected to the intervention and authority of law enforcement and the courts. Status offenders are typically subject to court orders in truancy proceedings, Child in Need of Services proceedings, At Risk Youth proceedings and dependencies. Types of behaviors that could lead to arrest and detention include running away, not following home rules, and skipping school. Status offenders made up 180 of the admissions to detention in 2014 and stayed an average of 2.85 days (580 bed nights). The average daily population of status offenders in detention is about 1.4 (2.5%).

² **Violations of conditions or expectations imposed by the court** can result in youth being detained for up to 30 days. These detention stays may be ordered if a youth violates the conditions of community supervision (or probation). Youth may also be arrested and detained on outstanding warrants that are issued by a court when a youth does not show up for a scheduled court hearing.



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- i) Rather than staffing court and detention for probation violations and probation warrants, use savings to pay for field workers and education support and advocacy, family counseling, mental health support, housing assistance, and other youth development activities.
 - ii) Retool probation intervention strategies with youth development principles. (For example, for every one sanction there should be three to four incentives.)
 - iii) If a youth fails to appear or if there is an allegation of noncompliance with an order, deploy a field worker(s) to meet with youth at school or home and to connect with them and to identify reasons for not coming to court or for problems complying with conditions.
 - iv) Identify and pay for additional community support that the youth and family need. Consider and address transportation challenges. Tap into existing social services (mental health, child welfare, school, etc.) and have a plan to incentivize progress.
- c) Minor Offenses (Theft 3, Trespass, Property Crimes)**
- i) Look closely at law enforcement referrals and deploy a team (consisting of community, law enforcement, and court stakeholders) to strategize around addressing arrests for behaviors resulting in high disparities for youth of color – Examples of potentially fruitful areas to target analysis, strategy and resources: Theft 3 arrests in Tukwila, Renton, Kent and Bellevue and Train fare evasion, metro fare evasion, trespass (King County Sheriff/Metro)
- d) Drug/alcohol referrals**
- i) Provide up front behavioral health strategies, including treatment and positive youth development activities rather than arrest and detention
 - ii) Engage youth in education and employment strategies
 - iii) Provide family and community based support rather than arrest and detention
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ADDITIONAL REFERENCES:

Youth Safely Home –Report -

<http://www.safelyhomecampaign.org/Portals/0/Documents/Safely%20Home%20Preview/safelyhome.pdf?ver=2.0>

THE KEY MESSAGES FROM SAFELY HOME ARE:

A lack of effective alternatives for high-need youth contributes to youth incarceration. Systems cannot achieve deincarceration goals unless they build continuums of community-based programs to serve *all* youth, especially those with the highest need (highest risk), and have the willingness to implement them. Currently, most kids with complex needs are left out of services or lack the support they need in current services and as a result, end up "left out and locked up."

Virtually anything that can be done in an institution can be done better in the community. Whether a youth needs 24/7 supervision, access to treatment or a way to appreciate the consequences of his behavior, an effective community-based program can create that environment in a way that keeps a youth safe and increases the likelihood that he or she will succeed.

Systems can redirect institutional dollars toward less expensive community programs. Effective community-based programs can serve three to four kids in the community for the same price as locking one up. In fact, if communities served 20 youth in the community over 6 months, instead of through out-of-home placement, they could save more than half a million dollars.

Communities can't climb out of poverty, neighborhood violence, and other risk factors through incarceration, especially of their youth. Risk factors that make youth vulnerable to incarceration cannot be eliminated through incarceration. In fact, many of the environmental and social factors that contribute to youth incarceration get worse, not better with incarceration.

Community-based programs that provide the right amount of intensity can provide safe and effective alternatives to youth incarceration and residential placement. The elements of effective community-based programs that will be discussed in detail in the report include:

- Accept all kids and adopt "no reject" policies
- Be available, accessible and flexible
- Empower voice, choice & ownership
- Individualize services for each youth
- Ensure family-focused services
- Take a strength-based approach
- Provide culturally competent services
- Engage youth in work
- Prioritize safety and crisis planning
- Provide unconditional caring (no-eject policies)
- Create opportunities for civic engagement and giving back
- Cultivate long-term connection to community