

## JUVENILE JUSTICE

### A BRIEF HISTORY OF THE JUVENILE JUSTICE SYSTEM

#### IN THE UNITED STATES

The first juvenile court proceeding convened in 1899 in Chicago and by 1925 all but two states established juvenile courts. The decision to remove juvenile offenders from the general criminal justice system was rooted in the idea that juveniles are developmentally different from adults and more likely to respond positively to intervention than incarceration. This early approach focused the juvenile justice system on rehabilitation, but as the number of juvenile delinquency cases rose in the 1900s the state and federal governments struggled to balance the unique needs of juveniles with rising case loads.<sup>1</sup>

Over the course of the 20<sup>th</sup> century, the juvenile justice system began to align with the criminal justice system, relying more on traditional forms of punishment and mirroring the process for adult offenders. Landmark cases—such as *Kent v. the United States*, 383 U.S. 541 (1966), and *J.D.B v. North Carolina*, 131 S. Ct. 2394 (2011)—provide insight into the ongoing challenge to maintain and clarify the juvenile system as distinct from the adult system, while ensuring juveniles are provided the same legal protections as adults in similar situations. In *Kent*, a 16 year-old admitted some involvement in incidents of robbery and

rape, at which point the juvenile court waived their jurisdiction, thus allowing the minor to be tried as an adult without a full investigation or access to counsel. The United States Supreme Court later held that the Due Process Clause applies to juvenile offenders and that juveniles are entitled to counsel, an investigation, and access to their record prior to juvenile jurisdiction being waived.<sup>2</sup> In *J.D.B.*, a 13 year-old student was questioned on school property without being read his Miranda Rights and ultimately admitted to stealing. However, the Supreme Court later held that age must be a consideration when deciding if a juvenile is “in custody” for Miranda purposes because a child is more likely to feel required to comply with police questioning than an adult who may ask if they are free to leave.<sup>3</sup>

As the courts worked to establish the rights of juveniles within the new juvenile justice framework, Congress worked to support state and local efforts to improve and prevent juvenile misconduct by passing the Juvenile Justice and Delinquency Prevention Act of 1974 (reauthorized in 2002). This act aims to provide resources to state and local governments that support a comprehensive approach to juvenile justice across all 50 states, including the development of juvenile justice prevention programs and the creation of the Office of Juvenile Justice and Delinquency Prevention within the Department



of Justice, which provides training, research, and program development to support state and local efforts. This legislation serves as the bedrock of the juvenile justice system and continues to be amended to address emerging issues across the states’ juvenile justice systems. For example, the act was amended in 2018 and maintained juveniles charged or tried may not be detained with adults, among other minor modifications.<sup>4</sup>

**IN CALIFORNIA**

The first juvenile court in California convened in 1903 and was shortly followed by the California State Legislature passing legislation to create rehabilitation programs to support minors and their families. California first instituted camps or schools—mostly in remote areas—for rehabilitation, followed by state facilities overseen by the California Youth Authority that kept juvenile offenders closer to their communities, before creating juvenile

detention centers as we know them today.<sup>5</sup>

Juvenile detention is costly and an imperfect science, which led California to reevaluate the state juvenile system in more recent years. The legislature passed SB 439, which ended the prosecution of minors except in cases of murder or forcible rape<sup>6</sup>, and SB 1391, which prevents juveniles under 15 years old from being transferred outside of the juvenile system, except in cases of extenuating circumstances.<sup>7</sup> Perhaps the most consequential of these reforms is SB 823 (2020), which realigned the juvenile justice system by remanding the custody of all juvenile offenders housed in state detention facilities to local authority.<sup>8</sup> This historic shift requires county governments to take custody of all juvenile offenders previously detained in state facilities and to develop a new system of juvenile justice for their region.

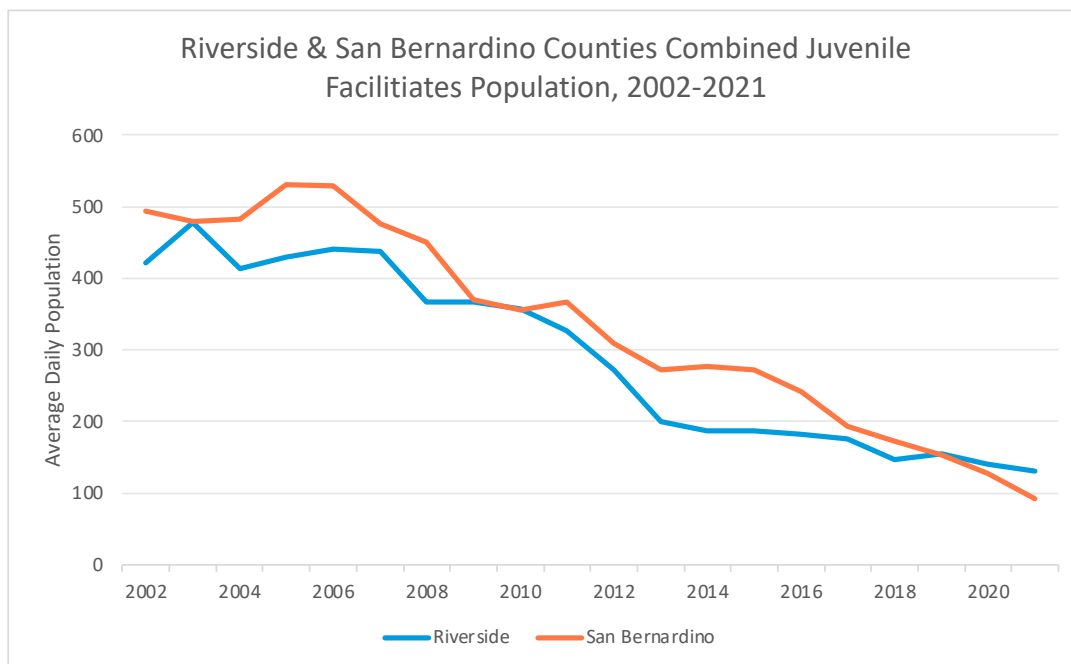


FIGURE 1 | Source: CA Board of State & Community Corrections

## THE PUZZLE

With a limited number of beds in juvenile detention facilities and a sudden surge in juvenile detainees realigned from state custody, counties are increasingly interested in interventions or programs that prevent juvenile involvement before it happens, divert juveniles from detention centers, and support community and family reentry if a juvenile is detained. How can county governments, with limited resources, most effectively navigate juvenile justice realignment? There is ample research on issues related to juvenile justice—from delinquency factors to prevention programs to family reintegration strategies—that provides some insight on the type of initiatives adopted in other states and localities, and the efficacy of these interventions. These models can be considered for adoption in California and the remainder of this bulletin profiles data and research on this topic.

## DATA AND RESEARCH

### JUVENILE JUSTICE TRENDS IN THE I.E.

In California, the number of juveniles entering juvenile justice facilities is declining. However, as of 2019, Black juveniles remain overrepresented in juvenile detention centers - comprising 46% of the total population, compared with whites (26%) and Hispanics (23%).<sup>9</sup> A similar decrease in the number of juveniles entering the justice system is observed at the state and county levels in California. In 2002, the state saw an average daily population (ADP) of 11,000 youth detained within the system. Two decades later, the state's ADP is around 2,000. Riverside and San Bernardino counties also saw a decline in the total number of juveniles housed in detention facilities and the average monthly population (AMP) for both felony and misdemeanor offenders.<sup>10</sup> These decreases in the number of juveniles being tried and detained may be due to the mix of changes in policy and initiatives that increasingly favor diversion and treatment over traditional custodial detention.<sup>11</sup>

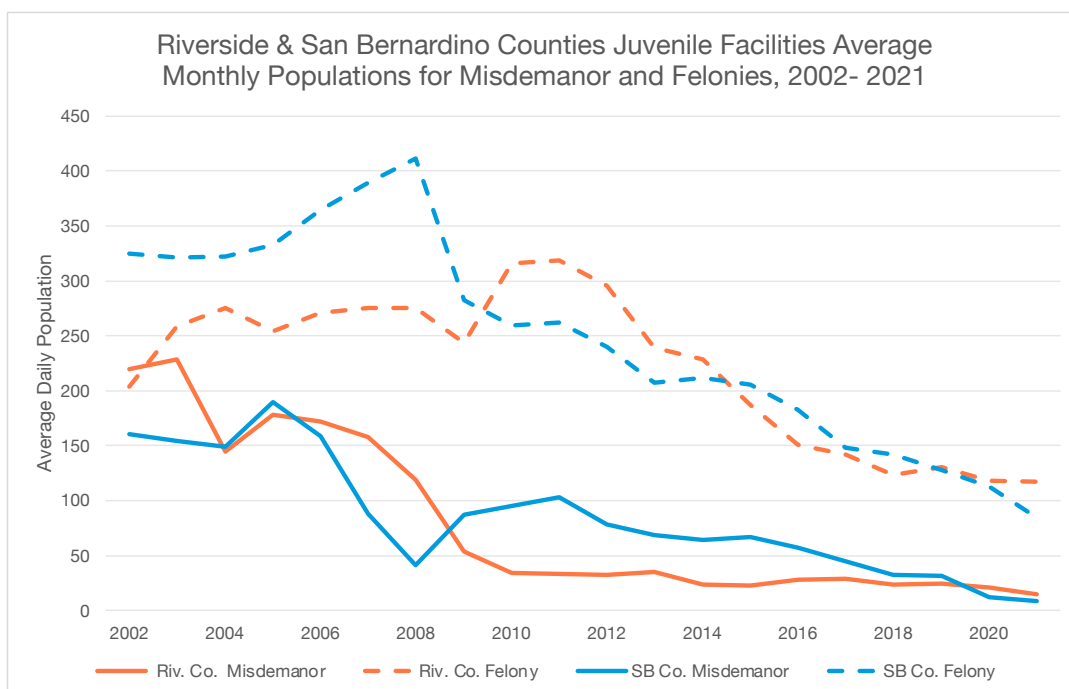


FIGURE 2 | Source: CA Board of State & Community Corrections

**WHAT MAKES A MINOR “AT-RISK”?**

There are a series of factors that impact a child’s likelihood of coming in contact with the juvenile justice system. Risk factors are those direct or indirect influences leading them to delinquency, including personality traits (e.g. antisocial behavior), family conditions, and their broader environment (e.g. schools, peer communities). Exposure to multiple risk factors may lead a child from being an *at-risk* youth to *high-risk*, thus increasing their likelihood of delinquency. For example, a child witnessing violent crime in their neighborhood may be an at-risk youth, but after encountering a stressful life event—like the death of a parent—the child may become a high-risk youth, more susceptible to engaging in behaviors that lead to juvenile justice involvement.<sup>12</sup> The composition of justice-involved youth is a salient consideration, since studies conclude that for

justice-involved youth of color in particular, ethnic/racial discrimination is both a risk factor and can contribute to poorer mental health and behavioral outcomes later on.<sup>13</sup>

Protective factors are those traits and influences that act as a “buffer” and reduce the likelihood of delinquent behavior by protecting the child against adverse events. These include individual-level personality traits (e.g. pro-social behaviors), strong family connections, and active school engagement, among other factors.<sup>14</sup> These favorable environmental conditions and traits help to moderate the effect of the risk factors the child is exposed to and the cumulative effect of having multiple protective factors produces resilience in children that can be stronger than the effects of risk factors.<sup>15</sup> Figure 3 presents some of the most common protective (and conversely, risk) factors within a child’s family.

FAMILY-RELATED PROTECTIVE FACTORS & INDICATORS	
FACTORS	INDICATORS
Effective/positive parenting	<ul style="list-style-type: none"> <li>○ Parental care</li> <li>○ Clear rules &amp; appropriate consequences</li> <li>○ Consistent discipline</li> <li>○ Responsiveness</li> <li>○ Monitoring &amp; supervision</li> <li>○ High expectations of youths (school &amp; personal achievements)</li> <li>○ Clear family rules</li> </ul>
Good relationship with parents/bonding and attachment to family	<ul style="list-style-type: none"> <li>○ Presence of a parent (during key times: before and after school; dinner; bedtime; doing an activity together)</li> <li>○ Emotional bonds to parents/family</li> <li>○ Commitment/connectedness to parents &amp; family</li> <li>○ Marital quality</li> <li>○ Family cohesion</li> </ul>
Opportunities/rewards for prosocial bonding	<ul style="list-style-type: none"> <li>○ Opportunities for involvement in prosocial activities in family</li> <li>○ Rewards for prosocial bonding in family</li> </ul>

FIGURE 3 | Source: Anther et al.

Although environmental and personal influences are significant factors, differences in children’s development across the genders impact involvement in delinquent behaviors. Hartman et al. sampled 711 individuals from the National Longitudinal Survey of Youth and Child–Mother data set to investigate how individual protective factors vary across gender on two measures of resiliency - a lack of involvement in serious delinquency and drug use. These findings suggest males and females rely on different individual-level personality factors to cultivate resilience; however, the accumulation of protective factors—both individual- and at the family/community level—is essential for children to overcome the negative effect of exposure to risk factors.<sup>15</sup>

## **PREVENTING JUVENILE JUSTICE INVOLVEMENT**

With these risk and protective factors in mind, the Office of Juvenile Justice and Delinquency Prevention profiled the Positive Youth Development (PYD) framework as a promising strategy to support and target at- or high-risk youth before they become involved with the juvenile justice system. PYD is a prosocial approach that can be administered in home, school, extracurricular and individual settings that strives to promote resiliency by fostering the 5 “C’s”: connection (to others); confidence (self-worth); character (responsibility); caring (sympathy and empathy); contribution (active participation and leadership in life); and competence.<sup>16</sup>

Youth.gov, the federal government’s resource for youth-serving organizations and agencies in the United States, promotes the use of PYD by community-based organizations

that serve at-risk youth.<sup>17</sup> Lerner et al. (2013) highlights the Boys and Girls Club of America and Big Brother and Big Sister as particularly strong examples of PYD administered in the community.<sup>18</sup> Boys and Girls club programs encourage young people to reach their full potential as productive, caring, responsible citizens.<sup>19</sup> Big Brother /Big Sister offers one-on-one mentoring that fosters positive relationships between at-risk youth and their mentors.<sup>20</sup> While PYD is not the focus of either program, it is a complementary and evidence-based strategy that enables both organizations to fulfill their missions while fostering protective factors among the children they serve.

“Scared Straight” programs are another type of pre-involvement deterrence strategy that were popularized in 1990s. In these, juvenile delinquents (officially adjudicated or convicted by a juvenile court) or pre-delinquents (children in trouble but not officially adjudicated as delinquents) participate in first-hand observations of prison life and receive aggressive presentations by inmates sharing stories of rape and murder, among other crimes. Prestrosino et al. conducted a meta-analysis of Scared Straight programs’ participant outcomes and found the programs (at best) produced no response and possibly even increased delinquency since children were being exposed to repeated harsh, confrontational interactions.<sup>21</sup>

## **DIVERTING JUVENILES OUT OF THE SYSTEM**

After a child is caught engaging in delinquent behavior, they are not necessarily charged with a crime and involved with the traditional



juvenile justice system. Instead, they can be “diverted” to avoid being charged or having to serve time in a juvenile detention facility. There are two primary types of juvenile justice diversion: 1) diversion out of the system, often called informal diversion, and 2) diversion into programs with requirements and services, often called formal diversion.<sup>22</sup>

In both forms of diversion, youth are allowed to avoid court proceedings, sentences, and secure confinement, but informal diversion does not impose any further conditions on the child. A juvenile is informally diverted from the juvenile justice system if a police officer identifies delinquent behavior and warns and releases them, a prosecutor declines to press charges, a judge dismisses a case, or—in the case of a child who was already convicted of a crime—a probation office does not report a violation of probation terms. With informal diversion, a child is diverted because the adults responsible for their case decline to take further action.

Formal diversion programs are typically administered by community-based organizations after referral from a government agency. Children with mental health, social, or substance abuse problems can be referred to specialty courts—sometimes called “problem-solving courts”—that aim to avoid entangling them with the formal juvenile justice system, which may result in their detention. Some of the most common juvenile diversion programs in the United States are restorative justice initiatives, which involve youth courts, victim-offender mediation, and counseling-skill building programs.<sup>23</sup> By completing the program’s requirements, a child can avoid prosecution

as opposed to being directly involved with the court system and legal proceedings. Contrary to informal diversion, formal diversion requires the adults involved in the child’s case to set conditions and for the child to take specific actions to be diverted from the system. A selection of research on common formal diversion programs is profiled below.

The goal of restorative justice programs is to encourage the child to take responsibility for their actions, focus on repairing harm they caused by directly communicating with the victim and other associated parties, and to provide reparations - either through compensation or community service.<sup>24</sup> Fundamentally, restorative justice is about repairing the damage between victim, offender, and the community through several interventions (e.g. peacemaking circles). Restorative justice conferencing or victim mediation programs offer face-to-face engagement between victim and offender to discuss the crime and its consequences, particularly when it comes to cases of gendered harm like sexual harassment and assault. According to multiple studies, youth who receive victim mediation and conferencing are half as likely to engage in delinquent behavior that results in a return to the juvenile justice system compared with those who do not engage in restorative justice.<sup>25</sup> Overall, diversion to restorative justice programs reduces the likelihood of recidivism in youth charged with violent crimes by more than 75% compared with those assigned to traditional juvenile court processing.

Restorative justice is often administered through specialty courts—like teen courts, where adolescents hear and decide cases—

that serve as an alternative to formal juvenile court proceedings.<sup>26</sup> The premise behind teen courts is that they help participants make better choices, adopt new behaviors, and better integrate into society when they acknowledge the harm they have done to specific victims or the community as a whole. Teen courts also impose restorative sanctions, such as targeted community service. In addition to granting an opportunity for the child to avoid being tried in juvenile court, teen courts also engage all parties in social learning, social control, and peer engagement, each of which are factors that protect against future delinquent behavior. Teen courts are less likely to re-refer cases to juvenile court because of their therapeutic approach<sup>27</sup>, yet there is limited research on the effect of Teen Court on reducing juvenile recidivism.<sup>28</sup> However, studies find that teen court participants' school satisfaction, future optimism, aggression, violence, and self-esteem improved significantly when compared to traditional juvenile justice involvement and programs that only target individual problematic behaviors (e.g. aggression and violence).<sup>29</sup> A child who successfully completes teen court does so in lieu of being charged and tried in a juvenile court, and thus typically avoids having an official juvenile court record.

A child may also be diverted to more general counseling or a supportive service program. Counseling and skill-building diversion programs focus on addressing the criminogenic needs underlying a child's delinquent behavior with the purpose of reducing the likelihood of future delinquency. They often involve mentorship, and individual- and family-based treatment programs that include therapeutic interventions

focused on the mental health or substance abuse of the family or the youth, as well as life skills and education programs.<sup>30</sup> Mentoring programs encourage and help youth reach their educational and career goals by engaging them in a way that promotes healthy decisions and reduces the likelihood of making poor future decisions.

For example, a program called Reading For Life (RFL) was recently piloted for offending youth in Indiana as an alternative to prosecution in the court system. RFL offers juvenile offenders the opportunity to learn about literature in small groups that are led by skilled mentors and designed to inspire character development in at-risk adolescents through mentoring relationships and moral discussions rooted in philosophical virtue theory. Concurrently, reconciliation and engagement with the local community are promoted through the mentoring component. Following successful completion of this diversion program, participants are not required to report that they were charged or convicted of a crime on their job or academic applications. Moreover, upon their 18th birthday they may petition the State of Indiana to expunge their record if they have not committed any offense for 3 years. RFL participation reduces an individual's likelihood of felony-arrest by 9.8% after two years, which is 50% less than youth who participated in more traditional community service diversion programs (e.g. trash clean-up).<sup>31</sup>

Other states, counties, and cities have implemented programs with similar principles, wherein non-violent youth may participate in a community program with a strong social-learning and mentorship component instead

of being criminally prosecuted in a juvenile court. Santa Clara County administers the Prevention and Early Intervention Diversion Program for low-level offenders, where they receive supportive services from community-based organizations. A South Bronx community-based organization, the Community Connections for Youth, takes a grassroots and faith-based approach that involves the entire family as an alternative to incarceration for juvenile offenders. Functional Family Therapy is administered in multiple states and substantially reduces an individual’s likelihood of recidivating, improves familial interactions, and helps prevent their siblings from engaging in delinquent behavior.<sup>32</sup>

Diversion programs administered by community-based organization/government partnerships and that involve youth and their guardians help facilitate positive youth mind-sets and strengthen social bonds to family and community.<sup>33</sup> Incorporating the principles and practices of balanced and restorative justice offers the family and juvenile justice system a way to work together with youth to restore harm and prepare them for their

future as productive members of society.

**SUPPORTING JUVENILES AFTER DETENTION**

If a child is tried, convicted, and serves time in a juvenile detention center, it is important to also focus on providing support during transition from out-of-home placements, with an eye toward prevention of future criminal justice involvement. This includes a consideration of their needs as related to their mental health, family engagement, targeted educational and employment programs, and housing.

Mental illness is a significant predictor of a child’s involvement with the juvenile justice system and roughly 66% of incarcerated juveniles have at least one diagnosable psychiatric disorder, compared with ~9-22% of the general youth population and ~45-62% of incarcerated adults.<sup>34</sup> While incarcerated, a child will be screened and treated for psychiatric disorders, but there is often a lapse in care after release from a facility. While in transition out of incarceration, the individual may be without stable medical care and the stigma associated with such disorders

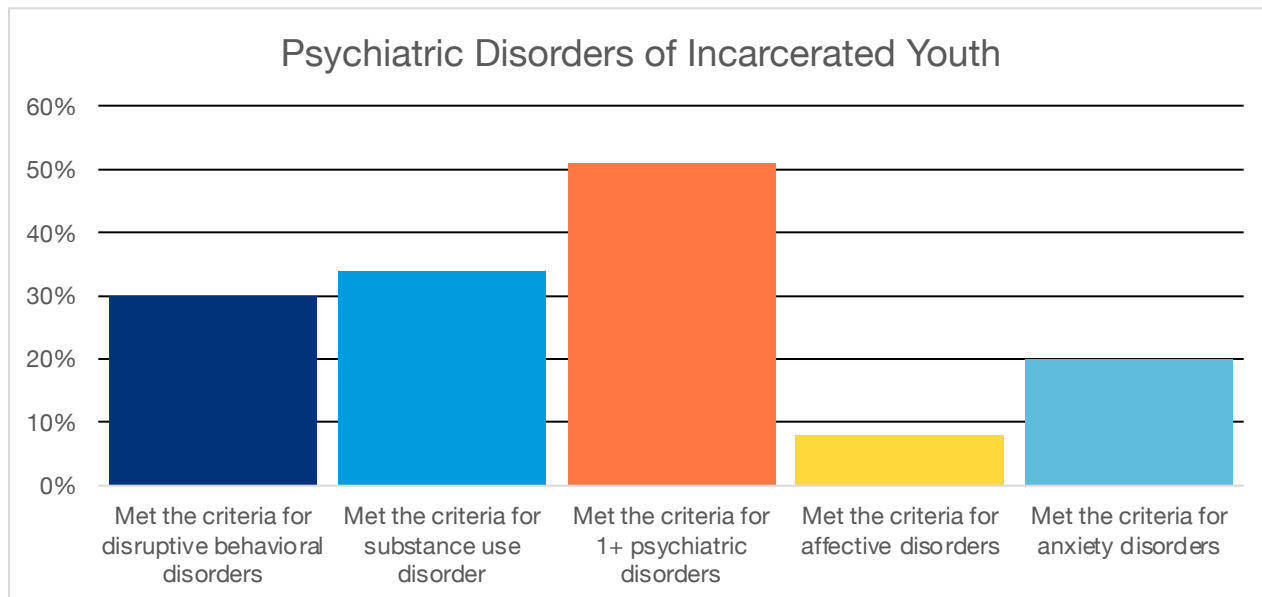


FIGURE 4 | Source: Office of Juvenile Justice & Delinquency Prevention



makes it more difficult for them to seek mental health resources, which would aid in smooth community reentry. Active transition planning or aftercare services, involving the individual's probation or parole officers and a team of community-based health providers, appears to decrease recidivism by ensuring continuity of social, emotional, and psychological support during reentry.<sup>35</sup> Even in those cases in which aftercare programs are not associated with a significant decrease in recidivism, program participants report they appreciate and find the support they receive helpful during transition.<sup>36</sup>

Family is also a critical aspect of transitional support during reentry. As Spencer and Jones-Walker highlight, access to a supportive social network significantly improves reentry outcomes and allows children to make positive changes in their lives, decreasing the likelihood of further involvement with the criminal justice system. Supervision, support, and contact with adults throughout a juvenile's time in a detention facility and during

reentry are critical components of prosocial behavioral development. Spencer and Jones-Walker note that a supportive social network can take place in many forms and even draws upon relationships outside the family home.<sup>37</sup> For instance, juvenile offenders may have unstable home lives, which put them at risk for delinquent behavior, so alternative housing arrangements and the relationships forged with their new housemates can be a particularly effective source of support. In school settings, having the guidance and encouragement of teachers, fellow peers, and administrators can be quite beneficial to their academic and overall reentry success.<sup>38</sup>

An individual who entered the juvenile justice system as a minor, may emerge as an adult and have to navigate education and employment spaces with the added barrier of a criminal record. Being gainfully employed is correlated with a cessation of criminal activity; thus, barriers to employment for those with records can increase their risk of recidivating. In addition, adequate housing for juvenile

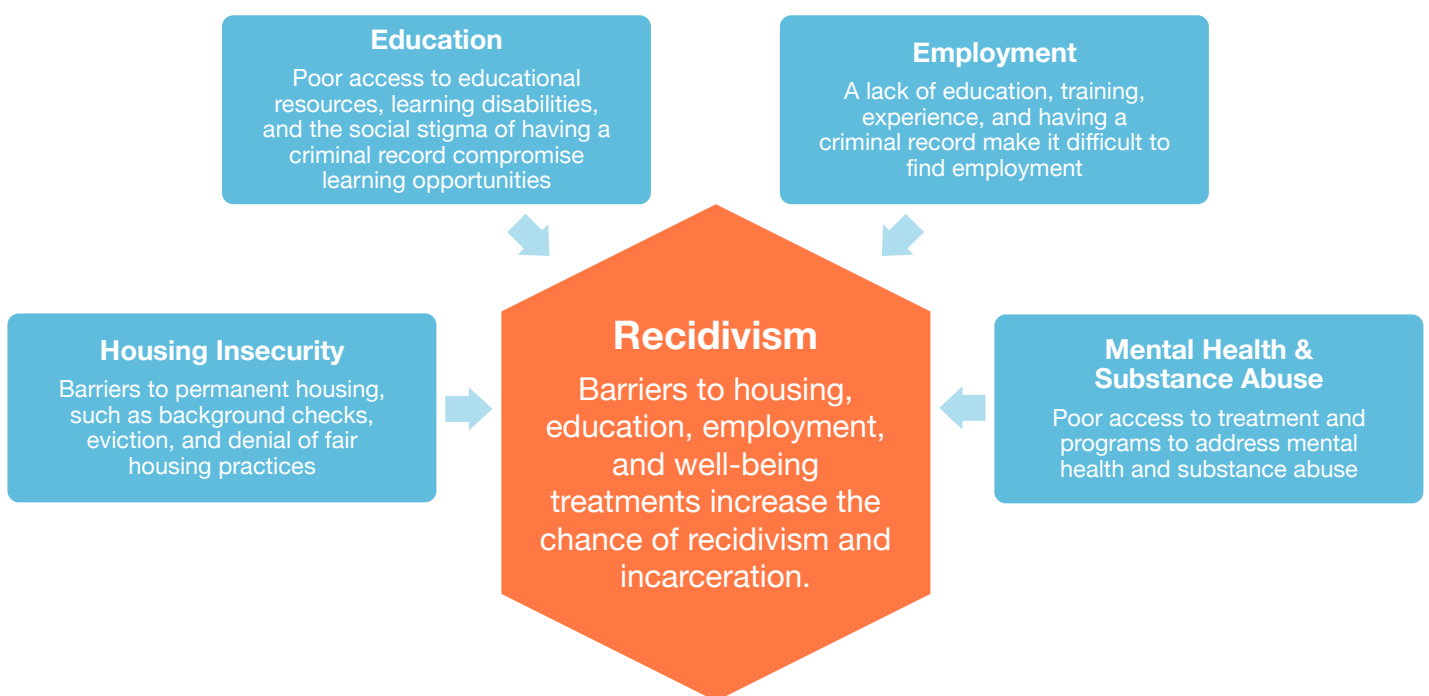


FIGURE 5 | Contributing Factors to Recidivism Among Juvenile Offenders

offenders upon reentry significantly reduces the chance of recidivism. However, access to adequate housing is sparse and 1 in 4 individuals with a history of juvenile justice involvement experience homelessness.<sup>39</sup> The reality for many juvenile youth is that housing can be precarious and difficult to find as they face the stigma of their criminal history when applying for programs, such as public housing assistance. Even in cases where housing accommodations are readily provided, they are often in low-income or disadvantaged neighborhoods which limits the educational and employment opportunities available to them.<sup>40</sup>

### JUVENILE JUSTICE IN THE I.E.

In addition to the formal juvenile justice system, Riverside and San Bernardino counties offer intervention programs that prevent, divert, and ease reentry for the community's youth. The Riverside Police Department's Opportunity with Education Juvenile Intervention Program provides education and mentoring for at-risk youth between the ages of 12 and 17 through positive interactions with the police. Activities include the entire family over a 12-week period and include lectures, tours, physical fitness training, community service, and close order drill.<sup>41</sup> The San Bernardino County Sheriff's department has a similar program; however, it is geared toward children who have already exhibited harmful behavior, attitudes, or are deemed high-risk for alcohol and drug use, violent behaviors, or joining a gang.<sup>42</sup>

The Riverside Youth Program and Court School actively work towards establishing vocational training and advancement of

education for first-time misdemeanor offenders and high-risk youth.<sup>43</sup> The Riverside Youth Program collaborates with PVJOBS, Riverside County, and designated community organizations to host a juvenile mentoring program. The program seeks to provide juveniles the opportunity to form professional connections and life skills. Additionally, the Court School targets education through its project-based instructional program—Positive Behavioral Supports and Intervention (PBIS)—to increase high school graduation rates and emphasize college-preparedness.

In San Bernardino County, Forensic Adolescent Services Team (FAST), Gateway to ARISE, Integrated New Family Opportunities (INFO), and Juvenile Justice Community Reintegration (JJCR) engage juvenile offenders in prioritizing behavioral and mental health treatment and transitional support in reentry. Gateway to ARISE specializes in aiding those who are seriously mentally ill, female offenders, or sex offenders. Integrated New Family Opportunities is “a National Association of Counties (NACo) and Counsel on Mentally Ill Offenders (COMIO) Award winning program,” that provides transitional assistance through the creation of stable family and community support, paired with an understanding of the process of recovery and resiliency through therapy, counseling, and case management.<sup>44</sup> JJCR functions as a formal diversion program and is a collaboration between the Probation Department, Children and Family Services Department, District Attorney's Office, Public Defender's Office, and Juvenile Delinquency Court that facilitates advocacy, treatment, and access to resources.

While the transition from incarceration to

societal reentry is difficult for many juveniles, the programs described above may present a second chance for these individuals by offering them extra support and skill sets. Through these platforms, juveniles are granted the opportunity for enrichment by addressing personal challenges, including mental and emotional health, recovery, and educational and professional advancement.

### THE FUTURE OF JUVENILE JUSTICE IN CA

Juvenile justice realignment (SB 823) requires county-level care, custody, and supervision of all juvenile offenders who were previously under state supervision or would be placed under state supervision prior to SB 823 being passed. There are many theoretical benefits to this approach—most notably, keeping children closer to their homes and communities—but also many challenges as California’s 58 counties are now wholly responsible for administering juvenile justice across the state. This is a major transition that fundamentally restructures and provides the opportunity to redefine California’s approach juvenile justice.

Juvenile justice is a broad and multifaceted topic, but the studies summarized above provide insight into evidence-based programs and strategies that hold potential to help prevent and protect against future or continued criminal justice involvement. In particular, programs that address or minimize risk factors for delinquency by supporting the whole person and strengthening a child’s ties to the community appear particularly promising investments in the next generation.



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