WHOLE YOUTH INITIATIVE FINAL REPORT

2023 FINDINGS

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THE HISTORY OF THE JUVENILE JUSTICE SYSTEM

Since its inception, the juvenile justice system has evolved in its scope and structure. Originally formed to separate young people from adults in jail, with no differentiation between age, gender or offense, the New York House of Refuge laid the foundation for a distinct system for youth in 1849. The New York House of Refuge spread quickly to other states and became an intervention model for impoverished and homeless youth that were deemed at risk of criminal system involvement. As the number of Houses of Refuge expanded, so did the number of youth housed in them. In 1899, the first official youth court was formed in Cook County but did not afford youth the same rights and protections as the adult system, and the mistreatment of young people remained (Juvenile Law Center).

System approaches to addressing youths' risky or harmful behavior have followed sociopolitical trends, with politicians and leaders pandering to their respective constituents. The 1970's through 1980 brought wins for youth in the justice system with the Juvenile Justice Detention Prevention Act (JJDPA) and the Office of Juvenile Justice Delinquency Prevention (OJJDP), which established better oversight of youth courts and detention facilities, including the determination that youth should not be detained for status offenses (Rovner). The Gault ruling during the same time expanded the rights of youth in the juvenile justice system by allowing due process for minors (Administrative Office of the U.S. Courts).



Just two decades later, the super predator theory emerged amidst the rise of adolescent crime rates and became fodder for fear mongering amongst the media and politicians alike. This theory predicted an exponential expansion of a violent criminal youth population composed of morally impoverished teenagers, devoid and incapable of remorse (The Campaign for Fair Sentencing of Youth). Harsh bootcamps, increased out-of-home placements, and a funneling of youth back into the adult system soon followed. The prediction never actualized, but the irreparable harm it caused-particularly on Black youth, whose images were used to depict super predators-is still evident in disproportionate youth incarceration rates today (The Campaign for Fair Sentencing of Youth).

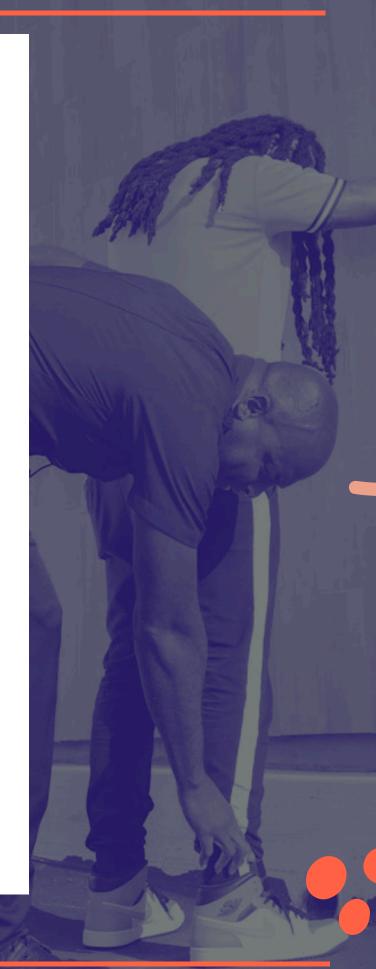


Over the last few decades, advocacy along with improved research and documentation of youths' harrowing accounts of their experiences inside of detention facilities, have pushed jurisdictions to decrease the number of facilities they operate, thereby decreasing the number of detained youth (Puzzanchera et al.). However, despite the shifts away from detention in an attempt towards a more holistic, needscentered approach, many institutions continue to be riddled with issues of deteriorating conditions, abuse by staff members, and youth languishing due to the scarcity of alternative placements.



The overall decrease in the number of incarcerated youth has made the racial disparities more stark. Although some argue that those who remain systeminvolved are youth whose crimes absolutely warrant system-intervention, two streams of research undermine this argument. First, researchers have found that youth across all races engage in the same rule-breaking behaviors (Morrison, Martinez, Hilton and Li). Second, other research shows that the court system responds much more harshly to youth of color. For example, Black and white youth smoke pot at the same rate, but Black youth are four times more likely to be arrested (Younge). Black and Brown youth also fall victim to "upcharging"- receiving charges more serious than their behavior justifies. One California study found that 80% of Black and Brown youth who receive violent charges have not caused serious bodily injury (Irvine).

It is in these ways that those who remain now are those who have always been monitored and controlled by systems:
Black and Brown communities. As such, the youth justice system acts as an extension of the United States' much longer systemic practice of monitoring and controlling Black and Brown communities. These youth are considered "at-risk" if not already "criminal" and are regarded to be in desperate need of a state parental figure, even despite the changes brought on by the Gault ruling.





THE SOCIAL AND POLITICAL ENFORCEMENT OF RACIAL HIERARCHY BY WHITE WOMEN

White women have played a critical role in the history of youth incarceration.

Beginning with the commodification of Black bodies, slavery offered white women an unprecedented foot into active participation in the economy, and therefore, political capital. White women could buy, own and sell enslaved people which then allowed them to build wealth independent of prospective or current husbands' resources (North). White female slave owners also worked within the political sphere to lobby and litigate for the right to maintain slaves as personal property.

Following the civil war, white women resorted to other measures to ensure their supremacy and dominion over Black people. Their personal investment in the disenfranchisement of Black men, in particular, was deepened by the feminists and the suffrage movement, despite its anti-slavery beginnings. When the 15th amendment passed which allowed Black men to vote before white women, thereby threatening to further relegate them to second-class citizens behind not only white men, but Black men as well, many suffragists rallied for stronger systemic and institutionalized protections of white (female) interests. With the goal of liberating white women from patriarchy, southern suffragists began promoting practices that restricted voting rights for Black men (while undermining Black women), effectively laying the foundation for the same tactics in effect today (Block).

White women's efforts to disenfranchise Black communities continued through the twentieth century. The Brown vs Board of Education decision that integrated public schools starting in the 1960's motivated white women to organize against Black children. Tasked with ensuring the survival, success and supremacy of future white generations, white women throughout the country gathered in protests to organize against desegregation. This often entailed a theatrical performance of hysterics, slurs and aggression directed at the Black children attending their children's schools, sometimes as young as elementary-school aged; a compelling display meant to associate Black children with imminent threat and danger to white children. The tactic worked: desegregation continued but the adultification, criminalization and eventual incarceration of Black children ensued (Legal Defense Fund).



Almost 60 years later, Black youth continue to be victimized by a multifaceted and complex system designed to maintain and secure the future of white supremacy, often by way of protecting the "keepers" of future white generations: white women. While Emmitt Till is one of the most notable examples of safeguarding white femininity, the modern-day "Karens" have inherited the same permission and direct access to a well-resourced system that will respond when their "safety" is simply perceived to be threatened. We see countless examples of white women calling the police on Black children for selling lemonade on the street, accidentally brushing up against them in stores, and for swimming in the same pool as them (Lang).

It is sadly no surprise that our data show that Black youth, in particular, masculine of center youth, continue to be incarcerated at alarmingly disproportionate rates. This report shares our reflection on these and other incarceration trends through the COVID pandemic and provides recommendations for how to move the youth justice field forward.



THE WHOLE YOUTH INITIATIVE

For the last twenty years, Ceres Policy Research has led the efforts to understand incarceration trends for youth of color-particularly Black and Brown youth. Our intersectional lens has not only driven us to explore disparities across race and ethnicity, but across sexual orientation, gender identity, and gender expression. In turn, our work has shown that particular intersections of race and gender drive youth arrests and incarceration (Irvine-Baker, Canfield, and Reyes, Irvine and Canfield).

Yet, youth justice systems did not initially collect data on sexual orientation, gender identity, and gender expression (SOGIE). For this reason, we founded the Whole Youth Initiative in 2013 to help jurisdictions develop anti-discrimination policies, train staff on how sexual orientation and gender identity are layers of identity that we all hold, and collect SOGIE data in addition to the race and ethnicity data they were already collecting. Over two dozen counties across the states of Connecticut, California, Georgia, Indiana, New York, Ohio, Oregon, and Washington have participated.

Over our tenure of data collection, we've sought to ensure that our statistics reflect the wholeness and complexity of youth in the justice system. We've committed ourselves to deepening the justice system's understanding of the youth in their care while also exposing how layered and complex the disparities are. Our fundamental belief has been that any and all reform and abolition efforts must reflect the intersecting identities, oppressions, needs and lived experiences of the youth they seek to liberate (Canfield, Wilber, Irvine, and Garza).



The Whole Youth Initiative has accomplished much. On a national level, we've propelled lesbian, gay, bisexual, questioning, gender nonconforming and transgender (LGBQ/GNCT) youth of color into the discourse of juvenile justice reform and have integrated "red" regions in states like Ohio and Indiana into the efforts. We've encouraged LGBQ/GNCT funders to expand how they identify and categorize "LGBT issues" and juvenile justice funders to explicitly name LGBQ/GNCT youth in their funding strategies. We've developed model policies that protect LGBQ/GNCT young people in facilities from harassment and abuse (Canfield, Wilber, Irvine, and Garza).

On a systemic level, we successfully shaped the culture of over two dozen probation departments to recognize SOGIE data collection as a protective measure, a core component of relationship building, and essential to thorough and holistic case planning. For jurisdictions, our data has brought visibility to a once invisible population and has made the denial of LGBQ/GNCT youths' existence, overrepresentation, and disparate outcomes impossible. Our initiative has moved sites to self-awareness and transparency about their limitations in understanding and addressing issues of LGBQ/GNCT youth in detention. We've armed advocates with compelling statistics needed to push for reforms that explicitly call out for the decarceration of LGBQ/GNCT youth who, like straight youth, are mostly Black and Brown (Canfield, Wilber, Irvine, and Garza).

THE PEAKS AND VALLEYS OF INCARCERATION THROUGH THE COVID PANDEMIC AND THE RACIAL RECKONING

The year 2020 brought a collision of a pandemic and a racial reckoning. Beginning on March 12, 2020, United States cities instituted lockdowns to control the spread of a newly discovered coronavirus (COVID). The next day, a Black woman named Breonna Taylor was fatally shot in Louisville Kentucky by seven police officers who wrongly forced themselves into her apartment during an investigation. Just two and a half months later, a group of people videotaped a Black man named George Floyd being strangled to death by a white police officer.

COVID-related school closures disrupted children's daily routines of attending schools, and often the resources provided by them. Families broke under the immense pressure to adjust to a new reality of virtual schooling and inevitable "learning" loss. Children and adults alike struggled with mental and physical health while the services typically available to support them were overwhelmed with patients experiencing life threatening symptoms. Millions of people were overrun with grief, financial hardships, and feeling the effects of prolonged isolation from their friends and families (World Health Organization).

With people home from school and work, and public killings of Black people appearing on every media outlet, the popularity of the Black Lives Matter (BLM) movement surged. BLM began with the use of a hashtag in 2013 after the acquittal of George Zimmerman in the shooting death of Trayvon Martin and continued to grow into a network of 30 chapters between 2014 and 2016. BLM returned to national headlines as an estimated 15 to 26 million people joined protests across the country, making it one of the largest movements in U.S. history (Buchanan, et. al.).



In the early weeks of the pandemic, detention centers, already overcrowded and struggling to maintain the health and safety of those who are detained in them, were sent into a panic about how to "safely" incarcerate people. With seemingly few options, systems initially used solitary confinement to reduce the spread of COVID (Washburn et al.). Very quickly, however, detention was used only for youth arrested for violent crimes, leading to huge reductions in incarceration. A national survey of juvenile justice agencies in 33 states conducted by the Annie E. Casey Foundation found in the first nine weeks of the pandemic, the detained population in juvenile detention across the nation went down by almost 30%. This decline was primarily led by a 52% drop in admission rates for youth detention, a decline that had previously taken 13 years to achieve (Annie E Casey Foundation).

The racial reckoning brought other law enforcement gains to Black and Brown communities. In response to a surge in arbitrary police calls by white women complaining about the people of color around them, some cities across the U.S. passed CAREN Acts which stands for Cautious Against Racially Exploitative Non-Emergencies Act. Measures like this were deemed necessary in places like New York, Oregon, Washington and California because white women were more frequently weaponizing emergency resources with racist intentions. As previously illustrated, these events are not new, but with the popularity of social media, white women caught on video showing a prejudicial bias toward people of color, often calling the police, while exhibiting a false sense of distress circulated to millions of people. For many, it highlighted the need to have more conversations about race and police practices (Peedikayil).

Unfortunately, as the pandemic waned, the gains experienced by the youth justice system began to be reversed. One study showed that the numbers of incarcerated youth was the same at the beginning and end of the pandemic despite the fall in numbers in 2021 and 2022. "The number of youth held in juvenile detention in survey sites on January 1, 2023 (3,436 young people), rose to almost exactly the level reported on January 1, 2020 (3,410 young people) — and was rapidly increasing.". The disparities experienced by Black youth also found no relief. Black youth were being detained at more than six times the rate of their white counterparts prior to the pandemic. After the pandemic they are now 10 times more likely (Annie E Casey Foundation).



Along with detention rates being higher, Black and Latinx youth are also released slower than any other group. This trend has been true even before the pandemic.

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By the numbers, in January and February of 2020, the release rate for Black youth was 4% lower — and the rate for Latino youth was 6% lower — than for white youth. But over the course of the pandemic, the size of those gaps has roughly doubled, to 11% lower releases for both Black and Latino youth Annie E Casey Foundation).



These findings show that Black and Latinx youth have seen no lasting relief in being over policed and overrepresented in the justice system.





WHOLE YOUTH FINDINGS

Our findings show a similar pattern. For the past ten years of the Whole Youth Initiative, we have been training sites to collect and analyze SOGIE and race data to identify trends in incarceration rates for LGBQ/GNCT youth of color. Our findings have consistently shown that masculine of center Black and Latinx youth are at the highest risk of detention for a range of crimes, but particularly violent and weapons charges. When we take into account the gender identity and expression of the youth, it paints a bigger picture; Black and Brown masculine of center youth are the most adultified, villainized and criminalized, as they have always been.

In order to see the fuller picture for justice involved youth, it is imperative to look at all parts of their identities. The complexities surrounding why certain groups of people are over policed and overrepresented in the justice system lies in how their multiple identities are perceived by people and institutions. Compounded identities affect the way one moves through life and are important to consider in why LGBQ /GNCT youth, specifically youth of color, are overrepresented in the justice system.

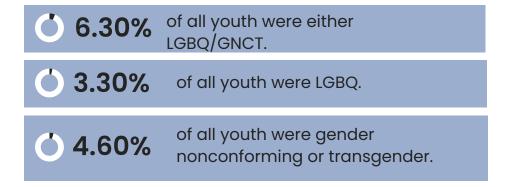
Counties participating in the Whole Youth Initiative have provided data since 2019. The information collected over those years included SOGIE data, race and ethnicity, age, arrest charges, sustained court charges, risk assessment data, placement information, and detention information for over 14,000 unique youth across all sites.

IN ORDER TO COMBINE CRIMINAL RECORDS ACROSS ALL EIGHT STATES, WE CATEGORIZED ARREST CHARGES AND CHARGES SUSTAINED BY THE COURT INTO SIX CATEGORIES: STATUS OFFENSES, NONVIOLENT MISDEMEANORS, VIOLENT MISDEMEANORS, NONVIOLENT FELONIES, VIOLENT FELONIES, AND WEAPONS CHARGES.

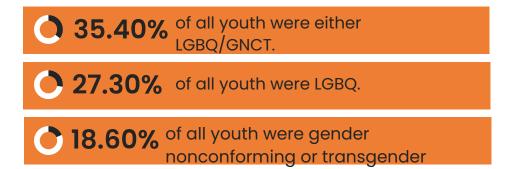
WHO WERE THE YOUTH IN OUR SAMPLE?

One of the reasons to collect SOGIE data is to understand how many LGBQ/GNCT youth are in the justice system. Anonymous surveys have consistently shown that 20% of all youth and up to 50% of youth assigned female at birth in detention are LGBQ/GNCT. In contrast, intake data over the past ten years have shown slightly lower percentages of LGBQ/GNCT youth in detention.

The Whole Youth Data was all collected at intake from our sites. Among all youth in Whole Youth Sites from 2019-2022, we saw that:



Among youth assigned female at birth who answered SOGIE questions in our sites from 2019-2022, we saw that:



These numbers reflect a much higher percentage of both LGBQ and GNCT youth assigned female at birth within the justice population compared LGBQ and GNCT youth assigned female at birth within the general population (Movement Advancement Project).

Notably, the majority of these youth-across the gender spectrum-are of color.

58.20%	of our sample is Black
6.80%	of our sample is Latinx
0.20%	of our sample is Native American
Ö 22%	of our sample is white

HOW DID SOGIE AND RACE DRIVE JUSTICE INVOLVEMENT?

For the first several years, we found that feminine of center youth were more likely to be arrested and incarcerated for status offenses and nonviolent charges. Conversely, masculine of center youth were more likely to be arrested and incarcerated for weapons and violent charges (Canfield, Wilber, Irvine, and Garza).

For this report, to explore how the intersections of race and gender drive youth into the justice system, we first split the population of youth into four groups:

FEMININE OF CENTER BLACK YOUTH

This group includes cisgender Black girls, feminine of center Black boys, and transgender Black girls.

MASCULINE OF CENTER BLACK YOUTH

This group includes cisgender Black boys, masculine of center Black girls, and transgender Black boys.

FEMININE OF CENTER LATINX YOUTH

This group includes cisgender Latinx girls, feminine of center Latinx boys, and transgender Latinx girls.

MASCULINE OF CENTER LATINX YOUTH

This group includes cisgender Latinx boys, feminine of center Latinx girls, and transgender Latinx boys.

For each year, we ran binary regression analyses to determine which groups were more likely to receive status offenses, nonviolent misdemeanors, violent misdemeanors, nonviolent felonies, violent felonies, and weapons charges at the time of arrest and once they were adjudicated in youth court. Charges at the point of adjudication are referred to as "sustained charges."

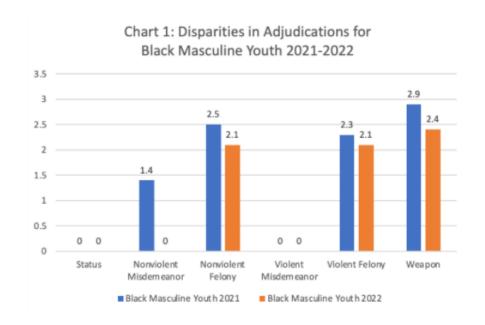
Our latest findings show that Black masculine youth were more likely to be arrested and adjudicated across the whole spectrum of charges. Chart 1 provides the findings on sustained charges for 2021 and 2022 simplified into a bar chart. The blue bars represent 2021 and the orange represent 2022. The numbers on the Y axis represent the greater risk of adjudication for each charge.

This chart shows in 2021, Black masculine youth were:

- times more likely to have a sustained nonviolent misdemeanor compared to all other youth in the justice system,
- 2.5x times more likely to have a sustained nonviolent felony,
- 2.3x times more likely to have a sustained violent felony, and
- 2.9x times more likely to have a sustained weapons charge,

In 2022, Black masculine youth were:

- times more likely to have a sustained nonviolent felony compared with all other youth in the justice system,
- 2.1x times more likely to have a sustained violent felony, and
- times more likely to have a sustained weapons charge.



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These findings reflect important disparities, yet a central problem exists with this analysis. With binary regression analyses comparing different youth within the justice system fails to accurately capture the risk of entering the justice system in the first place.

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For this reason, we are also including a calculation of relative rate indices. Relative rate indices are a simpler statistic to calculate and they allow us to compare youth in the justice system to youth in the general population. This figure helps answer the question:

"How much more likely are Black and Latinx youth in the general population to be arrested and enter the juvenile justice system compared with their white peers?"

We calculated the RRI for three counties that provided data consistently from 2019-2022. Chart 2 shows the relative rate indices for the same population over the same time frame as the youth in Chart 1. Please note that the scale along the Y-axis is ten times larger for the RRI. compared to the binary regression analysis. The disparities were much worse when using RRI's.

⁶ RRI'S REQUIRE THE CALCULATION OF A SERIES OF FRACTIONS WITH THE NUMBER OF YOUTH ARRESTED OR ADJUDICATED FOR EACH CHARGE IN THE NUMERATOR (THE TOP PART OF THE FRACTION) AND THE TOTAL POPULATION IN THE DENOMINATOR (THE BOTTOM PART OF THE FRACTION).

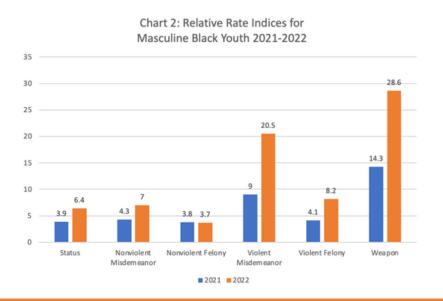
In Chart 2, for the year 2021, **Black masculine** youth were:

times more likely to be adjudicated for a status offense compared with masculine white youth,

- 4.3x times more likely to have a sustained nonviolent misdemeanor,
- 3.8x times more likely to have a sustained nonviolent felony,
- 9x times more likely to have a sustained violent misdemeanor,
- 4.1x times more likely to have a sustained violent felony, and
- 14.3x times more likely to have a sustained weapons charge.

In 2022, Black masculine youth were:

- times more likely to be adjudicated for a status offense compared with masculine white youth,
- 7x times more likely to have a sustained nonviolent misdemeanor,
- 3.7x times more likely to have a sustained nonviolent felony,
- 20.5x times more likely to have a sustained violent misdemeanor,
- 8.2x times more likely to have a sustained violent felony, and
- 28.6x times more likely to have a sustained weapons charge.



Our next chart, Chart 3, combines RRI's for masculine Black and Latinx youth from 2019 to 2022. This chart shows a combined RRI across all six types of charges. The purpose of showing this chart is to show that Latinx youth are also overrepresented in the justice system. This chart also shows that the overrepresentation of both Black and Latinx masculine youth is far worse in 2022 than it was in 2019.

Looking at the blue bars, which represent **Black masculine** youth:



- 2020 they are 8 times more likely.
- 2021 they are **6.7 times** more likely.
- 2022 they are 11.2 times more likely.

Looking at the orange bars, which represent **Latinx masculine** youth:

- Latinx masculine youth are 2.6 times more likely to be in the 2019 justice system compared with their white peers.
- 2020 they are 5.5 times more likely.
- 2021 they are 4.6 times more likely.
- 2022 they are 7.2 times more likely.

Black and Latinx Youth 2019-2022 11.2 7.15 6.7 3.7 2.58 2019 2021 2022 2020

■ Masculine Black Yout h ■ Maculine Latinx Youth

Chart 3: Relative Rate Indices for Masculine

Our next chart, Chart 4, shows that Black and Latinx feminine youth have also experienced greater disparities in arrests over time, though not as much as their masculine peers.

Looking at the blue bars, which represent **Black feminine** youth:

Black feminine youth are **2.1 times** more likely to be in the justice system compared with their white peers.

they are **3 times** more likely.

they are 4.7 times more likely.

they are **8.8 times** more likely.

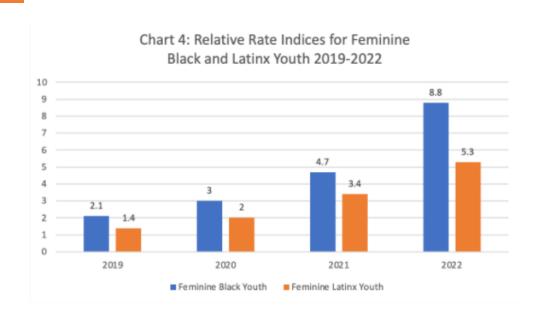
Looking at the orange bars, which represent Latinx feminine youth:

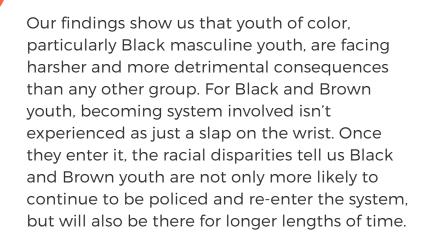
Latinx feminine youth are 1.4 times more likely to be in the justice system compared with their white peers.

2020 they are 2 times more likely.

they are 3.4 times more likely.

they are 5.3 times more likely.





RECOMMENDATIONS

The start of the pandemic allowed systems, youth, and communities to experience decarceration without sustained spikes in youth crime. To make this trend a longer-term practice, we must reflect on what we learned, and how we can replicate those practices in a world that is neither post-COVID nor post-racial. We must continue to be bold and inspired by unprecedented decisions that were made to bring young people home during the pandemic, particularly Black and Brown youth who continue to be subjected to new practices and justifications to jeopardize their freedom. In order to move forward we must:

- Develop a deeper understanding and practice of intersectionality. Systems must understand that young people hold multiple identities that inform who they are and how they experience the world. Developing culturally responsive practices that take into account young people's SOGIE and race is crucial in supporting youth and making sure all of their identities are affirmed.
- Work toward policy reforms that expand the criteria for diversion eligibility. Research has shown that diverting youth before they get involved in the juvenile justice system increases the chance young people will graduate from high school and a number of other positive youth outcomes. Los Angeles County developed the Department of Youth Development within their Department of Health Services to divert as many youth as possible out of the justice system and into youth development programs. From 2019-2023, this department referred 3017 youth who were arrested by police departments and another 2416 youth who received informal referrals to diversion programming (Los Angeles County Department of Youth Development). Other jurisdictions could reinforce their diversion programming to prevent long term negative outcomes for youth.
- Invest more in programs developed by culturally affirming community-based organizations. Organizations led by system-impacted Brown and Black leaders have developed healing and restorative alternatives to incarceration and other intervention programs. There are many system-impacted families that do not trust child welfare departments, probation departments, and even school districts. Community-based organizations that are rooted in a cultural and lived-experience perspective offer programs that feel safer for these families. They can anchor youth of color into positive relationships with adults and their communities-relationships that can last beyond the period of court involvement.

RECOMMENDATIONS, CONT.

• Develop urgent mobile services for youth whose negative behavior is escalating at home. Family conflict often leads youth into the justice system. Youth may be acting in ways that are disrespectful, show increased drug use, or end in physical fights. Parents, unaware of options, call the police, thereby introducing their children into the justice system. We recommend creating a non-law enforcement mobile alternative that can respond any time of day. This mobile response should have a team of professionals with extensive experience working with Black and Brown communities and LGBQ/GNCT populations and who can assess the safety and mental health needs of youth and family members. From the assessment, young people could be referred to community-based services or alternative housing placements.

- Expand family finding services. If youth end up in detention due to family conflict, community-based organizations could be trained in family finding to help some probation departments find extended family members who have a place for young people to stay while the conflict is being resolved. Youth languishing in detention for lack of safe placement options increases their exposure to activities that places them at higher risk for subsequent detention. This is particularly critical for LGBQ/GNCT youth who often do not have supportive immediate family and therefore remain in detention unnecessarily.
- Develop safe and reliable non-secure and culturally affirming residential
 placements. There is a need for LGBQ/GNCT affirming residential placements for
 youth of color in conflict with their families and/or in the midst of a mental health
 crisis. We promote that those working with youth find ways to use the foster care
 system to identify kin care and other resource families that could be trained
 specifically to care and support high needs youth within a home-like environment.
- Develop gun diversion programs. Our research has shown that many Black and Brown youth with gun charges were in possession of the weapons but had not used them. This provides a special opportunity for diversion programs. Jurisdictions should invest in intensive interventions allowing mentors and youth to co-create alternatives to carrying weapons. In the long run, this could prevent future gun violence as well as unnecessary deep-end system involvement. Such interventions could involve youth participatory action research projects that inquire into why young people feel the need to carry weapons. Findings could be shared with elected officials, sparking deeper structural violence prevention.

Adoption, expansion and enforcement of CAREN Acts. It is imperative that those
who abuse law enforcement agency resources to promote systemic violence
against Black and Brown communities be held accountable. We recommend that
the creation, expansion and enforcement of the CAREN Acts be adopted
nationally to begin disrupting the generations-long practice of white women
leveraging fragility against communities of color.

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