

2020

Reducing Recidivism In Serious And Violent Youthful Offenders: Fact, Fiction, And A Path Forward

Megan Kurlychek

Alysha Gagnon

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REDUCING RECIDIVISM IN SERIOUS AND VIOLENT YOUTHFUL OFFENDERS: FACT, FICTION, AND A PATH FORWARD

MEGAN KURLYCHEK* & ALYSHA GAGNON**

Since the 1990s, there has been a fear of the serious and violent juvenile offender and the alleged menace they pose to society. In this Article, we begin with some truths about the serious and violent juvenile offender to correct the widespread myths and propaganda that have led to some ill-advised policies. We then define the problem, using research to show how these youth can be identified, even before the onset of their serious offending. We then proceed beyond this fear and offer examples of multiple evidence-based programs that work to guide these youth to regain their future and become productive adults. We do not limit our suggestions to only those youth already engaged in these behaviors but also discuss the importance of early identification of youth on pathways to trouble and thus address prevention as well as rehabilitation. We end with several key messages that we hope will move the field forward as we strive to expand society's protective systems to beneficently include these youth who are also in need of help and protection.

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* Megan Kurlychek is a Professor in the Department of Sociology and Criminology at the Pennsylvania State University. Her research interests include juvenile justice and delinquency, corrections and sentencing, and pathways to desistance from crime.

** Alysha Gagnon is a PhD student at the School of Criminal Justice at the University at Albany, SUNY. Her research interests include the intersection of juvenile justice and child welfare systems, antecedents to juvenile delinquency, and program evaluation.

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I. INTRODUCTION

The media and popular culture are replete with images of violent youth gangs and serious delinquents that leave many individuals fearful of youth and alarmed for their personal safety. Political rhetoric has often mirrored, if not fueled, these images with officials, at worst, stripping youth of their humanity by referring to them as non-humans or animals or, at best, denying their immaturity and treating them as adults with full responsibility for their actions.¹ Popular campaign slogans from the get tough on crime era touted “Do the Crime, Do the Time.”

This simple statement assumes that everyone committing a crime is of equal culpability for the offense, and thus an adult criminal justice sentence proportionate to the harm done should be the answer for reducing recidivism. Yet, this simple statement directly contradicts all we empirically know about youth and youth violence. Some central tenets of such knowledge that will guide the following discussion are as follows:

1. Serious offenders make up only about 5 to 8% of all

1. Christopher Woody, *Trump is Doubling Down on Calling MS-13 Gang Members ‘Violent Animals’*, BUS. INSIDER (May 21, 2018), <https://www.businessinsider.com/trump-doubles-down-on-calling-ms-13-gang-members-violent-animals-2018-5> [https://perma.cc/8UBR-ZCC9] (calling gang members animals); Dara Lind, *MS-13, Explained*, VOX (Feb. 5, 2019), <https://www.vox.com/policy-and-politics/2018/2/26/16955936/ms-13-trump-immigrants-crime> [https://perma.cc/S82R-P38K] (discussing Trump’s views on MS-13 gang); Nisha Ajmani, *California Must Reform Its Gang Sentencing Laws*, CTR. ON JUV. & CRIM. JUST. (Mar. 29, 2016), <http://www.cjcj.org/news/10250> [https://perma.cc/TH2Z-HHTG] (discussing California’s gang sentencing laws).

- youthful offenders, and serious violent offenders less than 1%—thus we are not facing an epidemic of youth violence;²
2. The youth that commit these violent acts are no more adult than their counterparts who do not. That is, they are still adolescents growing into the adults they will become and thus are not appropriate candidates for adult criminal justice processing;
 3. The youth who do engage and continue to engage in serious and violent behaviors usually suffer from a comorbidity of problems that start, and are identifiable, early in life including, in many instances, their own victimization.

With these facts in mind, this Article will further examine exactly who is a serious and violent offender, what we know about identifying and classifying these youth, and more importantly what we know about what does and what does not work to reduce recidivism in this population. The discussion will then turn to direct policy recommendations followed by an analysis of the key gaps in our knowledge and directions for future study.³

II. THE IMAGE OF THE SERIOUS AND VIOLENT JUVENILE OFFENDER

A. *The Media and Political Rhetoric*

According to Bernard and Kurlychek, the public seems to always believe that we are in the middle of a juvenile crime wave—regardless of the actual levels of juvenile crime.⁴ Thus, whatever policies are in place bear the blame for this crime wave. This leads to a waffling pattern of policies between punitive measures for youth, lenient treatment for youth, or both. The most recent swing to punitive measures was indeed fueled by such a belief coupled with a true spike in levels of juvenile homicides occurring in the late 1980s and early 1990s.⁵ During this time period, there was indeed a spike in juvenile

2. PATRICIA TORBET, RICHARD GABLE, HUNTER HURST IV, IMOGENE MONTGOMERY, LINDA SZYMANSKI, & DOUGLAS THOMAS, U.S. DEP'T OF JUSTICE, STATE RESPONSES TO SERIOUS AND VIOLENT JUVENILE CRIME RESEARCH REPORT 1 (1996), <https://files.eric.ed.gov/fulltext/ED403341.pdf> [<https://perma.cc/A3SS-RZ7H>].

3. *See infra* Parts V–VI.

4. THOMAS J. BERNARD & MEGAN C. KURLEYCHEK, *THE CYCLE OF JUVENILE JUSTICE* 4 (2d ed. 2010).

5. NAT'L CTR. FOR JUVENILE JUSTICE, *JUVENILE OFFENDERS AND VICTIMS: 2014 NATIONAL REPORT* 73 (Melissa Sickmund & Charles Puzzanchera eds., 2014), <https://www.ojjdp.gov/ojstatbb/nr2014/downloads/NR2014.pdf> [<https://perma.cc/SD2W-Y4CF>].

violent offending, particularly homicides that appeared to be related to the rise in crack cocaine markets and the use of youth by higher level drug dealers to transport and sell this dangerous drug.⁶ While the problem remained centered in several large metropolitan areas of the United States,⁷ this rise in homicides played out on televisions across the nation and led the media, and even some scholars, to warn of a new breed of juvenile offender deemed the “super-predator.”⁸ The media and politicians heralded a massive campaign of fear that reached into the hearts of mainstream America.

Politicians used this fear as thirty second sound bites and built campaigns around their intent to get tough on juvenile crime and protect their constituencies. The words “plague, epidemic, crisis, and genocide were routinely used by the news outlets to warn the public about the dangers of crack” cocaine and to demonize those addicted.⁹ Cobbina, in a review of media representation of the crack cocaine “epidemic,” found that the media presented this drug as a threat to all Americans.¹⁰ However, scholars have documented that the crack cocaine problem remained only in certain inner-city neighborhoods,¹¹ and the upswing in youth violence was similarly limited to certain metropolitan areas and was relatively short-lived, beginning to decrease in the mid to late 1990s.¹²

B. *The Resulting Policy of the “Get Tough” Era*

State responses to this perceived epidemic of serious and violent juveniles aimed to define and punish more youth as adults and strip away the basic protections of the juvenile justice system. According to Torbet, state responses included transferring larger numbers of youth to adult court, reducing the

6. Jennifer E. Cobbina, *Race and Class Differences in Print Media Portrayals of Crack Cocaine and Methamphetamine*, 15 J. CRIM. JUST. & POPULAR CULTURE 145, 147 (2008).

7. *Id.*

8. John DiLulio, *The Coming of the Super-Predators*, WASHINGTON EXAM’R (Nov. 27, 1995), <http://washingtonexaminer.com/weekly-standard/the-coming-of-the-super-predators> [<https://perma.cc/3SNJ-ZHR3>].

9. Cobbina, *supra* note 6, at 156.

10. *Id.* at 157.

11. HENRY H. BROWNSTEIN, *THE RISE AND FALL OF A VIOLENT CRIME WAVE CRACK COCAINE AND THE SOCIAL CONSTRUCTION OF A CRIME PROBLEM* 36 (1996); Craig Reinerman & Harry G. Levine, *Crack in Context: Politics and Media in the Making of a Drug Scare*, 16 CONTEMP. DRUG PROBS. 535, 538, 551 (1989).

12. Alfred Blumstein, *Youth Violence, Guns, and the Illicit-Drug Industry*, J. CRIM. L. & CRIMINOLOGY 10, 10–13 (1995); Anthony A. Braga, *Serious Youth Gun Offenders and the Epidemic of Youth Violence in Boston*, 19 J. QUANTITATIVE CRIMINOLOGY 33, 33–34 (2003); Franklin E. Zimring, *The Youth Violence Epidemic: Myth or Reality?*, 33 WAKE FOREST L. REV. 727, 727 (1998).

previous confidentiality and privacy protections of the juvenile court, and introducing blended sentencing into the juvenile court.¹³

In addition, many states focused on victims' rights by bringing victim impact statements into the disposition stage of the juvenile court process.¹⁴ This last point—the introduction of the victim—is one key factor noted by Garland in *The Culture of Control: Crime and Social Order in Contemporary Society* that worked to shift the justice system away from a treatment or even deterrence philosophy and into a retributive emphasis.¹⁵

While the purpose of this Article is not to examine each of these policies in depth, there are important reasons to consider them here. Inappropriate policies are not only ineffective in reducing crime, but they can actually create further harms for the youth and society.¹⁶ For example, although there have always been mechanisms to transfer youth to adult court, the political rhetoric of the “Get Tough” era spread fear like a plague across America.¹⁷ In response to this imagined epidemic, many legislatures passed laws to get tough on youth crime without much, if any, thought to the youth who would be impacted.¹⁸ While we later argue that such treatment is not wise even for the most serious juvenile offenders, it is important to note that these policies captured many youth who were not indeed serious chronic or violent offenders by basing transfer laws on broad categories such as “felony offense,” which can encompass many drug and property crimes as well.¹⁹ Regardless of the youth subject to the policies, there is no empirical evidence that subjecting youth to adult punishments

13. Blended sentencing is a practice that allows the judge (either juvenile or adult court judge) to utilize responses from either the juvenile or adult correctional systems, or in some cases, both. PATRICIA M. TORBET & LINDA A. SZYMANSKI, U.S. DEP'T OF JUSTICE, STATE LEGISLATIVE RESPONSES TO VIOLENT JUVENILE CRIME: 1996–1997 UPDATE 6 (1998), <https://www.ncjrs.gov/pdffiles/172835.pdf> [<https://perma.cc/4X9X-3QFS>].

14. See DAVID GARLAND, *THE CULTURE OF CONTROL: CRIME AND SOCIAL ORDER IN CONTEMPORARY SOCIETY* 11–12 (2001).

15. *Id.*; Megan C. Kurlychek & John H. Kramer, *The Transformation of Sentencing in the 21st Century*, in *HANDBOOK ON SENTENCING POLICIES AND PRACTICES IN THE 21ST CENTURY* 19, 23 (2020).

16. Francis T. Cullen, Cheryl Lero Jonson, & Daniel S. Nagin, *Prisons Do Not Reduce Recidivism: The High Cost of Ignoring Science*, 91 *PRISON J.* 49S, 53S–55S (2011); Doris Layton MacKenzie & Pamela K. Lattimore, *To Rehabilitate: That Is the Question for Corrections!*, 17 *CRIMINOLOGY & PUB. POL'Y* 355, 365–67 (2018).

17. Mackenzie & Lattimore, *supra* note 16, at 364; see also Donna M. Bishop, Charles E. Frazier, Lonn Lanza-Kaduce, & Lawrence Winner, *The Transfer of Juveniles to Criminal Court: Does It Make a Difference?*, 42 *CRIME & DELINQ.* 171, 172 (1996).

18. Bishop, Frazier, Lanza-Kaduce, & Winner, *supra* note 17, at 173.

19. *Id.* at 174, 176.

reduces recidivism; instead there is evidence that it actually increases the frequency and seriousness of recidivism.²⁰ Thus, not only could such a policy *not* reduce violent recidivism, but it could increase it among both violent and non-violent youth.

Another deep concern is the wisdom of removing the confidentiality protections of juvenile court, which allows the photos and names of youth to be publicized. This contradicts the basic premise of the juvenile court, which is to spare youth, who are not yet done developing, from a lifetime of stigmatization.²¹ The empirical science suggests that being labeled as a criminal can lead one not only to accept this identity and thus increase future crime,²² but it can also set off a sequential process by which the youth is ostracized from legitimate opportunities, such as education, employment, and housing, that are crucial for positive life outcomes.²³

The idea of “first do no harm” is as important in the criminal/juvenile justice field as in the medical profession, as the policies invoked can destroy lives and, moreover, actually reduce public safety generally. This underscores the importance of moving forward with policies based on truth and facts rather than fabrication about violent juveniles. Successful youth justice policies must be based in knowledge about youth development, the rich field of risk and needs classification, and most importantly, empirical evidence of success.

III. THE TRUTH ABOUT SERIOUS AND VIOLENT JUVENILE OFFENDING

A. *Defining the Serious and Violent Juvenile Offender*

One of the obstacles to researching serious and violent juvenile offenders in a systematic fashion is the lack of common definitions. Each term in this

20. *Id.* at 183; Kareem L. Jordan & David L. Myers, *Juvenile Transfer and Deterrence: Reexamining the Effectiveness of a “Get Tough” Policy*, 57 CRIME & DELINQ. 247, 261 (2011); Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, JUV. JUST. BULL., June 2010, at 1, 2, 3; Lawrence Winner, Lonn Lanza-Kaduce, Donna M. Bishop, & Charles E. Frazier, *The Transfer of Juveniles to Criminal Court: Reexamining Recidivism Over the Long Term*, 43 CRIME & DELINQ. 548, 557–59 (1997).

21. See Ted Chiricos, Kelle Barrick, William Bales, & Stephanie Bontrager, *The Labeling of Conviction Felons and its Consequences for Recidivism*, 45 CRIMINOLOGY 547, 550 (2007).

22. *Id.* at 570; see Edwin M. Lemert, *Beyond Mead: The Societal Reaction to Deviance*, 21 SOC. PROBS. 457, 459 (1974).

23. See, e.g., HOWARD S. BECKER, *OUTSIDERS: STUDIES IN THE SOCIOLOGY OF DEVIANCE* (2018); JEFF MANZA & CHRISTOPHER UGGEN, *LOCKED OUT: FELON DISENFRANCHISEMENT AND AMERICAN DEMOCRACY* (2008); see also Devah Pager & Hana Shepherd, *The Sociology of Discrimination: Racial Discrimination in Employment, Housing, Credit, and Consumer Markets*, 34 ANNU. REV. SOC. 181, 199 (2008).

phrase has multiple interpretations. Because multiple interpretations are possible, for the purposes of this Article, we utilize the Uniform Crime Report (UCR) definitions. For example, each of the fifty-one juvenile justice systems in the United States have procedures for handling juvenile cases, including different ages of criminal responsibility and different local legal codes. The UCR defines the age of majority as eighteen, and thus, we refer to anyone under the age of eighteen as a “youth” or, if they are justice-involved, as “juvenile.” When defining “offender,” different profiles emerge whether self-reports or formal records are used.²⁴ However, for our purposes, we will reference only formal records. Moreover, the same act may be reported differently depending on the jurisdiction. What might be considered a misdemeanor simple assault in one jurisdiction could be classified as a felony aggravated assault in another. For our purposes, although we know it is too broad, we will use “felony offenses” as a definition of seriousness and the UCR list of person crimes²⁵ as violent offenses. Moving forward with these definitions, we will paint a picture of serious, violent, and chronic juvenile offending in the United States.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) regularly releases reports regarding juvenile crime in the United States. In 2018, they released a bulletin comparing trends in delinquency cases in juvenile courts from 2005 to 2016.²⁶ All offense types saw reductions from 2005 to 2016, with person (e.g. violent) offenses down 44% and overall offenses down 49%.²⁷ Of the 856,130 arrests in 2016, only 48,110 (or 0.56%) were for violent offenses, and this represents a 67% decrease in violent juvenile crime since 1994.²⁸ The official reports record the most serious charge of an incident and thus are a measure of the most serious elements of the offense.

24. MICHAEL J. HINDELANG, TRAVIS HIRSCHI, & JOSEPH G. WEIS, MEASURING DELINQUENCY 14 (1981); Albert D. Biderman & Albert J. Reiss Jr., *On Exploring the “Dark Figure” of Crime*, 374 ANNALS AM. ACAD. POL. & SOC. SCI. 1, 11–13 (1967).

25. Person offenses include criminal homicide, rape, robbery, aggravated assault, simple assault, other violent sex offenses, and other person offenses.

26. SARAH HOCKENBERRY, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, DELINQUENCY CASES IN JUVENILE COURT, 2016, at 1 (2019), <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/252473.pdf> [<https://perma.cc/D6N5-79M6>]; SARAH HOCKENBERRY & CHARLES PUZZANCHERA, NAT'L CTR. FOR JUVENILE JUSTICE, JUVENILE COURT STATISTICS 2016, at 1 (2018), <https://www.ojjdp.gov/ojstatbb/njcda/pdf/jes2016.pdf> [<https://perma.cc/N635-LNVY>].

27. HOCKENBERRY, *supra* note 26, at 1; HOCKENBERRY & PUZZANCHERA, *supra* note 26, at 6.

28. CHARLES PUZZANCHERA, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, JUVENILE ARRESTS, 2016, at 1, 3–4 (2018), <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/251861.pdf> [<https://perma.cc/SL49-ZLQ3>].

The majority of those arrested for violent crimes are minority youth, specifically black or African American (53%).²⁹ This disproportionality³⁰ could be caused by different prevalence of behaviors by black or African American youth compared to youth from different racial backgrounds, but most scholars agree it is more likely a representation of the confounding of race with other structural disadvantages in American society such as neighborhood characteristics, educational opportunity, and poverty,³¹ as well as policing behavior such as stop and frisk policies that target minority youth.³² This gap is widest for the most serious offenses, narrowing as the seriousness decreases.³³

According to the 2016 UCR bulletin, roughly 20% of violent offenses are perpetrated by girls.³⁴ While this is the minority of all violent offenses committed, findings from Esbensen suggest that the prevalence rates between genders merge as the gravity of the offense increases.³⁵ That is, among boys and girls who commit seriously violent offenses, they offend at similarly high rates.³⁶

In addition to racial and gender disparities in official rates of serious and violent offending, the most serious delinquency often occurs in urban areas characterized by concentrated disadvantage.³⁷ Though low in numbers, violence among rural youth should also be considered to understand how it differs, or does not differ, from the inner-city phenomenon and, thus, how to provide the appropriate services to these youths as well. Indeed, only a small amount of research exists on rural youth violence, but it suggests that the same risk factors affect urban and rural youth but may impact rural youth even more strongly. This means that between comparably situated urban and rural youth,

29. *Id.* at 5; FINN-AAGE ESBENSEN, DANA PETERSON, TERRANCE J. TAYLOR, & ADRIENNE FRENG, YOUTH VIOLENCE: SEX AND RACE DIFFERENCES IN OFFENDING, VICTIMIZATION, AND GANG MEMBERSHIP 48 (2010) (The racial profile of the juvenile offender differs between self-reports and official records. When self-reports are considered, the race gap between black/African American and white juveniles decreases substantially.).

30. PUZZANCHERA, *supra* note 28, at 5 (only 17% of the juvenile population in the US was black in 2016 whereas 53% of those arrested for violent crimes in the same year were black).

31. WILLIAM JULIUS WILSON, THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY 8, 55–62 (2d ed. 1987).

32. FRANKLIN E. ZIMRING, THE CITY THAT BECOME SAFE: NEW YORK'S LESSON FOR URBAN CRIME AND ITS CONTROL 170–71 (2012).

33. ESBENSEN, PETERSON, TAYLOR, & FRENG, *supra* note 29, at 48.

34. PUZZANCHERA, *supra* note 28, at 5.

35. ESBENSEN, PETERSON, TAYLOR, & FRENG, *supra* note 29, at 47.

36. *Id.* at 53.

37. WILSON, *supra* note 31, at 38, 58.

the rural youth has higher odds of committing an offense that brings them into contact with the justice system.³⁸

B. *Identifying the Serious and Violent Juvenile Offender*

Criminologists as well as practitioners have long been engaged in activities to try to understand and predict who becomes a serious and violent offender. Some of the best knowledge in the field comes from long term longitudinal studies that follow at-risk youth over time, such as the Pittsburgh Youth Study (PYS).³⁹ The PYS consists of three samples of boys who were in the first, fourth, and seventh grades in Pittsburgh, Pennsylvania public schools during the 1987–1988 academic year. The sample was specifically designed to target high-risk youth identified through a risk screening instrument as in the top thirty percent of each grade ($n = \sim 250$) as well as an equal number of boys randomly selected from the remainder to serve as controls ($n = \sim 250$)⁴⁰ The final sample across all three grades was 1,517 students.⁴¹

From this study, the researchers were able to identify what they define as developmental pathways in delinquency. There were three distinct pathways: (1) authority avoidance, (2) covert, and (3) overt, with the third pathway being the one most likely to lead to violence.⁴² Moreover, the identification of these pathways reveals that the development of problem behavior is more than just an independent sequence of behaviors that emerge over time but rather a systematic change or escalation in these behaviors.⁴³ According to Loeber, developmental pathways have the following features:

- Most individuals who advance to behaviors down a pathway will have displayed behaviors characteristic of the earlier stages in the temporal sequence.
- Not all individuals progress to the most serious

38. Bret J. Blackmon, Samuel B. Robison, & Judith L. F. Rhodes, *Examining the Influence of Risk Factors Across Rural and Urban Communities*, 7 J. SOC'Y SOC. WORK & RES. 615, 628 (2016).

39. Rolf Loeber, *Antisocial Behavior: More Enduring than Changeable?*, 30 J. AM. ACAD. CHILD. & ADOLESCENT PSYCHIATRY 393, 396 (1991).

40. ROLF LOEBER, MAGDA STOUTHAMER-LOEBER, DAVID FARRINGTON, & DUSTIN PARDINI, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, PITTSBURGH YOUTH STUDY OLDEST SAMPLE (1987 - 2000) [PITTSBURGH, PENNSYLVANIA] iii (2017), <https://doi.org/10.3886/ICPSR36455.v1> [<https://perma.cc/WKD7-FE2Q>].

41. Rolf Loeber, Barbara Menting, Donald R. Lynam, Terri E. Moffitt, Magda Stouthamer-Loeber, Rebecca Stallings, David P. Farrington, & Dustin Pardini, *Findings From the Pittsburgh Youth Study: Cognitive Impulsivity and Intelligence as Predictors of the Age-Crime Curve*, 51 J. AM. ACAD. CHILD. & ADOLESCENT PSYCHIATRY 1136, 1136 (2012).

42. *Id.* at 1137.

43. *Id.*

outcome(s); typically, increasingly smaller numbers of individuals reach more serious levels within a pathway.

- Individuals who reach a more serious level in a pathway tend to continue to display behaviors typical of earlier levels rather than replace them with the more serious acts.⁴⁴

The trick then is figuring out who will persist in delinquency and progress to the next and more serious stage. In another study, Loeber and his colleagues found several clues to help distinguish those youth just experimenting or acting out from those who will truly persist in crime as follows:

- Persisters will be more likely than experimenters to enter a pathway at its first stage;
- Experimenters will be more likely than persisters to enter a pathway at the second or third stage; and
- Persisters will be much more likely than experimenters to follow the sequence of stages in a pathway, thereby developing different manifestations of disruptive behavior more predictably.⁴⁵

Brain and biological sciences have also begun to inform the dialogue. The field of brain science informs us that the frontal cortex of the adolescent brain is not developed,⁴⁶ thereby leading adolescents to make decisions more by impulse and emotion than reflective and reasoned thought. We have also learned that adolescent decision-making is therefore often more easily influenced by peers and the outside environment than that of a more mature adult.⁴⁷ Thus, context and peer groups become important in the understanding of adolescent offending.

The work of Terrie Moffitt has also been influential in showing that while many youth act out during their teenage years (most likely due to this

44. Loeber, *supra* note 39, at 394–95.

45. Rolf Loeber, Kate Keenan, & Quanwu Zhang, *Boys' Experimentation and Persistence in Development Pathways Toward Serious Delinquency*, 6 J. CHILD. & FAM. STUD. 321, 326 (1997).

46. B.J. Casey, Sarah Getz, & Adriana Galvan, *The Adolescent Brain*, 28 DEV. REV. 62, 63, 72 (2008); Jay N. Giedd, Jonathan Blumenthal, Neal O. Jeffries, F.X. Castellanos, Hong Liu, Alex Zijdenbos, Tomáš Paus, Alan C. Evans, & Judith L. Rapoport, *Brain Development During Childhood and Adolescence: A Longitudinal MRI Study*, 2 NATURE NEUROSCI. 861, 861–62 (1999); Laurence Steinberg, *Cognitive and Affective Development in Adolescence*, 9 TRENDS COGNITIVE SCI. 69, 69, 71 (2005).

47. Sarah-Jayne Blakemore & Suparna Choudhury, *Development of the Adolescent Brain: Implications for Executive Function and Social Cognition*, 47 J. CHILD. PSYCHOL. & PSYCHIATRY 296, 301–02 (2006); Laurence Steinberg & Elizabeth Cauffman, *Maturity of Judgment in Adolescence: Psychosocial Factors in Adolescent Decision Making*, 20 LAW & HUM. BEHAV. 249, 253 (1996).

immaturity of judgment), there is a much smaller group of offenders who begin acting out early in life and persist long after adolescence.⁴⁸ This group that she labels “life-course persistent offender” demonstrates a host of other problems, often including neurobiological deficiencies that may further impact how they interpret and respond to the world around them.⁴⁹ From a more general sociological approach, Sampson and Laub also present a life-course age-graded theory of delinquency that depicts ways in which risks accumulate over time and provide almost a feedback cycle that pushes or pulls one further and further into delinquency based on disruption of social ties and labeling of the youth⁵⁰ that, as noted earlier, serve to restrict opportunities for successful development.

While these theories and approaches emphasize different risk factors (social, biological and neurological), the similarities proposed by each perspective culminate in the finding that those youth who are likely to become the most serious and violent offenders exhibit signs of problem behavior early in life and have multiple risk factors. In the following two Sections, we further explore what some of these factors are and how this information can and is being used in youth assessment and treatment.

C. Empirical Literature on Correlates of Serious and Violent Youth Offending

Numerous studies have attempted to identify the most salient risk factors for juvenile delinquency. For the purposes of this Article, while we discuss many studies, we have compiled a table to summarize the findings of what we believe to be some of the quintessential studies in this area. Table 1 presents the results from the following studies: Esbensen, Peterson, Taylor, & Freng (2010), Hawkins, Herrenkohl, Farrington, Brewer, Catalano, and Harachi (1998), Lipsey & Derzon (1998), Loeber, Pardini, Homish, Wei, and Crawford (2005), Thornberry, Huizinga, and Loeber (2004), and Widom (1989).⁵¹ We selected these studies because they provide discussions of a wide range of risk factors from various life domains. Each utilizes longitudinal research, which provides the opportunity to examine change over time within the same individuals, allowing for the determination of proper causal order. Some of

48. Terrie E. Moffitt, *Adolescence-Limited and Life-Course-Persistent Antisocial Behavior: A Developmental Taxonomy*, in BIOSOCIAL THEORIES OF CRIME 69, 72–73 (2010).

49. *Id.* at 71–73, 75.

50. BECKER, *supra* note 23, at 33, 35; ROBERT J. SAMPSON & JOHN H. LAUB, CRIME IN THE MAKING: PATHWAYS AND TURNING POINTS THROUGH LIFE (1995); *see also* Lemert, *supra* note 22, at 457, 459, 466.

51. *See infra* Table 1.

these studies are meta-analytic works that summarize the contemporary findings and the strength of individual risk factors.⁵²

Again, this list is surely not a comprehensive list of all of the reviews of risk factors that have been done previously,⁵³ but each study provides a slightly different angle to examine the risks of juvenile delinquency. In addition, we note that the factors discussed below are neither necessary nor sufficient conditions for delinquency to develop but rather donate key correlates of serious, chronic, and violent offending. At the intersection of multiple domains of risk factors lies gang involvement. Esbensen focuses primarily on gang-joining risk factors.⁵⁴ While not all juvenile delinquency is gang related, a number of youth-identified reasons (protection, money, territory, excitement, friends, and family) and empirically identified risk factors for joining a gang (negative life events, nondelinquent problem behaviors, low parental supervision, characteristics of peer networks, and affective dimensions of peer networks) overlap with general youth delinquency predictors.⁵⁵

Hawkins examined thirty-nine articles written about longitudinal studies of youth in the community whose inclusion was not dependent on having a prior offense, and the study included dynamic predictors.⁵⁶ They provide detailed information about the factors identified by each study and document the odds

52. See generally ESBENSEN, PETERSON, TAYLOR, & FRENG, *supra* note 29; J. David Hawkins, Todd Herrenkohl, David P. Farrington, Devon Brewer, Richard F. Catalano, & Tracy W. Harachi, *A Review of Predictors of Youth Violence*, in *SERIOUS & VIOLENT JUVENILE OFFENDERS: RISK FACTORS AND SUCCESSFUL INTERVENTIONS* 106 (1998); Mark W. Lipsey & James H. Derzon, *Predictors of Violent or Serious Delinquency in Adolescence and Early Adulthood: A Synthesis of Longitudinal Research*, in *SERIOUS & VIOLENT JUVENILE OFFENDERS: RISK FACTORS AND SUCCESSFUL INTERVENTIONS* 86 (1998); Rolf Loeber, Dustin Pardini, D. Lynn Homish, Evelyn H. Wei, Anne M. Crawford, David P. Farrington, Magda Stouthamer-Loeber, Judith Creemers, & Steven A. Koehler, *The Prediction of Violence and Homicide in Young Men*, 73 *J. CONSULTING & CRIM. PSYCHOL.* 1074 (2005); Cathy Spatz Widom, *The Cycle of Violence*, 244 *SCI. 160* (1989); Terence P. Thornberry, David Huizinga, & Rolf Loeber, *The Causes and Correlates Studies: Findings and Policy Implications*, 9 *J. JUV. JUST.* 3 (2004).

53. See also DAVID P. FARRINGTON & BRANDON C. WELSH, *SAVING CHILDREN FROM A LIFE OF CRIME: EARLY RISK FACTORS AND EFFECTIVE INTERVENTIONS* 3–4 (2007).

54. ESBENSEN, PETERSON, TAYLOR & FRENG, *supra* note 29, at 76 (Gangs – defined as “any denotable adolescent group of youngsters who (a) are generally perceived as a distinct aggregation by others in their neighborhood, (b) recognize themselves as a denotable groups (almost invariably with a group name), and (c) have been involved in a sufficient number of delinquent incidents to call forth a consistent negative response from neighborhood residents and/or law enforcement agencies”).

55. *Id.* at 128.

56. Hawkins, Herrenkohl, Farrington, Brewer, Catalano, & Harachi, *supra* note 52, at 106–07, 109–12.

ratios relating the risk factors and delinquency.⁵⁷ They develop a vulnerability score from the identified risk factors and relate these scores to conviction percentage, finding a near linear relationship, as the vulnerability score increases, the percentage of convictions also increases.⁵⁸ Hawkins and colleagues call for validation analyses for replication.⁵⁹

Lipsey and Derzon studied the impact of risk factors at two different age ranges on delinquent and criminal behavior once these youth reached age 15–25.⁶⁰ The earlier age range was from 6–11, the later age range was 12–14. While many of the risk factors remain significant from one age range to the next, some lose their significance and others gain significance.⁶¹ The chronicity, or timing, of the youth's exposure to the risk factors may be important.⁶² For example, they find that having abusive parents has a significant relationship to age 15–25 delinquency when it is experienced from age 6–11 but is not significant in the age 12–14 range.⁶³ However, it should be noted that the sample size changes between the two timeframes.⁶⁴ Lipsey and Derzon adjust for this in their analysis and when effect sizes are considered, abusive parents ultimately ranks low in their discussion of important risk factors.⁶⁵

Loeber and his colleagues specifically studied risk factors leading to youth homicides.⁶⁶ In addition to predictor factors, their study also provides a discussion on the victim and the formal consequences.⁶⁷ As homicide is an extreme form of violence, the sample of homicide offenders is only thirty-three.⁶⁸ The researchers used a weighting scheme to address this limitation.⁶⁹ Table 1 only lists the risk factors they identified that distinguished homicide offenders from violent non-homicide offenders. This study is able to

57. *Id.* at 108–09, 112–42.

58. *Id.* at 143, 146.

59. *Id.* at 146.

60. Lipsey & Derzon, *supra* note 52, at 86, 88.

61. *Id.* at 97–98.

62. *Id.*

63. *Id.* at 91.

64. *Id.* at 88.

65. *Id.* at 91–93, 98.

66. Loeber, Pardini, Homish, Wei, Crawford, Farrington, Stouthamer-Loeber, Creemers, & Koehler, *supra* note 52, at 1074–75.

67. *Id.* at 1083.

68. *Id.* at 1084.

69. *Id.* at 1086.

discriminate between violent and nonviolent sample members broadly,⁷⁰ though the unique contribution of homicide-specific risk factors is of interest.

Thornberry describes three different longitudinal samples which are able to provide insight on youth behavior and the development of delinquent behaviors.⁷¹ There are some incongruous results between the samples and some mixed findings.⁷² In the cases of conflicting results, we included the factors in Table 1, conforming with our early statement that these risk factors are neither necessary nor sufficient for predicting delinquency.

Widom's seminal article utilizes a cohort sample to explore the relationship between childhood maltreatment and delinquency, overcoming some of the methodological issues present in earlier studies.⁷³ She uses exclusively official records, which introduces biases in terms of who is reported as this is not randomly distributed across racial or ethnic lines.⁷⁴ Despite the limitations, the findings support a more nuanced discussion of violence begetting violence. Importantly, she finds that once a youth has started offending, the extent of their offending is not related to their childhood maltreatment; the levels of offending between maltreated youth and non-maltreated youth level out.⁷⁵

Another important fact of these studies is that they identify a number of dynamic risk factors. Dynamic risk factors are of primary interest because static factors are traits that offer little room for change or are not particularly subject to change through a justice system intervention. Static factors include being male or young (two of the most robust correlates of crime) as well as characteristics such as race, family structure, and IQ. Additionally, some argue that for something to be a risk factor, it must be malleable.⁷⁶ As such, we present only dynamic risk factors in Table 1.

There are different ways of categorizing dynamic risk factors. Broadly, they can be broken into individual, home, school, and community; however, there are some factors that overlap categories, such as "attachment to school." This individual attitude is listed under school as that is the likely place for an intervention to ameliorate the risk factor. Conversely, residential mobility is intentionally listed twice, once under home and once under community. Home

70. *Id.* at 1081.

71. Thornberry, Huizinga, & Loeber, *supra* note 52, at 3.

72. *Id.* at 7.

73. Cathy Spatz Widom, *The Cycle of Violence*, 244 *SCI.* 160, 161 (1989).

74. *Id.*

75. *Id.* at 163.

76. Helena Chmura Kraemer, Alan E. Kazdin, David R. Offord, Ronald C. Kessler, Peter S. Jensen, & David J. Kupfer, *Coming to Terms With the Terms of Risk*, 54 *ARCHIVES GEN. PSYCHIATRY* 337, 340 (1997).

residential mobility refers to residential changes experienced by the youth and their family, while the community residential stability refers to the flow of people moving in to and out of the youth’s neighborhood, which are conceptually different.

TABLE 1: IDENTIFYING GENERAL RISK FACTORS OF CRIME

	<i>Eshensen et al. (2010)</i>	<i>Hawkins et al. (1998)</i>	<i>Lipsey & Derzon (1998) Age 6–11</i>	<i>Lipsey & Derzon (1998) Age 12–14</i>	<i>Loeber et al. (2005)</i>	<i>Thornberry et al. (2004)</i>	<i>Widom (1989)</i>
Individual							
Adverse Prenatal Conditions	✓	✓					
Attitudes favorable to delinquency	✓	✓	✓	✓	✓	✓	
Early onset delinquent actions	✓	✓	✓	✓	✓	✓	✓
Hyperactivity	✓	✓	✓	✓			
Trouble concentrating		✓	✓	✓			
Low impulse control		✓	✓	✓			
Mental health concerns	✓	✓	✓	✓	✓	✓	
Home							
Physical abuse		✓	✓			✓	✓
Sexual abuse		✓	✓			✓	✓
Neglect		✓	✓			✓	✓
Parental alcohol/other drug use							
Parental mental health					✓		
Inconsistent parenting	✓	✓	✓				
Ineffective monitoring	✓	✓	✓				
Marital conflict	✓	✓	✓				
Parental attitudes favorable toward violence	✓	✓					✓
Residential Mobility							
Familial criminal justice system involvement	✓	✓					

TABLE 1 (CONTINUED): IDENTIFYING GENERAL RISK FACTORS OF CRIME

	<i>Esbensen et al. (2010)</i>	<i>Hawkins et al. (1998)</i>	<i>Lipsey & Derzon (1998) Age 6-11</i>	<i>Lipsey & Derzon (1998) Age-14</i>	<i>Loeber et al. (2005)</i>	<i>Thorberry et al. (2004)</i>	<i>Widom (1989)</i>
School							
Suspension	✓	✓					
Repeated grade level					✓		
Lack of commitment/bonding	✓	✓			✓		
Truancy		✓			✓		
Occupational aspirations		✓			✓		
Exposure to delinquent peers	✓	✓	✓	✓	✓	✓	
Community							
Economic deprivation	✓	✓		✓	✓		
High residential mobility	✓	✓					
Low attachment to neighborhood	✓	✓			✓		
Exposure to violence	✓	✓					✓
Proportion of adult criminals/Base rate		✓					✓
Availability of drugs	✓	✓					
Perceived risk of detection and punishment by police/state actors		✓				✓	

While these six studies highlighted provide a fairly comprehensive review of risk factors, many other smaller studies have been conducted, which examine the role of one or two risk factors. Following the structure of Table 1, we start with individual risk factors. It is clear that some youth may have personal

factors that independently predispose the youth for potentially negative outcomes.⁷⁷ Some of these may be biological, such as a youth being hyperactive, impulsive, or have trouble concentrating;⁷⁸ these individual characteristics can then lead to differential responses to environmental cues—thus there is much room for youth with these troubles not to become delinquent when provided with proper parenting, schooling, and other interventions. Also, while we might not be able to go back in time and adjust some factors for a given youth, some, such as adverse prenatal conditions, are still informative—they show that, when we are thinking about preventing violence, it is never too early to start interventions. This is particularly important for young parents who may be unaware of the dangers of not obtaining proper prenatal medical care.

Additional studies highlight some characteristics of the home environments that may contribute to a youth's risk for delinquency. These home-based factors also identified by other studies include: inconsistent parenting,⁷⁹

77. Hawkins, Herrenkohl, Farrington, Brewer, Catalano, & Harrachi, *supra* note 52, at 146; Lipsey & Derzon, *supra* note 52, at 86–87.

78. ESBENSEN, PETERSON, TAYLOR & FRENG, *supra* note 29, at 60, 63; Hawkins, Herrenkohl, Farrington, Brewer, Catalano, & Harachi, *supra* note 52, at 109, 144; Lipsey & Derzon, *supra* note 52, at 102.

79. Ann Goetting, *The Parenting-Crime Connection*, 14 J. PRIMARY PREVENTION 169, 171, 184 (1994); WILLIAM MCCORD & JOAN MCCORD, ORIGINS OF CRIME: A NEW EVALUATION OF THE CAMBRIDGE-SOMERVILLE YOUTH STUDY 73–79 (1959); GERALD R. PATTERSON, COERCIVE FAMILY PROCESSES 224–25 (1982); James Snyder, Ann Cramer, Jan A Frank, & Gerald R. Patterson, *The Contributions of Ineffective Discipline and Parental Hostile Attributions of Child Misbehavior to the Development of Conduct Problems at Home and School*, 41 DEV. PSYCHOL. 30, 32, 38 (2005).

inefficient monitoring,⁸⁰ physical or sexual abuse,⁸¹ neglect,⁸² and familial alcohol and other drug (ab)use⁸³ as well as familial mental health problems,⁸⁴ and criminal justice system involvement.⁸⁵ Abuse and neglect both fall under the umbrella of maltreatment, though there is evidence that neglect has a greater impact on a youth's risk of violence.⁸⁶ A major public health study conducted in 1998 by the CDC and Kaiser-Permanente named ten family-based risk

80. Dustin A. Pardini, Rebecca Waller, & Samuel W. Hawes, *Familial Influences on the Development of Serious Conduct Problems and Delinquency*, in THE DEVELOPMENT OF CRIMINAL AND ANTISOCIAL BEHAVIOR 208–09 (Julien Morizot & Lila Kazemian eds., 2015); Gerald R. Patterson & Magda Stouthamer-Loeber, *The Correlation of Family Management Practices and Delinquency*, 55 CHILD DEV. 1299, 1299–1300, 1304–05 (1984).

81. Abigail A. Fagain, *The Relationship Between Adolescent Physical Abuse and Criminal Offending: Support for an Enduring and Generalized Cycle of Violence*, 20 J. FAM. VIOLENCE 279, 283, 287 (2005); Vincent J. Felitti, Robert F. Anda, Dale Nordenberg, David F. Williamson, Alison M. Spitz, Valerie Edwards, Mary P. Koss, & James S. Marks, *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 14. AM. J. PREV. MED. 245, 248 (1998); Ashley F. Jespersen, Martin L. Lalumière, & Michael C. Seto, *Sexual Abuse History Among Adult Sex Offenders and Non-Sex Offenders: A Meta-Analysis*, 33 CHILD ABUSE & NEGLECT 179, 180–81 (2009); Jane A. Siegel & Linda M. Williams, *The Relationship Between Child Sexual Abuse and Female Delinquency and Crime: A Prospective Study*, J. RES. CRIM. & DELINQ. 71, 79 (2003); Carolyn Smith & Terrence P. Thornberry, *The Relationship Between Childhood Maltreatment and Adolescent Involvement in Delinquency*, 33 CRIMINOLOGY 451, 457, 463 (1995); Widom, *supra* note 73, at 164.

82. W. Andrew Collins & Brett Laursen, *Parent-Adolescent Relationships and Influences*, in HANDBOOK OF ADOLESCENT PSYCHOLOGY 343 (Richard M. Lerner & Laurence Steinberg eds., 2d ed. 2004); Lila Kazemian, Cathy Spatz Widom, & David P. Farrington, *A Prospective Examination of the Relationship Between Childhood Neglect and Juvenile Delinquency in the Cambridge Study in Delinquent Development*, 2 J. CHILD. YOUTH & FAM. STUD. 65, 66, 76 (2011).

83. Nancy R. VanDeMark, Lisa A. Russell, Maura O'Keefe, Norma Finkelstein, Chanson D. Noether, & Joanne C. Gampel, *Children of Mothers with Histories of Substance Abuse, Mental Illness, and Trauma*, 33 J. COMMUNITY PSYCHOL. 445, 446, 455 (2005); Wendy Reich, Felton Earls, Ora Frankel & Joseph J. Shayka, *Psychopathology in Children of Alcoholics*, 32 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 995, 998 (1983); Melissa Owings West & Ronald J. Prinz, *Parental Alcoholism and Childhood Psychopathology*, 102 PSYCHOL. BULL. 204, 208–09 (1987).

84. Felitti, Anda, Nordenberg, Williamson, Spitz, Edwards, Koss & Marks, *supra* note 81, at 245, 248; VanDeMark, Russell, O'Keefe, Finkelstein, Noether, & Gampel, *supra* note 83, at 446–47, 455.

85. David P. Farrington, *Advancing Knowledge About the Early Prevention of Adult Antisocial Behaviour*, in EARLY PREVENTION OF ADULT ANTISOCIAL BEHAVIOUR 1, 7 (David P. Farrington & Jeremy W. Coid eds., 2003); Joseph Murray, David P. Farrington, Ivana Sekol, & Rikke F. Olsen, *Effects of Parental Imprisonment on Child Antisocial Behaviour and Mental Health: A Systematic Review*, 4 CAMPBELL SYSTEMATIC REVS. 9, 33, 47, 57 (2009); Joseph Murray, Rolf Loeber, & Dustin Pardini, *Parental Involvement in the Criminal Justice System and the Development of Youth Theft, Marijuana Use, Depression, and Poor Academic Performance*, 50 CRIMINOLOGY 255, 282–86 (2012).

86. Hawkins, Herrenkohl, Farrington, Brewer, Catalano, & Harachi, *supra* note 52, at 134.

factors as “adverse childhood experiences,” or ACEs, and have related them to various negative life outcomes, including delinquency.⁸⁷

The school environment can hold risk factors for youth delinquency—particularly school-related struggles and failures—such as suspensions,⁸⁸ repeating a grade level,⁸⁹ and lack of commitment to school.⁹⁰ Additionally, the school environment may provide exposure to delinquent peers which has long been identified as a risk factor for one’s own delinquency.⁹¹ It is proposed that the relationship between a youth’s delinquency and that of their delinquent peers is one of “enhancement,” meaning the youth is predisposed to, or is already, committing delinquent acts which then increase in frequency in the company of delinquent peers.⁹² Conversely, when youth experience success in school and have positive attitudes toward school and education, these act as protective factors against engaging in delinquent acts.⁹³ This effect is observed in both high- and low-risk samples.⁹⁴

87. Felitti, Anda, Nordenberg, Williamson, Spitz, Edwards, Koss, & Marks, *supra* note 81, at 248.

88. *Out-of-School Suspension and Expulsion*, 112 PEDIATRICS 1206, 1207 (2003); Sheryl A. Hemphill, John W. Toumbourou, Todd I. Herrenkohl, Barbara J. McMorris, & Richard F. Catalano, *The Effect of School Suspensions and Arrests on Subsequent Adolescent Antisocial Behavior in Australia and the United States*, 39 J. ADOLESCENT HEALTH 736, 738, 743 (2006).

89. Iris Wagman Borowsky, Marjorie Ireland, & Michael D. Resnick, *Violence Risk and Protective Factors Among Youth Held Back in School*, 2 AMBULATORY PEDIATRICS 475, 475, 480 (2002); Ann R. McCoy & Arthur J. Reynolds, *Grade Retention and School Performance: An Extended Investigation*, 37 J. SCH. PSYCHOL. 273, 282–83 (1999).

90. Kimberly L. Henry, Kelly E. Knight, & Terrence P. Thornberry, *School Disengagement as a Predictor of Dropout, Delinquency, and Problem Substance Use During Adolescence and Early Adulthood*, 41 J. YOUTH & ADOLESCENCE 156, 163–64 (2012); Patricia H. Jenkins, *School Delinquency and School Commitment*, 68 SOC. EDUC. 221, 221 (1995).

91. Sheldon Glueck & Eleanor Glueck, *Unraveling Juvenile Delinquency*, 2 JUV. CT. JUDGES J. 32, 33 (1951); Terrence P. Thornberry, Alan J. Lizotte, Marvin D. Krohn, Margaret Farnworth, & Sung Joon Jang, *Delinquent Peers, Beliefs, and Delinquent Behavior: A Longitudinal Test of Interactional Theory*, 32 CRIMINOLOGY 47, 69 (1994); Joan McCord & Kevin P. Conway, *Patterns of Juvenile Delinquency and Co-Offending*, in ADVANCES IN CRIMINOLOGICAL THEORY 19, 30 (Elin Waring & David Weisburd eds., 2000).

92. Ross L. Matsueda & Kathleen Anderson, *The Dynamics of Delinquent Peers and Delinquent Behavior*, 36 CRIMINOLOGY 269, 299 (1998); Thornberry, Lizotte, Krohn, Farnworth, & Jang, *supra* note 91, at 74.

93. FARRINGTON & WELSH, *supra* note 53, at 84.

94. Maria M. Tfofi, David P. Farrington, Alex R. Piquero, Friedrich Lösel, Matthew DeLisi, & Joseph Murray, *Intelligence as a Protective Factor Against Offending: A Meta-Analytic Review of Prospective Longitudinal Studies*, 45 J. CRIM. JUST. 4, 12 (2016).

Finally, living in a community with the following characteristics may further enhance the prospects for delinquency: economic deprivation,⁹⁵ residential instability,⁹⁶ exposure to violence,⁹⁷ and perceived likelihood of apprehension and punishment by the police and other state actors.⁹⁸ Economic deprivation and residential mobility are two key elements of the social disorganization school of thought, which inspired the theory of collective efficacy, the current leading theory regarding place and crime.⁹⁹

1. Comorbidity of Problems

While it is easy to see how any one of these factors can be a push or pull towards delinquency, what we know is that most youth who move on to serious delinquency suffer from a multitude of these problems. When youth have a constellation of these risk factors, the likelihood of delinquent outcomes is compounded.¹⁰⁰ Often referred to as the “comorbidity” of problem behaviors, the scenario might go something like this. A young girl in a poor community becomes pregnant. She has the baby with little to no prenatal care and no guidance on how to raise the child. The child then grows up in a poor household with ineffective parenting strategies. Because the community is poor, the

95. Robert Agnew, Shelley Keith Matthews, Jacob Bucher, Adria N. Welcher, & Corey Keyes, *Socioeconomic Status, Economic Problems, and Delinquency*, 40 *YOUTH & SOC'Y REV.* 263, 277 (1993); Robert J. Bursik, Jr. & Harold G. Grasmick, *Economic Deprivation and Neighborhood Crime Rates, 1960–1980*, 27 *L. & SOC'Y REV.* 263, 277 (1993); CLIFFORD R. SHAW & HENRY D. MCKAY, *JUVENILE DELINQUENCY AND URBAN AREAS: A STUDY OF RATES OF DELINQUENTS IN RELATION TO DIFFERENTIAL CHARACTERISTIC OF LOCAL COMMUNITIES IN AMERICAN CITIES* 165 (1942).

96. ROBERT E. PARK, ERNEST W. BURGESS, & RODERICK D. MCKENZIE, *THE CITY* 20 (1967); SHAW & MCKAY, *supra* note 95, at 165.

97. Dario Bacchini, Maria Concetta Miranda, & Gaetana Affuso, *Effects of Parental Monitoring and Exposure to Community Violence on Antisocial Behavior and Anxiety/Depression Among Adolescents*, 27 *J. INTERPERSONAL VIOLENCE* 269, 281 (2011); Felitti, Anda, Nordenberg, Williamson, Spitz, Edwards, Koss, & Marks, *supra* note 81, at 248; Katherine M. Kitzman, Noni K. Gaylord, Aimee R. Holt, & Erin D. Kenny, *Child Witnesses to Domestic Violence: A Meta-Analytic Review*, 71 *J. CONSULTING & CLINICAL PSYCHOL.* 339, 345 (2003); see Jennifer Lynn-Whaley & Josh Sugarmann, *The Relationship Between Community Violence and Trauma: How Violence Affects Learning, Health, and Behavior*, *VIOLENCE POL'Y CTR.* (July 2017), <http://www.vpc.org/studies/trauma17.pdf> [<https://perma.cc/7WAV-CE3G>].

98. Daniel S. Claster, *Comparison of Risk Perception Between Delinquents and Non-Delinquents*, *J. CRIM. L., CRIMINOLOGY & POL. SCI.* 80, 84–85 (1967); A.R. Gillis & John Hagan, *Density, Delinquency, and Design: Formal and Informal Control and the Built Environment*, 19 *CRIMINOLOGY* 514, 525 (1982).

99. Robert J. Sampson, Stephen W. Raudenbush, & Felton Earls, *Neighborhoods and Violence Crime: A Multilevel Study of Collective Efficacy*, 277 *SCI.* 918, 923 (1997).

100. Loeber, Pardini, Homish, Wei, Crawford, Farrington, Stouthamer-Loeber, Creemers, & Koehler, *supra* note 52, at 1087; Michael Rutter, *Resilience as a Dynamic Concept*, 24 *DEV. & PSYCHOPATHOLOGY* 335, 335 (2012).

schools also have little resources and thus school problems abound. The youth then grows up with little connection to family, school, or community. This is just an example of the perfect storm that many youth face. What, then, is the role of the juvenile justice system to reduce serious and chronic violence? It is indeed to help these youth weather this storm and find a way to a better life—prevention and intervention strategies can come at any stage and will vary in approach based on age of the youth, type of risk factors and needs, and the seriousness of the behavior. Risk assessments are one tool the system has at its disposal to match youth with programming.

D. Risk Assessments

The previously mentioned studies show that on a broad level there are factors that can be used to predict who may be headed for trouble. However, if the role of the juvenile justice system is to reduce harm, reduce crime, and reduce recidivism, we must do more than predict it. Instead, we must better understand and respond to the causes at the individual level. While these broad classification schemes are sexy, they unfortunately sometimes send the message that all violent offenders are alike or have followed the same life trajectory. This is simply not true. One size does not fit all. Thus, when the system responds to an individual juvenile, it must understand *that* individual juvenile. Risk Need and Responsivity (RNR) assessment instruments are one path to achieving this important goal.

Although there is a rich history of the use of such instruments in the field, recent years have seen an improvement in the actuarial science behind the measures as well as a broader understanding of the factors to be considered.¹⁰¹ Indeed, the current practice is not only to assess risk but to match offenders with programs and treatments based on their risk, needs, and responsivity to different treatment models.¹⁰² Risk factors often include static factors such as those noted earlier (e.g., prior behaviors),¹⁰³ but more importantly focus on the dynamic factors the system can address—these include feelings, cognitions, personality measures, and associations.¹⁰⁴ Offenders who score high on risk

101. Kenneth C. Land, *Automating Recidivism Risk Assessment Should We Stay or Should We Go?*, 16 CRIMINOLOGY & PUB. POL'Y 213, 232 (2017).

102. D.A. Andrews, Ivan Zinger, Robert D. Hoge, James Bonta, Paul Gendreau, & Francis T. Cullen, *Does Correctional Treatment Work? A Clinically Relevant and Psychologically Informed Meta-Analysis*, 28 CRIMINOLOGY 369, 374–75 (1990).

103. See Kraemer, Kazdin, Offord, Kessler, Jensen, & Kupfer, *supra* note 76, at 340.

104. Andrews, Zinger, Hoge, Bonta, Gendreau, & Cullen, *supra* note 102, at 374–75.

should be directed toward the most intensive intervention and treatment programs—regardless of the offense committed.

The principle of need refers to the unmet needs of the youth that may directly or indirectly promote delinquency.¹⁰⁵ The factors that affect these needs include such items as antisocial attitudes, problems in work, school, and the home, drug and alcohol abuse, and associations with antisocial or delinquent peers.¹⁰⁶

Finally, the responsivity principle speaks to the fact that people may respond to the same intervention differently. For example, a youth previously physically abused may experience a disciplinary setting much differently than a youth not subject to such an adverse childhood experience. Thus, it is suggested that even within a proven program model, the mode of service delivery must be matched to the learning styles, intellectual abilities, and maturity level of offenders.¹⁰⁷

This, then, naturally leads to the next topic of consideration: What are proven programs and what exactly makes them work in reducing recidivism?

IV. RESPONDING TO THE SERIOUS AND VIOLENT JUVENILE OFFENDER

A. *Early Prevention Programming*

There is an old saying that an ounce of prevention is worth a pound of cure. Nowhere is this more true than when it comes to intervening in the lives of troubled youth, families, and communities before the violence begins. As noted earlier,¹⁰⁸ even prenatal care can impact biological factors that put a youth at risk for delinquency; thus, addressing youth violence can begin even before birth. One known evidence-based program in this area is the Nurse-Family Partnership that consists of a series of in-home visits by a nurse from early in the pregnancy until the child's second birthday.¹⁰⁹ Young, often teenage single mothers are usually targeted for the program. Randomized controlled trials were conducted with three diverse populations beginning in Elmira, New York,

105. *Id.* at 375; D.A. ANDREWS & JAMES BONTA, *THE PSYCHOLOGY OF CRIMINAL CONDUCT* 243 (2d ed. 1998).

106. Andrews, Zinger, Hoge, Bonta, Gendreau, & Cullen, *supra* note 102, at 375.

107. ANDREWS & BONTA, *supra* note 105, at 243; Craig Dowden & D.A. Andrews, *Effective Correctional Treatment and Violent Reoffending: A Meta-Analysis*, 42 *CANADIAN J. CRIMINOLOGY* 449, 452 (2000).

108. *See supra* note 104 and accompanying text.

109. *About Us*, NURSE-FAM. PARTNERSHIP, <https://www.nursefamilypartnership.org/about/> [<https://perma.cc/UJ2S-PVT6>].

in 1977, in Memphis, Tennessee, in 1990, and in Denver, Colorado, in 1994.¹¹⁰ All three trials targeted first-time, low-income mothers.¹¹¹ Initial findings showed that this simple support reduced complications at birth, improved school-readiness of the child,¹¹² and reduced the probability of child abuse or neglect.¹¹³ Furthermore a 15-year, longer-term follow-up also found that this program reduced the chance for later antisocial and criminal behavior among the youth involved.¹¹⁴ In addition to improving the life of the child, this program was also found to improve the life of the mother and to save the government money—specifically, for every \$1.00 spent on the program, \$5.70 was saved in other services in higher risk samples and \$1.26 saved in lower risk samples.¹¹⁵

While there are many other early intervention strategies, we have chosen to highlight this one, as it easily demonstrates preventing the “perfect storm” noted earlier¹¹⁶ and improves life outcomes across multiple risk factors and

110. David L. Olds, Harriet J. Kitzman, Robert E. Cole, Carole A. Hanks, Kimberly J. Arcoleo, Elizabeth A. Anson, Dennis W. Luckey, Michael D. Knudtson, Charles R. Henderson, Jessica Bondy, & Amanda J. Stevenson, *Enduring Effects of Prenatal and Infancy Home Visiting by Nurses on Maternal Life Course and Government Spending*, 164 ARCHIVES PEDIATRICS & ADOLESCENT MED. 1, 2 (2010); David Olds, Charles R. Henderson, Jr. Robert Cole, John Eckenrode, Harriet Kitzman, Dennis Luckey, Lisa Pettitt, Kimberly Sidora, Pamela Morris, & Jane Powers, *Long-Term Effects of Nurse Home Visitation on Children’s Criminal and Antisocial Behavior: Fifteen-Year Follow-up of a Randomized Controlled Trial*, 280 JAMA 1238, 1239 (1998); David L. Olds, *Preventing Crime with Prenatal and Infancy Support of Parents: The Nurse-Family Partnership*, 2 VICTIMS & OFFENDERS 205, 212 (2007).

111. Olds, Kitzman, Cole, Hanks, Arcoleo, Anson, Luckey, Knudtson, Henderson, Bondy, & Stevenson, *supra* note 110, at 2; Olds, Henderson, Cole, Eckenrode, Kitzman, Luckey, Pettitt, Sidora, Morris, & Powers, *supra* note 110, at 1239; Olds, *supra* note 110, at 212.

112. Olds, Henderson, Cole, Eckenrode, Kitzman, Luckey, Pettitt, Sidora, Morris, & Powers, *supra* note 110, at 1241.

113. David L. Olds, Charles R. Henderson, Jr., Robert Chamberlin, & Robert Tatelbaum, *Preventing Child Abuse and Neglect: A Randomized Trial of Nurse Home Visitation*, 78 PEDIATRICS 65, 71–72 (1986).

114. Olds, Henderson, Cole, Eckenrode, Kitzman, Luckey, Pettitt, Sidora, Morris, & Powers, *supra* note 110, at 1241–43.

115. BENEFITS AND COSTS, NURSE-FAMILY PARTNERSHIP 1 (2018), <https://www.nursefamilypartnership.org/wp-content/uploads/2018/08/Benefits-and-Costs-1.pdf> [<https://perma.cc/U2XL-4Z9E>]; LYNN A. KAROLY, M. REBECCA KILBURN, & JILL S. CANNON, EARLY CHILDHOOD INTERVENTIONS xxviii (2005), https://www.rand.org/content/dam/rand/pubs/monographs/2005/RAND_MG341.pdf [<https://perma.cc/H79A-WRBU>].

116. *See supra* Section III.C.1.

domains.¹¹⁷ Other evidence based early intervention programs include: Healthy Families,¹¹⁸ the Perry Preschool Project,¹¹⁹ and the Second Step Program.¹²⁰

Prevention, however, does not only need to happen this early in life; there are other prevention programs that target older youth who are not yet involved in delinquency but who, for many reasons, may be deemed at risk. One such example is the empirically revised version of the Gang Resistance Education and Training (GREAT) Program established in 2006 as a partnership between the St. Louis Metropolitan Police Department and Area Resources for Community and Human Services (ARCHS), to prevent youth from joining gangs.¹²¹ Because gang involvement is known to increase delinquency, especially drug use and serious violent delinquency,¹²² preventing a youth from being lured into this environment can thereby reduce the potential for serious and violent offending. Although findings were somewhat mixed on the original GREAT program,¹²³ the revised curriculum, which has an additional focus on ameliorating the impact of gang-specific risk factors,¹²⁴ has shown more positive results. With this heightened focus on gang-specific risk factors, GREAT revised saw decreased rates of gang-joining and increases in other prosocial attitudinal changes.¹²⁵ This highlights the importance of not only the

117. Olds, Henderson, Cole, Eckenrode, Kitzman, Luckey, Pettitt, Sidora, Morris, & Powers, *supra* note 110, at 1241.

118. Craig Winston LeCroy & Judy Krysik, *Randomized Trial of the Healthy Family Arizona Home Visiting Program*, 33 CHILD. & YOUTH SERVS. REV. 1761, 1761 (2011).

119. LAWRENCE J. SCHWEINHART, JEANNE MONTIE, ZONGPING XIANG, W. STEVEN BARNETT, CLIVE R. BELFIELD, LO MILAGROS NORES, LIFETIME EFFECTS: THE HIGH/SCOPE PERRY PRESCHOOL STUDY THROUGH AGE 40, at 4 (2005).

120. Karin S. Frey, Susan Bobbitt Nolen, Leihua Van Schoiack Edstrom, & Miriam K. Hirschstein, *Effects of a School-Based Social-Emotional Competence Program: Linking Children's Goal, Attributions, and Behavior*, 26 APPLIED DEV. PSYCHOL. 171, 173 (2005).

121. Finn-Aage Esbensen, Dana Peterson, Terrance J. Taylor, Adrienne Freng, D. Wayne Osgood, Dena C. Carson, & Kristy N. Matsuda, *Evaluation and Evolution of the Gang Resistance Education and Training (G.R.E.A.T.) Program*, 10 J. SCH. VIOLENCE 53, 56–57 (2011).

122. TERRENCE P. THORNBERRY, MARVIN D. KROHN, ALAN J. LIZOTTE, CAROLYN A. SMITH, & KIMBERLY TOBIN, GANGS AND DELINQUENCY IN DEVELOPMENTAL PERSPECTIVE 2–3 (2003); Terrence P. Thornberry, Marvin D. Krohn, Alan J. Lizzotte, & Deborah Chard-Wierschem, *The Role of Juvenile Gangs in Facilitating Delinquent Behavior*, 30 J. RES. CRIME & DELINQ. 55, 58 (1993); Terrence P. Thornberry, *Membership in Youth Gangs and Involvement in Serious and Violent Offending*, in SERIOUS & VIOLENT JUVENILE OFFENDERS: RISK FACTORS AND SUCCESSFUL INTERVENTIONS 147, 161 (Rolf Loeber & David P. Farrington eds., 1998) (membership in youth gangs and involvement in serious and violent offending).

123. Esbensen, Peterson, Taylor, Freng, Osgood, Carson, & Matsuda, *supra* note 121, at 55.

124. *Id.* at 56.

125. Finn-Aage Esbensen, Dana Peterson, Terrance J. Taylor, & D. Wayne Osgood, *Results from a Multi-Site Evaluation of the G.R.E.A.T. Program*, 29 JUST. Q. 125, 127 (2012); Finn-Aage Esbensen,

delivery of evidence based practices but tailoring the program delivery and content to fit the outcome(s) of interest and to continually assess and improve services.

B. *Prevention and Intervention*

While we have emphasized the importance of primary prevention, once a youth starts exhibiting problem behaviors the focus turns from preventing the initial onset to preventing the continuation, or worse yet, escalation, of behaviors as was witnessed in the Pittsburgh Youth Study reviewed earlier.¹²⁶ That is, while some programs aim to get youth and families off to a good start, others must intervene when problems arise. In this Section, we offer just a few examples of programs known to work with youth in this stage of their trajectory towards more problematic and serious behavior.

Staying Connected with Your Teen is one such program.¹²⁷ This family-centered workshop is designed to address family management problems in order to reduce substance abuse and youth violence.¹²⁸ The program targets youth ages twelve to seventeen and their families and includes seven weeks of meetings with both parent and adolescent groups.¹²⁹ This program has been identified as “promising” by the Office of Juvenile Justice and Delinquency Prevention’s Model Programs Guide, with evaluations revealing 45% less violent behaviors among program participants as well as reduced use of drugs and alcohol.¹³⁰

Multisystemic Therapy (MST) is a therapy model that also includes the family as well as other environments in which the youth functions.¹³¹ This therapy can be offered in the home, in the community, or even in institutions, but most often it is used as a method to avoid incarceration of youth and to work

D.Wayne Osgood, Dana Peterson, Terrance J. Taylor, & Dena C. Carson, *Short- and Long- Term Outcome Results from Multisite Evaluation of the G.R.E.A.T. Program*, 12 CRIMINOLOGY & PUB. POL’Y 375, 379 (2013).

126. See *supra* note 39 and accompanying text; Loeber, *supra* note 39.

127. Kevin P. Haggerty, Martie L. Skinner, Richard F. Catalano, Robert D. Abbott, & Robert D. Crutchfield, *Long-Term Effects of Staying Connected with Your Teen® on Drug Use Frequency at Age 20*, 16 PREVENTION SCI. 538, 540 (2015).

128. *Id.*

129. *Id.*

130. *Id.*

131. Maria Cary, Stephen Butler, Geoffrey Baruch, Nicole Hickey, & Sarah Byford, *Economic Evaluation of Multisystemic Therapy for Young People at Risk for Continuing Criminal Activity in the UK*, 8 PLOS 1, 1 (2013).

with them in their home environment.¹³² The program, which consists of trained counselors working with small caseloads to provide intensive services, has no set length, setting it apart from many other programs or curriculums.¹³³ MST truly varies in intensity and length dependent on the distinct needs of the youth and family. It is one of the highest rated programs today with over sixty published evaluations and papers.¹³⁴

Sometimes, however, when families are struggling, an outside positive role model can be just the intervention needed to prevent escalation or continuation of negative behaviors. The absence of such a role model has been linked to a child's risk for many problem behaviors including: drug and alcohol use, sexual promiscuity, and aggressive or violent behavior.¹³⁵ Mentor programs that link a youth with a positive adult role model have been shown to not only prevent and reduce violence but to improve school attendance and performance, reduce violence, decrease the likelihood of drug use, and improve relationships with friends and parents as well.¹³⁶

Big Brothers/Big Sisters (BB/BS) is the oldest and most well-documented mentoring program in the United States serving more than 500 local communities and over 70,000 youths.¹³⁷ The formal program requires mentor-mentee pairs to meet one-on-one for three to five hours each week for at least one year.¹³⁸ There are no prescribed activities—as the role of the mentor is to share interests and supervise the youth—thus, something as simple as taking a walk or going to a movie is part of the intervention.¹³⁹ Although the program is slotted to last a minimum of a year, the relationships often last much longer

132. *Id.*

133. *Id.* at 2.

134. MULTISYSTEMIC THERAPY RESEARCH AT A GLANCE, MST SERVICES (2020), https://cdn2.hubspot.net/hubfs/295885/MST%20Redesign/Marketing%20Collateral/Case%20Study%20and%20Reports/R@aG%20Long%202020.pdf?__hstc=220415175.e703d19d738e5fe0548633e710501624.1582724758671.1582724758671.1582724758671.1&__hssc=220415175.2.1582724758672 [https://perma.cc/QP4T-WTUN].

135. Sharon R. Beier, Walter D. Rosenfeld, Kenneth C. Spitalny, Shelley M. Zansky, & Alexandra N. Bontempo, *The Potential Role of an Adult Mentor in Influencing High-Risk Behaviors in Adolescents*, 154 ARCHIVES PEDIATRICS & ADOLESCENT MED. 327, 329 (2000); Gary Walker & Mark Freedman, *Social Change One on One: The New Mentoring Movement*, AM. PROSPECT, July–Aug. 1996, at 72, 75.

136. CYNTHIA L. SIPE, PUBLIC/PRIVATE VENTURES, MENTORING: A SYNTHESIS OF P/PV'S RESEARCH: 1988–1995, at 5 (1996).

137. *Id.* at 42.

138. *Id.*

139. *Id.* at 46.

with mentors returning to see a youth's high school or even college graduation or marriage.

Other times, when many of the risk factors are in the community, it is important to provide safe havens for youth, particularly for the after school and evening hours when most youth crime is committed. Project Broader Urban Involvement and Leadership Development (BUILD) is a voluntary and community-based program that operates outside of school hours to provide prosocial activities and alternatives to at-risk youth.¹⁴⁰ BUILD has four spokes: prevention services, intervention services, education services, and enrichment services.¹⁴¹ The degree to which individuals access these services depends on their needs. Some of the program's components might include activities such as homework help, resume building, job hunting, recreational activities with other youth as well as intervention programs when a youth has been involved in delinquent activities.¹⁴² This program has been found effective at reducing rates of recidivism as well as lengthening the time between recidivating events.¹⁴³

C. Intervention and Treatment for the Most Serious and Violent Youth

Perhaps most importantly for the current narrative is the fact that even when youth exhibit chronic, serious, and violent behavior, it is not time to give up on them. In fact, research shows that interventions can be highly effective with the juvenile population.¹⁴⁴ As in the previous Sections, we will review only a few evidence-based strategies, all of which have been formally evaluated and have promising results for even the most serious and violent youth.

One effective intervention for families with serious and chronically delinquent youth was developed by the Oregon Social Learning Center (OSLC).¹⁴⁵ An evaluation of this program followed fifty-five families of boys who had multiple arrests and had committed at least one offense deemed

140. Arthur Lurigio, Gad Bensinger, S. Rae Thompson, Kristin Elling, Donna Poucis, Jill Selvaggio, & Melissa Spooner, *A Process and Outcome Evaluation of Project BUILD: Years 5 and 6* (2000) (unpublished report, Loyola University).

141. *Id.*

142. *Id.*

143. *Id.*

144. EDWARD LATESSA, SHELLEY J. LISTWAN, & DEBORAH KOETZLE, *WHAT WORKS (AND DOESN'T) IN REDUCING RECIDIVISM* 197 (2014).

145. Lew Bank, J. Hicks Marlowe, John B. Reid, Gerald R. Patterson, & Mark R. Weinrott, *A Comparative Evaluation of Parent-Training Interventions for Families of Chronic Delinquents*, 19 J. ABNORMAL CHILD PSYCHOL. 15, 17–18 (1991).

“serious” by the court.¹⁴⁶ Families were either assigned to the treatment or to a control group that received an alternate intervention. The treatment group was required to develop behavior contracts that specified prosocial and antisocial behavior and the positive and negative consequences that would result.¹⁴⁷ Families also received an average of 21.5 hours of therapy and 23.3 hours of phone contact.¹⁴⁸ Families were free to contact intervention staff for “booster shots” of support after the treatment year.¹⁴⁹ A significant reduction in arrests was achieved for both the intervention and the control group.¹⁵⁰ However, the OSLC treatment produced results more quickly and with one-third less reliance on incarceration.¹⁵¹

Turning Point: Re-Thinking Violence (TPRV) is a unique, therapeutic diversion program specifically directed at violent, criminally involved youth that aims to inform participants about the effects of their violent crimes in a real-world context.¹⁵² This intensive intervention is a hospital-based, court-ordered program that provides fourteen hours of face-to-face contact primarily in a group setting.¹⁵³ Using community partners for mental health and substance abuse needs, the program focuses on violence and the impact it has on trauma and crime victims.¹⁵⁴ In a study of 115 participants in the program, the recidivism rate was significantly lower than the rate for a similar control group not in the program (5% versus 33% one year after program completion).¹⁵⁵

Operation Ceasefire, also known as the Boston Gun Project, is a firearm reduction program that targets gang members.¹⁵⁶ This lever-pulling policing strategy specifically sought to reduce gun-related homicides and successfully

146. *Id.* at 18.

147. *Id.* at 19.

148. *Id.* at 20.

149. *Id.*

150. *Id.* at 23.

151. *Id.* at 30.

152. Kamela K. Scott, Joseph J. Tepas III, Eric Frykberg, Pamela Taylor, & A.J. Plotkin, *Turning Point: Rethinking Violence—Evaluation of Program Efficacy in Reducing Adolescent Violent Crime Recidivism*, 53 J. TRAUMA & ACUTE CARE SURGERY 21, 22 (2002).

153. *Id.*

154. *Id.*

155. *Id.* at 24.

156. Anthony A. Braga, David M. Kennedy, Elin J. Waring, & Anne Morrison Piehl, *Problem-Oriented Policing, Deterrence, and Youth Violence: An Evaluation of Boston's Operation Ceasefire*, 38 J. RES. CRIME & DELINQ. 195, 196 (2001).

achieved this goal, reducing monthly youth-involved gun homicides by 63%.¹⁵⁷ This was achieved by identifying gang networks and imposing strict penalties on the entire gang if any member was involved in a gun-related incident.¹⁵⁸ Disincentivizing the entire group was a very effective technique though it required a lot of time investment ahead of its rollout in terms of police data collection.¹⁵⁹

D. *Assessing and Understanding What Works*

While we have highlighted an array of programs appropriate at different levels of risk/needs, the takeaway message is that while we may not have a total solution to the juvenile violence problem, we do know a lot about what programs work. Finding these programs and evidence of their success is easier than ever with the Internet, with research collaboratives, such as the Campbell Collaboration, and with evidence-based practice websites and institutes developing across the nation.¹⁶⁰ Take for example OJJDP's Model Program Guide—in one place, practitioners, without being statistical experts themselves, can learn what programs the federal government has endorsed.¹⁶¹ Many universities are also beginning to sponsor research centers and institutes focused on evidence-based practice, such as Penn State's Evidence Based Practice and Support Center (EPIS),¹⁶² the New York Youth Justice Institute at the University of Albany,¹⁶³ and the Center for Juvenile Justice Reform at Georgetown University.¹⁶⁴ Along with highlighting what works, we also learned what doesn't work, and this is just as important as it keeps us from repeating the errors of the past.¹⁶⁵ As a result of these studies and resources, we know that programs that treat kids as adults don't work and that punitive-

157. *Id.* at 204.

158. *Id.* at 201–02.

159. *Id.*

160. *Campbell's Vision, Mission and Key Principles*, CAMPBELL COLLABORATION, <https://campbellcollaboration.org/about-campbell/vision-mission-and-principle.html> [<https://perma.cc/B5H5-7BZT>].

161. *Model Programs Guide*, OFFICE JUV. JUST. & DELINQ. PREVENTION, <https://www.ojjdp.gov/mpg> [<https://perma.cc/3LYV-U45A>].

162. *Evidence-Based Prevention and Intervention Support Center*, PENN STATE COLL. HEALTH & HUMAN DEV., PREVENTION RES. CTR., <http://prevention.psu.edu/projects/epis> [<https://perma.cc/F32C-373T>].

163. *Youth Justice Center, Our Mission*, U. ALBANY, <https://www.albany.edu/yji/> [<https://perma.cc/XM7Q-JFPL>].

164. *About the Center*, CTR. FOR JUVENILE JUSTICE REFORM, GEO. U., <https://cjjr.georgetown.edu/about-us/> [<https://perma.cc/2NG5-7H6W>].

165. BERNARD & KURLYCHEK, *supra* note 4, at 10–11.

only practices don't work, and it is with knowledge that we turn to our recommendations and conclusions.

V. RECOMMENDATIONS

A. *The Kid is a Kid*

This simple but perhaps often overlooked fact is driven home in a recent review of the history of juvenile justice by noted legal scholar Barry Feld in his most recent book, *The Evolution of the Juvenile Court: Race, Politics, and the Criminalizing of Juvenile Justice*.¹⁶⁶ The fact behind the “the kid is a kid” comment is that youth are indeed different than adults and thus remanding a youth to adult punishments is folly. This concept has been evidenced through history, from medical and psychological science, and most of us know this from common sense.¹⁶⁷ However, this common sense and reliance on empirical evidence is often left behind when political rhetoric and media campaigns of fear create a moral panic. Somehow, in this panic, individuals forget the simple fact that kids are just kids, and assume that something must be different about a kid who can commit such a violent act, resulting in adult punishments. In a way, something is different, this kid most likely exhibited early signs of trouble and has many risk factors and needs that have not been addressed. However, what isn't wrong is that they are not somehow *more* mature and calculated than other youth and therefore should be subject to adult punishment. At best, evidence suggests such a course only leads to more recidivism and crime, with worse life outcomes for the youth.¹⁶⁸

Once this recognition is made, the remaining policy recommendations should sound very familiar as they represent what works with juvenile offenders in general.

B. *The Treatment Should Fit the Kid, Not the Crime*

We highlighted earlier the growing science of risk, need, and responsivity assessments. There are several tools available and more being validated. The YASI (Youth and Adolescent Screening Instrument)¹⁶⁹ and the Youth Level of

166. BARRY C. FELD, *THE EVOLUTION OF THE JUVENILE COURT: RACE POLITICS, AND THE CRIMINALIZING OF JUVENILE JUSTICE* 1 (2017).

167. *Id.*

168. *See id.* at 223.

169. *Youth Assessment and Screening Instrument (YASI)*, ORBIS FOR THE HELPING PROFESSIONS, <https://orbispartners.com/assessment/youth-assessment-yasi/> [https://perma.cc/TT4X-G7S6].

Service (YLS) assessment¹⁷⁰ are just two of these known instruments. They are different from traditional “risk assessments” used in the adult system that only assess risk of committing a future crime, instead these address the overall needs of the youth¹⁷¹ and thus are important for developing case management plans that will provide the appropriate services. This, then, leads us to services.

C. *Ensure Availability of Evidence-Based Programming*

In recognition that each youth is different and has different needs and responsiveness, jurisdictions should not rely on one or two evidence-based programs to serve all of their needs but rather should have a wide variety. This will, of course, depend on the specific context of the jurisdiction and the resources available to them. It is important to have a variety of settings for implementation as this allows for flexibility, meeting the youth, their families, and communities where it is best for them. Jurisdictions should also consider the level of intervention in their available services to fit the needs of youth who require different intensities of programmatic treatment.

D. *Ensure Fidelity to Model*

One thing we did not specifically address in this Article, but that is critically important to evidence based practice, is ensuring fidelity to the program model.¹⁷² That is, all elements of the program must be implemented in the way intended and in the same manner as in the location evaluated. For example, if a program is designed to target high-risk offenders and the caseload of probation officers working with these high level youth is to be no more than fifteen, then a program that extends to lower-risk youth and increases caseloads

170. Gina M. Vincent, Sam Miller, Beth Fritz, & Ben Rea, *Youth Level of Service/Case Management Inventory (YLS/CMI) In PA*, JCJC CONF. 2009 (2009), <https://www.umassmed.edu/globalassets/center-for-mental-health-services-research/documents/products-publications/presentations/juvenile-justice/youth.pdf> [<https://perma.cc/W9XZ-8VQQ>].

171. *Id.*

172. EDWARD J. LATESSA, UNIV. OF CINCINNATI SCH. OF CRIMINAL JUSTICE, WHAT WORKS AND WHAT DOESN'T IN REDUCING RECIDIVISM: THE PRINCIPLES OF EFFECTIVE INTERVENTION, 1, 110 (2014), https://mow.fd.org/sites/mow.fd.org/files/training/2015_CLE_Detention_and_Release/What%20works%20reducing%20recidivism%20powerpoint%20slides.pdf [<https://perma.cc/2PNJ-QWFB>]; MARK W. LIPSEY, JAMES C. HOWELL, MARION R. KELLY, GABRIELLE CHAPMAN, & DARIN CARVER, IMPROVING THE EFFECTIVENESS OF JUVENILE JUSTICE PROGRAMS, CENTER FOR JUVENILE JUSTICE REFORM 18 (2010), https://cjjr.georgetown.edu/wp-content/uploads/2015/03/ImprovingEffectiveness_December2010.pdf [<https://perma.cc/YG77-NXGT>].

to twenty- to twenty-five youth is not the same program and will not achieve the same results. National evaluations of programs have shown that often even with the best of intentions the same program can be implemented very differently across locations, as was the case with the Intensive Aftercare model developed by Altschuler and Armstrong.¹⁷³ The three-site evaluation found little support for effectiveness but the implementation varied so drastically across sites, and none of the sites appeared to implement the full model or address the intended population that it would be unfair to conclude that the model did not work—rather localities faltered in its implementation.¹⁷⁴

E. *Keep the Kid at Home*

While we just referenced a study specific to reentry, and reentry is important for youth who have been removed from the home, we are not aware of any research that shows youth to fare better when removed from their home and community. There are, of course, instances in which the home environment is unsafe and these measures must be taken, but those measures should be based on the youth's safety in the home and not the act of the youth. There are many studies that document the abuse and neglect of children within the system¹⁷⁵ as well as their trials and tribulations trying to return home after such an experience.¹⁷⁶

In addition, almost all of the evidence-based practices noted utilize the families, schools, or communities where the youth must ultimately function as part of the solution to the problem being faced. As youth must ultimately succeed in society—yes, even the ones who have committed serious and violent acts—it is here that we believe the problem began and the solution must be found.

VI. CHALLENGES AND DIRECTIONS FOR THE FUTURE

While we know much about what works, even for the most serious and violent youth, there are still many gaps in our knowledge and abilities. One specific challenge is managing the culture of fear that is often evoked around

173. David M. Altschuler & Tony L. Armstrong, *Reintegrating High-Risk Juvenile Offenders into Communities: Experiences and Prospects*, 5 CORRECTIONS MGMT. Q. 72, 73, 80 (2001).

174. *Id.* at 79.

175. See, e.g., NELL BERNSTEIN, *BURNING DOWN THE HOUSE: THE END OF JUVENILE PRISON* 83–84 (2014); EDWARD HUMES, *NO MATTER HOW LOUD I SHOUT: A YEAR IN THE LIFE OF JUVENILE COURT* 79 (1996).

176. JAMIE FADER, *FALLING BACK: INCARCERATION AND TRANSITIONS TO ADULTHOOD AMONG URBAN YOUTH* 19–42 (2013).

juvenile crime to ensure that evidence-based practices can be maintained. Even our current President has referred to certain youth as animals.¹⁷⁷ These images are real in their consequences because when we view some youth as different, we can then justify different, or at times even inhumane, treatment.¹⁷⁸ While there will be times when crime is up and new responses must be sought, in doing so we must seek to understand the causes of the increase and not merely panic in the face of a perceived “crime wave.”

Second, while there is a wealth of information on programs that work, there is often a disconnect between research and practice, exacerbated by issues such as less than sufficient funding or infrastructure to implement these programs, or to implement them well.¹⁷⁹ The science on the fidelity of treatment is clear: do it right or it will not work.¹⁸⁰

Third, we must admit that we do not know it all. New problems arise and we may not have the suitable tools in our toolbox yet to deal with these emerging issues. For example, the opioid epidemic, which reached families never before thought to be at risk through conventional doctors and pharmacies,¹⁸¹ has been one of the worst tragedies of human life in America in the modern era. Addressing it required understanding the roots of the problem, and creating new approaches to address a new problem. For the first time in years, statistics are starting to show that deaths from opioids may be on the decline,¹⁸² but this is just an example of how new challenges emerge and how the system, while focusing on the implementation of evidence-based programming, must also be nimble to respond to these challenges.

With these new challenges and programs also comes the necessity to evaluate their effects. We can never forget that even the best intentions do not

177. See *supra* note 1 and accompanying text.

178. Kenneth B. Nunn, *The Child as Other: Race and Differential Treatment in the Juvenile Justice System*, 51 DEPAUL L. REV. 679, 681 (2001); Justin T. Pickett & Ted Chiricos, *Controlling Other People's Children: Racialized Views of Delinquency and White's Punitive Attitudes Toward Juvenile Offenders*, 50 CRIMINOLOGY 673, 674 (2012).

179. LATESSA, *supra* note 172, at 1; see generally OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, IMPLEMENTATION SCIENCE LITERATURE REVIEW (2015), https://www.ojjdp.gov/mpg/litreviews/Implementation_Science.pdf [<https://perma.cc/V2DX-J856>].

180. LATESSA, *supra* note 172, at 110; LIPSEY, HOWELL, KELLY, CHAPMAN, & GARVER, *supra* note 172, at 18.

181. SAM QUINONES, DREAMLAND: THE TRUE TALE OF AMERICA'S OPIATE EPIDEMIC 7 (2015).

182. *Provisional Drug Overdose Death Counts*, CTR. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm> [<https://perma.cc/L9XZ-TBQ8>].

always lead to the best programs and that programs can indeed do harm.¹⁸³ We must be willing to accept the results of evaluations and abandon spending money on programs that simply do not produce the intended results.

Finally, it is important to remember as system actors, practitioners, and researchers that the juvenile justice system did not cause youth violence and ultimately cannot cure it. This means that a major challenge for the future involves reaching beyond the system itself and engaging with politicians, policy makers, and communities to create a culture in which youth can grow and thrive in communities free from poverty and violence, in which all youth have equal opportunities for healthcare and education, and where all youth are valued rather than labeled.

183. Cullen, Jonson, & Nagin, *supra* note 16, at 60S; *see* LAWRENCE W. SHERMAN, DENISE C. GOTTFREDSON, DORIS L. MACKENZIE, JOHN ECK, PETER REUTER, & SHAWN D. BUSHWAY, U.S. DEP'T OF JUSTICE, PREVENTING CRIME: WHAT WORKS, WHAT DOESN'T, WHAT'S PROMISING 8-9 (1998), <https://www.ncjrs.gov/pdffiles/171676.PDF> [<https://perma.cc/8JZS-RUVR>].