

A Broken System

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Nelson Mandela a Nobel peace prize winner and charismatic leader of South Africa once said, "There can be no keener revelation of a society's soul than the way in which it treats its children." (Mandela, 1995) What would Mandela have to say about the United States' soul, a society who prides itself on the ideals of democracy, freedom and the pursuit of happiness, when learning the U.S. incarcerates more youth than any other nation in the world, increasingly tries adolescents as adults and continues to punish children for their mistakes by subjecting them to a brutally violent juvenile justice system? Our current juvenile justice system is a crime in, and of itself. The California Department of Corrections and Rehabilitation (CDCR) and its branch specifically dedicated to juvenile offenders, the Division of Juvenile Justice (DJJ) is an abortive institution as it has continually failed to meet its objective of rehabilitation and deterring youth from engaging in further criminal behavior. Instead, the DJJ boasts nearly a

91% recidivism rate, has acquired a notorious reputation of violence and neglect toward our youth and has a virtual absence of any effective rehabilitation programs (CDRC, 2009). This essay is going to address several factors which contribute to making this a failed system, focus on how alleviating the negative stigma associated with being a “criminal” has great potential to kick start optimistic change within the system, and discuss successful alternative approaches to which California should commit.

### ***The Department of Juvenile Justice: Racism and the Cycle of Violence***

As of December 31, 2010 nearly 1200 wards were held captive among five different facilities and two conservation camps throughout the state (CDCR, 2010). The DJJ’s approach to creating an environment in which troubled youth can be successfully rehabilitated from their criminal behavior is by either warehousing them in large dormitory style housing or confining them to concrete and claustrophobic prison cells.

Racism is rampant within the institution as population statistics show a dramatic overrepresentation of kids of color. While White and Asian convicts only represent 9.7% and 2.3% of the DJJ populace, Latinos make up a startling 56.6% of the DJJ’s total population, but only represent approximately 36% of the California’s youth. African American adolescence is even more overrepresented as they comprise of just 6% of the state’s youth, but make up 29.6% of the DJJ’s population (CDCR, 2010). This means that kids of color make up nearly 86%

of the entire institution! As Daniel Macallair and Mike Males, researchers for the Center on Juvenile and Criminal Justice found, this reality suggests a kind of strong institutionalized racism as, “African American youth were 5.7 times more likely to be detained than their share of the youth population would predict” (Macallair, Males, 2004: 67). This trend is troublesome as not only does it mean for the most part families of color are going to be negatively impacted by involvement with the juvenile justice system, but also it is allowing prejudices to taint a system by purposefully criminalizing black and Latino youth over others.

### ***Abuse Among Staff and Wards***

Unfortunately, the prevalence of racism isn't the only issue plaguing the current system, as incidents of abuse, violence and neglect are an almost everyday occurrence behind these bars. In fact, in 2003 this reality came to light as a security video tape surfaced on the internet which showed several guards brutally beating two CYA (the California Youth Authority, the former name of the DJJ) inmates until they lay unconscious in which case more guards rushed to spray the helpless boys with mace. This video shocked not only Californians, but the entire nation with its vicious violence. In response to this atrocity made public, the Prison Law Office filed a law suit against the California Youth Authority, and as a result asked Barry Krisberg, respected criminal justice expert, to conduct a review of the CYA. Among the areas investigated by Krisberg was use of force and ward safety in the institutions, a huge component of what makes this current system a failure (Krisberg, 2003).

This first type of abuse Krisberg addresses in his review is the violence and abuse used against wards within the CYA. In regards to the use of weapons used by staff against prisoners, Krisberg confidently declares

Suspicion that YA staff were engaging in the use of excessive force were found to be well grounded in a number of audits and investigations that were conducted by the Office of Inspector General. The reports documented potentially fatal use of high powered weapons that delivered chemical agents. (Krisberg, 2003: 30)

The first issue concerning the use of these high powered chemical weapons is the fact that they are not being used for their intended purpose. According to the manufacturers, these types of weapons were designed to be used to break up large riots within the prison yard or among a massive crowd. However according to both CYA wards and guards, these weapons were actually being used against single individuals for such things as escorting inmates from room to room, or as a way for guards to assert their authority over the youth for no apparent reason (Krisberg, 2003). In addition, there are recorded accounts of youth being badly burnt from these strong chemicals because they were not allowed to shower and rinse off these harmful substances in a timely matter. The weapons' high concentration level of chemicals, combined with the unusually small spaces wards are often kept in, posed the threat of suffocation to these kids as well (Krisberg, 2003). Other means of abuse within the system were a normal occurrence also. Krisberg notes records of prison staff forcing wards to endure long periods of time doing strange things such as, "Wards at Paso were made to spend time on their knees with their hands bound behind them in mechanical restraints" or, "forced to sleep on cement slabs in very cold rooms" (Krisberg, 2003: 30).

Verbal abuse against wards was found to be widespread within the institution as well, according to both youth and staff. Krisberg writes in his review, "There was almost unanimous complaints among the wards that YA staff make demeaning and angry detrimental comments to the YA wards on a daily basis...the verbal abuse seemed to be inherent in staff culture" (Krisberg, 2003: 33). That prison staff verbally assault youth on a daily basis is evidence of a program which turns one against the other; creating an us versus them mentality. This is also troubling as a prison like environment is likely a setting already filled with tension, so when two groups are turned against each other, but only one group is permitted to continually assault the other without consequence, tension will boil over. In this case, that often means wards acting out in some form which likely leads to, "disciplinary write ups, the use of temporary detention, or the escalation to the use of chemical restraints", which undoubtedly leads to more time on their records'. (Krisberg, 2003). Another upsetting reality the vast amount of verbal abuse causes is the self fulfilling prophecy phenomenon. Constantly hearing negative comments about oneself, family, background or future would have detrimental effects on anyone; however these types of oral attacks are even more devastating to youth who likely are struggling with self esteem issues, finding their sense of self and who are impressionable adolescents. While instances such as these are not direct physical abuse per se, they are certainly practices with the intention of wearing down one's mind, body and soul.

### ***Abuse Among Wards***

However violence isn't only a problem among prison guards and wards, but is also an issue between wards and wards. In a book entitled, *I Cried, You Didn't Listen*, Dwight Abbott a survivor of the Division of Juvenile Justice, formerly known as the CYA, gives a detailed account of the sort of violence encouraged or even regarded as a means of survival to young kids within the system. In Abbott's case, he was initially taken into custody of the state because his parents were severely injured in a car accident and were unfit parents at the time because of that. Like so many others, at a young age Abbott was left to navigate a system filled with sexual assault and physical abuse. As a result he found himself acting out, gaining a reputation as a dangerous offender, and years being added to his record.

He reflects on his early experiences remembering that upon arrival to one of these facilities you were stripped of your pride and dignity as you were stripped of your clothes and forced to stand naked in front of strangers who then searched you for any drugs or weapons. As Abbott and most everyone else who has had to endure this process feels, "It is not a necessary procedure. It is simply one to humiliate and degrade an inmate. It's the beginning of a long process used to break a prisoner's spirit" (Abbott, 2006: 60). The environment of brutal violence made a quick impression on Abbott too as he reflects:

I lost count of how many fights I saw the first week. There were dozens. Proving yourself is a way of life in the juvenile institutions. Though against the rules, it is condoned by the majority of counselors as an acceptable manner in which kids can settle their differences. It's how boys prove they're men." (Abbott, 2006: 65)

Abbott stresses how “cliquing up” with a group is encouraged by officials and crucially important among wards in order to ensure some sort of protection from other cliques. However in order to deserve your spot with a certain group you must “prove yourself” which likely means seriously injuring or sexually harassing another for no apparent reason. The irony of this reality is that youth seek protection from cliques in order to prevent such a thing from happening to them, or in other words, “assaults were tied to patterns of physical intimidation and threats that some youth use to claim status within the extremely violent institutional culture” (Krisber, 2006: 6). Abbott describes this as making the transition from “predator rather than being the prey” (Abbott, 2006: 27). Unfortunately though, this type of environment which is created as a means of survival also creates a circumstance in which youth feel like they “always have to watch their back” (Krisberg, 2006: 5). This is no surprise as Barry Krisberg concluded after his review of the California youth facilities that, “Fights, assaults on staff and riots are common occurrences” (Krisberg, 2006: 2). So common in fact, that according to the Disciplinary Decision Making System (DDMS), which is considered to be a fairly conservative measure, documented in 2002:

Over 4,000 serious infractions for youth-on-youth assaults and batteries at these six DJJ institutions—over 10 per day...But, in addition to these assaults, there were another 9 sustained disciplinary infractions for sexual assaults and 56 sustained charges for sexual acts. DJJ staff distinguish between these categories (“assault” or “act”) based on their judgments whether they believe the acts were consensual...There were also 925 sustained serious infractions for sexual harassment that covers a very wide range of behaviors including sexual gestures, provocative language, public masturbation, and other activities defined broadly as sexual horseplay directed at either other youth or staff. (Krisberg, 2006: 4)

Not only is physical abuse between inmates rampant, but sexual abuse is too. This is quite troubling as many of these youth probably grew up in homes where they were either physically or sexually abused, which increases their likelihood of doing the same to their children, but now being in another environment where this is going on likely magnifies the already increased chances of this happening. Krisberg also found that in his review there seemed to be no accountable way for wards to record their grievances:

The only recourse that most victimized youth had was to file a grievance that did require an administrative review. However, grievances were routinely processed by other youth inmates, who acted as grievance clerks. Many of these youth had little faith in the grievance procedure and often discouraged victims from reporting these assaults. A few youth wrote letters to the DJJ director complaining of their victimization, but they generally received a response drafted by facility staff. (Krisberg, 2006: 6)

And to make matters worse, when the youth filed grievances against staff for alleged sexual misconduct, in most cases there was little consequence for the employees:

In these cases, the accused staff were permitted to resign, were placed on limited duty, or the charges were dropped. Even in cases in which the DJJ management fired staff for a range of allegations of excessive use of force or other proscribed behavior, the State Personnel Board restored these staff to regular employee status. There were no criminal prosecutions of DJJ staff despite allegations of felony law violations. (Krisberg, 2006: 6)

So as the aforementioned studies have demonstrated the current Division of Juvenile Justice in California is a system plagued with brutal violence, emotional abuse and an utter neglect from creating any kind of nurturing environment. Yet, we wonder why so many of these juveniles leave the institution skeptical of all authority and cynical of their peers. We question why nearly nine out of ten juveniles will depart the institution and shortly reoffend. As a result we label them as hopeless. However, as Dwight Abbott challenges, "No child who is loved,

understood, and given proper guidance will become “incorrigible” at such an age. It’s easier to throw away a child who reacts to his abuse than attempt to heal his pain. Are children born incorrigible?” (Abbott, 2006: 109). Instead of giving up on these adolescents and forever labeling them as “criminals”, we should consider that they have just been products of their environment; environments likely filled with violence and defamation. Rather than subjecting troubled youth to an institution which perpetuates the cycle of violence we should take responsibility for their well being and invest in their potential by creating an environment conducive to positive change.

### ***Remove the Stigma: The First Step Towards a Bright Future***

In an article titled, “From Child to Captive: Constructing Captivity in a Juvenile Institution”, Bickel argues that instead of labeling youth who are caught in the juvenile justice system as hopeless sociopaths and limiting their potential by constraining them in an exhaustingly dull and negative atmosphere, we should instead create an environment which is conducive to them eventually becoming successful members of society and free them of the stigma of formerly being imprisoned. It is time to transform our juvenile institutions to reflect this reality- instead of giving up on those who have been incarcerated we need to invest in their futures to allow them to fulfill their potential as valuable members of society.

The first step towards providing a more hopeful future for youth who have been incarcerated is first trying to improve the conditions they are kept in during their sentence.

Certainly there should be more access to a quality education, mandated rehabilitation programs, and rooms which are conducive to a healthy life style (not 7 X 8 metal rooms with no tolerance for creativity). The dynamic between inmates and guards could be made into a more positive one also, benefiting both parties. For example, Grendon Prison located in England is a facility that is committed to creating this type of healthy environment and has had success so far. The Governor of Glendon has publicly articulated the institutions commitment to guaranteeing a humane experience and preserving a setting which is conducive to positive change. While the claim is confidently made, what exactly is different about Glendon that facilitates such a guarantee? In the eyes' of the prisoners there it is Glendon's commitment to, "communicating and involvement, promoting responsibility, encouraging collaboration, and creating safety and building relationships" (Bennett, Shuker, 2010: 491). For instance, instead of creating an "us verse them mentality" during guard's training, the officials at Glendon subscribe to:

A willingness to consult with, and include prisoners in decision making, and a readiness to take measured risks which allow prisoners to have meaningful opportunities for participation, as well as an acceptance that their own decision making will be subject to open scrutiny and criticism, not only from the prisoners but also from prison staff.  
(Bennett, et al., 2010: 494)

Inhabitants of Glendon also report feeling a mutual respect for guards as the less hierarchal approach allows them to form meaningful relationships with them; something that serves invaluable as many of the prisoners, "have experienced a pattern of dysfunctional, destructive and broken relationships during their lives and often during their imprisonment" (Bennett, et al., 2010: 496).

This type of environment is starkly different from the one seen in most institutions in the United States where from the beginning of their training guards are exposed to an, “institutional framework that provides a normative conception of the children as pathological, as internally deficient” (Bickel, 2010: 42). This sets up a situation that initially is destructive for both parties; guards and prisoners. With the confined youth now reduced to untrustworthy and incompetent beings, the prison officials expect nothing more of them and treat them as such. As the establishment has successfully dehumanized youth with such a definition, suddenly “proper use of force” is tolerated and easily justified, permitting harsh behavior that guards may otherwise have not engaged in. As for the youth, frustrated and feeling that no worth or faith is invested in them, begin to use the “weapons of the weak, like dragging their feet, banging against walls, and flooding their toilets” as an outlet for their aggravation and begin to become a product of the institution’s expectations (Bickel, 2010: 47). Turning prison officials against prison inhabitants forms a, “inmate social system...a reaction to various pains of imprisonment and deprivation inmates suffer in captivity,” when we should instead be creating an environment of mutual respect among the authorities and convicts where inmates cooperate and guards serve as facilitators of healthy growth for the prisoners (Hunt, Riegel, Morales, Waldorf, 1993: 398).

While freeing youth of the strong stigma attached to being imprisoned would certainly improve circumstances within the institution, doing so in the outside world would also serve extremely beneficial. Not only does being incarcerated have possible negative effects on one’s health such as creating “psychological orientations that prevent integration and intimacy” and

“fostering shame and anger within families”, it also creates an enormous burden when trying to re-assimilate into everyday life (Schnittker, John, 2007: 117). There is a growing body of evidence that proves the criminal justice system has a negative effect on reentry into the job market but also on your basic social systems. First, time spent in prison halts the development of social capital such as education and a work history; so when an individual is finally done with their time, they find themselves reentering a world in which they are not prepared to compete in. This is particularly tragic in the case of youth who have been incarcerated at an early age and are leaving at a stage in life where they are considered “adults” and are expected to live up to certain expectations and responsibilities. Secondly, the experience of being incarcerated itself has such a negative connotation that often time’s employers will immediately turn the ex-convict down once aware of their criminal record.

In fact, in 2009 the American Academy of Political and Social Science conducted a study to explore the extent to which a criminal record and race affect employment outcomes. Their study consisted of two teams of white and black males who were sent to apply for 250 entry level jobs in New York City over a nine month period. The participants were specially selected and matched on the basis of their physical attractiveness, verbal skills, demeanor and education. They were also put through a training program to teach specific behavior for their interviews and given fabricated resumes with comparable educational attainment, work experience and residency. The first team was two white applicants, one who would present a criminal record on their resume and the other a clean record; the second team did the same

but consisted of two African American applicants. Over the nine month period the study tracked whether or not the applicants were called for an interview, offered a job, and the employer's reported reaction to the applicant's criminal record (Pager, Western, Sugie, 2009).

The study revealed that a criminal conviction had a significant negative effect on hiring outcomes for both the white and black participants reducing, "the likelihood of an interview or a call back by nearly 50 percent" (Pager, Western, Sugie, 2009: 195-199). This is truly a tragedy. Not only have we stunted the growth and development of those incarcerated by keeping them in such a detrimental institutional environment, but we then send them out in to the real world where they stand only half a chance of receiving a job on the basis of their criminal record. This means that despite the time they have served and changes they have made in their life, those who have previously been convicted will always be oppressed and defined by their past mistake. Requiring individuals to disclose their criminal record the system has set up another category of inequality, as being labeled an "ex-convict" which essentially serves as an excuse to discriminate against an already oppressed body of people in our society. An even more tragic reality revealed by the study was that, "the negative effect of a criminal conviction is substantially larger for blacks than for whites...the magnitude of the criminal record penalty suffered by black applicants, 60 percent, is roughly double the size of the penalty for whites with a record 30 percent" (Pager, et al., 2009: 195-199). This is telling as it not only illustrates the institutionalized discrimination towards ex-convicts, but also shows how prevalent racism still is within our society.

So the institution is not only failing to prepare its inhabitants for a successful reentry into society, but it is actually creating a situation which does just the opposite; generates new means to oppress people by creating a new category of inequality. This sad phenomenon perhaps explains why “nearly two thirds of ex-prisoners remain out of work a year after prison release and 60 percent are rearrested within three years” (Pager et al., 2009: 195). As Lawrence Kelly, an author and ex-convict voices, “the social stigma experience from society is a recipe for failure and reoffending” (Kelly, 2010: 491). How can we justify our expectations of youth to come out of juvenile institutions and succeed as productive members of society when we are setting them up for failure? However, it is important to give recognition to the few intermediary agencies such as CEO (Center for Employment Opportunity) in New York, SAFER in Chicago, and Homeboy Industries in Los Angeles whose mission is to provide individuals who were formerly been incarcerated with opportunities for job training, resume building and in the case of Homeboy Industries even jobs in order to help facilitate successful assimilation back in to society (Holzer H., Raphael S., Stoll M., 2003: 13). Instead of continuing to punish these youth, for whatever offense they have committed in the past, we need to instead consider that once they have finished their time, their punishment is over. They deserve to be relieved of the stigma associated with incarceration and allowed a fair chance to be proactive citizens of society.

## ***“Books , Not Bars”***

So while alleviating the stigma attached to incarceration has a profoundly positive effect on those confined, committing to a system that offers effective rehabilitation is the most imperative thing California can do for its troubled youth. In fact, Missouri a state who thirty years ago traded its draconian-like juvenile institutions for more a humane, nurturing and rehabilitative system is having great success deterring youth from further deviant behaviors. The Missouri Division of Youth Services, also called DYS, boasts the lowest recidivism rate for juveniles in the country, has soaring rates of educational attainment and prides itself on a firm commitment to rehabilitating its youth (The Annie E. Casey Foundation, 2010). But what exactly is it about the way Missouri’s system operates that allows for such success?

The first component to this is Missouri’s dedication to keeping adolescents experience at DYS humane and individualized. One of the most obvious differences between the DYS and other juvenile institutions is the basic living conditions. In stark contrast to cold cement, steel bars and uniforms wards are forced to wear, DYS instead houses their youth in welcoming dorm-like rooms, allows the kids to have few personal belongings and wear their own clothes. DYS directors explain that the hospitable environment doesn’t stop there as the youth are encouraged to address personnel by their first names, and personnel are expected to know each of the youths’ names (The Annie E. Casey Foundation, 2010). Ned Loughran, executive director of the Council of Juvenile Correctional Administrators, asserts, “Why I think they’re such a good system is that they have preserved the community aspect even in the secure

programs...they've been able to preserve...a family atmosphere." (The Annie E. Casey Foundation, 2010: 20) DYS institutions are also scattered throughout the state in order to keep the youth as close to their families, communities and support systems as possible.

Another way the Division of Youth Services in Missouri strives to keep the experience individualized is by keeping facilities small in size. While the average juvenile facility in the United States typically holds one hundred and fifty beds, the DYS's largest facility houses only fifty beds (The Annie E. Casey Foundation, 2010: 15). Limiting the capacity that each facility can hold is important as it decreases the risk of adolescents losing their sense of self to the system and increases the likelihood of youth forming meaningful relationships with their peers and staff. Paul DeMuro, an expert juvenile justice advisor asserts this simple shift in policy is crucial as he believes, "The most important thing in dealing with youthful offenders is the relationships, the one-on-one relationships formed between young people and staff." (The Annie E. Casey Foundation, 2010: 15) This is especially important when it comes to the small treatment groups the DYS requires each ward to participate in, perhaps one of the most important components to Missouri's juvenile corrections systems.

Upon arrival to one of the DYS institutions every kid is assigned a staff person who will oversee their case during and after their time at DYS. This one-on-one interaction from the get-go creates a sense of trust between the youth and the institution, but also provides an initial sense of consistency and accountability; two things that likely lacked in the youths' previous life experience. The staff person also introduces the new juvenile to her/his "treatment team"

which is a group of ten to twelve youth who will live together, school together and also partake in daily therapy sessions (The Annie E. Casey Foundation, 2010). During treatment sessions youth gradually earn each other's trust and respect as they are asked to share their family history, source of delinquent behaviors and future goals (The Annie E. Casey Foundation, 2010). DYS staff and directors believe this type of treatment wouldn't be as successful if they were not able to keep the group sizes relatively small as, "The small groups serve as a crucible in which the DYS treatment process attains focus and intensity. The constancy of the group does not allow young people to hide or withdraw" (The Annie E. Casey Foundation, 2010: 20). Another benefit to a limited sized group is that it lessens the likelihood of staff feeling overwhelmed by their case loads. Instead staff is able to give as much attention and specialized treatment to the wards as they need. This reality is reflected by the low rates of recidivism, and high educational attainment DYS. The DYS reports 24.3% recidivism rate within three years of release; in contrast California's 91% recidivism rate (The Annie E. Casey Foundation, 2010: 6). It is not just California that Missouri's system beats out, but other states as well. Under the same definition of recidivism Arizona has a 51.8% recidivism rate and Texas 43.3% (The Annie E. Casey Foundation, 2010: 10). Youth at DYS are also achieving much higher levels of education compared to other confined youth in the country as 74.7% of Missouri's youth are making at least one year of academic progress for every year of incarceration, versus the national average of 25% (The Annie E. Casey Foundation, 2010: 10). Furthermore, nearly one-fourth of the adolescents sixteen or older leaving a DYS facility completed requirements for a high school

diploma or GED (The Annie E. Casey Foundation, 2010). These numbers speak for themselves.

Youth involved in Missouri's juvenile justice system are not only less likely to reoffend after release but are also earning more social capital while incarcerated, all of which makes these youth more likely to succeed in adulthood as they make their way into the world.

### ***Conclusion***

Through observation it is evident that California's Department of Juvenile Justice is a broken system that fails to meet its objective of rehabilitating troubled youth. Instead it functions as a vehicle that encourages the cycle of violence and perpetuates deviant behaviors among involved adolescents. However, after review of alternative approaches it is clear that there are models of reform that have proved to be successful. As Californians we stand at crossroads: do we rise to the occasion and reform our juvenile justice system to be more humane and provide meaningful rehabilitation, or do we settle for the system in place which invests no faith in our youth's potential? If we fail to reform the prevailing system, we are jeopardizing not only our future but our humanity.

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