

LET'S HORSE AROUND: HOW UTILIZING EQUINE AND HORSEMANSHIP ACTIVITIES FURTHERS THE GOALS OF THE JUVENILE DETENTION ALTERNATIVES INITIATIVE

YVETTE DELAGUARDIA*

I. INTRODUCTION

For more than a century, courts in the United States have acknowledged the fact that juveniles are owed special treatment.¹ In response to continued advances in the understanding of how juveniles develop,² the Illinois legislature became the first to enact legislation creating a new court system³ specifically designed to better address the sensitive needs of juvenile offenders.⁴ The new system, now commonly referred to as the “juvenile justice system”,⁵ recognized the malleable character and nature of juveniles and began to focus more on rehabilitative efforts,⁶ instead of the penal emphasis of the adult system.⁷

During the early 1970s, the rehabilitative focus of the juvenile justice system took a backseat as its critics called for the imposition of harsher sentences for juvenile offenders.⁸ As a result of these “get tough” political influences,⁹ the frequency with which courts began to incarcerate

* Staff Editor, KENTUCKY JOURNAL OF EQUINE, AGRICULTURE, & NATURAL RESOURCES LAW, 2013-2014; B.A. 2010, Morehead State University; J.D. expected May 2014, University of Kentucky.

¹ See Barry C. Feld, *A Century of Juvenile Justice: A Work in Progress or a Revolution That Failed?*, 34 N. KY. L. REV. 189, 189 (2007).

² See Grace E. Shear, *The Disregarding of the Rehabilitative Spirit of Juvenile Codes: Addressing Resentencing Hearings in Blended Sentencing Schemes*, 99 KY. L.J. 211, 211 (2010); see also *Roper v. Simmons*, 543 U.S. 551, 569-72, 574 (2005) (evidencing the sensitive nature of juveniles and the need for rehabilitation); *Graham v. Florida*, 130 S. Ct. 2011, 2026-27 (2010) (warranting a rehabilitative and treatment-based regime for juveniles); *Miller v. Alabama*, 132 S. Ct. 2455, 2460, 2464-65 (2012) (demonstrating the United States Supreme Court’s continued recognition of the sensitive nature of juveniles).

³ See Robert E. Shepherd, Jr., *The Juvenile Court at 100 Years: A Look Back*, JUV. JUST., Dec. 1999, at 13, 13, available at <https://www.ncjrs.gov/pdffiles1/ojjdp/178255.pdf>.

⁴ *Id.*

⁵ OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, *Juvenile Justice System Structure and Process: Overview*, OJJDP.GOV, http://www.ojjdp.gov/ojstatbb/structure_process/overview.html (last visited Sept. 1, 2013).

⁶ See generally KY. REV. STAT. ANN. § 610.010 (West 2013) (characterizing Kentucky’s juvenile code as treatment based).

⁷ Shear, *supra* note 3, at 215.

⁸ Feld, *supra* note 2, at 209, 217. *But see The Development of Juvenile Institutionalization*, AT-RISK.ORG, <http://www.at-risk.org/doji.html> (last visited Sept. 1, 2013) (suggesting the focal shift from rehabilitative to punitive began in the 1980s).

⁹ Feld, *supra* note 2, at 213.

juveniles in juvenile facilities began to increase.¹⁰ Law professor and leading academic in juvenile justice,¹¹ Barry C. Feld, explains:

By the early 1990s, nearly every state amended its laws to transfer more youths to criminal courts and to sentence delinquents more severely. The changes in...laws emphasized punishment and focused primarily on juveniles' present offense and prior record. The shift from rehabilitation to retribution marked a substantial departure from traditional juvenile court sentencing policies.¹²

Today, many juvenile offenders entangled in the juvenile justice system are struggling with the ramifications of a regime that overuses secure detention and confinement.¹³ While all fifty states have enacted juvenile codes focused on treating and rehabilitating juvenile offenders,¹⁴ courts continue to over rely on secure juvenile detention and confinement, which often leads to serious developmental impairment during the most formative years of these young people's lives.¹⁵

Despite the juvenile justice system's treatment and rehabilitative focus, some of the system's most significant goals are not being met. Studies suggest that at least one of these goals, recidivism reduction among juvenile offenders,¹⁶ is not best achieved through the use of secure detention and confinement.¹⁷ Further, the juvenile justice system's overuse of secure detention and confinement often makes re-entry¹⁸ into the community more difficult than necessary for these unfortunate young

¹⁰ *Id.* at 217.

¹¹ *Faculty Directory: Barry C. Feld*, U. MINN. L. SCH., <http://www.law.umn.edu/facultyprofiles/felddb.html> (last visited Sept. 1, 2013).

¹² Feld, *supra* note 2, at 216-17.

¹³ See James Austin, Kelly Dedel Johnson & Ronald Weitzer, *Alternatives to the Secure Detention and Confinement of Juvenile Offenders*, OFFICE JUV. JUST. AND DELINQ. PREVENTION JUV. JUST. BULL., Sept. 2005, at 1, available at www.ncjrs.gov/pdffiles1/ojjdp/208804.pdf.

¹⁴ See generally NAT'L CTR. FOR JUVENILE JUSTICE, STATE JUVENILE JUSTICE PROFILES (2012), available at http://www.ncjj.org/pdf/1State_Juvenile_Justice_Profiles_2005.pdf; see also KY. REV. STAT. ANN. § 610.010 (West 2013) (characterizing Kentucky's juvenile code as treatment based).

¹⁵ THE ANNIE E. CASEY FOUND., A ROAD MAP FOR JUVENILE JUSTICE REFORM 9 (2008), available at <http://www.aecf.org/KnowledgeCenter/Publications.aspx?pubguid={561B9904-D1E4-4E76-B84B-FE74A1097C05}>.

¹⁶ See generally KY. REV. STAT. ANN. § 610.010 (West 2013) (explaining that rehabilitation efforts and sanctions are used to reduce recidivism).

¹⁷ See PATRICK GRIFFIN, NAT'L CTR. FOR JUVENILE JUSTICE, MODELS FOR CHANGE: INNOVATIONS IN PRACTICE, 2 (2010), available at <http://www.modelsforchange.net/publications/287> (explaining that juveniles returning home after being incarcerated often continue to get into trouble).

¹⁸ See *The Development of Juvenile Institutionalization*, AT-RISK.ORG, <http://www.at-risk.org/doji.html> (last visited Sept. 1, 2013).

people, and fails to protect juvenile offenders from the stigma of juvenile institutionalization.¹⁹

In 1992, recognizing the need to breathe life back into the treatment and rehabilitative purposes of the different juvenile codes and the juvenile justice system in general, the Annie E. Casey Foundation began an initiative known as the Juvenile Detention Alternatives Initiative (“JDAI”).²⁰ The JDAI’s efforts center around five different goals/objectives:

1. reducing reliance on secure confinement;
2. improving public safety;
3. reducing racial disparities and bias;
4. saving taxpayers’ dollars; and
5. stimulating overall juvenile justice reform.²¹

The JDAI provides participating juvenile facilities with a strategic and systematic design to achieve the movement’s objectives.²² While the initiative has made substantial strides in affecting change in both the juvenile justice system and in the lives of those involved in the system, there are still ways in which the system must improve.

The purpose of this Note is to address the areas where improvements in the juvenile justice system can be made, and to analyze how programs using equine and horsemanship activities can function as a means to help achieve two of the more general goals of the JDAI: (1) reducing reliance on secure confinement, and (2) stimulating overall juvenile justice reform.²³

First, Part I provides a brief overview of the current strategies JDAI employs to achieve the initiative’s objectives. Part I then focuses more narrowly on two of the core strategies: collaboration and using new or enhanced alternatives to detention. Further, because JDAI proponents contend that new or enhanced alternatives to detention can be placed on a “continuum of detention alternatives,”²⁴ placement of programs using equine activities and horsemanship activities is also discussed in Part I. Additionally, Part I provides a general examination of the requirements of

¹⁹ Austin, et al., *supra* note 14, at 3.

²⁰ *Juvenile Detention Alternatives Initiative*, ANNIE E. CASEY FOUND., <http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative.aspx> (last visited Sept. 1, 2013).

²¹ *Id.*

²² *The Casey Foundation’s Investment in Juvenile Justice*, ANNIE E. CASEY FOUND., <http://www.aecf.org/Home/OurWork/JuvenileJustice/JuvenileJusticeOverview.aspx> (last visited Sept. 1, 2013).

²³ *Id.*

²⁴ PAUL DEMURO, ANNIE E. CASEY FOUND., *PATHWAYS TO JUVENILE DETENTION REFORM 4: CONSIDER THE ALTERNATIVES—PLANNING AND IMPLEMENTING DETENTION ALTERNATIVES 12* (1999), available at <http://www.aecf.org/upload/publicationfiles/consider%20the%20alternatives.pdf>.

successful collaboration within a community. Lastly, Part I analyzes whether equine and horsemanship activities fit within the JDAI continuum.

Part II deals with reliance on secure confinement in juvenile facilities. It provides a general explanation as to why courts exercise the secure confinement option. Part II also discusses how current programs using equine and horsemanship activities benefit juvenile offenders. Part II also addresses the ways in which these programs are either currently assisting, or can potentially assist, jurisdictions to reduce their reliance on secure confinement.

Finally, Part III examines whether current programs using equine and horsemanship activities are successful at stimulating overall juvenile justice reform. Specifically, this section discusses the advantages and success rate of these programs, as well as their disadvantages and limitations.

This Note concludes with a definitive conclusion: in addition to making progress towards the goals of JDAI²⁵ through programs using equine and horsemanship activities that place a greater emphasis on early intervention or prevention,²⁶ these programs are also an efficient means to achieve those objectives. Further, while this Note recognizes the potential pragmatic difficulties in implementing programs using equine and horsemanship activities to achieve the two JDAI goals mentioned above, this Note proposes that, where possible, proper implementation of appropriate equine and horsemanship activities would help reduce reliance on secure confinement and also help stimulate overall juvenile justice reform. Thus, the utilization of equine and horsemanship activities contributes to the success of the both the juvenile justice system in general and to the juveniles whom the system seeks to provide a direct benefit.

II. BRIEF ANALYSIS OF JDAI'S CURRENT STRATEGIES

A. *The Eight "Core Strategies"*

The JDAI lists the following eight core strategies²⁷ used to achieve its goals: (1) collaboration among juvenile justice agencies, governmental entities, and community organizations; (2) use of accurate data in assessing issues within the system; (3) objective admissions criteria and tools; (4)

²⁵ See generally Lois Weithorn, *Envisioning Second-Order Change in America's Responses to Troubled and Troublesome Youth*, 33 HOFSTRA L. REV. 1305, 1362-63 (2005).

²⁶ See generally *Results from the Juvenile Detention Alternatives Initiative*, ANNIE E. CASEY FOUND., <http://www.aecf.org/Home/MajorInitiatives/JuvenileDetentionAlternativesInitiative/JDAIResults.aspx> (last visited Sept. 1, 2013) (providing juvenile justice system related statistical results).

²⁷ *Core Strategies*, ANNIE E. CASEY FOUND., <http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative/CoreStrategies.aspx> (last visited Sept. 1, 2013).

new or enhanced non-secure alternatives to detention; (5) case processing reforms; (6) special detentions cases; (7) reduction of racial disparities; and (8) improvement of confinement conditions.²⁸

The eight core strategies often overlap and should be thought of as “interconnected strategies that address the primary reasons why youth are unnecessarily or inappropriately detained.”²⁹ However, for the purpose of analyzing the use of equine and horsemanship activities to further the JDAI goals, this Note focuses on the collaborative efforts made to further the movement and the new or enhanced alternatives to secure detention.

1. Collaboration

Juvenile incarceration significantly impacts various members of society. Clearly, the juvenile whose fate is in the court’s hands is directly affected, but he or she is not the only one. Friends and family members of the juvenile, along with teachers, attorneys, and other stakeholders in the juvenile justice systems, all have something to gain or lose each time a juvenile offender is removed from the community and placed into secure detention or confinement.³⁰ Because juvenile incarceration affects so many individuals, collaborative efforts are crucial to successful juvenile justice reform.³¹

To illustrate this point, consider the common interactions that occur between the individuals involved in a typical juvenile court proceeding. The juvenile offender’s attorney is there to advocate for a disposition that is in the juvenile’s “best interest.”³² Similarly, because the juvenile justice system’s purpose is to treat and rehabilitate juveniles,³³ the system also imposes on the judge, prosecuting attorney, social workers, and anyone else involved in the case, the responsibility of protecting the juvenile’s interest. In other words, these individuals must work together to find a resolution promoting the juvenile’s best course of treatment. While these individuals may reasonably disagree as to what the best course of treatment is,³⁴ if they

²⁸ *Id.*

²⁹ JUVENILE DETENTION ALTERNATIVES INITIATIVE HELPDESK, <http://www.jdaihelpdesk.org/default.aspx> (last visited Sept. 1, 2013).

³⁰ See DAVID STEINHART, ANNIE E. CASEY FOUND., PATHWAYS TO JUVENILE DETENTION REFORM #1: PLANNING FOR JUVENILE JUSTICE REFORM—A STRUCTURED APPROACH 15 (1999), available at <http://www.aecf.org/upload/publicationfiles/planning%20for%20detention%20reforms.pdf> (last visited Sept. 1, 2013).

³¹ *Id.* at 16.

³² See 8 LESLIE W. ABRAMSON, KENTUCKY PRACTICE SERIES: CRIMINAL PRACTICE AND PROCEDURE § 9:11 (2012).

³³ See generally KY. REV. STAT. ANN. § 610.010 (West 2013) (describing the purpose of Kentucky’s juvenile code as treatment based).

³⁴ KATHLEEN FEELY, ANNIE E. CASEY FOUND., PATHWAYS TO JUVENILE DETENTION REFORM 2: COLLABORATION AND LEADERSHIP IN JUVENILE JUSTICE REFORM 11 (1999), available

refuse to work together, the juvenile directly suffers and the individuals have failed to properly perform their own legal and ethical duties and responsibilities. Perhaps this does not seem detrimental when it is so plainly worded, but studies show that juvenile offenders who do not receive the proper treatment are more likely to reoffend once they reenter the community; creating greater risk not only to the juvenile, but also to the community at large.³⁵

Moreover, collaborative efforts are absolutely necessary because the “relevant stakeholders”³⁶ in the juvenile justice system have limited authority independent of each other.³⁷ The group of “relevant stakeholders” includes policymakers within the juvenile justice system, such as “juvenile court judge(s), the prosecutor, the public defender, the police and probation departments, the detention agency, and the county executive or mayor’s office (or the governor’s office if detention is a state function).”³⁸ Collaboration is therefore necessary because no single individual, agency, or organization has the sole authority to make significant changes to the system.³⁹

A conceptual framework to begin collaboration in juvenile justice reform is, theoretically, simple.⁴⁰ It requires organizing those in the community holding a stake in the juvenile justice system to discuss and determine the areas in which they agree need improvement, make note of their differences, decide as a group how to make the agreed upon changes, and put it all into action.⁴¹ To put it even more simply:

JDAI has shown that detention systems can change when key, policy-level system actors come together and do three things: 1) develop consensus (relying heavily on data) about what is wrong with the system; 2) develop a vision of what the new system should look like; and 3) develop and implement a plan of action.⁴²

Although collaboration appears to be simple, various issues, such as who should be involved in the efforts and what the proper structure for

at <http://www.aecf.org/upload/publicationfiles/collaboration%20and%20leadership.pdf> (last visited Aug. 30, 2013).

³⁵ DANIELLE MOLE & DODD WHITE, CHILD WELFARE LEAGUE OF AMERICA, TRANSFER AND WAIVER IN THE JUVENILE JUSTICE SYSTEM 18-19 (2005), available at <http://www.cwla.org/programs/juvenilejustice/jjtransfer.pdf>.

³⁶ FEELY, *supra* note 35, at 14.

³⁷ *See id.* at 11.

³⁸ *Id.* at 14.

³⁹ *Id.* at 11.

⁴⁰ *Id.* at 18.

⁴¹ *Id.*

⁴² *Id.* at 14.

the collaboration should be, make this strategy difficult to implement.⁴³ Possible methods of solving the aforementioned issues include: organizing community members who have authority to change the system,⁴⁴ putting together a team of individuals from the community in a way that best suits the jurisdiction in which they are working to change the system,⁴⁵ selecting an efficient leader,⁴⁶ and remembering to hold team members accountable.⁴⁷

2. New or Enhanced Alternatives to Secure Detention: A Look at JDAI's Continuum of Detention Alternatives

Generally, when juvenile offenders appear before a juvenile court for adjudication, they are either sent home or placed in secure confinement.⁴⁸ Because juvenile codes identify a range of offenses that vary in severity, there are variations in terms of what the appropriate treatment should be in any given situation.⁴⁹ For example, it is safe to assume that most courts would agree that long-term placement in a secure confinement juvenile facility is not warranted for a juvenile who has only committed a status offense,⁵⁰ such as habitual truancy, violating curfew, or running away from home.⁵¹ Because there are different levels of offenses, it makes sense that the JDAI suggests that alternatives in the juvenile justice system be placed on a “continuum of detention alternatives.”⁵² Specifically:

[d]etention alternatives should offer a variety of levels of supervision to youth awaiting adjudication. A typical detention continuum will include, at a minimum, home confinement or community supervision; day or evening reporting centers for youth who lack structured daily activities; and non-secure shelter for youth who need 24-hour supervision, or as in some jurisdictions, for youth without a home to return to. Placement in the continuum

⁴³ *Id.* at 18.

⁴⁴ *Id.*

⁴⁵ *See id.* at 22 (“Each collaborative’s composition included, at a minimum, policymakers from the main agencies of juvenile justice: the judiciary, prosecution, defense, probation, detention, and related service providers.”).

⁴⁶ *Id.* at 27 (“Leadership is critical—some would argue, the single most important element—in determining the success or failure of a collaborative reform effort.”).

⁴⁷ *See id.* at 23, 33.

⁴⁸ PAUL DEMURO, ANNIE E. CASEY FOUND., *PATHWAYS TO JUVENILE DETENTION REFORM 4: CONSIDER THE ALTERNATIVES—PLANNING AND IMPLEMENTING DETENTION ALTERNATIVES* 10 (1999), available at <http://www.aecf.org/upload/publicationfiles/consider%20the%20alternatives.pdf>.

⁴⁹ *See id.* at 10-12.

⁵⁰ *See* Kathleen Michon, *Juvenile Law: Status Offenses*, NOLO.COM, <http://www.nolo.com/legal-encyclopedia/juvenile-law-status-offenses-32227.html> (last visited Aug. 30, 2013).

⁵¹ *Id.*

⁵² DEMURO, *supra* note 49, at 10.

should be based upon an individualized assessment of each youth's potential danger to the community and likelihood of flight.⁵³

Additionally, advocates of the JDAI suggest other important factors be considered when determining the appropriate detention alternatives for a specific jurisdiction.⁵⁴ These factors include the proposed alternative's cultural competency, its relevancy, and its accessibility for the juveniles for whose benefit it is designed.⁵⁵ Currently, there are a wide variety of juvenile detention alternatives used among jurisdictions participating in the JDAI. These alternatives include: home confinement or house arrest; electronic monitoring, with and without staffing; community based advocate supervision; evening reporting centers; and non-secure residential treatment programs.⁵⁶

B. Using Horses

Unconventional uses of equine and/or horsemanship activities are not difficult to conceive, nor are they uncommon. There are various programs across the United States using equine and/or horsemanship activities to address deficiencies in the juvenile justice system to provide services to juvenile offenders presently involved in the juvenile justice system,⁵⁷ and to juveniles who are at a high-risk of entering the system.⁵⁸ While using horses to improve the lives of individuals has existed for centuries,⁵⁹ it is now, as some describe, a "leading new treatment"⁶⁰ for troubled youth. Scientific evidence confirms that interacting with horses can effect personal changes in individuals.⁶¹ Furthermore, licensed psychologists and counselors also support using equine therapy.⁶² A representative of an equine therapy program explains:

[h]orses can also help students build important relationship skills. For most students, riding the horse is a huge issue of

⁵³ *Id.* at 12.

⁵⁴ *See id.* at 15.

⁵⁵ *Id.* at 13.

⁵⁶ *Id.* at 24.

⁵⁷ *See* BLUEGRASS TRAINING AND THERAPY CTR., <http://www.bluegrasstc.org/index.html> (last visited Aug. 20, 2013).

⁵⁸ *See, e.g.*, FALCON RIDGE RANCH, <http://www.falconridgeranch.com/> (last visited Aug. 20, 2013); *Work to Ride Program & History*, CHAMOUNIX EQUESTRIAN CTR., <http://www.worktoride.net/stage/work-ride-program-history> (last visited Aug. 20, 2013).

⁵⁹ *See* *Horse Therapy and Troubled Teens*, EQUINE PSYCHOTHERAPY, <http://www.equine-psychotherapy.com/troubled-teens.html> (last updated 2008).

⁶⁰ *Id.*

⁶¹ *See id.*

⁶² *Id.*

trust—they must be willing to trust the horse before they can be successful. This can bring up issues of trust that students are facing in their lives. Students who have been unwilling or unable to form positive, healthy relationships in their lives sometimes find their equine partner to be the first successful relationship they have ever had. This relationship can form a model for other relationships, teaching the student skills such as empathy and patience. As in a human relationship, successful riding and horse training require positive, healthy communication. Horses respond best to assertive body language and decisive cues, not the mixed signals that students often give. Eventually students learn that communication with the horse is two-sided, just as with people, and requires them to pay attention to what their equine partner is saying.⁶³

The fact that these programs exist and are being used by courts and state government agencies indicates two things. First, collaborative efforts for change in the juvenile justice system can include such programs. Second, it shows that some jurisdictions have found the appropriate placement of equine and/or horsemanship activities on the juvenile detention alternative continuum, usually either community-based advocate supervision or non-secure residential-treatment programs.

Before any further discussion, it is important to understand the inherent differences in the use of the terms “equine activities” and “horsemanship activities”⁶⁴ for purposes of this Note. The former is a more general term, encompassing equine activities such as horse “grooming, tacking, riding, and stable management,”⁶⁵ and often includes clinical equine therapy programs.⁶⁶ The latter refers only to those activities with a focus on “riding and skill and mastery of horse riding.”⁶⁷

In the United States, the range of programs focused on equine activities and horsemanship activities varies from after-school horse riding lessons, to competitive horse shows and sporting events, to equine therapy.⁶⁸ As each activity is vastly different, it is not surprising that they often have different goals; from learning how to ride a horse for the first

⁶³ *Equine Assisted Therapy?*, EQUINE PSYCHOTHERAPY, <http://www.equine-psychotherapy.com/equine-assisted-therapy.html> (last updated 2008).

⁶⁴ *See What is the Difference Between EAP and EAL?*, EQUINE PSYCHOTHERAPY, <http://www.equine-psychotherapy.com/eap-eal.html> (last updated 2008).

⁶⁵ *See EAAT Definitions*, PATH INT'L, <http://www.pathintl.org/resources-education/resources/eaat/193-eaat-definitions> (last visited Aug. 27, 2013).

⁶⁶ *See id.*

⁶⁷ *Equine Assisted Therapy?*, *supra* note 64.

⁶⁸ *See What is Equine Therapy?*, EQUINE PSYCHOTHERAPY, <http://www.equine-psychotherapy.com/equine.html> (last visited Aug. 30, 2013).

time, to winning a national shown competition, to providing psychological treatment to a troubled teen.⁶⁹ When focusing on programs using equine and/or horsemanship activities to provide preventative or rehabilitative treatment services, however, common tools across all equine activity programs include lessons in grooming, stable management, and even horse rehabilitation.⁷⁰

When analyzing the potential for using equine and/or horsemanship activities to further the goals of the JDAI, one must consider the likelihood of successful collaboration among relevant juvenile justice system community stakeholders.⁷¹ Additionally, there must be a determination as to whether there are any currently existing or proposed equine or horsemanship activities that appropriately fit on the detention alternative continuum.⁷²

It follows that the relevant community stakeholders must first identify and agree on the defects in their community's juvenile justice system. The defects in the juvenile justice system are especially prevalent in the juvenile justice facilities themselves.⁷³ Juvenile detention facilities are often overcrowded,⁷⁴ lack proper implementation of mental health and educational services,⁷⁵ and some even fail to provide sufficient medical services.⁷⁶ Consequently, these defects often make juvenile offender transition back into the community unnecessarily difficult and even unsuccessful at times. This in turn can lead to high rates of juvenile recidivism.⁷⁷

Second, the collaborative team must decide what changes need to be made to the system and how those changes should be implemented.⁷⁸ This means that the team must reach an agreement that some type of equine and/or horsemanship activity can, or at least has the potential to, remedy the identified defects within their community's juvenile justice system. For example, suppose a collaborative team agrees its community juvenile detention facilities are deficient in providing the mental health services

⁶⁹ See generally *Horse Therapy and Trouble Teens*, EQUINE PSYCHOTHERAPY, <http://www.equine-psychotherapy.com/troubled-teens.html> (last visited Aug. 30, 2013).

⁷⁰ See *What is Equine Therapy?*, EQUINE PSYCHOTHERAPY, <http://www.equine-psychotherapy.com/equine.html> (last visited Aug. 30, 2013).

⁷¹ FEELY, *supra* note 35, at 14.

⁷² DEMURO, *supra* note 49, at 15.

⁷³ See SUE BURRELL, ANNIE E. CASEY FOUND., *PATHWAYS TO JUVENILE DETENTION REFORM 6: IMPROVING CONDITIONS OF CONFINEMENT IN SECURE JUVENILE DETENTION CENTERS 10* (1999), available at <http://www.aecf.org/upload/publicationfiles/improving%20conditions.pdf>.

⁷⁴ *Id.* at 11.

⁷⁵ *Id.* at 11; see also Children's Def. Fund, *Mental Health Screening in Juvenile Detention Facilities*, ISSUE BRIEF, Oct. 2012, at 1, available at www.cdfohio.org/assets/pdf-files/mental-health-juvenile.pdf (explaining that many juvenile detention centers are ill-equipped to manage the needs of juveniles with mental health issues).

⁷⁶ BURRELL, *supra* note 74, at 11.

⁷⁷ Austin et al., *supra* note 14, at 2-3.

⁷⁸ FEELY, *supra* note 35, at 15.

needed for successful juvenile rehabilitation.⁷⁹ Moreover, the team identifies the specific changes needed in the mental health services available to juvenile offenders in the facilities and in the accessibility of mental health service professionals. The team would then have to determine if a particular program, such as one focused on the use of equine therapy, could achieve both of those ends. In other words, the collaborative team must conclude there is a place for a particular equine or horsemanship activity on the detention alternative continuum.

III. REDUCING RELIANCE ON SECURE CONFINEMENT

A. *Why Courts Exercise the Secure Confinement Option*

While the general purpose of juvenile codes and of the juvenile justice system is to treat and to rehabilitate juvenile offenders,⁸⁰ many of the punishable offenses codified in adult penal codes are also in juvenile codes.⁸¹ In addition to different state juvenile codes recognizing common public offenses such as theft, robbery, and drug or alcohol offenses, juvenile courts are also permitted to charge juvenile offenders with various “status offenses.”⁸² Because the latter refers to offenses that are criminal only when committed by a juvenile,⁸³ the appropriate disposition⁸⁴ would be something other than secure confinement.⁸⁵ Instead, the more likely and more appropriate disposition would include, for example, assessing a fine or ordering community service.⁸⁶

Secure confinement, is primarily used when addressing the circumstances surrounding “serious violent, chronic [juvenile] offenders.”⁸⁷ The National Council of Juvenile and Family Court Judges explains:

⁷⁹ Children’s Def. Fund, *Mental Health Screening in Juvenile Detention Facilities*, ISSUE BRIEF, Oct. 2012, at 1, available at www.cdfohio.org/assets/pdf-files/mental-health-juvenile.pdf (“[M]ental health disorders present a serious challenge to successful [juvenile] rehabilitation.”).

⁸⁰ See Alexis Kelly, *Children and the Capacity for Crime*, NOLO.COM, <http://www.nolo.com/legal-encyclopedia/children-the-capacity-crime.html> (last visited Aug. 30, 2013).

⁸¹ *Id.*; see also Kathleen Michon, *Juvenile Law: Status Offenses*, NOLO.COM, <http://www.nolo.com/legal-encyclopedia/juvenile-law-status-offenses-32227.html> (last visited Aug. 30, 2013).

⁸² See Kathleen Michon, *Juvenile Law: Status Offenses*, NOLO.COM, <http://www.nolo.com/legal-encyclopedia/juvenile-law-status-offenses-32227.html> (last visited Aug. 30, 2013) (explaining that a status offense is an act considered criminal only when committed by a minor).

⁸³ *Id.*

⁸⁴ See Kathleen Michon, *Juvenile Court Sentencing Options*, NOLO.COM, <http://www.nolo.com/legal-encyclopedia/juvenile-court-sentencing-options-32225.html> (last visited Aug. 30, 2013) (explaining that the term “disposition” is used to refer to sentencing of juveniles).

⁸⁵ See *Level 4: Secure Confinement*, NAT’L COUNCIL OF JUV. AND FAM. CT. JUDGES, <http://www.ncjfcj.org/our-work/level-4-secure-confinement> (last visited Sept. 1, 2013).

⁸⁶ Kathleen Michon, *Juvenile Court Sentencing Options*, NOLO.COM, <http://www.nolo.com/legal-encyclopedia/juvenile-court-sentencing-options-32225.html> (last visited Sept. 1, 2013).

⁸⁷ *Id.*

The behaviors manifested in these offenders include serious property crimes and violent delinquency. These offenders have a high risk of recidivism and extensive treatment needs. This type of sanction involves commitment to state training schools, or other secure correctional facilities. It has been demonstrated that small correctional units and residential programs with a treatment orientation are more effective and more humane than large institutions for this population.⁸⁸

While the use of secure confinement is helpful in theory, its practical implementation often results in lasting detrimental effects on juvenile offenders⁸⁹ and it fails to prevent recidivism. Secure confinement “represents a significant separation from the communities to which all youth will return and therefore creates a substantial obstacle in terms of community reentry upon release.”⁹⁰ Moreover, research often discredits the effectiveness of using secure confinement as a means to reduce juvenile recidivism rates.⁹¹ For example, in one particular study, fifty to seventy percent of juveniles who spent time in a traditional secure confinement facility were subsequently arrested within one to two years of their release.⁹² Because advocates for juvenile justice reform suggest the use of more community-based programs⁹³ and non-secure residential treatment centers⁹⁴ better addresses issues of reentry, recidivism, and the stigma of juvenile confinement,⁹⁵ opportunities exist to use equine and horsemanship activities to prevent overreliance on secure confinement.

B. Community Release and Re-entry Programs

The Bluegrass Training and Therapy Center is a horse rehabilitation and treatment center located in Louisville, Kentucky.⁹⁶ The program is operated on a twenty-acre horse farm. In addition to offering

⁸⁸ *Level 4: Secure Confinement*, NAT'L COUNCIL OF JUV. AND FAM. CT. JUDGES, <http://www.ncjfcj.org/our-work/level-4-secure-confinement> (last visited Sept. 1, 2013).

⁸⁹ See James Austin, Kelly Dedel Johnson, & Ronald Weitzer, *Alternatives to the Secure Detention and Confinement of Juvenile Offenders*, OFFICE JUV. JUST. AND DELINQ. PREVENTION JUV. JUST. BULL., Sept. 2005, at 1, 2-3, available at <https://www.ncjrs.gov/pdffiles1/ojdp/208804.pdf>.

⁹⁰ *Id.* at 3.

⁹¹ *Id.*

⁹² *Id.* at 2-3.

⁹³ See *Alternatives to Incarceration*, KY. YOUTH ADVOCs., <http://kyyouth.org/youth-justice/community-based-alternatives-to-incarceration/> (last visited Sept. 1, 2013).

⁹⁴ See DEMURO, *supra* note 49, at 21.

⁹⁵ See *Alternatives to Incarceration*, KY. YOUTH ADVOCs., <http://kyyouth.org/youth-justice/community-based-alternatives-to-incarceration/> (last visited Sept. 1, 2013).

⁹⁶ BLUEGRASS TRAINING AND THERAPY CTR., <http://www.bluegrassttc.org/index.html> (last visited Sept. 1, 2013).

services to the community's at-risk youth, the Center has contracted with the Kentucky Department of Juvenile Justice ("DJJ") to serve juvenile offenders committed to DJJ.⁹⁷ In Kentucky, commitment to DJJ is the most restrictive sanction imposed on juvenile offenders because they are removed from their homes and placed in a juvenile treatment facility.⁹⁸ Thus, it makes sense that juvenile offenders committed to DJJ are those who have been adjudicated and found guilty of serious offenses, such as armed robbery or various sex crimes.⁹⁹

The rationale for DJJ commitment is premised on the idea that juveniles found guilty of serious crimes are in need of more substantial long-term treatment, which many jurisdictions find is best provided in a secure juvenile treatment facility.¹⁰⁰ Thus, in order for the Bluegrass Training and Therapy Center to fit appropriately on the detention alternative continuum, the Center must offer treatment-focused services. The Bluegrass Training and Therapy Center contends:

[n]o other program, that we know of, offers exclusively to the [Kentucky] Department of Juvenile Justice a combination of services that range from employment and after school training to transitional living with all of the programs focused on one goal; 'To return our youth to the community as an employed, self-sufficient citizen with the skills to maintain their success.'¹⁰¹

To achieve this goal, the center uses horses to provide equine therapy and employment training to program participants.¹⁰² Juvenile offenders participating in the Center's residential program are given the opportunity to develop practical independent living skills, to complete any needed basic educational requirements, and to find a job before they reenter the community.¹⁰³ Moreover, the Bluegrass Training and Therapy Center boasts that, of the juvenile offenders who have successfully participated and completed the program, one hundred percent of them maintain fulltime

⁹⁷ See *About Us*, THE BLUEGRASS TRAINING AND THERAPY CTR., <http://www.bluegrassttc.org/About-Us.html> (last visited Sept. 1, 2013).

⁹⁸ See *Level 4: Secure Confinement*, NAT'L COUNCIL OF JUV. AND FAM. CT. JUDGES, <http://www.ncjfcj.org/our-work/level-4-secure-confinement> (last visited Sept. 1, 2013).

⁹⁹ *Id.*

¹⁰⁰ *See id.*

¹⁰¹ *About Us*, THE BLUEGRASS TRAINING AND THERAPY CTR., <http://www.bluegrassttc.org/About-Us.html> (last visited Sept. 1, 2013).

¹⁰² *Services*, BLUEGRASS TRAINING AND THERAPY CTR., <http://www.bluegrassttc.org/Services.html> (last visited Sept. 1, 2013).

¹⁰³ *About Us*, THE BLUEGRASS TRAINING AND THERAPY CTR., <http://www.bluegrassttc.org/About-Us.html> (last visited Sept. 1, 2013).

employment, have permanent housing, and have not reoffended since their reentry into the community.¹⁰⁴

C. Community-Based Therapy Programs

Community-based therapy programs are a special subset of general community-based programs. While the terms are not necessarily mutually exclusive, community-based programs encompass a larger group of alternatives. In other words, community-based programs are:

cost-effective solutions for a large number of delinquent youth. These alternatives to secure detention and confinement are intended to reduce crowding, cut the costs of operating juvenile detention centers, shield offenders from the stigma of institutionalization, help offenders avoid associating with youth who have more serious delinquent histories, and maintain positive ties between the juvenile and his or her family and community.¹⁰⁵

The term “community-based therapy” alternatives to secure juvenile confinement refers to a more targeted and specific type of program. Moreover, community-based therapy programs are:

[d]esigned to address multiple factors linked to juvenile antisocial and illegal behaviors, [community-based therapy] may be appropriate for youth with serious behavior disorders, including violent and chronic offenders who might otherwise be confined. [Community-based therapy] youth remain at home and receive treatment focused on their interpersonal, peer, family, and school problems and needs.¹⁰⁶

Ride to Pride Partnership, Inc. (“Ride to Pride”), located in Las Vegas, Nevada offers a variety of services to over 300 kids and their families from the community.¹⁰⁷ At Ride to Pride, horsemanship activities are used to focus on the treatment goals of their clients, that is, on the goals of juveniles and their families.¹⁰⁸ These activities are designed to advance

¹⁰⁴ *Id.*

¹⁰⁵ See *About Us*, THE BLUEGRASS TRAINING AND THERAPY CTR., <http://www.bluegrassttc.org/About-Us.html>.

¹⁰⁶ See Austin et al., *supra* note 14.

¹⁰⁷ *Id.* at 19.

¹⁰⁸ *About*, RIDE TO PRIDE, <http://www.ridetopride.org/about.html>; see *Our Services*, RIDE TO PRIDE, <http://www.ridetopride.org/Services.html> (last visited Sept. 28, 2013).

and identify many behaviors and skills.¹⁰⁹ For example, Ride to Pride uses equine assisted therapy as a means to address and to provide assistance to juveniles and families experiencing issues involving “self-esteem, self-discipline, fear, anxiety, problem solving, conflict resolution, leadership, teamwork, peer relations, responsibility, assertiveness, increased awareness, empathy and compassion.”¹¹⁰ Additionally, Ride to Pride implements counseling services administered by certified equine professionals and licensed therapists experienced in providing counseling services to children and their families.¹¹¹

Similar to the Bluegrass Training and Therapy Center, Ride to Pride also uses equine and horsemanship activities to provide its clients with appropriate counseling, educational, and community outreach services.¹¹² Ride to Pride, however, differs from the Bluegrass Training and Therapy Center in at least one respect. While Ride to Pride primarily extends its services to juveniles in the community and may properly be categorized as a community-based therapy program, it does not function as a non-secure residential treatment program. Thus, the juvenile offenders participating in the program do not live on its campus, sleep on-site, or have visitors. Children and/or their families voluntarily elect to participate in Ride to Pride’s services. Whereas, juvenile offenders may be court ordered to participate in non-secure residential treatment facilities, the children and their families participating in the program at Ride to Pride do not seek the services because of a court order, but rather, because they want to.

The program does, however, acknowledge, “[i]ndividuals, parents, caregivers, schools, Child Protective Services, Law Enforcement, and other providers can make referrals.”¹¹³ While it is unlikely a court would refer a juvenile offender recently adjudicated of a serious violent offense to participate in an “after-school” type program such as Ride to Pride,¹¹⁴ it does not mean that this and similar programs are automatically unable to help communities reduce reliance on secure confinement. Rather, the services provided at Ride to Pride are sufficient to warrant classification as a community-based therapy alternative to secure confinement.¹¹⁵

It is important to note the success of these community-based therapy alternatives to juvenile incarceration depend largely on the

¹⁰⁹ See *How Horses Help Kids & Families with Emotional & Behavioral Issues*, RIDE TO PRIDE, <http://www.ridetopride.org/EAP.html> (last visited Sept. 28, 2013).

¹¹⁰ See *id.*

¹¹¹ *Id.*

¹¹² See *Counseling Services*, RIDE TO PRIDE, <http://www.ridetopride.org/Counseling.html> (last visited Sept. 28, 2013).

¹¹³ See *Our Services*, RIDE TO PRIDE, <http://www.ridetopride.org/Services.html>; see also *Community Service Outreach*, RIDE TO PRIDE, <http://www.ridetopride.org/Community.html> (last visited Sept. 28, 2013).

¹¹⁴ RIDE TO PRIDE, *supra* note 113.

¹¹⁵ See Austin et al., *supra* note 14, at 19.

juvenile's family. Community-based therapy alternatives have higher success rates when there is a strong emphasis placed on family interaction, support, and encouragement.¹¹⁶

For those reasons, programs using equine activities and horsemanship activities in ways that include family participation and cooperation such as Ride to Pride, stand to be successful in reducing reliance on secure confinement.

D. Early Intervention/Preventative Programs

In a relatively recent law review article addressing how court systems responds to troubled youth, Lois Weithorn claims there is an "absence of service options at the front end of the system," that is, prior to the point at which children's circumstances lead to removal from the home."¹¹⁷ Her claim acknowledges the juvenile justice system's need for early intervention and preventative programs such as the Work to Ride program located in Philadelphia, Pennsylvania.

Work to Ride is a 501(c)(3) non-profit organization that serves children ages seven to nineteen. The program uses horse activities to engage urban kids from Philadelphia in educational, cultural, and social experiences they would otherwise not have the opportunity to experience.¹¹⁸ Work to Ride describes itself as a "community-based preventive program"¹¹⁹ that helps "disadvantaged urban youth through constructive activities centered on horsemanship, equine sports and education."¹²⁰ Unlike some of the other programs using equine activities and horsemanship activities to provide rehabilitative treatment to juvenile offenders, children who participate in the Work to Ride program are there not because they are caught up in the juvenile court system, but rather because they are making conscious efforts to avoid it.

Children selected to participate in the Work to Ride program are required to commit for at least one year, and participation in the program is expected throughout the course of their high school careers. Moreover, because the staff at Work to Ride emphasizes the importance of academic success, the program requires a certain grade point average in order for children to participate. However, staff and volunteers keep participants motivated and promote success by providing tutoring services and assisting program graduates in applying for post-secondary education. The effort the

¹¹⁶ Lois Weithorn, *Envisioning Second-Order Change in America's Responses to Troubled and Troublesome Youth*, 33 HOFSTRA L. REV. 1305, 1363 (2005).

¹¹⁷ *Id.*

¹¹⁸ See generally *Work to Ride Program and History*, WORK TO RIDE, <http://www.worktoride.net/stage/work-ride-program-history> (last visited Sept. 28, 2013).

¹¹⁹ *Id.*

¹²⁰ *Id.*

children put into the program does not go unnoticed or unrewarded. For example, in addition to being members of a nationally recognized and award-winning polo team, the children selected to participate in the Work to Ride program “build relationships and develop problem-solving skills through spirited teamwork and cooperation. Activities at the stables as well as during competitions and trips allow participants to interact with diverse people and to be exposed to a variety of new experiences.”¹²¹

Early community-based preventative programs like Work to Ride help reduce reliance on the use of secure confinement, because they help to keep children from entering the juvenile justice system in the first place. Work to Ride is effective in its preventive measures because it “provides [at-risk youth] with a positive outlet for their energy and an alternative to negative ‘street’ activities. Participants develop discipline, responsibility, and life skills through training, riding, and performing horse care and barn management chores. They also develop confidence, self-esteem, and the skills necessary to compete successfully in their chosen activities.”¹²²

IV. STIMULATE OVERALL JUVENILE JUSTICE REFORM

A. Equine Activities and Horsemanship Activities

1. Opportunities

Stimulating overall juvenile justice reform is a continuous and ongoing goal that can be achieved in many ways. One possibility involves using equine activities and horsemanship activities. These programs help prevent overcrowding of juvenile detention facilities, reduce reliance on secure confinement, and reduce recidivism rates among juvenile offenders by providing adequate rehabilitative treatment. Further, many of the programs, if properly utilized, can even prevent the juvenile institutionalization at the outset.

The best application of these types of programs is most likely in jurisdictions where community stakeholders have worked together to identify those juvenile justice system defects they believe are capable of being remedied by programs using equine and horsemanship activities.

2. Limitations

Despite the many benefits of equine or horsemanship programs, there are, however, several limitations to the use of equine and horsemanship activities as a means to achieve the goals of the JDAI.

¹²¹ *Id.*

¹²² *Id.*

First, each jurisdiction embarking on reform must agree that employing equine and horsemanship activities is an effective means to improve its system. The possible limitations indicated here are likely to arise from the difficulties associated with the collaboration strategy. Admittedly, it is unlikely that all of the community stakeholders will wholeheartedly agree with one another on the deficiencies and potential remedies in their jurisdiction's juvenile justice system. Thus, there is little potential for equine and horsemanship activities to achieve the JDAI goals in a jurisdiction in which the majority of the relevant community stakeholders agree that there are more effective means available. Second, while many equine or horsemanship programs provide services through contracts with local government agencies, other programs are privately operated and extremely costly. In other words, the new option would be unavailable to many juveniles unless they could afford the treatment. Thus, cost can prevent these types of programs from helping achieve the goals of JDAI. This limitation is illustrated when contrasting the Bluegrass Training and Diamond Ranch Academy, a youth residential treatment facility in Utah that uses equine therapy as part of its treatment.¹²³ The former's contract with Kentucky's Department of Juvenile Justice renders the program more accessible to juvenile offenders because juvenile offenders committed to DJJ are not required to pay the cost out of their own pocket. However, the latter charges tuition at rates so high interested parents are often forced to finance their child's treatment with loans.¹²⁴

Finally, there are limitations due to cultural differences and geographical location. Many of these programs operate on horse ranches or farms; as such, it may be difficult to implement these programs in more urban areas. The reasons for this is two-fold. First, urban areas are more likely to lack the land and experience needed to implement different equine or horsemanship activities. Second, it is likely that in urban jurisdictions where the nearest equine or horsemanship program is a great distance from the juvenile's home and family, the cost associated with traveling back may be a barrier to the juvenile and courts may be reluctant to send a juvenile offender so far away from his or her support system.

¹²³ *Therapeutic Program*, DIAMOND RANCH ACAD., <http://www.diamondranchacademy.com/therapy/index.php> (last visited Nov. 23, 2013).

¹²⁴ *Education Financing Resources*, DIAMOND RANCH ACAD., <http://www.diamondranchacademy.com/admissions/financial-information.php#financing-resources> (last visited Nov. 23, 2013).

V. CONCLUSION

The Annie E. Casey Foundation's decision to create and put into effect the JDAI has drawn national attention¹²⁵ to the deficiencies of our country's juvenile justice system. Moreover, because of this movement, there have been significant advances made in not only the actual, tangible juvenile justice facilities themselves, but also in the lives of the juveniles and families wrestling with a broken juvenile justice system. Over the past fifteen years, we have observed changes in juvenile recidivism rates; re-entry has improved; and juvenile rights advocates have demonstrated their commitment to the goals of the Juvenile Detention Alternatives Initiative.

First, reform should place greater emphasis on early intervention or preventive programs to increase the chances of preventing at-risk youth from entering the juvenile justice system in the first place. But offering early intervention or preventive programs that provide services to at-risk youth through equine and horsemanship activities are often difficult due to cultural, structural, and geographic complications. Nevertheless, these programs should be implemented in communities that have made collaborative efforts at reform, and where community stakeholders have determined that equine activities and horsemanship activities could potentially improve their juvenile justice system.

Second, programs using equine activities and horsemanship activities to service the needs of juvenile offenders and at-risk juveniles can help to reduce the juvenile justice system's reliance on secure confinement. Not only do community release and reentry programs like the Bluegrass Treatment and Therapy Center free juvenile offenders from the oppressive restrictions of secure confinement, they also prepare them for life after secure confinement while treating any other needs program participants may have. Further, community-based therapy programs using equine and horsemanship activities should also be used in appropriate jurisdictions, because in addition to the fact that these programs address the rehabilitative needs and provide the necessary treatment to juvenile offenders, they do it in a way that fosters healthy community and family relationships. Thus, in a way, these programs reduce reliance on secure confinement.

In sum, programs using equine activities and horsemanship activities can help further the goals of the JDAI. Those programs contribute to reducing reliance on secure confinement, which, in turn, helps stimulate overall juvenile justice reform by lowering recidivism among juvenile offenders, by assisting in a successful transition back into the community, and by preventing juvenile institutionalization before it begins.

¹²⁵ See generally *JDAI's Influence*, THE ANNIE E. CASEY FOUND., <http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative/JDAIResults.aspx> (last visited Sept. 28, 2013).

