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### **Losing Someone Then Losing Yourself: Helping Juveniles in the Justice System Experiencing Grief With a Trauma-Informed Pretrial Diversion Program**

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# LOSING SOMEONE THEN LOSING YOURSELF: HELPING JUVENILES IN THE JUSTICE SYSTEM EXPERIENCING GRIEF WITH A TRAUMA-INFORMED PRETRIAL DIVERSION PROGRAM

SYDNEY FORD\*

*Grief is something we all experience at some point in our lives. When a child experiences grief and loss, those emotions, if not addressed, can cause adverse effects. Many of our country's detained youth have fallen victim to these effects because they have been unable to address the underlying grief that causes their behaviors. Because of this, this Article advocates for creating a trauma-informed pretrial diversion program focused on helping grieving youth.*

*First, this Article examines the overwhelming number of grieving children in our juvenile justice system, and how their grief has led them to where they are today. Second, this Article discusses what pretrial diversion is and why it should include assistance for these youth. Third, this Article shows that these programs do not exist for our youth currently and showcases the need for this to be added now. Fourth, this Article examines what a trauma-informed model looks like, and how it would look in a pretrial diversion program. Fifth, this Article explains how this trauma-informed pretrial diversion program would benefit the youth who encounter the juvenile justice system. Finally, this Article lays out what steps juvenile courts nationwide would have to take to implement a trauma-informed pretrial diversion program to help grieving children.*

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## INTRODUCTION

“When I experience grief and loss, I have all these protective factors and safety nets that help me get on the other side of it, but our girls, they don’t.”<sup>1</sup>

In 2015, Lawanda Ravoira, CEO and President of the Jacksonville-based Delores Barr Weaver Policy Center, was asked about a report the center had published on experiences incarcerated girls have gone through. The report found that grief and loss were “[a]t the epicenter” of these girls’ common experiences.<sup>2</sup> Ravoira went on to say that after young children

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<sup>1</sup> Tessa Duvall, *Study: Grief, Loss Can Easily Push Female Teens into Juvenile Justice System*, FLA. TIMES-U. (Oct. 19, 2015, 5:17 PM), <https://www.jacksonville.com/news/schools/2015-10-19/story/study-grief-loss-can-easily-push-female-teens-juvenile-justice-system> [<https://perma.cc/9Y4G-7SLX>].

<sup>2</sup> *Id.*

experience loss, “we see this spiraling effect of running away, out-of-home placements, [and] substance abuse.”<sup>3</sup> Ravoira further pointed out that “[r]ather than focusing on that core, the impact of grief and loss,” the usual “response becomes school suspension. It becomes arrest, incarceration, [or] violations of probation.”<sup>4</sup> This means that the way authorities in “schools, child protection agencies[,] and the juvenile justice system . . . respond to the girls’ grief can further their feelings of disconnection from their community.”<sup>5</sup> Marcy Viboch argues that when society punishes “grieving children without also responding therapeutically [we] can exacerbate their misbehavior.”<sup>6</sup> When the juvenile justice system does this, we make “[t]heir interactions . . . increasingly negative,” which may cause them to “disengage even further, and their normal grief reactions can become chronic problem behaviors.”<sup>7</sup> Rather than neglecting children’s grief and punishing them for behavior by incarcerating them, the juvenile justice system must take steps to first provide therapeutic support to our children.

Why do those involved in the juvenile justice system not address the trauma, grief, and loss that so many juveniles who walk through the court doors have experienced? This Article aims to address those issues and argues that it is essential to create pretrial diversion programs focused on addressing grief and loss through a trauma-informed model. Part I of this Article explores how prevalent grief and loss are among juveniles in the justice system, and how their grief has led them to become part of the system. Part II explores the benefit of pretrial diversion programs and how they can be used to deter juveniles from further interactions with the juvenile justice system. Part III discusses current pretrial diversion programs across the nation, and how they implement a punishment model or a mental health model instead of a trauma-informed model. Part IV discusses how implementing a trauma-informed model would benefit grieving children within the juvenile justice system. Part V describes how a trauma-informed model can be implemented through various therapy initiatives. Finally, Part VI addresses the steps and changes that the juvenile justice system would have to make to implement the trauma-informed model in a pretrial diversion program.

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> MARCY VIBOCH, VERA INST. OF JUST., CHILDHOOD LOSS AND BEHAVIORAL PROBLEMS: LOOSENING THE LINKS 6 (2005), [https://www.vera.org/downloads/publications/Childhood\\_loss.pdf](https://www.vera.org/downloads/publications/Childhood_loss.pdf) [<https://perma.cc/BPN9-CKQM>].

<sup>7</sup> *Id.*

## I. GRIEF AND LOSS AMONG JUVENILES IN THE JUSTICE SYSTEM

Everyone who has experienced grief knows that losing someone you love can result in complex behaviors. Grief and loss can often cause mental and emotional changes in adults and adolescents.<sup>8</sup> It has been found that youth who have experienced “any loss or multiple losses were more likely to have mood disorders and ADHD/behavioral disorders” compared to youth without these losses.<sup>9</sup> Further, experiencing loss “can exacerbate existing mental disorders,”<sup>10</sup> which can lead to an increased involvement with the juvenile justice system when already, “half to two-thirds of juvenile detainees have at least one mental disorder.”<sup>11</sup> This demonstrates that when youth—who are already more prone to becoming involved in the juvenile justice system due to mental or behavioral disorders—lose someone, they often develop more complex mental health concerns that increase their risk of entering the juvenile justice system. This is likely why a study of detained youth in Chicago, Illinois found “[n]early 90% of youth experienced the loss of an important person; [and] most had also experienced a ‘high-risk’ loss (e.g., loss due to violence, sudden loss)” prior to entering the juvenile justice system.<sup>12</sup> In addition, the National Child Traumatic Stress Network Core Data Set (NCTSN-CDS) conducted a study of 658 adolescents, aged 13–18 years, who “report[ed] recent involvement in the juvenile justice system.”<sup>13</sup> A total of 61.2% of study participants had experienced loss and bereavement, the most frequently reported type of trauma.<sup>14</sup>

These studies show that youth in the justice system have experienced many losses, and that these losses among juveniles may also contribute to an “(increased) risk for criminal recidivism among youth.”<sup>15</sup> This is not new information, as the connection between grief and mental disorders in youth has been acknowledged since 1947 when John Bowlby studied delinquent

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<sup>8</sup> *Bereavement and Grief*, MENTAL HEALTH AM., <https://www.mhanational.org/bereavement-and-grief> [<https://perma.cc/PV49-3DLH>].

<sup>9</sup> Julie Laken Harnisher, Karen Abram, Jason Washburn, Marquita Stokes, Nicole Azores-Gococo & Linda Teplin, *Loss Due to Death and Its Association with Mental Disorders in Juvenile Detainees*, 66 JUV. & FAM. CT. J. 1, 1, 2 (2015), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4577059/> [<https://perma.cc/MW63-GGRB>].

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Carly B. Dierkhising, Susan J. Ko, Briana Woods-Jaeger, Ernestine C. Briggs, Robert Lee & Robert S. Pynoos, *Trauma Histories Among Justice-Involved Youth: Findings from the National Child Traumatic Stress Network*, EUR. J. PSYCHOTRAUMATOLOGY, July 2013, at 1.

<sup>14</sup> *Id.*

<sup>15</sup> Harnisher, Abram, Washburn, Stokes, Azores-Gococo & Teplin, *supra* note 9, at 2.

youth.<sup>16</sup> Bowlby's theory purports that grief is a contributor "to the pathological and delinquent behaviors of adolescence."<sup>17</sup> Psychologists have stated further that "delayed grief or unresolved grief could be displayed in pathological behavior at a later age."<sup>18</sup> This means that "attachment, separation, loss and unresolved grieving at an early age influence[] the adolescent and . . . manifest[] through delinquent behavior."<sup>19</sup> This is why so many bereaved youth end up in the juvenile justice system after their loss.

## II. PRETRIAL DIVERSION—WHY IT FITS

Pretrial diversion is a "term used to describe intervention approaches that redirect youths away from formal processing in the juvenile justice system."<sup>20</sup> The youth "participate in the program on a voluntary basis prior to adjudication."<sup>21</sup> The juveniles must successfully complete the program requirements in order to earn a dismissal, or its equivalent, of the diverted case.<sup>22</sup> If the program is not completed, "the case will be remanded to the court system."<sup>23</sup>

The stated purpose of pretrial diversion "is to divert youth who have committed [minor] law violations from involvement in the formal criminal justice process" and "prevent [further] criminal behavior or activity" by directing youth "towards community-based treatment and support options."<sup>24</sup> Often, "[f]ormally processing youth through the juvenile justice system does

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<sup>16</sup> Rogers Kenneth Hake, *The Grieving Process and Delinquency: Testing the Therapeutic Process of Grieving with Delinquent Male Adolescents* 1, 4 (1989) (Ph.D. dissertation, Iowa State University), <https://lib.dr.iastate.edu/rtd/9047> [<https://perma.cc/6KCW-M8UQ>]. See also Vamik Volkan & C. Robert Showalter, *Known Object Loss, Disturbance in Reality Testing, and "Re-Grief Work" as a Method of Brief Psychotherapy*, 42 *PSYCHIATRIC Q.* 358, 374 (1968).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*; see also Colin Murray Parkes, *Bereavement Counselling: Does It Work?*, 281 *BRIT. MED. J.* 3, 3 (1980).

<sup>19</sup> *Id.* at 25.

<sup>20</sup> *Diversion Programs*, OFF. JUV. JUST. & DELINQUENCY PREVENTION, <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/mpg-iguides/topics/diversion-programs/index.html> [<https://perma.cc/PYM6-6P79>].

<sup>21</sup> *Juvenile Pretrial Diversion*, SAUNDERS CNTY. PRETRIAL DIVERSION, [https://saunderscounty.ne.gov/pdfs/juvenile/what\\_is\\_diversion.pdf](https://saunderscounty.ne.gov/pdfs/juvenile/what_is_diversion.pdf) [<https://perma.cc/GK25-ZC33>].

<sup>22</sup> *Diversion Programs*, *supra* note 20.

<sup>23</sup> *Juvenile Pretrial Diversion*, *supra* note 21.

<sup>24</sup> *Id.*; see also *Diversion Programs*, YOUTH.GOV, <https://youth.gov/youth-topics/juvenile-justice/diversion-programs> [<https://perma.cc/KR7D-JAW2>].

more harm than good by perpetuating delinquency.”<sup>25</sup> If youth are not diverted they become “more likely to recidivate as a juvenile or adult, and have poor long-term economic, academic, and mental health outcomes.”<sup>26</sup> This is because when youth are processed through the juvenile justice system, “it inadvertently stigmatizes and ostracizes them for having committed relatively minor acts that may have been more appropriately handled outside the formal system.”<sup>27</sup> Alternatively, pretrial diversion programs provide services that meet the youths’ “developmental and problem-related needs.”<sup>28</sup> In fact, these programs can “provide youths with services they would not have otherwise received.”<sup>29</sup>

Pretrial diversion programs serve as early intervention measures to grieving youth and can assist in decreasing the amount of grieving youth in the juvenile justice system. When Bowlby conducted his research into delinquent children, he noted that “early intervention in the grieving process is important in order to prevent damage in the developing child.”<sup>30</sup> Currently, most youth who have reached the juvenile justice system have not had access to early intervention measures as there is a “persisting overrepresentation of . . . youth who lack access to quality mental health care.”<sup>31</sup> However, Bowlby added that “[h]elp given later may not be able to rectify all the

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<sup>25</sup> *Id*; see also *Delinquency*, ENCYCLOPÆDIA BRITANNICA, <https://www.britannica.com/topic/delinquency> [<https://perma.cc/9LH8-WFVY>] (stating delinquency is “criminal behaviour, especially that carried out by a juvenile.”).

<sup>26</sup> Dierkhising, Ko, Woods-Jaeger, Briggs, Lee & Pynoos, *supra* note 13, at 9.

<sup>27</sup> OFF. JUV. JUST. & DELINQUENCY PREVENTION, DIVERSION FROM FORMAL JUVENILE COURT PROCESSING 2 (2017), [https://www.ojjdp.gov/mpg/litreviews/Diversion\\_Programs.pdf](https://www.ojjdp.gov/mpg/litreviews/Diversion_Programs.pdf) [<https://perma.cc/LE8Y-8J63>].

<sup>28</sup> NAT’L CTR. FOR MENTAL HEALTH & JUV. JUST., JUVENILE DIVERSION STRATEGIES AND MODELS 6 (2016), <https://jjie.org/wp-content/uploads/2018/09/Juvenile-Diversion-Strategies-and-Models.pdf> [<https://perma.cc/UBD3-JBAC>] (stating services might include “[e]ducational assistance,” “[f]amily interventions,” “[i]ntegrated treatment for co-occurring disorders,” “[s]ubstance use intervention,” “[m]ental health treatment,” “[m]entoring programs,” “[l]ife-skills training,” and “[j]ob placement services.”).

<sup>29</sup> OFF. JUV. JUST. & DELINQUENCY PREVENTION, *supra* note 27, at 1 (“As an alternative to traditional processing, diversion programs are designed to reduce stigma, reduce coercive entry into the system and unnecessary social control, reduce recidivism, provide youths with services they would not have otherwise received, and connect them to broader community service alternatives.”).

<sup>30</sup> Hake, *supra* note 16, at 27.

<sup>31</sup> Bitá Amani, Norweeta G. Milburn, Susana Lopez, Angela Young-Brinn, Lourdes Castro, Alex Lee & Eraka Bath, *Families and the Juvenile Justice System: Considerations for Family-Based Interventions*, 41 FAM. CMTY. HEALTH 55, 55 (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5726419/> [<https://perma.cc/BV8G-LGWM>].

damage done, but it may be able to greatly diminish it.”<sup>32</sup> Pretrial diversion already provides benefits to juveniles in the justice system, but because “[t]he timing, duration, nature, and quality of treatment received after the loss of a loved one can affect adjustment following a childhood loss,”<sup>33</sup> it can also be used to provide early intervention to grieving youth. However, these services cannot provide their fullest effect or benefit unless the model that underlies them is informed by our knowledge of childhood trauma.

### III. EXISTING PROGRAMS FOLLOW A PUNISHMENT MODEL OR MENTAL HEALTH MODEL, NOT A TRAUMA-INFORMED MODEL

There are many pretrial diversion programs already in place nationwide. They include programs such as “restorative justice programs . . . , community service, treatment or skills-building programs . . . , family treatment, [and] drug courts.”<sup>34</sup> There are pretrial diversion programs that focus on mental health treatment for the youth enrolled. Currently, programs follow either a punishment model or mental health model; thus, there is not a program that focuses on grief and loss through a trauma-informed model.

The punishment model “view[s] youth as rational actors who can learn to stop inappropriate behaviors.”<sup>35</sup> When “a youth misbehaves he is punished,” and “[i]f he misbehaves again, he receives more punishment.”<sup>36</sup> The assumption here “is that the youth’s behavior is within his control, and eventually the aversiveness of the punishments will teach him to change his behavior.”<sup>37</sup> Punishment-oriented models have been found to be “not effective at rehabilitation” and “were not effective in reducing recidivism.”<sup>38</sup> Alternatively, the mental health model prioritizes “the goal of rehabilitation” and the view that “acting out behavior of a youth is viewed not as a rational choice of the youth but rather as influenced by the youth’s mental illness.”<sup>39</sup> In most mental health models, treatment and interventions are “based on the

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<sup>32</sup> Hake, *supra* note 16, at 27.

<sup>33</sup> Harnisher, Abram, Washburn, Stokes, Azores-Gococo & Teplin, *supra* note 9, at 11–12.

<sup>34</sup> *Practice Profile: Juvenile Diversion Programs*, NAT’L INST. JUST., CRIME SOLUTIONS (Feb. 23, 2015), <https://crimesolutions.ojp.gov/ratedpractices/37#pd> [<https://perma.cc/WXU6-E9G7>].

<sup>35</sup> Gene Griffin, Edward J. Germain & Raymond G. Wilkerson, *Using a Trauma-Informed Approach in Juvenile Justice Institution*, 5 J. CHILD & ADOLESCENT TRAUMA, 271, 276 (2012).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

results of a comprehensive assessment that includes the identification of targeted symptoms and behaviors and the establishment of a working diagnosis.”<sup>40</sup> Although “most juvenile justice systems acknowledge that mental illness should be dealt with in a different way than punishment,” not all systems “meet even the most basic mental health needs of youth.”<sup>41</sup>

The following are examples of current pretrial diversion program across the nation that follow a punishment or mental health model:

#### A. DALLAS FRONT-END DIVERSION INITIATIVE

The Front-End Diversion Initiative (FEDI), a mental health model, was established in 2009 and serves Dallas County, Texas.<sup>42</sup> This “program targets first-time, low-risk offenders, ages 10–17, that have not been charged with a status, serious, or aggravated offense.”<sup>43</sup> FEDI “targets youth with unmet mental health needs, although it is not a requirement.”<sup>44</sup> The program does provide a referral for mental health treatment for the youth who participate and meet the criteria after screening and assessment; however, the program does not have an initiative dedicated to helping grieving children, nor is this a requirement to join the program.<sup>45</sup> Furthermore, this program does not focus on trauma-informed therapy to assist the youth, which I will discuss in Part V.<sup>46</sup>

#### B. OGLE COUNTY BALANCED AND RESTORATIVE JUSTICE PROGRAM

The Balance and Restorative Justice (BARJ) program was created in Ogle County, Illinois in 2008 to target first-time offenders ages 10–17.<sup>47</sup> This program includes mental health services if the child qualifies, but does not have a portion of the program solely dedicated to grieving youth, nor is the program itself dedicated to grieving youth.<sup>48</sup> In fact, the program is dedicated

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 277.

<sup>42</sup> See MODELS FOR CHANGE JUV. DIVERSION WORKGROUP, JUVENILE DIVERSION GUIDEBOOK 31 (2011), [https://www.aecf.org/m/blogdoc/Juvenile\\_Diversion\\_Guidebook.pdf](https://www.aecf.org/m/blogdoc/Juvenile_Diversion_Guidebook.pdf) [<https://perma.cc/K5HC-3BKP>] (hereinafter JUVENILE DIVERSION GUIDEBOOK).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 44–48.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at 43.

<sup>48</sup> *Id.*

more to accountability.<sup>49</sup> This follows more of a punishment model instead of a trauma-informed model.<sup>50</sup>

### C. JUVENILE OFFENDER SERVICES DIVERSION

In Colorado, the 4th Judicial District's Department of Juvenile Offender Services (JOS) Diversion Program was established in 1978 and serves El Paso and Teller counties.<sup>51</sup> This program "targets first-time offenders, ages 10–18, who have been charged with a nonviolent/non-sexual offense."<sup>52</sup> They provide a screening and assessment to "determine the youth's mental health [needs];" however, the program does not focus on providing therapy and support for grieving children after their loss.<sup>53</sup> Finally, this program does not follow a trauma-informed model, and instead, is a mental health model.<sup>54</sup>

### D. TEAMCHILD ADVOCACY FOR YOUTH

The TeamChild Advocacy for Youth program was created in King County, Washington, in 1995, and has expanded to six additional counties statewide.<sup>55</sup> This program targets "low-income youth, ages 12–18, who are at risk or already involved in the juvenile justice system."<sup>56</sup> A youth can "be referred to TeamChild at any point of the juvenile justice [process]."<sup>57</sup> The

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<sup>49</sup> *Id.* at 43 ("The mission of this program is to 'protect the community from crimes committed by minors through the promotions, establishment, education, and interagency coordination of community-based programs for families and minors designed to prevent unlawful and delinquent behavior, incorporating principles of the BARJ model which holds each youth accountable for his or her behavior.'").

<sup>50</sup> *See* Griffin, Germain & Wilkerson, *supra* note 35, at 276–78.

<sup>51</sup> *See* JUVENILE DIVERSION GUIDEBOOK, *supra* note 42, at 47. The program is operated and funded by the 4th Judicial District Attorney's Office. Its goals include holding juvenile offenders accountable for their behavior while providing intervention that results in improving the youth's self-esteem and ability to make healthy choices that will positively impact his/her life, and reducing court and prosecutor caseloads.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *See id.* at 54 ("The TeamChild program in Washington State was established in 1995 under federal violence and delinquency prevention grant funds distributed by the Washington State Advisory Group. TeamChild attorneys provide free legal advocacy and community education to help justice-involved youth secure education, housing, healthcare, and other vital supports to achieve positive outcomes. The program started as a pilot in King County and currently provides services to youth in six additional counties, as well as training and technical support statewide. TeamChild currently receives funding from the state and county general funds as well as from private foundations.").

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

focus of this program is meeting “the basic needs” of the youth involved and helping “youth with disabilities access quality, appropriate, mental health services.”<sup>58</sup> Although this program does not advertise itself as one that is specifically for grieving children, many grieving children have developed mental health disorders, and it is likely that this program, more than others, would provide the resources they need. However, it is still not a pretrial diversion program specifically for grieving children. While this program does lean toward a mental health model, which is closer to the trauma-informed model than the punishment model is, it is not a trauma-informed model.

#### E. MIAMI-DADE CIVIL CITATION

Since 2007, in Miami-Dade County, the “Miami-Dade Civil Citation program intervenes with first- and second-time misdemeanor offenders.”<sup>59</sup> Probation officers refer youth to be screened and assessed, and if deemed appropriate, referred to mental health treatment.<sup>60</sup> Unfortunately, a referral does not always mean that a grieving child will attend mental health treatment. This program does not target grieving children specifically, nor does it outline a program that focuses on services for these youths. Finally, this program appears to implement a combination of punishment and mental health models, and does not follow a trauma-informed model.<sup>61</sup>

These five programs are a summary of current nationwide programs. They are from different areas of the country, yet they all reflect the lack of focus on trauma-informed support for grieving children. That is not to say that these programs are unsuccessful, because all have led to reduced juvenile arrests in their area. However, addressing grieving youth with a trauma-informed model is not a focus of pretrial diversion.<sup>62</sup> Indeed, when surveyed by the Models for Change initiative and their Diversion Work Group,<sup>63</sup> many

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<sup>58</sup> *Id.* (noting that basic needs include secure and stable housing, disability access, and an education).

<sup>59</sup> *Id.* at 62. Eligible participants receive an assessment and application of appropriate, targeted interventions. The county-wide initiative began in April 2007 and currently all thirty-seven local arresting agencies refer youth to the Miami-Dade Civil Citation Program.

<sup>60</sup> *See id.*

<sup>61</sup> *See id.*

<sup>62</sup> *Id.* at 31, 43, 47, 52, 62. (Each program cited has a different focus, but none are trauma-informed models).

<sup>63</sup> *About*, MODELS FOR CHANGE (2019), <http://www.modelsforchange.net/about/index.html> [<https://perma.cc/E6CW-XVQB>] (“Launched in 2004, Models for Change is a multi-state initiative working to guide and accelerate advances to make juvenile justice systems more fair, effective, rational and developmentally appropriate.”); *see also* JUVENILE DIVERSION

pretrial diversion programs noted that the primary objective of their program was to “decrease recidivism (by 83 percent),” “lower costs (by 72 percent),” and “reduce the level of system involvement and penetration (by 92 percent).”<sup>64</sup> However, only thirty-three percent of the programs noted that their purpose was “other,” which included “[d]ivert[ing] youth with mental health needs from [the juvenile justice] system and provid[ing] community-based services.”<sup>65</sup> While reducing recidivism and keeping youth out of the juvenile justice system are desired, it is clear from the mass number of youth who have experienced loss that the focus should instead be on the grief they have experienced and how that has led to exacerbated mental health disorders. This can be addressed by a pretrial diversion program created specifically for grieving youth.

#### IV. WHY TRAUMA-INFORMED PRETRIAL DIVERSION WILL HELP

Currently, pretrial diversion programs are not adept at meeting the needs of grieving youth, especially those who have experienced traumatic grief. However, if these programs improve, there can be better access to mental health support for youth in the juvenile justice system. Adapting “trauma-informed approaches to the care and management of youth in the juvenile justice system . . . [is a] potentially powerful [step] toward encouraging healing and more adaptive behavior.”<sup>66</sup> With quick intervention and trauma-informed support we “may attenuate the wide-ranging negative impact of these losses.”<sup>67</sup> In fact, “nurturing children’s sense that adults understand their grief . . . can go a long way toward preventing problem behavior following a loss.”<sup>68</sup> Because many of our youth are getting in trouble due to this loss, the importance of this support is heightened because “punishment alone can exacerbate children’s normal grief response and worsen their behavior.”<sup>69</sup> In this way, a trauma-informed “therapeutic response . . . can help loosen the links among the behavioral problems, negative interactions

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GUIDEBOOK, *supra* note 42, at 70 (“The Models for Change Executive Committee established a Juvenile Diversion Workgroup with representatives from members of the National Resource Bank (NRB). The NRB is made up of key leading organizations specializing in juvenile justice advocacy, research, and reform that provide technical assistance and training to the Models for Change states and Action Network sites.”).

<sup>64</sup> JUVENILE DIVERSION GUIDEBOOK, *supra* note 42, at 73.

<sup>65</sup> *Id.*

<sup>66</sup> Harnisher, Abram, Washburn, Stokes, Azores-Gococo & Teplin, *supra* note 9, at 11–12.

<sup>67</sup> *Id.* at 12.

<sup>68</sup> VIBOCH, *supra* note 6, at 8.

<sup>69</sup> *Id.* at 12.

with adults, and worsening disengagement that are associated with loss among children.”<sup>70</sup>

Indeed, not only would a trauma-informed pretrial diversion program help our grieving youth, but it would help the entire juvenile justice system. Diversion programs already assist our system by decreasing rates of recidivism and providing alternatives to processing.<sup>71</sup> But, this program would help further because “traumatic stress services have the capacity to relieve the suffering . . . for youth . . . as well as . . . potentially reduce future health, mental health, and correctional costs.”<sup>72</sup>

## V. WHAT IS A TRAUMA-INFORMED MODEL

As early as 1989, Rogers Kenneth Hake observed that “unresolved grief is prevalent within the juvenile delinquent and that grief therapy applied to juvenile delinquents can reduce delinquent attitudes and behaviors.”<sup>73</sup> This study recommended that “the delinquent’s whole . . . environment, the whole society . . . [be] staffed by a mindset that breathes hope through grief resolution.”<sup>74</sup> This study advocated for “grief intervention and grief resolution therapies,”<sup>75</sup> requiring a trauma-informed model that approaches our youth as those that “[react] to a trauma trigger.”<sup>76</sup> This model would view “youth as reacting to external events rather than an inherent mental illness,” and hold the youth responsible for “learning how to self-regulate when the trauma response is triggered.”<sup>77</sup> Furthermore, this model takes a “strength-based approach” and “teaches positive alternatives such as self-regulation skills.”<sup>78</sup>

This can be easily implemented in pretrial diversion programs because it “offers a larger role to the staff,” which is important because “juvenile justice staff are an essential part of the treatment” and “can learn to recognize the importance of their own interactions with a youth and the role they can

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<sup>70</sup> *Id.*

<sup>71</sup> *See generally* NAT’L CTR. FOR MENTAL HEALTH & JUV. JUST., *supra* note 28.

<sup>72</sup> JULIAN D. FORD, JOHN F. CHAPMAN, JOSEPHINE HAWKE & DAVID ALBERT, TRAUMA AMONG YOUTH IN THE JUVENILE JUSTICE SYSTEM: CRITICAL ISSUES AND NEW DIRECTIONS 6 (2007), [https://www.riprc.org/wp-content/uploads/2017/05/Trauma\\_Among\\_Youth.pdf](https://www.riprc.org/wp-content/uploads/2017/05/Trauma_Among_Youth.pdf) [<https://perma.cc/U55W-XY6W>].

<sup>73</sup> Hake, *supra* note 16, at 85.

<sup>74</sup> *Id.* at 86.

<sup>75</sup> *Id.*

<sup>76</sup> *See* Griffin, Germain & Wilkerson, *supra* note 35, at 277.

<sup>77</sup> *Id.* at 278.

<sup>78</sup> *Id.* (noting strength-based approaches focus on the internal strengths and resourcefulness, and helps the person focus on resiliency and positive capacity building).

play in changing that youth's behavior."<sup>79</sup> This is different from the mental health models where "juvenile justice staff are used more for referrals and behavior compliance[,] while the treatment is provided by clinicians."<sup>80</sup> Alternatively, trauma-informed models focus on "maximizing physical and psychological safety for children," "[identifying] the trauma-related needs of children," "[enhancing] child well-being and resilience," and "partnering with youth and families and the systems that interact with [them]."<sup>81</sup> The following examples demonstrate various types of "effective trauma treatments,"<sup>82</sup> all of which can be implemented in a pretrial diversion program setting:

A. TRAUMA AFFECT REGULATION: A GUIDE FOR EDUCATION AND THERAPY

Trauma Affect Regulation: A Guide for Education and Therapy (TARGET) is a "strength-based approach designed to enhance self-regulation capacities that are compromised by psychological trauma in childhood."<sup>83</sup> The goal is to help the youth "understand how trauma changes the body" and "teach[] a sequence of practical self-regulatory skills with creative exercises designed to enhance youths' self-esteem and ability to manage anger, impulsivity, grief, shame, and guilt."<sup>84</sup>

In Connecticut detention centers, this model is currently being implemented "as a foundation for making every detention center."<sup>85</sup> This training has been given to "administrators, line staff, health care staff, probation officers, and community program providers and consulting clinicians."<sup>86</sup> The staff is even "receiving ongoing consultation to enable them to adapt the TARGET model to each distinct [detention center] with gender sensitivity and cultural competence."<sup>87</sup> In Florida, the TARGET model has incrementally been implemented in detention centers "due to the

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<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Diversion Programs*, *supra* note 24 ("In his presentation, Mr. Charles Wilson shared the following central elements of providing trauma-informed care within programs, policies, services, and systems as outlined by the child welfare committee of the National Child Traumatic Stress Network.").

<sup>82</sup> Griffin, Germain & Wilkerson, *supra* note 35, at 277.

<sup>83</sup> Ford, Chapman, Hawke & Albert, *supra* note 72, at 4.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.* at 6.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

size of [their juvenile] system.”<sup>88</sup> There, “[s]taff within six programs, ranging from large residential detention or treatment centers to smaller specialized girls’ detention and rehabilitation centers to outward bound programs, have received intensive training in the TARGET model . . . .”<sup>89</sup>

The use of this model in juvenile detention facilities in both Connecticut and Florida highlights that it is possible to train and implement this model in a pretrial diversion program. Further, TARGET “has been found to reduce disciplinary incidents and punitive sanctions and, when compared to treatment as usual, [shows] a reduction in mental health problems among incarcerated youth.”<sup>90</sup> TARGET also “shows evidence of effectiveness [already] with youth who are in correctional facilities, residential settings, and community-based programs.”<sup>91</sup> which shows that it would be beneficial, and possible, to implement in pretrial diversion.

#### B. TRAUMA-FOCUSED COGNITIVE-BEHAVIORAL THERAPY MODEL

The Trauma-Focused Cognitive-Behavioral Therapy (TF-CBT) Model is another treatment model that can be used to “address the mental health needs of children . . . suffering from traumatic stress and grief.”<sup>92</sup> Compared to those youth who received basic treatment, those “who received TF-CBT experienced significantly greater improvement in” general mental health symptoms.<sup>93</sup> Through TF-CBT the “youth . . . are taught to process the trauma; manage distressful thoughts, feelings, and behaviors; and enhance both personal safety and family communication.”<sup>94</sup> One of the benefits of TF-CBT is that it can be provided in “virtually any setting,” including a pretrial diversion program.<sup>95</sup> TF-CBT has “the strongest research evidence of any treatment model” and is a “flexible model that . . . is relatively easy to

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<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> Dierkhising, Ko, Woods-Jaeger, Briggs, Lee & Pynoos, *supra* note 13, at 9 (internal citations omitted).

<sup>91</sup> Kristine Buffington, Carly B. Dierkhising & Shawn C. Marsh, *Ten Things Every Juvenile Court Judge Should Know About Trauma and Delinquency*, 61 JUV. & FAM. CT. J. 13, 19 (2010).

<sup>92</sup> JUDITH A. COHEN, ANTHONY P. MANNARINO & ESTHER DEBLINGER, *TREATING TRAUMA AND TRAUMATIC GRIEF IN CHILDREN AND ADOLESCENTS* 44 (2d ed. 2016).

<sup>93</sup> *Id.* at 62.

<sup>94</sup> Buffington, Dierkhising & Marsh, *supra* note 91, at 19.

<sup>95</sup> *Id.*

learn in a short time.”<sup>96</sup> Thus, it could be easily implemented with proper training.

### C. TRAUMA AND GRIEF COMPONENT THERAPY FOR ADOLESCENTS

Trauma and Grief Component Therapy for Adolescents (TGCT-A) is a “manualized group or individual treatment program for trauma-exposed or traumatically bereaved older children and adolescents.”<sup>97</sup> It can be implemented in a “school, community mental health, clinic, or other service settings,” and thus a pretrial diversion program.<sup>98</sup> In addition, “it is a modularized, assessment-driven, flexibly tailored treatment manual and accompanying youth workbook that includes detailed instructions for conducting individual or group sessions.”<sup>99</sup> This makes it easy to adapt and easy to train because it allows for customization “according to the specific needs, strengths, and life circumstances of specific youth and the time available.”<sup>100</sup> TGCT-A has “been implemented with a wide range of trauma-exposed and traumatically bereaved older child and adolescent populations.”<sup>101</sup>

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<sup>96</sup> THE NAT’L CHILD TRAUMATIC STRESS NETWORK, TF-CBT: TRAUMA FOCUSED COGNITIVE BEHAVIORAL THERAPY, TFSCBT FACT SHEET 5 (2012), [https://www.nctsn.org/sites/default/files/interventions/tfcbt\\_fact\\_sheet.pdf](https://www.nctsn.org/sites/default/files/interventions/tfcbt_fact_sheet.pdf) [<https://perma.cc/V3BX-VW82>] [hereinafter TFSCBT FACT SHEET].

<sup>97</sup> NAT’L CHILD TRAUMATIC STRESS NETWORK, TRAUMA AND GRIEF COMPONENT THERAPY FOR ADOLESCENTS (2018), <https://www.nctsn.org/interventions/trauma-and-grief-component-therapy-adolescents> [<https://perma.cc/ZP6Y-ABQS>].

<sup>98</sup> *Id.*

<sup>99</sup> *Id.* (“Specific treatment modules (and specific sessions within modules) are selected, prioritized, sequenced, and emphasized based on clients’ specific needs, strengths, circumstances, and informed wishes. The intervention contains a variety of components organized into four modules.”).

<sup>100</sup> *Id.* at 1; *see also* JULIAN D. FORD, PATRICIA K. KERIG & ERNA OLAFSON, NAT’L CHILD TRAUMATIC STRESS NETWORK, EVIDENCE-INFORMED INTERVENTIONS FOR POSTTRAUMATIC STRESS PROBLEMS WITH YOUTH INVOLVED IN THE JUVENILE JUSTICE SYSTEM 7 (2014), [https://www.nctsn.org/sites/default/files/resources/trauma\\_focused\\_interventions\\_for\\_youth\\_in\\_jj.pdf](https://www.nctsn.org/sites/default/files/resources/trauma_focused_interventions_for_youth_in_jj.pdf) [<https://perma.cc/NZ9D-ULG6>] (“The manual is designed to be used not only by trained, Masters-level clinicians but also by teachers, facility staff, and coaches.”).

<sup>101</sup> TFSCBT FACT SHEET, *supra* note 96, at 2. (“TGCTA can accommodate the needs of youth who are traumatized but not bereaved (e.g., victims of physical assault), bereaved but not traumatized (e.g., grandparent died a peaceful death due to old age), or traumatically bereaved (e.g., parent died due to accidental death, homicide, suicide, overdose, or slow painful death due to cancer).”).

## VI. WHAT IMPLEMENTING A TRAUMA-INFORMED DIVERSION PROGRAM REQUIRES

Implementing a pretrial diversion program that focuses on trauma-informed therapy will take work. In many pretrial diversion programs, the youth would benefit from monitoring by numerous staff, including probation officers, caseworkers, defense attorneys, district attorneys, and sometimes even judges. All staff would “be trained to understand trauma concepts and . . . [be] engaged in the process.”<sup>102</sup> Moreover, this model should be preferred to punishment models. It is not enough to make staff who have spent many years implementing a punishment model to “start referring youth to trauma-informed clinicians” because “if clinical staff begin working with youth based on a trauma-informed approach while line staff continue to interact with youth based on a punishment model, there will be a direct conflict in how staff treat the youth.”<sup>103</sup> Further, this does not mean that “adults [can] never set limits on a youth” because a trauma model does “[take] public safety concerns into consideration” and works on making the jobs of line staff easier and safer.<sup>104</sup> Rather, this model would help line staff by encouraging them to set consistent and clear rules, and give them the tools to offer support and develop a relationship with the youth.<sup>105</sup> It would also allow staff to have more consistency in their interactions with the youth including “set[ting] limits on inappropriate behaviors without . . . reacting to their own anger,” “set[ting] schedules and keep to them,” and “attempt[ing] to understand what triggers a youth’s acting-out as well as what seems to calm a youth.”<sup>106</sup> Thus, while this model requires a “change in organizational culture,” it offers “a positive alternative to punitive methods” such that “the youth [will] hav[e] better behavior and the line staff [will have] a [better] work environment.”<sup>107</sup>

## CONCLUSION

In an interview with Vera Institute of Justice,<sup>108</sup> “Kevin” stated that:

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<sup>102</sup> Griffin, Germain & Wilkerson, *supra* note 35, at 279.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.* at 279–80.

<sup>107</sup> *Id.*

<sup>108</sup> *About*, VERA INST. OF JUST., <https://www.vera.org/about> [<https://perma.cc/N9UG-WSCX>] (“Vera is working on more than five dozen projects that aim to unravel the impediments to human dignity and justice, while changing the lives of individuals . . . Vera embraces new tools—like the power of mining big data to unearth injustice, the potential of

I been in the system since I was a young youth. When I was five years old, my father got murdered, and that's when I started getting in trouble. In elementary school I became a problem child: fighting the teachers, not wanting to listen. Didn't care what happened. Because I lost something very, you know, special to me, and that was my father. My mother couldn't deal with me. I didn't want to listen to her. And that led me into boys' homes. Now the courts took over.<sup>109</sup>

Kevin's story is like many others who did not receive "help coping with the early traumatic loss" that he experienced.<sup>110</sup> We, as a system, have failed to recognize and provide support for our youth who encounter the juvenile justice system after their loss. While a "growing body of evidence suggests that . . . child-serving systems can help young people with behavioral problems by asking whether they have lost someone they love and responding constructively when answers suggest a child is grieving,"<sup>111</sup> we can do so much more than that. By creating trauma-informed pretrial diversion programs, we are taking a critical first step toward helping grieving youth in the juvenile justice system. Trauma-informed pretrial diversion programs can easily be implemented logistically and allow courts to choose from several forms of trauma-informed therapy that fit various needs of their youth. This has the potential to improve the lives of many youth, deter them from further encounters with the juvenile justice system, and improve their quality of life. It can also prevent the exacerbation of mental illnesses that youth may already have and prevent youth without mental illnesses from developing them later. For these reasons, the juvenile justice system must take this step to help our grieving youth and create trauma-informed pretrial diversion programs.

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competitions to seek out the most motivated leaders, and the importance of communications to engage with [their] ideas.").

<sup>109</sup> Viboch, *supra* note 6, at 1 (noting that to protect confidentiality, Kevin's name was changed).

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*