

**Structural Factors for Success in Berkshire County's Public-
Private Juvenile Alternative Sentencing Programs**

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Abstract

Berkshire County is home to three arts-based juvenile alternative sentencing programs run via public-private partnerships: the Clark's Responding to Art Involves Self-Expression Program (RAISE), Shakespeare and Company's Shakespeare in the Courts, and Barrington Stage Company's Playwright Mentoring Project (PMP). The programs have enjoyed considerable longevity and success, and my research examines what structural factors regarding the private institutions themselves help these programs be sustainable. This research has the particular intent of identifying factors that would be reproducible by private institutions elsewhere in starting similar programming. The programs' success can largely be tied to the pre-existing arts and educational missions of these institutions, which lend tremendous advantages to starting a juvenile alternative sentencing program there. These include:

- the availability of existing educational programming models for youth
- experienced educational staff and well-developed education departments
- considerable private and public sector funding and grant opportunities
- program curricula in line with current best practice in positive youth development- and arts-based treatment models

Additional structural factors contributing to program success include the scheduling, location, curriculum, and evaluation of the programs. My research also touches on unique local factors in these programs' development, such as the region's creative economy and the work of individuals within the organizations and the juvenile court; however, I do not emphasize these factors since their reproducibility elsewhere is limited.

Berkshire County is unique in that it is home to four discrete juvenile alternative sentencing programs conducted via public-private partnerships. These programs, which serve youth under some form of juvenile court supervision, are conducted by the Clark Art Institute, Barrington Stage Company, Shakespeare and Company, and Williams College. (This paper will not examine the latter's program, to avoid the obvious conflict of interest.) The other three programs, all operated by arts institutions work to promote positive youth development and reduce future contact with the judicial system for their participants. This paper aims to examine what factors have made these three programs so sustainable and successful over the decade or more they have operated, paying special attention to what factors make them attractive endeavors for the sponsoring private institution. The literature review will situate Berkshire County's programs within larger trends in the juvenile justice system, diversion, community-based treatment, and arts-based programming, and the latter portion of this paper will attempt, via primary research with the administrators of Berkshire County's programs, to determine what factors have contributed to the long-term successes these programs have enjoyed.

Literature Review and Background

The juvenile justice system has long held as its core purpose the rehabilitation of juvenile offenders in a manner fundamentally different from the retributive, deterrent, and rehabilitative roles of the adult criminal justice system. In a 1927 study of juvenile courts, H.H. Lou wrote, "The juvenile court is conspicuously a response to the modern spirit of social justice."¹ Indeed, the juvenile justice system in the first half of the twentieth century was characterized by the view that juvenile offenders did not bear a responsibility, at least in the criminal sense, for their

¹ Herbert H. Lou. *Juvenile Courts in the United States*. Chapel Hill: University of North Carolina Press (1927), 2.

actions.² This position in turn led to the legal concept of *parens patriae*, the state as parent, along with the ideological position that children could be rescued or saved from their circumstances via legal intervention.³ The simultaneous industrialization of American society and the concurrent growth of urban poverty raised the need for social services for disadvantaged youth and from this confluence of legal, ideological, and social factors the early 20th century juvenile justice system was born.⁴ The juvenile court in this era could be characterized as doing whatever “was best for the child with or without his or her consent.”⁵ The courts had few due process protections or formal processes, but wide-ranging powers for confinement, institutionalization, and far-reaching state supervision and intrusion into children’s lives.

The 1960s, however, saw fundamental changes in the role and operation of the juvenile justice system. Two Supreme Court cases, *Kent v. United States* and *In Re Gault*, vastly expanded the due process rights extended to juvenile defendants. The former provided for the right to counsel in a waiver hearing to move the case to criminal court.⁶ The latter enshrined rights to counsel, confrontation, and notice for juvenile defendants.⁷ The aftermath of these cases brought about four main trends in juvenile justice, as identified by Shireman and Reamer: “due process,” “deinstitutionalization,” “decriminalization,” and “diversion.”⁸ It also brought about

² Charles Shireman and Frederic Reamer. *Rehabilitating Juvenile Justice*. New York: Columbia University Press (1989), 9.

³ John Pettibone et al. *Services to Children in Juvenile Courts: The Judicial-Executive Controversy*. National Institute for Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (1981), 11-12.

⁴ Ibid 9-10

⁵ Franklin Zimring. *American Juvenile Justice*. Oxford: Oxford University Press (2005), 8.

⁶ *Kent v. United States*, 383 US 541 (1966).

⁷ *In Re Gault*, 387 U.S. 1 (1967).

⁸ Shireman and Reamer, *Rehabilitating Juvenile Justice*, 13

massive federal attention and funding for juvenile justice.⁹ Indeed, the First Comprehensive Plan for Juvenile Delinquency Programs, issued by the Office of Juvenile Justice and Delinquency Prevention, called for a comprehensive minimization of the system's intervention into the lives of youth, highlighting a growing need for deinstitutionalization, community treatment, and diversion from the formal system.¹⁰ While the crime wave of the 1980s did bring some criticism of the juvenile court as too lenient or soft-on-crime, the current system of juvenile justice retains the most important aspects of the rehabilitative model.¹¹ In fact, there are some arguments that the system has become so much focused on that model as to begin to scale back some of the formal due process protections of *Gault*.¹²

Crucial to the juvenile justice system under all of its incarnations, though, has been the ideal of the informal resolution. Informal resolution, as opposed to the formal adjudication and sanctioning of a criminal court, has been thought at every stage of the juvenile court's lifespan in America to be a more palatable option for the reformable young offender. In Lou's 1927 study of the juvenile courts, he noted that over half of cases in the first quarter century of the courts' existence were resolved without any formal finding or trial.¹³ The first motivation for this "minimization of penetration" into the justice system is to avoid long-term consequences of a

⁹ Ibid 48-49

¹⁰ Office of Juvenile Justice and Delinquency Prevention. *First Comprehensive Plan for Federal Juvenile Delinquency Programs*. U.S. Department of Justice (1976), 13.

¹¹ Kirk Heilbrun, Naomi Sevin Goldstein, and Richard Redding. *Juvenile Delinquency: Prevention, Assessment, and Intervention*. Oxford: Oxford University Press (2005), 5-7.

¹² Prya Murad. "Give Juveniles Their Due." *The Marshall Project*, (May 2017). Accessed June 2017. https://www.themarshallproject.org/2017/05/15/give-juveniles-their-due?utm_medium=social&utm_campaign=sprout&utm_source=facebook#.pREexm113

¹³ Lou, *Juvenile Courts in the United States*, 126

criminal conviction.¹⁴ Informal adjudication avoids the sustained punitive consequences of a formal criminal record. A connected but slightly different rationale for an informal resolution is to avoid a labelling effect, whereby formally adjudicating juveniles as delinquent will then create a self-perception of being delinquent and create future unlawful behavior.¹⁵ Hence, the juvenile justice system has the unique capability, via informal resolution, to “stigmatize acts without stigmatizing actors.”¹⁶ The guiding principle has therefore been to use formal adjudication as a last resort.

Central to the technique of informal adjudication is the concept of diversion, the intentional movement of cases away from the formal adjudicatory process. Beyond that definition, there is some disagreement as to what types of programs actually constitute a diversionary program. Some scholars of juvenile justice claim that only wholly voluntary programs are true diversion.¹⁷ In their estimation, even the threat of prosecution makes a program coercive and thereby a type of probation, not diversion.¹⁸ However, true diversion of this model exists almost nowhere in America’s juvenile justice system.¹⁹ Indeed, the entire juvenile justice system is by its very essence diversionary, as it diverts youth from the adult criminal justice system.²⁰ The term diversion can be broadly used to delineate any program that

¹⁴ Donald Cressey and Robert McDermott. *Diversion from the Juvenile Justice System*. National Institute of Law Enforcement and Criminal Justice, U.S. Department of Justice (1974), 4.

¹⁵ Shireman and Reamer, *Rehabilitating Juvenile Justice*, 51

¹⁶ Zimring, *American Juvenile Justice*, 134

¹⁷ Shireman and Reamer, *Rehabilitating Juvenile Justice*, 14

¹⁸ Jack Shepherd and Dale Rothenberger. *Police-Juvenile Diversion: An Alternative to Prosecution*. Michigan Department of State Police (1980), 15.

¹⁹ Cressey and McDermott, *Diversion from the Juvenile Justice System*, 4.

²⁰ Zimring, *American Juvenile Justice*, 34

aims to minimize contact with the formal adjudicatory processes of the court system, whether that process occurs at first contact with law enforcement, after intake by the court, or simply probation before trial to eventually gain dismissal. Hence, Berkshire County's programs, as they generally occur as part of pre-trial probation leading to dismissal upon successful completion, can rightfully be termed diversion in this model. Of course, even diversion of this model raises several concerns by its very design. If formal, long-lasting repercussions are minimized, knowledge of this fact may increase the amount of youth that law enforcement bring into the juvenile justice system — a phenomenon known as “net-widening.”²¹ Additionally, minimizing contact with the formal justice system minimizes formal due process protections.²² Of course, diversion also brings benefits to the courts as well as to the youth, including lowered costs and reduced caseloads.²³

Another crucial feature of diversion is that, by shunting cases away from the purview of the justice system, it inevitably diverts them into the community for treatment. Cooperation with community agencies, public and private, has been a hallmark of juvenile justice and treatment for some time. Traditional theoretical conceptions of juvenile delinquency frame it as a community problem;²⁴ modern research recognizes that crucial risk and protective factors both emerge from environmental and community influences.²⁵ Community treatment has numerous advantages, many of which are found in Berkshire County's system. The negative labelling effect can be minimized by treatment outside of the justice system, and private community agencies can offer

²¹ Shireman and Reamer, *Rehabilitating Juvenile Justice*, 134

²² Shepherd and Rothenberger, *Police-Juvenile Diversion*, 19

²³ Heilbrun et al., *Juvenile Delinquency: Prevention, Assessment, and Intervention*, 162

²⁴ Lou, *Juvenile Courts in the United States*, 179

²⁵ Heilbrun et al., *Juvenile Delinquency: Prevention, Assessment, and Intervention*, 31

resources and services that the state cannot. Community treatment importantly also offers at-risk youth associations with positive role models from their community who are not part of the judicial system.²⁶ Cooperation with community-based private institutions has been endorsed from the system's earliest days — the standard juvenile court law of 1923, written by the National Probation Association, called for “cooperation with all societies or organizations, public or private, having for their object the protection or aid of children.”²⁷ While this spirit of community cooperation in juvenile justice is nothing new, it is certainly crucial to the juvenile justice system of Berkshire County.

The administration of juvenile justice programs in rural areas poses unique challenges and opportunities. Berkshire County, with a central city of roughly 43,000 people, just meets the criterion used by the Office of Juvenile Justice and Delinquency Prevention (OJJDP hereafter) for a rural area (a central city of 50,000 people or fewer).²⁸ Interestingly, rural areas have historically been perceived as bucolic retreats, often with restorative value. Berkshire County has been such a destination for over 200 years;²⁹ it hosts several children's camps and reform school-type facilities, many founded on the premise that the countryside will be a positive influence in and of itself on youth's behavior. Despite this popular image, though, rural areas do have incidences of juvenile delinquency and associated challenges specific to their rural nature. The smaller caseload of the courts and probation system in rural areas can often lead to a preference for informal or diversionary resolutions, and in the same vein, increase reliance on private

²⁶ Cressey and McDermott, *Diversion from the Juvenile Justice System*, 2

²⁷ Lou, *Juvenile Courts in the United States*, 245

²⁸ Joanne Jankovic, Ronald Green, and Shanler Cronk. *Juvenile Justice in Rural America*. Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (1980), 4.

²⁹ Berkshire Creative Economy Project. *Berkshire Creative Economy Report*. October 2016, 3.

community and civic organizations.³⁰ The smaller size and more insular feel of rural communities makes the participation of community organizations in the juvenile justice system all the more pressing; social work scholar Edmund Mech wrote, “Genuine progress in delinquency prevention cannot occur without community support outside the juvenile justice system.”³¹ Berkshire County’s programs not only demand community engagement by their very nature but also engage youth with some of the very arts institutions that settled in the Berkshires due to the perception of rural areas’ restorative powers.³²

Berkshire County’s programs also reflect the current social scientific understanding of the patterns of juvenile offending and treatment. Adolescent offending is often committed in peer groups, and is often adolescent-limited and not indicative of lifetime propensity for violence or delinquency.³³ Hence, interventions that focus on developing strong and healthy peer relations are often most effective.³⁴ Most importantly, successful programs are multi-systemic, aiming to alleviate risk factors and bolster protective factors in several key areas: the individual, the family the peer group, the school, and the community.³⁵ In general, stability and the formation of positive relationships in each area are protective, while any form of instability or disorder in these relationships can be a risk factor.³⁶ The core signs of individual risk, though, that a juvenile’s offending pattern will be life-course-persistent rather than simply adolescent-limited

³⁰ Jankovic et al., *Juvenile Justice in Rural America*, 13

³¹ Edmund Mech. *Delinquency Prevention: A Program Review of Intervention Approaches*. Portland: Regional Research Institute for Human Services (1975), 81.

³² *Berkshire Creative Economy Report*, 3

³³ Zimring, *American Juvenile Justice*, 61-63

³⁴ Jankovic et al., *Juvenile Justice in Rural America*, 53

³⁵ Heilbrun et al., *Juvenile Delinquency: Prevention, Assessment, and Intervention*, 11

³⁶ *Ibid* 22

are early contact with the juvenile justice system and institutionalization³⁷ — two features which alternative sentencing, by its very nature, tries to avoid. Importantly, these programs also fit into the treatment model of positive youth development. This model avoids viewing youth as fundamentally bad or disposed to offending.³⁸ It facilitates an environment for youth to grow positively through realization of their own strengths, providing emotional support, motivation, and the actual resources necessary for this achievement to occur.³⁹ This treatment model, which all of the Berkshire County programs follow, is grounded in the fundamental assumption that the youth in the programs have talents and strengths to be developed, rather than inherently bad tendencies to be quashed.

There is also considerable research that arts-based programs are particularly effective in this model of positive youth development. Theatre-based programming for children has been shown to reduce interpersonal aggression, increase prosocial behaviors, and aid with achievement in school.⁴⁰ Federally-funded juvenile alternative sentencing initiatives that used arts programming in Atlanta, Portland, and San Antonio were shown to increase participants' skills in domains such as communicating with adults, healthily expressing anger, and communicating with peers.⁴¹ Several longitudinal studies have also identified that, amongst

³⁷ Ibid 23

³⁸ Development Services Group, Inc. 2014. "Positive Youth Development." Washington, DC.: Office of Juvenile Justice and Delinquency Prevention. <http://www.ojjdp.gov/mpg/litreviews/PositiveYouthDevelopment.pdf>

³⁹ Janis Whitlock. "Understanding Youth Development Principles and Practices." *Research Facts and Findings, ACT for Youth Upstate Center for Excellence*. http://www.actforyouth.net/resources/rf/rf_understandyd_0904.pdf

⁴⁰ Cassandra Kisiel et. al. "Evaluation of a Theater-Based Youth Violence Prevention Program for Elementary School Children." *Journal of School Violence*, Vol. 5 (2006), 19.

⁴¹ Heather Clawson and Kathleen Coolbaugh. "The YouthARTS Development Project." *OJJDP Juvenile Justice Bulletin* NCJ 186668 (May 2001), 10.

children of similar socioeconomic status, arts exposure is correlated with higher educational attainment, including college attendance and completion.⁴² The mechanism by which this development occurs is the “sense of identity, independence, discipline, and self-worth,” that youth in these programs develop through arts-based self-expression.⁴³ Notably, this mechanism is essentially the same that the positive youth development model uses to improve outcomes for participants. Hence, arts-based programs, such as Berkshire County’s, are closely associated not only with substantial benefits for youth participants but also closely linked to a positive youth development model.

The Programs

The first of Berkshire County’s programs, chronologically, is Shakespeare in the Courts, operated by Shakespeare and Company of Lenox, MA. The program, which was founded 16 years ago, involves juveniles in preparing, rehearsing, and performing scenes of Shakespeare over a six week period, meeting four times a week.⁴⁴ It culminates in a performance for families and court personnel, and the program has served some 350 youth throughout its tenure.⁴⁵ The Clark’s Responding to Art Involves Self Expression (RAISE) program has been in operation since 2006; this program involves work in the museum galleries as well as creating art and self-portraits of their own over a period of five weeks with one lengthy weekly session.⁴⁶ The

⁴² James Catterall, Susan Dumais, and Gillian Hampden-Thompson. “The Arts and Achievement in At-Risk Youth: Findings from Four Longitudinal Studies.” *National Endowment for the Arts*, Research Report #55 (March 2012), 12.

⁴³ Office of Juvenile Justice and Delinquency Prevention. “Arts and Performances for Prevention.” *Youth in Action*, No. 11 (January 2000), 2.

⁴⁴ Kevin Coleman, interview with author, July 2017.

⁴⁵ “Massachusetts juvenile offenders offered Shakespeare -- instead of jail.” *CBS News*, June 1, 2017. Accessed July 2017. <http://www.cbsnews.com/news/juvenile-offenders-massachusetts-alternative-sentence-shakespeare-acting-stage/>

⁴⁶ Ronna Tulgan-Ostheimer, interview with author, July 2017.

program's finale is a half-hour gallery talk each youth presents to family and court personnel.⁴⁷ It has served roughly 75 youth since its inception.⁴⁸ The third program is Barrington Stage's Playwright Mentoring Project; while this program has been in operation since 2001, its court-mandated section has been around since 2007.⁴⁹ Notably, the majority of the program's participants are in the voluntary, rather than juvenile alternative sentencing, version of the program.⁵⁰ This program has youth write, rehearse, and perform original theatre, making use of their own life experiences. Meeting twice a week for eight weeks, the program also culminates in a performance of the works.⁵¹ Shakespeare in the Courts, RAISE, and the Playwright Mentoring Project constitute the three programs examined in my research.

Research Question

When examining juvenile probation or alternative sentencing programs, the most obvious research question that might spring to mind is, do they work? Measuring effectiveness by this measure would look at participant outcomes after the program, usually with regard to either recidivism or risk factors for delinquency, such as academic achievement, school or job attendance, and peer group and family relations.⁵² However, the sealed nature of juvenile records in Massachusetts, as well as the relatively small caseload of Berkshire County (222 delinquency

⁴⁷ Ibid

⁴⁸ "Shakespeare in the Courts." *Shakespeare and Company*. Accessed June 2017. <http://www.shakespeare.org/education/shakespeare-in-the-courts>

⁴⁹ Jane O'Leary, interview with author, July 2017, http://www.mass-creative.org/case_study_barrington

⁵⁰ Jane O'Leary, interview with author, July 2017.

⁵¹ Ibid

⁵² Heilbrun et al., *Juvenile Delinquency: Prevention, Assessment, and Intervention*, 29-30

cases in 2014),⁵³ make any longitudinal study of participant outcomes nearly impossible. Another method for evaluation is during the program itself, via participant observation and evaluation prior to and directly after the program, which has been undertaken with the Berkshire County programs previously. However, this paper will focus not on the juvenile participants but on the organizations sponsoring the programs. The very existence on privately sponsored programs such as Berkshire County's constitutes a success in its own right, freeing up state probation resources and offering resources and opportunities that only these unique cultural institutions could offer. Indeed, community-based treatments that alter the participant's environment have been shown to have great success in the treatment of juvenile offending.⁵⁴ Therefore, my research question will focus on the private institutions themselves: what factors prompted the development of these programs, and what factors are responsible for their sustainability? Specifically, I will focus on identifying those factors that can be classified as "reproducible" by an organization not in Berkshire County, with the motivating idea that identifying such factors might prove helpful to setting up a program in another area for success.

Analysis and Conclusions

The chief reproducible factors responsible for the success and sustainability of Berkshire County's juvenile alternative sentencing programs are those tied to the private institution's status as arts institutions -- chiefly funding, staffing, and educational mission and programming. Each of these institutional resources and features makes the programs minimally burdensome, and even beneficial, to the other operations of the organizations, setting up successful continuing

⁵³ Office of Juvenile Justice and Delinquency Prevention. "Easy Access to State and County Juvenile Court Case Counts." March 27, 2017. Accessed June 2017. <https://www.ojjdp.gov/ojstatbb/ezaco/asp/TableDisplay.asp>

⁵⁴ Heilbrun et al., *Juvenile Delinquency: Prevention, Assessment, and Intervention*, 272

operation. They also leverage resources existing prior to the programs' creation, making the initial start-up cost (broadly conceptualized in terms of money, staffing, space, and so forth) relatively low. Additional factors, though not as central as these, contribute to the programs' longstanding success, including the scheduling and timing of the programs, transportation and location, self-evaluation, and the use of an arts-based curriculum model. Finally, there are a host of non-reproducible factors that, while absolutely critical to the development of these programs, do not have broad implications for starting similar programs in other locations or jurisdictions. These factors include the local history of the Berkshires, the state government of Massachusetts, and the incredible efforts of individuals in Berkshire County; while these will all be addressed, they will not be emphasized since their value for setting up comparable alternative sentencing programs is geographically limited.

The educational component to the mission of each sponsoring organization is an overarching factor in the success of Berkshire County's programs. Primarily, this educational mission means that a juvenile justice program falls within the norm of the organization's activities, rather than being a deviation. This alignment is immensely helpful for leveraging organizational support. For example, the Clark Museum explicitly claims a dual mission as a museum and educational institution, "dedicated to advancing and extending the public understanding of art."⁵⁵ With respect to leveraging intra-organizational support for these programs, an explicitly educational mission certainly helps. Similarly, one of Barrington Stage Company's three organizational goals is, "to find fresh, bold ways of bringing new audiences

⁵⁵ "About." *Clark Art Institute*. Accessed July 2017. <http://www.clarkart.edu/About/about-clark>

into the theatre, especially young people”⁵⁶; Shakespeare and Company’s mission is to “deliver a sustainable, integrated, and vital program of Performance, Training, and Education.”⁵⁷ The organizational mission being education-centered can provide intrinsic motivation for a private organization to sponsor a juvenile court program; such a mission is also intimately related to the programming, funding, and staffing factors that create successful public-private juvenile alternative sentencing programs.

The educational goals of all three Berkshire County institutions means that they have developed arts education programming for youth audiences prior to their court-involved programs, allowing these pre-existing models to be leveraged into the court programs and setting up the new ventures for success. The first of the county’s programs, Shakespeare in the Courts, was derived, initially, from the model that Shakespeare and Company was using for its programming at Lenox Memorial High School.⁵⁸ While it eventually adapted its program, its director noted that, “The ethic we practice — trying to get them to thaw, to be more forthcoming, to care about and be more interested in other people in the group — is the same.”⁵⁹ (It is of note that the focus on peer group relations is supported by best practice research in juvenile offending treatment.)⁶⁰ Barrington Stage had been operating its Playwright Mentoring Project on a voluntary basis for at-risk youth for several years prior to running a court-mandated section of the program.⁶¹ While the Clark Museum did not leverage any particular one of its existing

⁵⁶ “About the Company.” *Barrington Stage Company*. Accessed July 2017. <https://barringtonstageco.org/about-the-company/>

⁵⁷ “About.” *Shakespeare and Company*. Accessed July 2017. shakespeare.org/about

⁵⁸ Kevin Coleman, interview with author, July 2017.

⁵⁹ Ibid

⁶⁰ Jankovic et al., *Juvenile Justice in Rural America*, 53

⁶¹ Jane O’Leary, interview with author, July 2017.

programs, its education department and educators had conducted similar programming for teenagers and school groups prior to the RAISE program. In each of these cases, the program itself was already substantially developed, allowing for a specific focus on tweaking the program to the unique needs of adjudicated youth. This allocation of resources is much more efficient than creating a new program from whole cloth. It also reduces fixed costs for equipment and materials that might be needed to start the program, providing a fiscal advantage to using an existing program model. Finally, as the more specific analysis of each program's staffing will explore, existing programs and educational departments within each private institution provide experienced staff for the court-affiliated program, reducing start-up burden in that regard. In sum, the existing educational mission of each arts institution was critical to the beginning success of their court-affiliated programs.

An incredibly important factor in the sustainability of these programs has been their financial stability and the access to funding. By their very existence, they provide resources for the juvenile justice system at no cost to the state. Each of these programs has a substantial amount of private financial support from the organizations and their donors. The Clark, for example, an organization with a \$18 million annual budget,⁶² has completely funded the RAISE program without outside grants for its entire existence. Shakespeare and Company and Barrington Stage Company also both put forth substantial resources from their own education budgets and private donors towards their programs.⁶³ These organizations' status as arts institutions may be particularly related to their ability to so robustly fund these programs. Some

⁶² "2016 Annual Report." *Clark Art Institute*. Accessed August 2017. <http://www.clarkart.edu/PDFs/AnnualReport/2016.pdf>

⁶³ "Playwright Mentoring Project." *Barrington Stage Company*. Accessed June 2017. <https://barringtonstageco.org/education-bsc/playwright-mentoring-project/>

research shows that wealthier donors are, in general, much more likely to donate to arts and higher educational institutions, rather than to social services;⁶⁴ by providing the social service via an arts institution, this fundraising difficulty is avoided. Indeed, the leadership of Shakespeare and Company noted that they often bring up the program with prospective donors to their general educational programming, who then decide to help fund the Shakespeare in the Courts program.⁶⁵ While donors are very receptive to funding the court programming, it is the broader mission and events of the organization that may have first brought them in. These organizations' status as arts institutions could not be proven to be the sole cause for the funding they themselves can put towards the program, especially via donations. However, it sets the programs up for a significant degree of financial viability, certainly when compared to state funding.

The dual nature of these programs as both arts programs and juvenile justice programs is also critical to the outside grant support the programs receive. While the Clark does not currently receive outside grant funding, both the Playwright Mentoring Project and Shakespeare in the Courts do. The Playwright Mentoring Project receives funding via what could be termed the "arts" stream from the Massachusetts Cultural Council.⁶⁶ It also receives funding via a grant from the federal Office for Juvenile Justice and Delinquency Prevention (OJJDP) for its work as a court program.⁶⁷ This grant funding is rounded off by organizations such as the United Way.⁶⁸ Shakespeare in the Courts similarly receives grants from the Massachusetts Cultural Council,

⁶⁴ Ken Stern. "Why the Rich Don't Give to Charity." April 2013. Accessed July 2017. <https://www.theatlantic.com/magazine/archive/2013/04/why-the-rich-dont-give/309254/>

⁶⁵ Kevin Coleman, interview with author, July 2017.

⁶⁶ Jane O'Leary, interview with author, July 2017.

⁶⁷ "Playwright Mentoring Project." *Barrington Stage Company*.

⁶⁸ Jane O'Leary, interview with author, July 2017.

National Endowment for the Arts, and OJJDP.⁶⁹ In this sense, arts-based programs are open to more funding streams than a non-arts based juvenile court program would be. Using a multitude of grant funding sources also promotes program sustainability by minimizing the potential impact of losing any one grant. In this way, the dual status of these programs as arts and juvenile justice initiatives expands the availability of outside grant funding, particularly from the public sector, promoting the programs' financial viability.

As mentioned earlier, all three institutions had robust education departments prior to the beginning of the court-affiliated programs, and hence all had education staff. This pre-existing human resource also set many of these programs up for success, since there were few initial costs associated with new staff hiring or training to begin running these programs. Additionally, they had the benefit of experienced educators working on the program from the very beginning. As Shireman and Reamer note, one of the biggest challenges for juvenile court programs is retaining personnel well-trained to working with youth⁷⁰ — Berkshire County's programs were somewhat able to bypass this challenge. All three programs use their core, year-round education staff to provide leadership to the program, although many do use part-time or seasonal staff in some way. The Clark co-teaches the program with a local teacher,⁷¹ and Barrington Stage uses seasonal staff for the peer mentors in the program.⁷² While there are some retention issues with seasonal staff, this admixture allows for both stable leadership for the programs and new perspectives from incoming staff. One of the most pressing challenges for juvenile justice personnel is burnout,⁷³

⁶⁹ Kevin Coleman, interview with author, July 2017.

⁷⁰ Shireman and Reamer, *Rehabilitating Juvenile Justice*, 92

⁷¹ Ronna Tulgan-Ostheimer, interview with author, July 2017.

⁷² Jane O'Leary, interview with author, July 2017.

⁷³ Shireman and Reamer, *Rehabilitating Juvenile Justice*, 167

which these programs can avoid by the fact that their education staff are working on juvenile justice programming only for part of the year. Additionally, by providing services from a private institution, these programs have the symbiotic effect of lessening the burden on probation officers and perhaps alleviating some propensity for burnout there. Hence, the staffing patterns of these programs not only provides for an easy start-up from the existing educational programming of the institution, but also for a sustainable program over the long-term.

The use of an arts-based, positive youth development model is also critical to the programs' success, as it aligns them with current best practices in the treatment of juvenile offending. First, each program focuses on using art to lead the youth to discover positive talents they themselves have. Kevin Coleman, director of education for Shakespeare and Company, summarizes the experience, for the youth, of rehearsing and performing Shakespeare as, "a remarkable education and remarkable experience of their own value, worth, and abilities as a human being that they've maybe never experienced before."⁷⁴ Barrington Stage aims for a similar realization through the youth seeing their own theatrical works being performed;⁷⁵ the RAISE program fosters this sense of accomplishment with the final half-hour gallery talk that the youth give for their families and court personnel.⁷⁶ The programs also aim to foster healthier peer-to-peer relations, a crucial factor in a multi-systemic treatment model. The work of each program is done in a group setting; especially for the theatre programs, building trust within this group is critical to the success of the final product. The Playwright Mentoring Project

⁷⁴ Kevin Coleman, interview with author, July 2017.

⁷⁵ Jane O'Leary, interview with author, July 2017.

⁷⁶ "RAISE Program Information." *Clark Art Institute*. Accessed June 2017. <http://archive.clarkart.edu/PDF/raise-program-information.pdf>

particularly aims to give the participants leadership opportunities within the group, another method developing healthier peer relations.⁷⁷ Taken together, the focus on positive youth development and peer relations that stems from an art-based, ensemble-dependent program aligns these programs well with successful techniques in the treatment of juvenile offending.

The four characteristics of these programs that stem from the private organizations' larger roles as arts and educational institutions — existing programming, funding, staffing, and arts-based positive youth development models — are the largest factors in creating successful and sustainable programs. There are several other structural features of the programs that enable their success, especially from the perspective of promoting youth participation in and completion of the programs. The first of these is the scheduling of the programs. Each program is scheduled for a short timeframe — RAISE for five weeks, Shakespeare in the Courts and PMP for six and eight weeks, respectively.⁷⁸ The short timeframe of the program has several benefits. First, it reduces the burden on the private institution and the potential for staff burnout, making the program more sustainable. It also allows for multiple sessions each year, like the Clark runs, enabling the program to reach more youth.⁷⁹ From the point of view of the youth, the shorter length of the program makes participation easier and reduces potential conflicts with other structured activities, such as employment or a sport. Indeed, the Clark schedules its two sessions for November and March so as not to conflict with standard sports seasons — the rationale being that the more structured activities with positive adult role models a youth can be involved in, the

⁷⁷ Jane O'Leary, interview with author, July 2017.

⁷⁸ O'Leary, Tulgan-Ostheimer, and Coleman interviews, July 2017.

⁷⁹ Ronna Tulgan-Ostheimer, interview with author, July 2017.

better.⁸⁰ It also reduces the amount of times one has to travel to and from the program site, lessening the transportation burden. The shorter duration does ramp up the intensity of the programs, which meet either for a lengthy session (RAISE), numerous times a week (Shakespeare in the Courts), or some combination thereof (PMP).⁸¹ Shorter but more intense interventions also mesh with current research in juvenile delinquency, which posits that these shorter interventions may be more effective for the vast majority of juveniles who exhibit “adolescent-limited” delinquency.⁸² By scheduling short, intense programming, the programs ensure their own viability both from a staff and participant viewpoint.

Another structural feature of these programs that enables their success is transportation and location. Each program either takes place at a location easily accessible to most program participants or provides transportation. Barrington Stage and Shakespeare and Company both hold their program sessions in Pittsfield, which is central to most of the county’s juvenile caseload and the juvenile court.⁸³ Neither program offers transportation, though Barrington Stage did express a desire to offer it at some point.⁸⁴ The Clark does offer transportation from Pittsfield to its Williamstown location, which is a major factor in program attendance — their program director noted that prior to transportation being offered, participants would often bike or walk in the snow or other dangerous conditions to attend the program.⁸⁵ Indeed, transportation

⁸⁰ Ibid

⁸¹ O’Leary, Tulgan-Ostheimer, and Coleman interviews, July 2017.

⁸² Heilbrun et al., *Juvenile Delinquency: Prevention, Assessment, and Intervention*, 14

⁸³ O’Leary, Tulgan-Ostheimer, and Coleman interviews, July 2017.

⁸⁴ Jane O’Leary, interview with author, July 2017.

⁸⁵ Ronna Tulgan-Ostheimer, interview with author, July 2017.

constitutes the largest single expense for the program,⁸⁶ but is crucial to its success given the 22 miles between Pittsfield and the program. Of course, the court-mandated nature of all three programs ensures attendance, but making the program location accessible provides additional support for participants. Of note, though perhaps not directly tied to the programs' success, is that each program is hosted at the organization itself. Each institution invites the participants into its space, rather than going to theirs. There are logistical benefits to this decision, such as having program materials easily accessible; however, it also conveys the intangible benefit of bringing the participants into and entrusting them with an unfamiliar space and the sense of being valued this space can lend to participants. To put it pithily, it is an altogether more enriching experience to bring court-involved youth into a world-class art museum than to simply bring an arts educator to them.

A similar mixture of practical and intangible benefits can be found in the way that all three programs involve either participants' families or schools in their operation and activities. The Clark's RAISE program requires family participation in the final presentation, where each participant gives a gallery talk on works from the Clark's collection.⁸⁷ Shakespeare and Company has no formal parental involvement, though they are invited to the final performance; they note that they often feel a compulsion to involve parents more, but a hesitance to do so because of their lack of experience in social work.⁸⁸ Family involvement is recognized as a best practice for multi systemic treatments for juvenile offenders, often being crucial to positive

⁸⁶ Ibid

⁸⁷ "RAISE Program Information." *Clark Art Institute*.

⁸⁸ Kevin Coleman, interview with author, July 2017.

outcomes.⁸⁹ Barrington Stage intentionally does not involve parents since much of the material produced by participants may feature scenarios from home life, and they do not want to create additional risks for participants in this manner.⁹⁰ The program does, however, coordinate with participants' schools and guidance counselors.⁹¹ This type of coordination meshes well with and enhances the school's role as a major protective factor against juvenile offending.⁹² Hence, in all three programs, the conscientious involvement, or non-involvement, of parents and schools is well-supported by current research and practice for treatment of juvenile delinquency.

The programs' self-evaluations also play a role in their sustainability by developing many of the previously mentioned factors, such as programming, logistics, and staffing. All three programs utilize some form of internal reflection or self-study to revise their programs from year to year. In some cases this reflection has resulted in major programmatic changes, such as Shakespeare and Company refining their traditional high school programming model several years into the program.⁹³ The Clark's RAISE program also used an external reviewer; Professor Laurie Heatherington of Williams College's psychology department conducted a three year study with participant observation and pre- and post-program participant assessment to review the program's methodology and curriculum. The use of both external and internal evaluations is a supporting factor in these programs' continued success, as they help develop programs that are supported by current research in adolescent psychology and are the most efficient use of the institutions' own resources, respectively.

⁸⁹ Heilbrun et al., *Juvenile Delinquency: Prevention, Assessment, and Intervention*, 12

⁹⁰ Jane O'Leary, interview with author, July 2017.

⁹¹ Ibid

⁹² Heilbrun et al., *Juvenile Delinquency: Prevention, Assessment, and Intervention*, 29

⁹³ Kevin Coleman, interview with author, July 2017.

Finally, two remaining factors have contributed greatly to the programs' success, but I have deemphasized these two since they are specific to Berkshire County and have limited to no reproducibility for a private organization located elsewhere. The first of these is the state and local context of the programs. Massachusetts has a long history of being rather progressive on juvenile justice issues, being the first place to detain juveniles separate from adults and one of the first states to establish separate trials (though not courts) for juveniles in 1870.⁹⁴ Massachusetts also has the next-to-lowest rate of juvenile confinement per capita of any state.⁹⁵ Additionally, some of the program staff cited that Berkshire County specifically seemed to have an atmosphere of community cooperation and "taking care of our own" that made alternative sentencing programs a more clear possibility here.⁹⁶ At the same time, the Berkshires' history as a cultural capital and escape from city life for the wealthy endowed the area with significant resources in the arts.⁹⁷ "The Berkshires have inherited a magical cultural presence from the Gilded Age that adds to the pride of place," Ronna Tulgan-Ostheimer, director of education at the Clark, said.⁹⁸ Indeed, the continuing importance of the creative and tourism economies to Berkshire County means that arts institutions are uniquely well-supported and thereby form very effective vehicles for the delivery of social services via their educational programming. Finally, Berkshire County has a comparatively low caseload for the juvenile courts, compared to other

⁹⁴ Lou, *Juvenile Courts in the United States*, 16

⁹⁵ "State-by-State Data." *The Sentencing Project*. Accessed August 2017. <http://www.sentencingproject.org/the-facts/#rankings?dataset-option=JCR>

⁹⁶ Ronna Tulgan-Ostheimer, interview with author, July 2017.

⁹⁷ *Berkshire Creative Economy Report*, 4.

⁹⁸ Ronna Tulgan-Ostheimer, interview with author, July 2017.

counties in the state.⁹⁹ This confluence of state context, low caseload, and regional resources makes Berkshire County a particularly attractive candidate for vibrant juvenile alternative sentencing programming. Of course, not all, or even many, jurisdictions benefit from such advantages, but similar contextual factors elsewhere may be helpful at identifying locations that could support such programs in the future.

Finally, I would be remiss were I not to include the tremendous impact that highly committed and visionary individuals had on these programs. Finding such individuals may not be a reproducible factor for other jurisdictions, but it is certainly a heartening sign that a group of dedicated individuals can have such long-standing success with the right program design and context. Many of the individual directors of the programs have worked on them for over a decade now since their inception, often teaching portions themselves. Similarly, the programs would have in no way been possible if not for visionary and supportive judges and probation officers that supported them and entrusted youth to them. Indeed, one might attribute the foundation of the Shakespeare in the Courts program, and thereby the inspiration of the other programs, to the simple fortune of having a juvenile court judge who was formerly a high school principal.¹⁰⁰ Indeed, Ronna Tulgan-Ostheimer at the Clark attributed all three programs' inspiration to, "the passion, creativity, and desire of one person," Paul Perachi, the juvenile court judge who first helped start Shakespeare in the Courts.¹⁰¹ Though the reproducibility of having dedicated individuals is limited, many people from other jurisdictions have come to see and train

⁹⁹ Office of Juvenile Justice and Delinquency Prevention. "Easy Access to State and County Juvenile Court Case Counts."

¹⁰⁰ Kevin Coleman, interview with author, July 2017.

¹⁰¹ Ronna Tulgan-Ostheimer, interview with author, July 2017.

with the programs here in Berkshire County, specifically Shakespeare in the Courts.¹⁰² In sum, the value that these individuals may continue to have for other jurisdictions should not be underestimated, as these programs could serve as powerful examples and training models.

Conclusions

The most important structural and reproducible factors tied to these programs' success can be traced back to the private institutions' missions as arts and educational institutions. Their pre-existing educational programs can easily be leveraged into a juvenile justice model, and they have education staff and departments with the resources to conduct these programs, minimizing start-up costs. Additionally, they have robust private funding as well as access to arts and cultural grants that ensure the programs' financial viability. Finally, their arts-based programs align with current best practices in positive youth development-based models for the treatment of juvenile delinquency. These are the core factors that could be used to identify similar private organizations in other jurisdictions that may be good candidates to operate such programs, and then to build viable programs. There are additional elements of the programs' design and execution that other private institutions could use in a successful design. These include scheduling the program sessions for maximum participation, using a short but intensive timeframe, providing transportation to an easily accessible location, consistent self-evaluation, and coordination with families and schools. Finally, in assessing Berkshire County's own programs, we must consider the influence of local context and the contributions of dedicated individuals, though these factors may not be reproducible by other private institutions. At the very least, such consideration provides the hopeful reminder that the work of a few dedicated

¹⁰² Kevin Coleman, interview with author, July 2017.

individuals can, perhaps in another jurisdiction in the future, leverage an existing private institution into a long-term, successful juvenile alternative sentencing program.

Bibliography

- “2016 Annual Report.” *Clark Art Institute*. Accessed August 2017. <http://www.clarkart.edu/PDFs/AnnualReport/2016.pdf>
- “About.” *Clark Art Institute*. Accessed July 2017. <http://www.clarkart.edu/About/about-clark>
- “About.” *Shakespeare and Company*. Accessed July 2017. shakespeare.org/about
- “About the Company.” *Barrington Stage Company*. Accessed July 2017. <https://barringtonstageco.org/about-the-company/>
- Berkshire Creative Economy Project. *Berkshire Creative Economy Report*. October 2016. Accessed August 2017. <http://1berkshire.com/wp-content/uploads/2016/10/Berkshire-Creative-Economy-Report.pdf>
- Catterall, James Susan Dumais, and Gillian Hampden-Thompson. “The Arts and Achievement in At-Risk Youth: Findings from Four Longitudinal Studies.” *National Endowment for the Arts*, Research Report #55 (March 2012).
- Clawson, Heather and Kathleen Coolbaugh. “The YouthARTS Development Project.” *OJJDP Juvenile Justice Bulletin* NCJ 186668 (May 2001)
- Coleman, Kevin. Interview with author, July 2017.
- Cressey, Donald and Robert McDermott. *Diversion from the Juvenile Justice System*. National Institute of Law Enforcement and Criminal Justice, U.S. Department of Justice (1974).
- Development Services Group, Inc. 2014. “Positive Youth Development.” Washington, DC.: Office of Juvenile Justice and Delinquency Prevention. <http://www.ojjdp.gov/mpg/litreviews/PositiveYouthDevelopment.pdf>
- Heilbrun, Kirk, Naomi Sevin Goldstein, and Richard Redding. *Juvenile Delinquency: Prevention, Assessment, and Intervention*. Oxford: Oxford University Press (2005).
- In Re Gault*, 387 U.S. 1 (1967).
- Jankovic, Joanne, Ronald Green, and Shanler Cronk. *Juvenile Justice in Rural America*. Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (1980).
- Kent v. United States*, 383 US 541 (1966).
- Kissel, Cassandra et. al. “Evaluation of a Theater-Based Youth Violence Prevention Program for Elementary School Children.” *Journal of School Violence*, Vol. 5 (2006).

Lou, Herbert H. *Juvenile Courts in the United States*. Chapel Hill: University of North Carolina Press (1927).

“Massachusetts juvenile offenders offered Shakespeare -- instead of jail.” *CBS News*, June 1, 2017. Accessed July 2017. <http://www.cbsnews.com/news/juvenile-offenders-massachusetts-alternative-sentence-shakespeare-acting-stage/>

Mech, Edmund. *Delinquency Prevention: A Program Review of Intervention Approaches*. Portland: Regional Research Institute for Human Services (1975).

Murad, Prya. “Give Juveniles Their Due.” *The Marshall Project*, (May 2017). Accessed June 2017. https://www.themarshallproject.org/2017/05/15/give-juveniles-their-due?utm_medium=social&utm_campaign=sprout&utm_source=facebook#.pREexm113

Office of Juvenile Justice and Delinquency Prevention. “Arts and Performances for Prevention.” *Youth in Action*, No. 11 (January 2000).

Office of Juvenile Justice and Delinquency Prevention. “Easy Access to State and County Juvenile Court Case Counts.” March 27, 2017. Accessed June 2017. <https://www.ojjdp.gov/ojstatbb/ezaco/asp/TableDisplay.asp>

Office of Juvenile Justice and Delinquency Prevention. *First Comprehensive Plan for Federal Juvenile Delinquency Programs*. U.S. Department of Justice (1976).

O’Leary, Jane. Interview with author, July 2017.

Pettibone, John et al. *Services to Children in Juvenile Courts: The Judicial-Executive Controversy*. National Institute for Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (1981).

“Playwright Mentoring Project.” *Barrington Stage Company*. Accessed June 2017. <https://barringtonstageco.org/education-bsc/playwright-mentoring-project/>

“RAISE Program Information.” *Clark Art Institute*. Accessed June 2017. <http://archive.clarkart.edu/PDF/raise-program-information.pdf>

“Shakespeare in the Courts.” *Shakespeare and Company*. Accessed June 2017. <http://www.shakespeare.org/education/shakespeare-in-the-courts>

Shepherd, Jack and Dale Rothenberger. *Police-Juvenile Diversion: An Alternative to Prosecution*. Michigan Department of State Police (1980).

Shireman, Charles and Frederic Reamer. *Rehabilitating Juvenile Justice*. New York: Columbia University Press (1989).

“State-by-State Data.” *The Sentencing Project*. Accessed August 2017. <http://www.sentencingproject.org/the-facts/#rankings?dataset-option=JCR>

Stern, Ken. “Why the Rich Don't Give to Charity.” April 2013. Accessed July 2017. <https://www.theatlantic.com/magazine/archive/2013/04/why-the-rich-dont-give/309254/>

Tulgan-Ostheimer, Ronna. Interview with author, July 2017.

Whitlock, Janis. “Understanding Youth Development Principles and Practices.” *Research Facts and Findings, ACT for Youth Upstate Center for Excellence*. http://www.actforyouth.net/resources/rf/rf_understandyd_0904.pdf

Zimring, Franklin. *American Juvenile Justice*. Oxford: Oxford University Press (2005).