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PLACING OUR WAGER ON EQUINE ASSISTED THERAPY FOR KIDS: UTILIZING KENTUCKY’S SB 200 REINVESTMENT FUNDS ON PROGRAMS THAT WORK

Amanda Mullins Bear, J.D.*

INTRODUCTION

Kentucky is known throughout the country as the “Horse Capital of the World,” with revenue from horse racing continuing to skyrocket.¹ According to the Kentucky Thoroughbred Association, the equine industry produces billions of dollars in “direct, indirect, and induced economic activity,” with a total of 60,494 jobs in Kentucky alone.² Despite a bounty of horses and horse lovers, the Commonwealth fails to capitalize on this tremendous asset in a way that benefits children and horses alike through the use of equine-assisted therapies. These programs address behavioral problems that place young people at risk of delinquent behavior, as well as the chance to develop the skills necessary to stay out of the criminal justice system, as a juvenile and beyond.³

In 2014, Kentucky passed a juvenile justice bill, commonly referred to as “SB 200,” overhauling the juvenile justice system for the first time since the legislature enacted the Kentucky Juvenile Code in 1986.⁴ Broadly, SB 200 restricted the commitment of lower level offenders, placed limits on how long kids could be placed out of home, and emphasized the need for evidence-based treatment programs.⁵ Another major component of SB 200 was the fiscal

* Managing Attorney, Children’s Law Center; acknowledgment to Meghan Taylor, MSW Practicum Student, University of Kentucky School of Social Work.

¹ See generally, *Economic Impact of the Horse Industry in Kentucky*, KY. THOROUGHBRED ASS’N, <https://www.kentuckybred.org/kentucky-equine-industry-impact/> [<https://perma.cc/9AC4-8YE8>] (discussing the equine industry’s economic impact on Kentucky).

² *Id.*

³ See Yvette DeLaGuardia, *Let’s Horse Around: How Utilizing Equine and Horsemanship Activities Furthers the Goals of the Juvenile Detentions Alternative*, 6 KY. J. EQUINE, AGRIC. & NAT. RESOURCES L. 121, 128–132(2014).

⁴ See 2014 Ky. Acts. 132.

⁵ *Id.*

incentive program which allows communities to reinvest savings from decreasing incarceration rates in favor of community-based programs to improve outcomes for children and families.⁶ The aims of SB 200 to reduce commitment and out of home placement have largely been successful.⁷ Unfortunately, even with the funds from the fiscal incentive program, the goal of expanding and strengthening community-based programs has not yet been realized—leaving caseworkers, judges, and communities ill-equipped to address problem behavior in an impactful way.

This Comment will highlight one such community-based program that shows great promise for at-risk youth. Part I explores juvenile detention facilities and adolescent brain development in the context of developing appropriate treatment models for youth. In Part II, the history of Senate Bill 200 and the Fiscal Incentive Program are discussed in order to contextualize the goals of the legislature and pathways to move forward. Part III provides an overview of equine therapy in general, highlights one successful Kentucky equine therapy program, and explores the difference between equine therapy and traditional outpatient treatment. This Comment concludes with a recommendation that Kentucky continue “trotting” down the path of reform by wisely reinvesting funds to bring new and innovative programs to our youth within the communities where they live.

I. DEFICIENCIES IN JUVENILE DETENTION CENTERS: INCARCERATING THE TEENAGE BRAIN

Modern juvenile justice systems developed in order to recognize the unique treatment developing children need when it comes to the court system.⁸ With an emphasis on rehabilitative efforts over punitive efforts, the juvenile justice system accounts for

⁶ *Id.*

⁷ *See Kentucky’s Senate Bill 200: Comprehensive Reform Implementation Success*, CRIME & JUST. INST. http://www.crj.org/assets/2017/08/KY_SB200_Infographic_FINAL.pdf [<https://perma.cc/3EE3-3QVT>].

⁸ *See* DeLaGuardia, *supra* note 3, at 121.

the malleable nature of children and their unique ability to change.⁹ However; today, many juvenile offenders are victims of a system focused on the overuse of secure detention and confinement.¹⁰

Today, all fifty states have enacted juvenile codes in order to focus on the treatment and rehabilitation of juvenile offenders, however, there is still an overuse of detention and confinement within the juvenile justice system.¹¹ Although detention and commitment numbers have dropped significantly since the implementation of SB 200,¹² juvenile detention facilities still lack proper mental health and educational services, making it increasingly hard for youth to cope with and develop appropriately in order to re-enter society smoothly.¹³

In February 2017, the Kentucky Department of Juvenile Justice (“KY DJJ”) contracted with the Center for Children’s Law and Policy (“CCLP”) to evaluate the conditions of confinement at three of Kentucky’s regional juvenile detention centers.¹⁴ The report identified nine “General Areas of Concern,” including a lack of mental health services, overuse of room confinement and other forms of punitive behavior management, and lack of special education services for youth with disabilities.¹⁵ That same year, the KY DJJ created an “Executive Steering Committee, [a] Multidisciplinary Strategic Improvement Project Committee, and additional subcommittees” who were with generating and overseeing project initiatives.¹⁶ Three years later, there has been no discernable effort to remedy these concerns or implement the recommendations of the report.

As research has solidly proven and the Supreme Court of the United States (“SCOTUS”) has consistently reaffirmed, youth under the age of twenty-five are at a pivotal point in their lives

⁹ *Id.*

¹⁰ *Id.* at 122.

¹¹ *Id.*

¹² CRIME & JUST. INST., *supra* note 7.

¹³ *Id.*

¹⁴ CTR. FOR CHILD. L. & POL’Y, KY. DEP’T OF JUV. JUST. CONDITIONS OF CONFINEMENT ASSESSMENT, SUMMARY OF KEY FINDINGS AND RECOMMENDATIONS 1 (2017).

¹⁵ *Id.* at 3–7.

¹⁶ COMMONWEALTH OF KY. DEP’T OF JUV. JUST., ANNUAL REPORT 2018 10 (2018), <https://djj.ky.gov/Annual%20Reports/Annual%20Report%202018.pdf> [<https://perma.cc/WNG7-3ZBF>].

regarding brain development and one's resulting behavior.¹⁷ Specifically, in *Roper v. Simmons* and its progeny, SCOTUS identified three reasons, rooted in brain science, that kids should be treated differently in sentencing options: (1) children are immature, and therefore often act recklessly or impulsively; (2) children are vulnerable to peer pressure and lack of control over their environment; and (3) a child's character is not as fixed as an adult's character.¹⁸

In addition to biological limitations faced by every child, system-involved youth experience greater risk-factors that undermine a child's well-being, including "poor family functioning and parenting, violence, family poverty, toxic levels of stress, and child abuse."¹⁹ Youth in juvenile detention facilities have been found to have rates of traumatic histories that are two times higher than youth in the general population.²⁰ "[A]pproximately 90% of the detained youth reported a history with at least one traumatic event."²¹ Not only are youth in detention facilities more likely to have experienced traumatic events, but they disproportionately experience higher rates of mental illness, with fifty to seventy percent of youth within the juvenile justice system having a potential mental health diagnosis.²²

These factors are important when considering the implications of sentencing for youth. If ignored, some implications of sentencing—particularly the exacerbation of mental health illnesses—can make reintegration into society and continued rehabilitation increasingly difficult.²³ Mental health services in

¹⁷ See Alex R. Piquero, *Youth Matters: The Meaning of Miller For Theory, Research, and Policy Regarding Developmental/Life-Course Criminology*, 39 NEW ENG. J. CRIM. & CIV. CONFINEMENT 347, 347–48 (2013).

¹⁸ *Roper v. Simmons*, 543 U.S. 551, 569–70 (2005); *Graham v. Florida*, 560 U.S. 48, 68 (2010); *Miller v. Alabama*, 567 U.S. 460, 490 (2012).

¹⁹ Kristin Moore & Alysha Ramirez, *Adverse Childhood Experiences and Adolescent Well-Being: Do Protective Factors Really Matter?*, 9 CHILD INDICATORS RES. 299, 301 (2016).

²⁰ Yoder, et al., *Perceptions of Recidivism Among Incarcerated Youth: The Relationship Between Exposure to Childhood Trauma, Mental Health Status, and the Protective Effect of Mental Health Services in Juvenile Justice Settings*, 18 J. YOUTH DEV. 250, 251 (2017).

²¹ *Id.*

²² *Id.*

²³ *Id.*

juvenile detention facilities are inconsistent and minute, posing a question as to whether confinement is truly the best option for the majority of youth in the juvenile system.²⁴ Because of this, community-based programs have been discussed as a means to better address the specific needs of developing youth within the justice system.²⁵ Equine Assisted Therapy programs have seen an increase of research as just such an alternative to traditional detention.²⁶

II. HISTORY OF SB 200 AND THE FISCAL INCENTIVE PROGRAM

Nationally, Kentucky has been in the forefront of juvenile justice reform. “[I]n 2014[,] based on recommendations from a bipartisan, interbranch task force,” Kentucky adopted comprehensive legislation to overhaul the juvenile justice system.²⁷ Of primary concern to the Task Force on the Unified Juvenile Code was the fact that a majority of youth in out-of-home placements were low-level offenders but cost the state about \$6 million in the fiscal year 2012, at a rate of \$87,000 per year, per bed.²⁸ In addition to limiting out-of-home placement and requiring the use of evidence-based programs, SB 200 created a Fiscal Incentive Program in order to reinvest the money saved from decreased incarceration towards implementing and expanding community-based treatment alternatives.²⁹

The incentive fund was a crucial component of SB 200.³⁰ A new section of the Kentucky Revised Statute passed with the

²⁴ Yael Cannon, *There's No Place Like Home: Realizing The Vision of Community-Based Mental Health Treatment For Children*, 61 DEPAUL L. REV. 1049, 1056 (2012).

²⁵ *Id.* at 1058; see also DeLaGuardia, *supra* note 3, at 121.

²⁶ See, e.g., DeLaGuardia, *supra* note 3; Azmaira H. Maker, *Equine Assisted Therapy: A Unique and Effective Intervention*, PSYCHOLOGY TODAY (Mar. 23, 2019), <https://www.psychologytoday.com/us/blog/helping-kids-cope/201903/equine-assisted-therapy-unique-and-effective-intervention> [<https://perma.cc/N9NG-VC92>]; Tiago Mendonça et al., *The Impact of Equine-Assisted Therapy on Equine Behavioral and Physiological Responses*, Multidisciplinary Digital Pub. Inst., July 2019, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6681086/> [<https://perma.cc/3L3J-3QZQ>].

²⁷ THE PEW CHARITABLE TRUSTS, KENTUCKY'S 2014 JUVENILE JUSTICE REFORM 1 (2014), <https://www.pewtrusts.org/-/media/assets/2014/07/psppkyjuvenilejusticereformbriefjuly2014.pdf> [<https://perma.cc/FL9X-26ZJ>].

²⁸ *Id.* at 2.

²⁹ *Id.* at 1, 8.

³⁰ See *id.*; see also 2014 Ky. Acts. 132.

intent to “maintain public safety and achieve savings through the use of evidence-based treatment programs and practices at the local level and to reinvest a portion of the savings achieved into community-based programs and services.”³¹ This Fiscal Incentive Program fund allows judicial districts to apply for funding through the state in amounts between \$10,000 and \$200,000 to go toward family and community reintegration and prevention services, restorative justice programs, in-home and wraparound services, community work projects, training programs for job skills and basic life skills, educational support and mentoring and apprenticeship programs.³² The statute also provides that renewal of a grant awards will only be considered for those districts who demonstrate a 20 percent reduction in detention admissions, public offense commitments, or both.³³

The first round of grants were awarded in 2018, therefore there is not data available on the rates of reduction of confinement or on the effectiveness of the programs.³⁴ Anecdotally, there is still a tremendous deficit in the types and availability of community-based treatment alternatives throughout Kentucky. This is particularly true for status offenders and low-level public offenders, where preventative programs and interventions are crucial in deterring kids from sinking deeper into the system.³⁵

III. EQUINE THERAPY AS A VIABLE COMMUNITY-BASED ALTERNATIVE

A. *Overview of the Equine Assisted Therapy Model*

Long before SB 200, the Juvenile Detention Alternative Initiative (“JDAI”) was formulated in 1992 in order to re-focus

³¹ KY. REV. STAT. ANN. § 15A.062(1) (LexisNexis 2019).

³² KY. JUST. & PUB. SAFETY CABINET GRANTS MGMT. BRANCH, JUVENILE JUSTICE FISCAL INCENTIVE PROGRAM (JJFIP), PROGRAM & FINANCIAL GUIDELINES AND INSTRUCTIONS 3–5 (2017).

³³ KY. REV. STAT. ANN. § 15A.062(4)(d)(1)(a) (LexisNexis 2019).

³⁴ KY. JUST. & PUB. SAFETY CABINET, *Kentucky Justice Cabinet awards \$900,000 in grants for alternative programs to supervise youth offenders*, KYFORWARD (Jan. 12, 2018), <https://www.kyforward.com/kentucky-justice-cabinet-awards-900000-grants-alternative-programs-supervise-youth-offenders/> [https://perma.cc/HBZ4-APE9].

³⁵ *See id.* (stating that the grants were needed to increase community-based services).

juvenile justice efforts toward rehabilitation again.³⁶ Two of JDAI's primary objectives included reducing reliance on secure confinement and stimulating overall juvenile justice reform.³⁷ Many detention alternatives within the juvenile justice system attempt to steer away from reliance on secure confinement, including home confinement, electronic monitoring, and community-based programs/therapy.³⁸ One detention alternative that is gaining attention more recently is the use of equine therapy.

As interest for equine therapy as an alternative to juvenile detention has become of increased interest, scientific evidence is starting to back up the assertion that youth can benefit from services provided in these programs.³⁹ Equine therapy representatives believe that working with horses provides youth a unique opportunity to build important relationship skills, trust, empathy, and patience, which all play a role in coping with life stressors and traumatic experiences.⁴⁰ Equine therapy specialists have found that students who have been incapable or unwilling to form positive and healthy relationships in their lives are often able to do so with horses as a part of an equine therapy program.⁴¹ Psychosocial effects in youth involved in these programs include socialization and companionship, self-esteem enhancement, improvement in concentration, increased self-confidence, reduction in emotional blunting, increased interest in learning, motivation, and increased self-discipline.⁴² The Kentucky Department of Juvenile Justice already recognizes the benefits of animal therapy by their collaboration with the "Greyhound Pets of America/Louisville" project at Morehead Youth Development Center.⁴³

Developing these skills is vital to childhood well-being. Equine therapy programs act as protective factors, providing youth with

³⁶ DeLaGuardia, *supra* note 3, at 123.

³⁷ *Id.* at 123, 127.

³⁸ *Id.* at 127–28.

³⁹ *See id.* at 128–29.

⁴⁰ *Id.* at 129.

⁴¹ *Id.*

⁴² *See* Brittany L. Adams-Pope & Nicole L. P. Stedman, *Horses and At-Risk Youth: An Equine Facilitated Learning Program Focusing on Authentic Leadership Skill Development*, 9 JOURNAL OF YOUTH DEVELOPMENT 89 (2014).

⁴³ *See Morehead Foster Program*, GREYHOUND PETS OF AMERICA—LOUISVILLE, <http://gpalouisville.org/about-us/morehead-program/> [<https://perma.cc/7V4N-A8TR>].

necessary life-skills needed to overcome the risk-factors associated with juvenile detention and delinquency.⁴⁴ Licensed therapists support the use of equine therapy programs in order to address histories of trauma and develop skills necessary to be a successful in the community.⁴⁵ These programs also help prevent overcrowding in juvenile detention facilities, steering the juvenile system away from its reliance on confinement, as well as reducing recidivism rates among youth because of the program's ability to provide adequate rehabilitative treatment.⁴⁶

B. Highlights of a Successful Equine Therapy Program in Kentucky

New Day Ranch, a 501(c)(3) non-profit organization located in Verona, Kentucky,⁴⁷ specializes in equine-assisted therapies along with alternative and traditional therapeutic programs for groups and individuals of all ages and abilities.⁴⁸ Beth Long founded the ranch in 2005 and helps numerous youth develop coping mechanisms in response to experienced trauma.⁴⁹ According to Long, New Day Ranch is able to serve youth identified as at-risk.⁵⁰ New Day Ranch is approached by school to work with youth in situations where particular experiences have challenged a child's ability to behave well in a classroom (i.e., anger disorders, self-esteem, abuse).⁵¹ Long has developed a twelve-week program for youth to attend during school hours, in which they interact with horses in order to target specific problem behaviors, "each horse representing a new challenge."⁵² Long identifies significant improvement in coping skills, the development of trust, increased

⁴⁴ See Adams-Pope & Stedman, *supra* note 42.

⁴⁵ DeLaGuardia, *supra* note 3, at. 128–129.

⁴⁶ *Id.* at 137.

⁴⁷ *Support*, NEW DAY RANCH, <https://newdayranch.org/support-2> [<https://perma.cc/Y5R8-YKRW>].

⁴⁸ See *Therapeutic Programs*, NEW DAY RANCH, <https://newdayranch.org/therapeutic-programs> [<https://perma.cc/Y5R8-YKRW>].

⁴⁹ *Our Team*, NEW DAY RANCH, <https://newdayranch.org/our-team> [<https://perma.cc/Y5R8-YKRW>].

⁵⁰ Interview by Meghan Taylor with Beth Long, Founder, New Day Ranch, in Verona, Ky. (2019).

⁵¹ *Id.*

⁵² *Id.*

self-esteem, and impulse control.⁵³ Long recalls one particular instance where:

...one young man, after two weeks, had more self-awareness to where he developed the conscious choice to change his behavior because of his ability to recognize how his behavior affects others. All because of his interaction with horses and how they reacted to him. When his program was up, he even came back and became a volunteer to help other children in the same way.⁵⁴

Long believes that being on a farm provides a conducive environment for children to reflect and focus on their emotions in order to face trauma that they may have experienced in the past.⁵⁵ In a program like this, children are able to feel love and dependability, giving them power that they may have never felt before.

New Day Ranch's equine therapy also works in tandem with psychologists to provide therapeutic attention that enables youth to address trauma-induced behavioral problems and better develop lasting behavioral changes.⁵⁶ Dr. Jean Deters, Psy.D., a licensed psychologist who practices in Kentucky, Indiana, and Ohio works closely with children and families who find themselves in the court system.⁵⁷ Dr. Deters is a forensic evaluator and consultant, who also dedicates part of her practice to equine-facilitated interventions.⁵⁸ She has developed several equine-facilitated programs and retreats to focus on anxiety, grief and loss, family dysfunction, parent-child reunification, living with cancer, dyslexia, relatives raising children, social skills training, and more.⁵⁹ She works hand-in-hand with New Day Ranch and their

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ See NEW DAY RANCH, *supra* note 48.

⁵⁷ Dr. Jean Deters, *Equine Facilitated Therapy*, JEAN DETERS PYS.D., PLLC., <http://courtpsych.com/practice-areas/equine-facilitated-therapy/> [<https://perma.cc/GN4X-LV77>].

⁵⁸ See *generally id.* (The main menu establishes the various components of the practice).

⁵⁹ See *id.*

equine specialist.⁶⁰ Currently, Dr. Deters and New Day Ranch are developing programs addressing suicide prevention in first responders and therapeutic reunification programs for the most entrenched, resistant families.⁶¹

C. Equine Therapy Versus Traditional Outpatient Treatment Options.

Dr. Deters has witnessed the impact that equine assisted therapies can have over traditional outpatient counseling commonly used as alternative sentencing strategies, with research to support the same notions.⁶² Mental health therapy with horses assists participants in unique and sometimes superior ways.⁶³ It “provides a safe and secure environment that nurtures inner healing and encourages optimal growth and development.”⁶⁴ Equine therapy participants of all ages and backgrounds are able to become stronger at “communication, problem solving, self-confidence, conflict resolution, and relationships.”⁶⁵ Dr. Deters has found that traditional outpatient counseling is not for everyone and that, for some, it is a very threatening or intimidating process.⁶⁶ Through her experience, she has come to realize that teens are particularly disinclined to trust the traditional psychotherapy process, and have difficulty using the clinical setting as a therapeutic tool because they feel frightened, angry, or have other negative responses to outpatient treatment.⁶⁷ She recalls:

...Six years ago, I was the therapist for a very angry and traumatized adolescent. We were getting nowhere. While she had witnessed the murder and suicide of family members, she was very resistant to

⁶⁰ See NEW DAY RANCH, *supra* note 49.

⁶¹ Interview by Meghan Taylor with Dr. Jean Deters, Clinical Psychologist, in Lakeside Park, Ky. (2019).

⁶² *Id.*

⁶³ See Kay Sudekum Trotter, et al., *A Comparative Study of the Efficacy of Group Equine Assisted Counseling with At-Risk Children and Adolescents*, 3 J. CREATIVITY IN MENTAL HEALTH 254, 255 (2008).

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Deters, *supra* note 57.

⁶⁷ *Id.*

talk about it. I had tried everything in my clinical toolbox, so I decided to visit a new program which used horses to heal grief. That was six years ago and my love of using equine-facilitated psychotherapy has continued to grow. Horses are animals of prey. They understand the fight-flight-freeze mechanisms that we too have in order to survive. They are also herd animals. Like us, they yearn for a sense of belonging and purposefulness. Like many teens who have come through the juvenile justice or family court system, horses are not initially trusting. They are accepting but cautious. They want to please but need direction and to be taught ways to do so. They are devoted and loyal but await an invitation into the relationship before letting their guard down.⁶⁸

Horses provide a unique opportunity for juvenile offenders to develop a therapeutic relationship with animals. Clients are able to “test and improve their ability to control themselves and their surroundings” when working alongside horses.⁶⁹ “Having a 1400-pound horse respond to your command in a nonthreatening manner provides the ultimate sense of validation and of power and control.”⁷⁰ Dr. Deter sees the horse-client relationship as one of a kind:

Horses also give us chances to love, lots of chances. I have worked with many, many children, teens, and adults who find their relationship with a horse to be such a pure connection that it brings them to tears. In their relationship with a horse, they find no expectations and no demands. They are not scared of being exploited or rejected. It is a relationship that exists purely in the moment for the sake of the relationship itself. As a psychologist, my hope is that patients who otherwise could not access their feelings and make connections are able to have an

⁶⁸ *Id.*

⁶⁹ Trotter et al., *supra* note 63 at 256.

⁷⁰ *Id.* at 255.

emotional relationship with this majestic animal. Then, as the circle of trust begins to open, they slowly let me or someone else into their world.⁷¹

CONCLUSION

Equine Assisted Therapy is certainly not the exclusive treatment option for Kentucky children and will undoubtedly meet its fair share of resistance. Changing the mindset of those in power to accept nontraditional therapy is not an easy feat. Many of these programs are costly if not funded through grants⁷² and have limited availability in urban areas. Additionally, it will be important to avoid for-profit organizations in favor of non-profit organizations, as well as programs that are evidence-based with a demonstrated track record. Skills developed in these types of programs would allow youth to become more resilient and target trauma that places youth at an increased risk for delinquency and re-offending.⁷³ With the intention of juvenile justice systems to focus on the malleable nature of youth and to provide a rehabilitative approach to adjudication,⁷⁴ equine-assisted therapy programs should be at the forefront of consideration for alternative sentencing options and reinvestment decisions.

⁷¹ Deters, *supra* note 57.

⁷² See Lisa Miller, *How to Afford Animal Therapy*, THE SIMPLE DOLLAR (Dec. 9, 2019), <https://www.thesimpledollar.com/financial-wellness/how-to-afford-animal-therapy/> [<https://perma.cc/32M3-9RCN>].

⁷³ See Adams-Pope & Stedman, *supra* note 42.

⁷⁴ DeLaGuardia, *supra* note 3, at 121; *see also* Roper, 543 U.S. at 569–70.