

# CONTRIBUTIONS BY & ABOUT YOUTH

Each Issue of Law & Disorder features contributions by youth who are incarcerated. We hope you enjoy the personal story of a young woman in a prison for youth in the United States of America. *I am Madison* is a young girl's personal account of the devastating impact drugs have had on three generations of females in her family. In the interest of representing Madison's individual voice, her contribution has been included with minimal revisions from the journal's executive board.

Madison's story is somber, indeed. And yet, her feisty spirit and optimism shine through as she closes her story by saying "what I did does not define me." This young woman loves books and uses her skills with a pen to share her thoughts in words and pictures. More than anything, however, her willingness to share her story to benefit others is inspirational.

Madison is not the only young woman trapped in a cycle of drug use and juvenile delinquency. Every year about 1.4 million youths are arrested, with approximately 250,000 of those arrests ending in detention. More than 90% of youths who are detained indicate using drugs. The contribution written by Gladis Hernández Márquez and a group of scholars from Mexico and Costa Rica describes the successes achieved by a juvenile detention center in Oaxaca, Mexico called Dirección Especializada de Medidas para Adolescentes (DEMA). The contribution "Best Practices with Youth Engaged in the Juvenile Justice System in Oaxaca, Mexico" marks the first time *Law & Disorder* has featured a publication about the duties of correctional personnel who work with incarcerated youths. It is published in both English and Spanish.

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# I AM MADISON



I am seventeen years old and incarcerated. My stay here has been dominated by books like *Great Expectations* by Charles Dickens and Ramen noodles. I have also been reading and writing. I feel motivated enough to write this, so that's good. You are going to read the rants of a teenage girl. Why am I writing this? Well, I think my story can help people see how addiction affects everyone in the family. And maybe someone can relate to it. Now, what is this? Well, it's a summary of my life. I have goals in my life, and with where I'm at, they're on pause. But I also feel ashamed of where I am. How I came to be here is simple. The simple part is my judgment was clouded.

I was born June 15th, 2003 to my mother, Shirley and my father Tyler. I have three half siblings, two sisters and one brother. There's the oldest Dawn, then Melinda, and my only brother Luke. I'm the baby. I started smoking marijuana my second year of kindergarten, so about six years old and Melinda at thirteen. So, our friendship was also built on our love for marijuana and books. My maternal grandma overdosed and was found by my sister Melinda in 2010. Melinda came to live with us (us being me, my mom, and my dad) right after. That only lasted about until she was about seventeen and then she left to live with my current guardian, our aunt Kim. When Melinda did live with us in our small trailer, we shared a room. Not because we had to, but because we kept each other sane in the hectic household that was our home. We shared a bed, computer, and bathroom which, at times, was annoying.

Melinda would help me put together outfits so I would look like a girl and not a little boy. She cooked for us, cleaned, and just hung out with me. We were together every day. We had planned on moving away and starting our dream careers. I was going to be an artist and she was going to be an author. My sister had done her best to shelter me from my parents' drug abuse. There was a time when she wasn't there. And in that time, I had already learned everything about it. I would find needles in drawers in my parents' bedroom or spoons with black residue on them. The reason Melinda became my mom was simple. No matter what I had already seen she wanted to stop me from seeing it again. She wanted better for me.

When it got too bad, my sister took me from my parents. Well, really my parents gave me to her because they knew they couldn't take care of me. We didn't have power, water, or food. With Melinda as my guardian I felt a sense of freedom, relief, and discipline. She was my best friend and my guardian.

I describe my sister as beautiful, caring, and brave. She was tall, thin, and had long brown hair which was normally pulled back in a bun. She had a beautiful voice, and my father always told her she would be famous. She played volleyball and wrote short stories for fun. I looked up to her because of how well she handled everything we had been through. She never complained, she just keeps on going. I look back on the times we spent

together I'm reminded of home.

Melinda and I ended up getting a house with my mom. We stayed with her for about five months. I found her in the basement with two guys making meth. This was the last straw for Melinda. We went to DCS and Melinda got Guardianship of me at eighteen years old. I ended up being put in a facility for placement because DCS decided after three months Melinda wasn't a "fit" Guardian. Melinda hadn't answered the phone and the last time I had talked to her she had gotten in a car accident. Then, for five days, staff wouldn't let me try to call her. On May 14th, 2018, I was taken to my counselor's office for what I thought was a family session. When I walked into the office, I was faced with my crying mother and aunt.

I found out my sister overdosed on May 9th, 2018 on Mother's Day which is also my brother's birthday. I had lost my best friend and the closest thing to a real mother.



On November 25th, 2019

I was arrested for dangerous possession of a firearm, possession of meth, and possession of paraphernalia. I was with my best friend and his girlfriend when we were pulled over. When I got to detention, I knew it was over. I had burned all my bridges.

This time last year I was here. I've realized life is only hard if you make it that way. Yes, you can be handed a shitty ass hand of cards, but you still play to win. No spades or not. You get as many books as you can. I have had feelings of just giving up. I've had feelings of worthlessness. I just remind myself it could always be worse. There's someone out there going through way more than I ever

had. If they can do it, why can't I? I am capable.

If you met me, I'm very loud, bubbly, and I seem to be happy all the time. I don't talk about the things I've been through much because they aren't me. They do not speak for me. They've made me who I am, and I am thankful for that, but they do not define me.

# BEST PRACTICES WITH YOUTH ENGAGED IN THE JUVENILE JUSTICE SYSTEM IN OAXACA, MEXICO

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In Mexico, during the year 2005, with the reform to Article 18 from the United States of Mexico's Political Constitution, the Comprehensive Juvenile Justice System for adolescents was initiated (Suprema Corte de Justicia de la Nación, 2023). After that, in 2008 and 2011, constitutional principles were established based on the Convention of the Rights of the Child regarding the systemic nature of the integrality and fundamental rights needed to promote due process, alternative justice, independence among authorities and confinement only as an ultimate measure (Instituto de Justicia Procesal Penal, 2013).

The *Ley Nacional del Sistema Integral de Justicia Penal para Adolescentes* (LNSIJPA, Spanish for National Law of the Comprehensive System of Criminal Justice for Adolescents) (Diario Oficial de la Federación or DOF, 2016) established that confinement as a measure of liberty deprivation may “only be imposed to adolescents older than 14 years of

age, only on the constitutive facts of the crime that the law established, for a determined timeframe, and for the shortest possible period” (p. 8, translated by CDL). This resolution is important since it is known that deprivation of liberty causes damage and irreversible deterioration in all persons and specially in developing children and adolescents (Azaola, 2015), and therefore other measures within the community setting should be prioritized.

In the National Survey of Adolescents done by the Criminal Justice System (INEGI, 2022), it is mentioned that 56.5% of the youth engaged with the system was executing a sanction that required no incarceration (externalization or assisted liberty), while a 30.2% were serving a sanction in confinement. A relevant piece of data is that 47.4% were between 18 and 22 years of age, which means that a little more than half were under 18 years of age. Regarding their education, the survey presented that 71.7% had elementary education, 58.2% were not

studying prior to being detained, 26% weren't studying because "they had to work", while 23.9% reported that "they didn't like it", "were not interested", or "school wasn't their thing". Likewise, 43.1% referred that they abandoned their home at least once during their lifetime. 64.3% of these adolescents did so when they were between 10 and 15 years of age with an average age of running away from home at 14 years of age.

Main crimes committed by adolescents during 2022 were: robbery (21%), rape (15.4%), illegal carrying of weapons (6.2%), illegal selling of drugs (4.8%) and injuries (4.4%). In the case of women, 14.6% declared their first illegal conduct was illegal carrying of a weapon, while men declared it was robbery (21.8%). In the Southeast region of Mexico (Campeche, Chiapas, Oaxaca, Quintana Roo, Tabasco, Veracruz and Yucatan), the first criminal conduct committed by adolescents recorded by the Comprehensive Juvenile Justice System was related with the following crimes: rape, robbery, homicide, domestic violence and injuries. Regarding the duration of the confinement measures, 48.7% had a sentence of between one and three years and 13.5% had a sentence of less than one year (INEGI, 2022).

In the case of the Oaxaca's Direction of the Execution of Measures for Adolescents (from now on, DEMA), conduct typified as the most common crimes for which they receive adolescents include sexual crimes, homicide, and kidnapping (DEMA, 2023).

In this context, the LNSIIPA (DOF, 2016) established that adolescents' preparation for reinsertion into social and family contexts, with the support of the justice system must be carried through by diverse social-

educational programs in the context of family, society and community to generate skills and competencies that reduce the possibility of recidivism (Article 28), so that reinsertion seeks "the restitution of the full enjoyment of rights and liberties after completing the measures executed with respect for the human rights of the adolescent" (Article 29. Translation by CDL). Due to the social-educational nature of sanctions, LNSIIPA encourages formation directed towards the respect for human rights, the encouragement of positive relationships, and the development of skills and responsibilities (Article 30). For that reason, confinement centers have a significant role in the restitution of the rights and liberties of adolescents engaged with the Comprehensive Juvenile Justice System.

#### **DEMA's Purpose**

Until 2007, DEMA was a Guardianship Council. That means that, starting that year, when the Law of Justice for Adolescents of the State of Oaxaca came into force, the institution had to pivot, and the notion of guardianship was replaced with a vision of the adolescent as subject of rights that experiences confinement as a last resort. This change allowed for many youths to not become incarcerated and for some that were already confined, to be released, significantly diminishing the number of confined youths.

The transition from the Guardianship Council to becoming a Direction of Execution of Measures for Adolescents required training of all personnel since, even though most of them had work experience with adolescents, they needed to become acquainted with the changes brought in by the Law of Justice for Adolescents of the State of Oaxaca (2007).

DEMA's facility is divided

to house feminine and masculine populations (currently, there is only masculine population confined) to offer specialized treatment to adolescents. It counts on the following areas: medicine, pedagogy, criminology, psychology, social work and legal. When the adolescent goes in, the first area they go to is medical: the adolescent's health is a priority, so they are assessed upon admission to the institution, creating a medical record of a detailed physical and mental evaluation to determine their current health state.

After that, the doctor creates a clinical chart and collects the following information: general data, hygiene habits, nutrition (this is sent to the nutritionist in case of specific needs, whether for malnutrition or overweight), vaccination chart, sleep quality, living conditions, family dynamic and relationships, pathological record, beginning of sexual activity, obstetric gynecology for women, if they have children, psychoactive substance consumption, consumption patterns, and a physical assessment to create a diagnosis. If required, general medical attention is offered, including nutrition and odontology. If the adolescent requires more specialized attention, they are channeled to the Civil Hospital or to the Specialties Hospital in the State of Oaxaca.

Regarding their mental health, they are assessed by the psychological area once the adolescents are linked to the criminal justice process. If necessary, they are offered psychiatric attention. Treatments consist mostly in the supply of psychiatric drugs supervised by the medical area and the nursing area keeps record. Most common mental health issues in adolescents are stress and anxiety related to their situation of being locked down. The psychology area offers

adolescents both individual and group sessions, working in collaboration with other institutions such as the Center for Juvenile Integration (CIJ for its acronym in Spanish) to treat substance abuse, and Centers for Primary Attention to Addiction (CAPA for its acronym in Spanish).

The pedagogy area has workshops on music, painting, carpentry, bakery, electricity, electronics, English, and everything related to formal school curriculum with the Open Modality of Public Education from the Oaxaca Highschool and the Center for Basic Education for Adults. Currently, there are no adolescents doing higher education, but they have the possibility of undergraduate education through online modalities.

In the area of criminology, studies and evaluations are developed to identify whether the adolescent understands why a conduct is typified as a crime and they are explained the measures they must complete. This area also develops workshops with families to encourage actions that foster adolescent's reinsertion.

Social work is the area that frames the work with the adolescent within the institution and joins them in their contact with the exterior. Within the internal framework of social work, comprehensive attention to the adolescent is done in contact with their families. When nonexistent, contact with families tries to be reestablished. During the execution of the sanction measure, an individualized diagnosis is developed to identify the adolescent's situation in the contexts of family, social condition, and community. Family characteristics are identified, as well as living conditions, composition, and relationships between members to identify risk factors and protective factors for the adolescent, their family

and their surroundings. This assessment has the goal of designing objectives within the social and family areas according to the deficits identified by the different professionals at the institution, in order to create work plans with the adolescent for as long as the confined measure lasts, and in relation to the crimes committed. On the other hand, parents and guardians are given information about DEMA (norms, activities, facilities, visit regimes and contact information) and they are also informed about the educational processes that their youth will undergo. On the external framework, there is a management of the adolescent's personal documentation to regularize it. Besides, this area coordinates recreational events and presentations of the adolescents' handywork: it does outreach so that organizations from the civil society and religious organizations become engaged with DEMA to offer training and orientation.

The legal area deals with managing DEMA's records of entry, internship, treatment and exit of the adolescent. It offers legal advice to DEMA's authorities regarding the relation to everything regarding adolescents and their processes. Based on what becomes established in the law and the hearings, this area compiles information from all the other areas to create a comprehensive file and generate the trimestral records for public defendants, public ministries and judges regarding the advances and setbacks of the adolescent's individualized plan.

Currently, DEMA's personnel has a team of approximately 80 people that work with 24 adolescents that have either confinement or semi confinement measures. Besides housing youth that committed a crime typified as serious, DEMA has an area of external treatment and follow up to offer attention to

adolescents serving measures that didn't require confinement.

Therefore, the main purpose of DEMA is to accomplish social reintegration for adolescents within the framework of the National Law for the Comprehensive Juvenile Justice System (LNSIJPA, 2016), specifically in Articles 29 and 30, regarding the restitution of the adolescents' human rights and social and family reintegration through programs of social-educational nature in the realms of school, family and work.

### **What is a measure for adolescents?**

A measure for adolescents is defined as a sanction mechanism for acts typified as crimes committed by adolescents that include, according to the LNSIJPA (2016), an individualized plan of activities, where it is proposed:

...the organizing of times and spaces where each adolescent will develop their activities for education, sports, culture, environment protection, physical and mental health, personal activities and activities regarding the improvement of skills for the development of a job, art, industry or profession, according to their age group, in terms of the cautionary measure of preventive confinement imposed by the Jurisdictional Organ (p. 3. Translation by CDL).

It is also mentioned an individualized plan for execution, designed by the administrative authority of executing measures and with which the advances of the adolescent will be evaluated during confinement (p. 3). For the creation of these plans, the individual context, as well as the family and social context of each adolescent is considered, including their interests, abilities and skills.

It is important to point out

that when adolescents enter DEMA, a characteristic trait is that they tend to isolate themselves, so in this first stage is vital to approach this situation in a way that they may become gradually engaged with others through all offered activities. From the beginning, they are encouraged to participate in the different social-educational workshops, being invited first to the crafts' workshop, which is also considered occupational training and is also a space where the adolescent's other interests, skills and capabilities may be identified. With this, an individualized plan for activities can be developed.

### Reentry Axis

The individualized plan of activities considers different reentry axis established by the law: training focused on self (human development courses), sports and culture, health, education, and employment training. According to the experience of the working team, these axes are fundamental to speak of a favorable exiting process. In the case of DEMA, an aspect that has been growing relevance over time is the arts.

DEMA is the only confinement center in Oaxaca, so it houses adolescents from all regions all over the state, which represents a challenge due to Oaxaca's ethnic diversity. Most adolescents don't speak Spanish, which results in difficulties for the communication with the personnel and the other adolescents. This difficulty comes in contrast with the fact that, in this state, art is a significant trait, with recognized muralists and artists renowned for serigraphy and music. This artistic singularity was picked up by DEMA to be used as an identity marker, at the same time that it offers a recreational activity and the possibility of making money through artworks (Rueda Gualdrón, 2019; Ruíz Carrera & Vidal Arbonés, 2015).

José (pseudonyms are used to protect the adolescents' identities) is a teenager from the Juxtlahuaca community that belongs to the Mixtec region of Oaxaca. He arrived without speaking Spanish, he spoke Mixtec and was reluctant to participate in the institution's activities. However, as time went by, he started to study, to speak Spanish and to work on the bakery workshop. Upon exit, he finished secondary studies and focused on making bread and pizza. Upon returning to his community, he built an oven, taught his family how to make pizzas and gained great success with his business because his community is far from any urban center and nothing similar existed. Along with his family, he was able to create this entrepreneurship that, to this day, they keep as the family business.

Ramón is a young man that was under the measure of semi-confinement, who specialized in creating drawings and paintings about the "diablos", an iconic image of Oaxaca's festivities with different meanings regarding bad and evil. Through working on the figure of the devil, Ramón created a signature of his own in his artworks, and was able to express himself through them and make money, given that when the first auction was done to sell the adolescents' work, he created an elephant with the eyes of a demon that was so impactful that it was bought. He has presented his artwork in important public spaces of the city.

### **Favorable exiting processes**

During the COVID-19 pandemic, the center had to restructure its activities. Everything was paused. Facing the pause, personnel organized activities in collaboration with institutions devoted to art (drawing, painting, and engraving), and all adolescents were involved with painting and drawing, developing important skills, and expressing themselves in a diversity of ways. A “wind music band” was created, with traditional Oaxacan music, including musical ensembles executed with wind instruments, mostly metals and percussion. The adolescents swiftly joined this initiative, and it was noticed that several of them had talent to play an instrument, generating a collective artistic process. This impacted their self-perception from seeing themselves as youth in conflict with the law to perceiving themselves as people with diverse skills and sensibilities.

The different artistic expressions promoted at the center, have been a key component for the development of skills and to motivate youth to study, receive training, and develop a discipline for such activity, impacting both school and employment training. This is DEMA’s potential because art in itself could not open possibilities for reinsertion for this youth. Art works as a platform to encourage their talents and skills on both the personal and the collective levels, that, when articulated with other school and employment activities, offer possibilities for them to face life when they are released.

When the date approaches for the minor’s release upon completing their sentence and legal measures, they are invited to participate voluntarily in the program *Acompañando* (Spanish for joining). This program

has a duration of three to six months. DEMA offers adolescents counseling for employment, support through job interviews, and search for employment options according to their needs. On the other hand, it offers support for their process of becoming reinserted in society and envisioning a life plan. The processes established by DEMA are a set of actions that allow adolescents to focus their motivation and discipline to modify their behavior in any space.

In this order of ideas, it is relevant to mention that the center maximizes all resources, recycles objects and looks for funding through donations. It promotes workshops of gardening and farming vegetables, electricity, electronics, and computing; it offers tutoring in math, it promotes crafts with different materials; it has developed a serigraphy workshop named “Siqueiros” [Referring to David Alfaro Siqueiros, considered one of the three great representatives of Mexican muralism, along with Diego Rivera and José Clemente Orozco] of drawing and painting, carpentry, bakery and music band. It promotes at all times that youth keep contact with the exterior.

As a reinserting and support project for youth in conflict with the law, DEMA has found in art its connection to education and employment training, a platform that offers youth a different route to exit the confinement facility with a characteristic trait: that the adolescents are the ones defining their own path through the options offered by the center. It is on that trait that lies its success (Acevedo- Rodríguez, 2020; Vázquez Martínez & Bazán Mayagoitia, 2019).

However, there are still challenges and obstacles to be faced, for example:

- There’s a need to continue to

consolidate the purpose of forming adolescents within the center, and to dismantle the idea of mere punishment for the criminal behavior to open way for a broadened vision of reinsertion that includes training and education in the larger sense, expanding their skills for life, facing responsibilities, and positioning them as people with talents (Carrera Celis, 2013).

- To identify and generate partnerships with more businesses and institutions interested in becoming employment spaces for adolescents that are soon to exit. This has been initiated with the program *Uniendo esfuerzos* (Spanish for *Joining Efforts*) by generating relations with local businesses, but more employment spaces are needed.
- On the institutional and government level, the allocation of a budget for the centers of cautionary measures for adolescents is needed, so that it becomes possible to support them on the long term on their artistic, educational and employment projects.
- It is necessary to reinforce the connection between the youth and their families and to encourage the creation of support networks. In Oaxaca, there are cases where the community refuses to receive the adolescent and rejects them for being accused of an act typified as a crime. This situation places the adolescent in extreme vulnerability, so it is needed to seek diverse support networks and to reinforce the work with their families, who are also affected by this situation of rejection (Rubio Monsalve, 2022).
- Finally, on the social level, it is still necessary to dismantle stigmas that, on many occasions, are the first obstacles that the youth face upon exiting the

confinement facility, denying them the possibility to reorient their lives (Di Napoli, 2016). It is society's responsibility to offer possibilities for reinsertion to those who, from early childhood, have been facing systemic disadvantages.

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# BUENAS PRÁCTICAS CON JÓVENES IMPLICADOS EN EL SISTEMA DE JUSTICIA EN OAXACA, MÉXICO

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**E**n México, en el año 2005, con la reforma al artículo 18 de la Constitución Política de los Estados Unidos Mexicanos, se instauró el Sistema Integral de Justicia Penal para Adolescentes (Suprema Corte de Justicia de la Nación, 2023). Posteriormente, en 2008 y en 2011, se establecieron los principios constitucionales con base en la Convención sobre los Derechos del Niño, que refieren al carácter sistémico, de integralidad y desde los derechos fundamentales para promover el debido proceso, la justicia alternativa, la independencia entre las autoridades y el internamiento como medida extrema (Instituto de Justicia Procesal Penal, 2013).

La Ley Nacional del Sistema Integral de Justicia Penal para Adolescentes (LNSIIPA, por sus siglas en español) (Diario Oficial de la Federación, 2016) establece que el internamiento como medida de privación de la libertad “solo se podrá imponer a personas adolescentes mayores de catorce años, por los

hechos constitutivos de delito que la ley señala, por un tiempo determinado y la duración más breve que proceda” (p. 8). Esta resolución es importante porque sabemos que la privación de la libertad en todas las personas y, especialmente en niñas, niños y adolescentes, provoca daños y deterioros irreversibles en su desarrollo (Azaola, 2015), por ello, deben privilegiarse otro tipo de medidas en el entorno comunitario.

En la Encuesta Nacional de Adolescentes en el Sistema de Justicia Penal (INEGI, 2022), se menciona que el 56.5% de los jóvenes involucrados en este sistema cumplía una medida de sanción no privativa de la libertad (externación o libertad asistida), mientras que el 30.2% cumplía una medida de sanción en internamiento. Un dato relevante es que el 47.4% tenía entre 18 y 22 años, lo que significa que un poco más de la mitad eran menores de 18 años. Respecto a la escolaridad, la encuesta refiere que el 71.7%, tenía la educación básica, el 58.2% no se encontraba estudiando antes de su detención, el 26% no lo hacía porque

“tenían que trabajar”, mientras que, al 23.9% “porque no le gustaba”, “no le interesaba” o “no se le daba la escuela”. Asimismo, el 43.1%, refirió que abandonó su hogar por lo menos una vez en su vida. De estos adolescentes, el 64.3% lo hicieron cuando tenían entre 10 y 15 años y el promedio de edad de la salida del hogar fue de 14 años.

Los principales delitos que cometieron las personas adolescentes durante 2022 fueron: robo (21%), violación sexual (15.4%), portación ilegal de armas (6.2%), comercio ilegal de drogas (4.8%) y lesiones (4.4%). En el caso de las mujeres, el 14.6% declaró que su primera conducta delictiva cometida fue la portación ilegal de armas, mientras que los hombres declararon que fue el robo (21.8%). En la región sureste de México (Campeche, Chiapas, Oaxaca, Quintana Roo, Tabasco, Veracruz y Yucatán), la primera conducta delictiva cometida por la población de adolescentes en el Sistema Integral de Justicia Penal estuvo relacionada con los siguientes delitos: la violación sexual, el robo, homicidio doloso, violencia familiar y lesiones. Sobre la duración de las medidas de internamiento, al 48.7% les impusieron una sanción de entre uno y tres años y al 13.5%, menos de un año (INEGI, 2022).

Para el caso de la Dirección Especializada de Medidas para Adolescentes (en adelante DEMA) en Oaxaca, los actos tipificados como delitos más comunes por los que reciben a los adolescentes son delitos sexuales, homicidio y secuestro (DEMA, 2023).

En este contexto, la LNSIIPA (DOF, 2016) establece que, la reintegración social y familiar de las personas adolescentes en el sistema de justicia penal debe llevarse a cabo a través de diversos programas socioeducativos en los ámbitos

familiar, social y comunitario para generar capacidades y competencias que les permitan reducir la posibilidad de su reincidencia (artículo 28), así, la reinserción busca “la restitución del pleno ejercicio de los derechos y libertades tras el cumplimiento de las medidas ejecutadas con respeto a los derechos humanos de la persona adolescente” (artículo 29). Al ser las medidas de sanción de carácter socioeducativo, se promueve que la formación de las y los adolescentes se encamine hacia el respeto a los derechos humanos, el fomento de vínculos positivos, así como el desarrollo de sus capacidades y de la responsabilidad (artículo 30). Por ello, los centros de internamiento tienen un papel muy importante en la restitución de los derechos y libertades de la persona adolescente implicada en el sistema integral de justicia penal.

### **Propósito de la DEMA**

Hasta 2007, la DEMA fue un Consejo de Tutela. Es decir, a partir de este año, cuando entró en vigor la Ley de Justicia para Adolescentes del Estado de Oaxaca, esta institución dio un giro importante y se desplazó la noción de tutela por una visión en la que el/la adolescente se concibe como sujeta de derechos y la medida privativa de libertad como última opción. Este cambio permitió que muchos jóvenes no llegaran al internamiento y que, quienes estaban ahí, salieran en libertad, logrando disminuir significativamente el número de jóvenes en centros de internamiento.

La transición del Consejo de Tutela a la Dirección de Ejecución de Medidas para Adolescentes implicó que el personal se capacitara porque, aunque la mayoría ya contaba con la experiencia de trabajo con adolescentes, debían actualizarse en las adecuaciones

que marcaba la Ley de Justicia para Adolescentes del Estado de Oaxaca (2007).

Para el tratamiento especializado, las áreas que conforman la DEMA son: medicina, pedagogía, criminología, psicología, trabajo social y el área jurídica. Cuando la persona adolescente ingresa, la primera área que conoce es la médica, brindándole atención en medicina general, nutrición y odontología. La salud del adolescente es prioridad, por ello se evalúa al momento de su admisión a la institución. El médico elabora el historial clínico y recaba la siguiente información: datos generales, hábitos de higiene, alimentación (se le envía a nutrición en caso de ser necesario, por desnutrición o sobrepeso), esquema de vacunación, su calidad de sueño, su vivienda, relaciones y dinámica familiar, antecedentes patológicos, el inicio de su vida sexual, información sobre aspectos gineco obstétricos en el caso de las mujeres, si tienen hijos, consumo de sustancias psicoactivas, patrones de consumo, se les realiza una exploración física y, por último, se emite el diagnóstico. Si el adolescente requiere la atención de otros especialistas, se les canaliza al Hospital Civil o al Hospital de Especialidades del Estado de Oaxaca.

Respecto a su salud mental, se evalúa por el área jurídica en el momento en que los adolescentes son vinculados a proceso penal. Si es necesario se les asigna atención psiquiátrica. Los tratamientos consisten principalmente en la administración de fármacos, supervisados por el área médica y el área de enfermería lleva el control. Los problemas de salud mental más frecuentes en los adolescentes son el estrés y la ansiedad por el impacto del encierro. El área de psicología brinda a los adolescentes atención individual

y grupal, y se trabaja en vinculación con otras instituciones, por ejemplo, con el Centro de Integración Juvenil (CIJ) para atender el uso de sustancias y los Centros de Atención Primaria en Adicciones (CAPA).

El área de pedagogía cuenta con los talleres de música, pintura, carpintería, panadería, electricidad, electrónica, inglés y todo lo referente a la formación escolar de tipo formal, con el Colegio de Bachilleres de Oaxaca en modalidad abierta y el Centro de Educación Básica para Adultos. Actualmente no hay adolescentes que se encuentren estudiando el nivel superior, pero existe la posibilidad de que estudien una licenciatura en línea.

En el área de criminología se realizan estudios y evaluaciones con el fin de identificar si el adolescente comprende por qué se le señala un acto tipificado como delito y, consecutivamente, se le explica la medida que deberá cumplir. Desde esta área se realizan talleres con familias para promover acciones que favorezcan la reinserción de los adolescentes.

Trabajo social es el área que enmarca al adolescente dentro de la institución y le acompaña en mantener su contacto con el exterior. Dentro del marco interno se encuentra la atención integral del adolescente y el contacto con las familias, o bien, reestablecer el vínculo con sus familias. Durante la ejecución de la medida judicial se realiza un diagnóstico individualizado del adolescente para identificar su situación familiar, social y comunitaria. Se identifican las características de las familias, el lugar de residencia, su composición y las relaciones entre sus integrantes, para así detectar los factores de riesgo, vulnerabilidad y los factores de protección del adolescente, su familia y su entorno. Esta valoración tiene como fin programar objetivos

dentro del área sociofamiliar acordes a las deficiencias detectadas por los distintos profesionales del centro para crear planes de trabajo con el adolescente por el tiempo que dure la medida impuesta en relación con la naturaleza de los hechos delictivos cometidos. Por otra parte, se ofrece a las madres, padres o tutores información sobre la DEMA (normas, actividades, instalaciones, régimen de visitas y contactos), también se informa sobre los procesos educativos que sus hijos e hijas llevarán. Dentro del marco externo, se realiza la gestión para poner en orden la documentación personal del adolescente. Esta área establece contacto con el Sistema Nacional para el Desarrollo Integral de la Familia (DIF) en caso de que el adolescente no cuente con un familiar o tutor. Además, coordina eventos recreativos y exposiciones de los trabajos del adolescente; establece el vínculo con las organizaciones civiles y religiosas para que estas ingresen a la DEMA a brindar capacitaciones u orientaciones.

El área jurídica se encarga de registrar los actos administrativos del ingreso, la estancia, el tratamiento y el egreso del adolescente. Brinda asesoría jurídica a las autoridades de la DEMA con relación a todo el proceso que implica al adolescente. De acuerdo con lo establecido en la ley y las audiencias, se encarga de recopilar la información de todas las áreas para su integración al expediente, generando los informes trimestrales que se emiten a defensores públicos, ministerios públicos y jueces, sobre avances o retrocesos del plan individualizado.

Actualmente el personal de la DEMA se conforma por un equipo de 80 personas aproximadamente para trabajar con 24 adolescentes que están con la medida de internamiento. La DEMA además de albergar a

jóvenes que han cometido un acto tipificado como delito grave, tiene un área de tratamiento externo o semi internamiento, dividido por población femenil y varonil. Es decir, el personal puede brindar acompañamiento a jóvenes implicados en el sistema de justicia y ellos habitan en sus comunidades y con sus familias (tratamiento externo), al mismo tiempo que apoya a jóvenes que salen a trabajar, pero viven en el centro de internamiento (semi internamiento). Así, el propósito principal de la DEMA es lograr la reinserción social de las personas adolescentes en términos de lo que marca la Ley Nacional del Sistema Integral de Justicia Penal para Adolescentes (LNSIIPA, 2016). Especialmente en los artículos 29 y 30, sobre la restitución de los derechos humanos de las personas adolescentes, así como la reintegración social y familiar a través de programas de carácter socioeducativo, en los ámbitos familiar, escolar y laboral.

### **¿Qué es una medida para adolescentes?**

Una medida para adolescentes es un mecanismo de sanción ante los actos tipificados como delitos cometidos por los adolescentes, que incluyen, según la LNSIIPA (2016), un plan individualizado de actividades, en el que se propone:

...organización de los tiempos y espacios en que cada adolescente realizará las actividades educativas, deportivas, culturales, de protección al ambiente, a la salud física y mental, personales y para la adquisición de habilidades y destrezas para el desempeño de un oficio, arte, industria o profesión, de acuerdo con su grupo etario, en los términos de la medida cautelar de internamiento preventivo impuesta

por el Órgano Jurisdiccional (p. 3).

También se menciona un plan individualizado de ejecución, diseñado por la autoridad administrativa en la ejecución de medidas y con el que se evaluarán los avances que el joven alcanza durante el internamiento (p. 3). Para la elaboración de estos planes, se contempla el contexto individual, familiar y social de cada adolescente, además de sus intereses, habilidades y capacidades.

Es importante señalar que cuando los adolescentes ingresan a la DEMA, un rasgo característico es que se aíslan, así que en un primer momento es vital abordar esta situación de manera que puedan involucrarse poco a poco en todas las actividades que se ofrecen. La institución, por su lado, inicia con una valoración sobre la edad, para verificar que sean adolescentes y se decida si se quedan o no en la institución. Una vez que se evalúa su permanencia en la DEMA, se les suma a los diferentes talleres socioeducativos, primero se les invita al de manualidades, considerada como actividad ocupacional y también para identificar los intereses, habilidades y capacidades de la persona adolescente. Con ello, se elaborará el plan individualizado de actividades.

### **Ejes de reinserción**

El plan individualizado de actividades considerará los distintos ejes de reinserción establecidos por la ley: el arte, la educación, el deporte y la capacitación para el trabajo, principalmente. En la experiencia del equipo de trabajo, esos ejes juegan un papel fundamental para hablar de un proceso de externación favorable. Para el caso de la DEMA, un aspecto que ha tomado relevancia a lo largo del tiempo es el arte.

La DEMA es el único centro de internamiento en Oaxaca, por lo

que alberga a adolescentes de todas las regiones del estado, lo que representa un reto por la diversidad étnica. En su mayoría no hablan español, lo que dificulta la comunicación con el personal y con otros adolescentes. Esta dificultad contrasta con que, en este estado, el arte es un distintivo importante, existen muralistas y artistas reconocidos en serigrafía y música. Así que esta singularidad artística ha sido retomada por la DEMA para que funcione como un marcador identitario, al mismo tiempo que una actividad recreativa y, de ser posible, una posibilidad para ganar dinero con sus obras (Rueda Gualdrón, 2019; Ruíz Carrera & Vidal Arbonés, 2015).

José (utilizamos un pseudónimo para resguardar la identidad del joven) es un adolescente de la comunidad de Juxtlahuaca que pertenece a la región mixteca de Oaxaca. Él llegó sin hablar el idioma español, hablaba mixteco y era muy renuente a participar en las actividades de la institución. Sin embargo, conforme fue pasando el tiempo, él empezó a estudiar, a hablar español y trabajar en el taller de panadería. Al salir, había concluido sus estudios de secundaria y se enfocó en elaborar pan dulce y pizza. Cuando él volvió a su comunidad construyó un horno, le enseñó a su familia la elaboración de las pizzas, obteniendo gran éxito con este negocio porque su comunidad está muy alejada de algún centro urbano y no existía algo similar. Así que él y su familia lograron crear este espacio laboral que, hasta la fecha, conservan como negocio familiar. Además, él se especializó en crear una obra sobre “diablos”, una imagen icónica en las festividades de Oaxaca que tiene

distintos significados alrededor del mal o la maldad. Al trabajar la figura del diablo, José logró tener un sello propio en sus obras, expresarse a través de ellas y obtener dinero, pues cuando se realizó la primera subasta para vender las obras de los jóvenes, José elaboró un elefante con ojos de un diablo, obra que llamó poderosamente la atención y se la compraron.

### Proceso de externación favorable

En la pandemia por COVID-19 el centro tuvo un reacomodo en sus actividades. Todo se paralizó. Frente a la pausa, el personal organizó actividades de pintura y todos los adolescentes se involucraron en la pintura y el dibujo, desarrollando habilidades muy importantes y expresándose en muchos sentidos. Se creó una “banda de música de viento”, música tradicional oaxaqueña que involucra ensambles musicales ejecutados por instrumentos de viento, en su mayoría metales y percusión. Los adolescentes se sumaron rápidamente a esta iniciativa, notaron que varios de ellos tenían talento para tocar un instrumento, generando un proceso artístico colectivo. Esto impacta en su autopercepción porque dejan de verse como jóvenes en conflicto con la ley, para asumirse como personas con distintas habilidades y sensibilidades.

Las distintas expresiones artísticas, impulsadas en el centro han sido pieza clave para el desarrollo de habilidades y también para motivar a los jóvenes a estudiar, formarse, disciplinarse en esa actividad tanto como en la escuela y la capacitación para el trabajo. Este es el potencial de la DEMA porque el arte por sí solo no permitiría abrir posibilidades de reinserción para los jóvenes. El

arte funge como una plataforma para incentivar su talento y habilidades a nivel personal y colectivo que, articulado con el resto de las actividades escolares y laborales, les ofrecen posibilidades reales para afrontar la vida a su salida.

El centro cuenta con el programa acompañando, que les permite acompañar a los jóvenes a los seis y tres meses antes de su salida para que encuentren un espacio laboral y educativo formal. Esto posibilita que los jóvenes que tienen la medida de semi-internamiento puedan tener un trabajo formal en el exterior y volver al centro como su vivienda. La salida se dará hasta que el joven esté en condiciones de dejar completamente el centro. Todo en su conjunto, les motiva para modificar su conducta y comportamiento en cualquier espacio.

Además, el centro maximiza los recursos, recicla objetos y busca donaciones. Promueve los talleres de huerto y hortalizas; electricidad, electrónica y cómputo; brinda asesorías de matemáticas; promueve las manualidades con distintos materiales; tiene un taller de serigrafía “Siqueiros”, de dibujo y pintura, de carpintería, pastelería y la banda de música. Promoviendo en todo momento que los jóvenes estén en contacto con el exterior.

La DEMA como proyecto de reinserción y acompañamiento para jóvenes en conflicto con la ley ha encontrado en el arte y su articulación con la educación la capacitación para el trabajo, una plataforma que ofrece a los jóvenes una ruta distinta a su salida del centro de internamiento y su rasgo característico es que son los propios jóvenes quienes delinear su propio camino a partir de las opciones que ofrece este centro, en ello reside su éxito (Acevedo- Rodríguez, 2020;

Vázquez Martínez & Bazán Mayagoitia, 2019).

No obstante, aún hay retos y obstáculos que afrontar, entre ellos:

- Seguir contribuyendo a la tarea de formar a los adolescentes en el centro, es decir, desplazar la idea de castigo por la comisión del delito a una visión más amplia de reinserción que incluye formación y educación en sentido extenso, expandiendo sus habilidades para la vida, afrontando responsabilidades y posicionándoles como personas con talentos (Carrera Celis, 2013).
- Identificar y generar convenios con más empresas e instituciones que se interesen por ser espacios laborales para los adolescentes que están por egresar. Esto se inició con el programa “Uniendo esfuerzos” al generar vínculos con comercios locales, pero se deben abrir más espacios laborales.
- A nivel institucional y gubernamental, se requiere la asignación de un presupuesto para los centros de medidas para adolescentes, que posibiliten apoyar proyectos artísticos, educativos y laborales a largo plazo.
- Reforzar el vínculo de los jóvenes con sus familias y fomentar la creación de redes de apoyo. En Oaxaca, existen casos donde la comunidad niega el retorno del joven por haber sido acusado de un acto tipificado como delito. Esta situación coloca en extrema vulnerabilidad al joven, así pues, se deben buscar diversas redes de apoyo y reforzar el trabajo con las familias que también se ven afectadas por esta situación (Rubio Monsalve, 2022).
- Finalmente, a nivel social falta derribar estigmas que, en muchas ocasiones, son los primeros obstáculos que enfrentan los jóvenes al salir del centro de internamiento, negándoles la posibilidad de reorientar su vida (Di Napoli, 2016). Es tarea de toda

la sociedad ofrecer posibilidades de reinserción a quienes, desde su infancia, han enfrentado desventajas sistémicas.

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