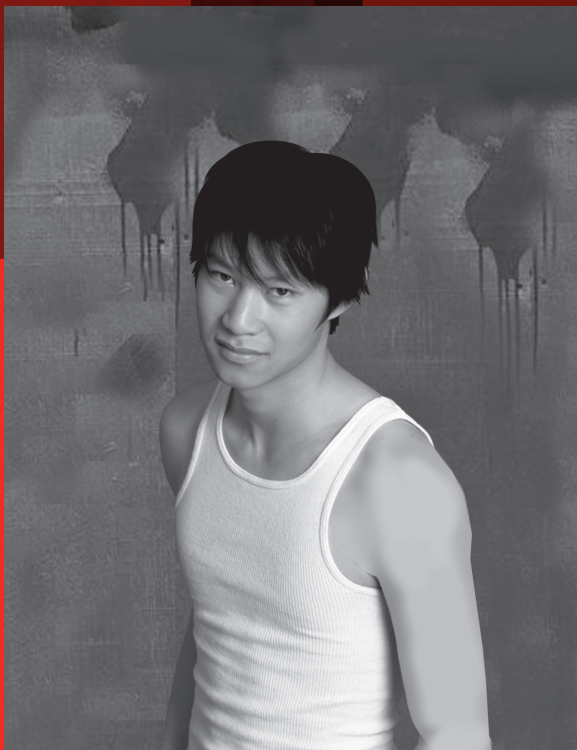




NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

Mental Health Needs of Juvenile Offenders



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By
Sarah Hammond



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PREFACE AND ACKNOWLEDGMENTS

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INTRODUCTION

The prevalence of mental health problems among young people in juvenile justice systems requires responses to identify and treat disorders. Many of the two million children and adolescents arrested each year in the United States have a mental health disorder. As many as 70 percent of youth in the system are affected with a mental disorder, and one in five suffer from a mental illness so severe as to impair their ability to function as a young person and grow into a responsible adult.¹

Children with unaddressed mental health needs sometimes enter a juvenile justice system that is ill-equipped to assist them. Even if they receive a level of assistance, some are then released without access to ongoing, needed mental health treatment. An absence of treatment may contribute to a path of behavior that includes continued delinquency and, eventually, adult criminality. The Bureau of Justice Statistics estimates that more than three-quarters of mentally ill offenders in jail had prior offenses.² Effective assessment and comprehensive responses to court-involved juveniles with mental health needs can help break this cycle and produce healthier young people who are less likely to act out and commit crimes.



DISORDERS

Youths may experience conduct, mood, anxiety and substance abuse disorders. Often they have more than one disorder; the most common “co-occurrence” is substance abuse with another mental illness. Frequently, these disorders put children at risk for troublesome behavior and delinquent acts.

Emotional disorders occur when a child’s ability to function is impaired by anxiety or depression. The Center for Mental Health Services estimates that one in every 33 children and one in eight adolescents are affected by depression, a potentially serious mood disorder that also afflicts many adults.³ The occurrence of depression among juvenile offenders is significantly higher than among other young people.

Anxiety disorders, in particular post-traumatic stress disorder, also are seen to be prevalent among juvenile offender populations, in particular, girls. Psychotic disorders such as schizophrenia, however, are rare in the general population as well as in justice system-involved youths.⁴

Behavioral disorders are characterized by actions that disturb or harm others and that cause distress or disability. Attention Deficit Hyperactivity Disorder (ADHD) and conduct disorder are typical youth behavioral disorders. ADHD, an increasingly common disorder among children, affects 3 percent to 5 percent—or approximately 2 million—American children. Boys are affected two to three times more than girls, and the disorder often continues into adolescence and adulthood.⁵ The prevalence of disruptive behavior disorders among youths in juvenile justice systems is reported to be between 30 percent and 50 percent.⁶

Substance abuse and dependency also are considered behavioral disorders and often are linked to acts of crime and delinquency. In the Justice Department's Arrestees Drug Abuse Monitoring Program, juvenile male arrestees tested positive for at least one drug in at least half the arrests in nine sites.⁷ Studies have shown that up to two-thirds of youths in the juvenile justice system with any mental health diagnosis had dual disorders, most often including substance abuse.⁸

Mental health disorders are more complicated and difficult to treat in youths than in adults. Because adolescence is a unique developmental period characterized by growth and change, disorders in youngsters are more subject to change and interruption.⁹ Ongoing assessment and treatment, therefore, are important.

JUVENILE COMPETENCY

Mental health assessment of juvenile offenders helps to determine how the system can address their treatment needs. Another important purpose of mental health assessment is to address the legal issues surrounding a juvenile's competency to understand the adjudicatory process and to thoughtfully participate in and make decisions as part of that process.

Typically, incompetence to stand trial is related to a mental disorder or developmental disability. Juvenile competency is further complicated by developmental immaturity, with limited guidance in law on how to deal with this.³¹ Developmental immaturity distinguishes many juveniles from adults in important ways that make them less able to assist in their defense or to make important decisions as part of the process.³² This suggests that, in defining standards of competence for juveniles, simply applying the same standards as those used for adults will not work.³³

The U.S. Supreme Court decision in *Kent v. United States* gave juveniles many of the same due process rights afforded to adult defendants, including a right to counsel and, presumably, to be competent to stand trial.³⁴

At least 10 states—Arizona, Colorado, Florida, Georgia, Kansas, Minnesota, Nebraska, Texas, Virginia and Wisconsin—and the District of Columbia specifically address competency in their juvenile delinquency statutes.

Virginia statute, for example, directs how the issue of competency is to be raised and evaluated.³⁵ Charges against an "unrestorably incompetent" juvenile are to be dismissed in one year for a misdemeanor offense, and in three years from the date the juvenile is arrested in what would be a felony case.³⁶ Competency-to-proceed law in Colorado similarly requires examination and stays proceedings against a juvenile who is found incompetent.³⁷

Absent statutory direction, courts in other states also recognize and review juveniles for incompetence. In Arizona, case law supports a finding that, under state law, a juvenile need not have an underlying mental disease, defect or disability to be found incompetent. In that case, a juvenile court found that immaturity affected the ability of two juveniles to understand proceedings against them.³⁸



ISSUES AND APPROACHES

Screening and Assessment

Screening and assessment are key to addressing mental health treatment needs of youths in the juvenile justice system. Screening is a brief process that attempts to identify those youngsters who warrant immediate mental health attention and require further evaluation. Assessment builds on information gathered at screening, providing a more comprehensive and intensive examination of problems and behaviors exhibited by a young person.¹⁰ Proper assessment of juvenile offenders helps inform those who determine risk, placement and treatment.

According to the National Center for Mental Health and Juvenile Justice, youths who immediately receive a mental health screening are more likely to have their problems identified and treated. Often, however, screening and assessment take place only after a juvenile has been adjudicated and placed in a correctional facility. A more prompt mental assessment of juveniles at initial court intake allows the information gained to be used in making diversion or other dispositional decisions.

Efforts in Pennsylvania to improve the quality of services and care in juvenile justice have included the use of screening protocols to identify young people with immediate needs as well as those who require further assessment of noted mental health

symptoms. All youths in Pennsylvania detention centers are screened using the Massachusetts Youth Screening Instrument, Version 2 (MSYSI-2). Screening has accomplished a more effective response to youths with mental health needs, including promoting awareness and competency among detention professionals in the state.¹¹

The Cook County, Ill., Juvenile Court Clinic has an assessment process that is being adopted in other jurisdictions. The clinic consults with the court upon request, provides for forensic clinical assessments in response to court orders, and provides information about community-based mental health resources and education programs. A clinical coordinator present in the court room provides guidance to judges and probation staff about juvenile mental health evaluation and community-based treatment needs.¹²



Other jurisdictions have created specialized courts to serve youth with mental health needs. The King County, Wash., Treatment Court in Seattle, established in 2003, is a collaborative effort among the departments of mental health and substance abuse, the probation department and the juvenile court.

Services are focused on youths with psychiatric disorders and substance abuse or dependence, with a moderate to high risk of re-offending. Screening, followed by more thorough evaluation of juveniles who present treatment needs, identifies those who may be suitable for services such as “multi-systemic therapy,” which includes individual and family therapy and substance abuse interventions.¹³

Recognizing that mental health needs of juveniles often are unrecognized and untreated, state legislation is creating policy directives for prompt and complete evaluation of youth in the juvenile justice system. Although juvenile courts routinely have discretion to order mental health evaluations, a recent Idaho law requires mental health assessments and treatment plans for such young people before the court. The law was intended to ensure prompt assessment, which can include convening a “screening team” of officials from health and welfare, probation, juvenile corrections, other agencies and the child’s parents.¹⁴

Nevada now requires screening for mental health and substance abuse problems for juveniles who taken into custody and detained in a local or regional facility while they await a detention hearing. The results of the evaluation and recommended treatment then are reported to the juvenile court.¹⁵

Under a new Texas law, juvenile probation departments in the state are required to have juveniles complete the MAYSI-2 screening instrument that identifies potential mental health and substance abuse needs. The screening takes place for all juveniles at probation intake.¹⁶ In 2004, Minnesota lawmakers established statewide mental health screening for all youths in the juvenile justice system.¹⁷

Sophisticated instruments for initial screening of youngsters and, as needed, for more in-depth assessment, are important to identifying both risk and treatment needs. A number of screening tools and comprehensive assessment instruments are available to juvenile justice system personnel. No screening or assessment tool can predict with flawless accuracy future behaviors or the mental

health status of an individual. However, experts recommend that juvenile justice systems employ up-to-date and multiple instruments for use with young people at different points in the juvenile justice process. Good tools contribute to policy objectives for accountability and performance-based measures.¹⁸

Diversion, Treatment and Aftercare

Diversion programs typically allow a juvenile to complete certain requirements in lieu of being processed for an adjudication. Assessment, paired with diversion at an early stage in the juvenile justice process, is believed to be a promising way to prevent a juvenile’s further involvement in the system.¹⁹ Diversion to the community is considered appropriate for many youths who have committed minor offenses. Effective diversion policy requires adequate community-based mental health services and alternatives to incarceration. A 2004 congressional report on appropriateness of juvenile detention reported that, in 33 states, juveniles were being held in detention with no charges against them because there was no where else for them to go.²⁰

Detention can be a poor choice for juveniles for whom an existing mental health disorder brings about a heightened sense of trauma and acute feelings of depression, anxiety and the possibility of suicidal behavior. Detention also can interrupt therapeutic services and medication for juveniles who already might have been receiving them. Community-based treatment is an option to be considered for juveniles who do not pose a danger to public safety and for whom detention intensifies their mental problems and creates difficult-to-manage situations for corrections systems personnel.²¹

Diversion programs being used in communities throughout the country include models identified by the National Center for Mental Health and Juvenile Justice. The Integrated Co-Occurring Treatment Model in Akron, Ohio, is an intervention program that serves youths in the justice system who exhibit mental health problems and substance abuse. The program provides diversion services for youths referred by the court and also offers a reintegration program. Juveniles go through an extensive assessment, followed by individual and family therapy interventions.²²

Omnibus mental health legislation passed in Washington in 2005 expanded mental health services in the state and addressed treatment gaps. It also encouraged diversion and treatment in criminal and juvenile justice by authorizing counties to establish a 0.1 cent sales tax to establish therapeutic courts. Under the law, human services and corrections agencies are required to work together to help people with mental disorders after they are released from confinement.²³

Access to mental health services upon release is an important part of a comprehensive approach to addressing mental health needs of juvenile offenders. Without ongoing treatment, many children are more vulnerable to behaviors that prompt their return to the system. Community-based and home-based mental health services, family-based therapy, youth mentoring, and recreational and social opportunities are among programming options that help create a continuum of care for young people. Recent legislation in Virginia requires the Board of Juvenile Justice to develop regulations for the planning and provision of mental health, substance abuse or other therapeutic treatment services for young people who are returning to the community

following commitment to a juvenile correctional center or post-dispositional detention.²⁴ Such actions provide an important policy framework for the mental health needs of juveniles.

Collaboration

Mental health disorders in youth are complex community problems. Juvenile justice systems benefit from the expertise of community health providers in dealing with disordered kids. In a growing number of jurisdictions across the country, juvenile justice and mental health systems are working in concert to identify and respond to the mental health needs of juveniles. Effective arrangements require that each agency understand and respect the others' purposes and missions. Done well, collaboration between the juvenile justice system and mental health agencies can provide appropriate and effective services and treatment to juveniles.

WrapAround Milwaukee, recognized as a model for collaboration, has successfully integrated mental health, juvenile justice, child welfare and education systems to provide services to youths. The program serves adjudicated delinquents and sustains itself by pooling funds with its system partners. The integrated, multi-service approach to meeting the needs of juveniles includes a focus on the family's strengths and culture, as well as those of the neighborhood or community. Treatment plans are tailored to address the unique needs of each child and family. Evaluations indicate that the program is achieving positive results.²⁵ The use of residential treatment has decreased by 60 percent since the

program's inception, and inpatient psychiatric hospitalization decreased 80 percent. The average overall cost of care per child declined from \$5,000 per month to less than \$3,300 per month.²⁶

Similarly, the Dawn Project in Indiana has successfully approached juvenile mental health needs with a collaboration among the Family and Social Services Administration; the divisions of Mental Health and Addiction; the Indiana Department of Education; the Indiana Department of Corrections; the Marion County Office of Family and Children; the Marion Superior Court, including the Juvenile Division; and the Mental Health Association. The program helps youths with serious emotional disturbances and their families by developing integrated care plans designed to address each family's unique situation.



Legislation in several states has specifically addressed collaboration. California requires the Department of Youth Authority and the Department

of Mental Health to collaborate on training, treatment and medication guidelines for youths with mental illness who are under the jurisdiction of the Department of Youth Authority.²⁷ Colorado law instructs the Department of Human Services to select one urban and one rural site for community-based, intensive treatment and supervision pilot programs for mentally ill juveniles who are involved in the criminal justice system. The law requires juvenile justice and mental health agencies to collaborate in this effort.²⁸ In 2004, Colorado also created legislative oversight and a 29-

member task force for the continuing examination of the treatment of people with mental illness in the justice system.²⁹

West Virginia law also encourages collaboration, allowing the Division of Juvenile Services to convene multidisciplinary treatment teams for juveniles in their custody. As appropriate, team members include a juvenile probation officer, social worker, parents or guardians, attorneys, appropriate school officials, and child advocacy representatives.³⁰

CONCLUSION

The mental health and substance abuse needs of court-involved youths challenge juvenile justice systems to respond with effective evaluation and intervention. Active partnerships with the mental health community and other child-serving organizations can improve the care and treatment of these young people and prompt healthier results for individuals, families and communities.

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The MacArthur Foundation supports a Research Network on Adolescent Development and Juvenile Justice at Temple University in Philadelphia, Penn. The network is building a foundation of sound science and legal scholarship to help inform the next generation of reform of juvenile justice systems. More information, including issue briefs on important adolescent development topics, is available at www.adjj.org.

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