National Conference of State Legislatures

Mental Health Needs of Juvenile Offenders

Juvenile Justice Guide Book for Legislators

Introduction

Children with mental health needs sometimes enter a juvenile justice system ill-equipped to assist them. Between 65 percent and 70 percent of the 2 million children and adolescents arrested each year in the United States have a mental health disorder. Approximately one in four suffers from a mental illness so severe it impairs his or her ability to function as a young person and grow into a responsible adult.

Without treatment, the child may continue on a path of delinquency and eventually adult crime. Effective assessments of 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. The importance of screening and treatment are also discussed in the Delinquency Prevention & Intervention chapter of this guidebook.

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Disorders Prevalent Among Youth in the General Population

American children and teenagers sometimes experience conduct, mood, anxiety and substance abuse disorders. Often, they have more than one disorder; the most common "co-occurrence" is substance abuse with a mental illness. Frequently, these disorders put children at risk for troublesome behavior and delinquent acts.

Behavioral disorders are characterized by actions that disturb or harm others and that cause distress or disability. Attention Deficit Hyperactivity Disorder (ADHD) and conduct disorders are typical youth behavioral disorders. According to the Center for Disease Control, an estimated 9 percent to 10 percent of approximately 5.4 million American children suffer from ADHD, and 4.8 percent of them take medication for their condition.

Emotional disorders occur when a child's ability to function is impaired by anxiety or depression. The Center for Mental Health Services estimates that 1 in every 33 children and 1 in 8 adolescents are affected by depression, a potentially serious mood disorder that also afflicts many adults. The occurrence of depression among juvenile offenders is significantly higher than among other young people.

Youth in the Juvenile Justice System

Many juveniles who commit delinquent acts have a history of substance abuse. In the Department of Justice's Arrestees Drug Abuse Monitoring Program, half the male juveniles arrested in nine separate sites tested positive for at least one drug. Studies also have shown that up to two-thirds of juveniles in the justice system with any mental health diagnosis had dual disorders, most often including substance abuse.

In 2006, the National Mental Health Association reported that the prevalence of disruptive behavior disorders among youth in juvenile justice systems is between 30 percent and 50 percent.

Anxiety disorders, post-traumatic stress disorder in particular, also are prevalent among juvenile offenders, especially girls. Psychotic disorders such as schizophrenia, however, are rare in the general population as well as in children involved in the justice system.

Mental Health Assessment and Treatment

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

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Screening attempts to identify the youths who warrant immediate mental health attention and further evaluation. Assessments are a more comprehensive and intensive examination of problems and behaviors exhibited by a young person. Proper assessments help those who determine risks, placement and treatment.

Screening

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. In many jurisdictions, however, screening only occurs after a juvenile has been adjudicated and placed in a correctional facility.

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 assessments. All young people in Pennsylvania detention centers are screened using the Massachusetts Youth Screening Instrument, Version 2 (MAYSI-2).

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Screening has resulted in a more effective response to youths with mental health needs, including promoting awareness and competency among detention professionals in the state. To encourage even more effective screening, Pennsylvania, in 2008, strengthened a juvenile's right against self-incrimination by restricting the use of statements and other incriminating information obtained during mental health and substance abuse screenings. Illinois and Texas have passed similar legislation in recent years.

Nevada has also recently passed a law requiring screening for mental health and substance abuse problems for juveniles who are taken into custody and held for detention hearings. The findings of these evaluations and subsequent treatment recommendations are required to be reported to the juvenile court.

Assessment

Some states have approached juvenile mental health issues from a different standpoint. Namely, they require evaluations of juveniles based on the seriousness or type of their offense. For example, in 2007, lawmakers in North Dakota and Oregon passed laws requiring alcohol and drug education, assessment and treatment for juveniles who commit alcohol-related offenses. Under a 2009 law in Tennessee, juveniles charged with offenses that would be felonies for adults must undergo court-ordered psychiatric evaluations.

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The state must pay for the mental health evaluation unless it is determined that the juvenile's parents can afford to reimburse the state.

The Cook County, Ill., Juvenile Court Clinic has a forensic evaluation process being adopted in other jurisdictions. The clinic consults with the court upon request, provides forensic clinical assessments, and provides information on community-based mental health resources and education programs. A clinical coordinator informs judges and probation staff about the juvenile's mental health evaluation and treatment needs. Likewise, in the last three years, Arizona, California, Colorado and New Hampshire have all established courtroom procedures that enable attorneys and judges to request mental health screenings for juveniles involved in delinquency proceedings.

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Other jurisdictions have created specialized courts to serve youth with mental health needs. In 2007, Tennessee authorized its juvenile courts to develop and operate drug court treatment programs for youth. In 2008, Louisiana allowed one of its judicial districts to designate at least one of its divisions to be used solely as a mental health court.

Recognizing that mental health needs of juveniles often go unrecognized and untreated, state legislators have been 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 new law in Idaho requires mental health assessments and treatment plans before the child reaches 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, and other agencies, along with the child's parents.

Linkages to Competency

Mental health assessment is also crucial 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. The prevalence of mental health issues among juvenile offenders and the impact on legal competency are also addressed in the Adolescent Development and Competency chapter.

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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. As discussed in the Adolescent Development and Competency chapter, 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. This suggests that, in defining standards of competency for juveniles, simply applying the same standards as those used for adults will not work.

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's statute, for example, directs how the issue of competency is to be raised and evaluated. 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.

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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.

A number of screening tools and comprehensive assessment instruments are available to juvenile justice system personnel. No one screening or assessment can predict with flawless accuracy future behaviors or the mental health status of an individual. However, experts recommend that juvenile justice systems use standardized, proven instruments with young people at different points in the juvenile justice process.

Diversion to Community-Based Mental Health Treatment

Community-based treatment is an option 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.

Diversion programs typically allow a juvenile to complete certain requirements in lieu of being processed for adjudication. Assessment, paired with diversion at the early stage in the juvenile justice process, is a promising way to prevent a juvenile's further involvement in the system, also discussed in the Delinquency Prevention & Intervention chapter. Diversion to the community is considered appropriate for many youth who have committed minor offenses. Effective diversion policy requires adequate community-based mental health services and alternatives to incarceration.

Detention can be a poor choice for juveniles for whom a mental health disorder may bring about a heightened sense of trauma and acute feelings of depression, anxiety and even suicide. Detention also can interrupt therapy and medication for juveniles already receiving them.

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.

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Aftercare

Juveniles' access to mental health services after being released is an important part of a comprehensive approach to addressing their mental health needs. 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 options that help create a continuum of care. Recent legislation in Virginia requires the Board of Juvenile Justice to develop regulations for mental health, substance abuse and other therapeutic treatments for young people returning to the community following commitment to a juvenile correctional center or post-dispositional detention. Texas lawmakers passed similar legislation establishing a continuity of care while the juvenile offender is on parole. Such actions provide an important policy framework for the mental health needs of juveniles.

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The Importance of Collaboration

The WrapAround Milwaukee program, recognized as a model for collaboration, has successfully integrated mental health, juvenile justice, child welfare and education systems to provide services to young people. Treatment plans are tailored to address the unique needs of each child and family. Evaluations indicate that the program is achieving positive results. The use of residential treatment has decreased by 60 percent since the program's inception, and inpatient psychiatric hospitalization decreased 80 percent.

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Similarly, the Dawn Project in Indiana is a successful 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.

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Minnesota's largest county was awarded $520,000 from the federal Local Collaborative Time Study, through the Children's Mental Health Collaborative and the Juvenile Justice Coalition of Minnesota, to provide mental health intervention services and work toward systemic changes for justice-involved youth with mental or co-occurring disorders. 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.

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 involved in the criminal justice system. The law requires juvenile justice and mental health agencies to collaborate in this effort. Beginning in 2004, Colorado created a legislative oversight committee and a task force for the continuing examination of the treatment of people with mental illnesses in the justice system. The task force is required to report its findings on an annual basis to the General Assembly and is authorized through 2015.

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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.

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.

For references and additional resources, please see the **References, Glossary & Resources** section.

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