POSITION PAPER

Enhancing the Mental Health and Well-Being of Infants, Children, and Youth in the Juvenile and Family Courts: A Judicial Challenge

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ABSTRACT

At the invitation of the National Council of Juvenile and Family Court Judges, judges from the 30 largest juvenile jurisdictions in the country and mental health professionals met for two days in Tampa, Florida, March 18-19, 2000. Their discussions over this two-day period resulted in the first draft of this document. Meeting again in July in Snowbird, Utah, members of the group reviewed and revised the original document. This second revision was mailed to members of the group and to the officers and board of the National Council for their review. Comments from this second draft were incorporated into the final document as it appears in this issue of the *Juvenile and Family Court Journal.*

The experience and expertise represented by this dedicated group of judges and mental health professionals is reflected in the contents of this paper. Each of the participants is actively engaged in the process of systemic change in the delivery of mental health services in their communities, each can recount both successes and failures in the process of creating this change, and each brings experience and insight to this forum.

This position paper is intended for the use of judges, court administrators, and mental health professionals who work with youth in the juvenile courts of our country. It is intended as a basic framework for the development of community systems of care which will serve children, youth, and families experiencing mental health problems appropriately and well.

The inadequate and uneven delivery of mental health services to children and families in the juvenile justice system is a national crisis. Research on the development of the infant brain and on the causes of delinquency clearly shows that failing to meet the mental health needs of these children and their families has dire consequences for our nation's communities. We now know that family, home, neighborhood, and community act and interact, for good or ill, upon our children and the unique persons they will become.

- The day before his son shot and killed him and his wife, Kip Kinkel's father was on the phone for several hours attempting to determine if his insurance would pay for a residential treatment program for Kip. (*Newsweek,* 1998)
- A recent study of adolescent girls living in a violent inner city environment shows that, rather than becoming calloused and indifferent to the violence around them, young women experienced trauma and psychological distress. Many of the girls went on to develop either partial or full PTSD (Post Traumatic Stress Disorder). In an attempt to exert control over their lives, some of the girls became more aggressive, some to the extent of using weapons, leading to arrests and school suspensions. ("Clinical and functional correlates of posttraumatic stress disorder in urban adolescent girls at a primary care clinic," *Journal of the American Academy of Child and Adolescent Psychiatry,* 39:1104-1111)
- A seven-year study in Orange County, California, tracked 6,000 first-time juvenile offenders for three

years. The study found that just 8% of these first-time offenders went on to become 55% of the repeat offenders in the county. Mental health professionals working with these youth confirm that more than half of them have mental health problems, including adjustment disorders, conduct, oppositional defiant and disruptive behavior disorders, attention deficit disorder, attention deficit hyperactivity disorder, anxiety disorders, and clinical depression. Assessments reveal that nearly half of the 8% kids live in homes involving family violence, and more than 60% involve marital discord.

(The 8% Solution: Preventing Serious, Repeat Juvenile Crime, 2000*)*

- Research on brain development shows that there is no more important time in human development to lay the foundation for healthy functioning in society than in the first few years of life. Children who are not nurtured in safe, stable, and stimulating environments where they are able to form secure attachments with primary caregivers are at much greater risk of developing delinquent, violent, and criminal behaviors. We miss the most critical opportunity for prevention and intervention by waiting to intervene until the child is six or eight years of age and able to talk about their problems.

  (*Infant Mental Health Project,* Center for Prevention and Early Intervention Policy, Florida State University, Tallahassee)
- Mental health in childhood and adolescence is defined by the achievement of expected developmental, cognitive, social, and emotional milestones and by secure attachments, satisfying social relationships, and effective coping skills, processes in children that are often separated only by differences of degree.

  (*Mental Health: A Report of the Surgeon General, Chapter Three: Children and Mental Health,* December, 1999)
- The prevalence of mental disorders among youth in juvenile justice facilities ranges from 50% to 75% in multiple, well-designed studies which used structured diagnostic interviewing techniques to determine children's diagnoses.

  ("Prevalence of Mental Disorders Among Children in the Juvenile Justice System," *National Mental Health Association,* 1999)
- Children involved with the juvenile justice system have substantially higher rates of mental disorder than children in the general population, and they may have rates of disorder comparable to (or even exceeding) those among youth being treated in the mental health system.

  ("Prevalence of Mental Disorders Among Children in the Juvenile Justice System," *National Mental Health Association,* 1999)

This paper focuses on the infants, children, and families who come into the juvenile and family courts in both our dependency and delinquency courts: as abused and neglected children, as children who have committed crimes, and as status offenders — children who run away, are truant, or incorrigible. Responding to the mental health needs of all these children and their families is a challenging task for the juvenile and family courts of the country.

Knowledge we now have about the development of an infant's brain and the ways in which family, home, neighborhood, and community affect this development, means courts must look to the well-being of infants, children and their families. The attention of juvenile and family courts must be directed to the prevention of mental health problems and to the earliest possible intervention when those problems arise.

The Role of the Court: The Judge as Leader

Juvenile and family court judges play an uncommon role in the community in marshaling services and assistance on behalf of the children and families who come before them. No other individual or entity can draw together the community and its leadership to act in behalf of its most vulnerable members in the way a juvenile or family court judge can. The judge's ability to convene, to engage, and to encourage the community to act is unique.

Standards developed over many years by the National Council of Juvenile and Family Court Judges

recognize that, unlike other courts, juvenile court judges have a special opportunity to act as leaders on behalf of all children who come before them and to see that the needs of children who come before them are met.

Judges can intervene and advocate on behalf of the community to meet the mental health needs of the children and families of their community. They should take the initiative to convene the appropriate stakeholders within the community to address such matters as systems collaboration and coordination of services and cross-disciplinary training, education, and communication among all community players and institutions. Under the leadership of juvenile and family court judges, beneficial systemic change can be achieved.

The Safe Schools initiative, for instance, jointly sponsored by the Department of Justice and the Department of Health and Human Services, facilitates local partnership agreements among schools, courts, mental health providers, and law enforcement.

Acting on behalf of the children and families who are in need of appropriate, individualized, and comprehensive mental health services, judges should:

- Have the authority to order reasonable and necessary services and to hold accountable those responsible for the delivery of mental health services for children and families in the juvenile justice system when necessary.
- Have access to the services of mental health professionals from the community or as members of their court staffs to conduct assessments, review services, and make recommendations on behalf of the children and families who come before them.
- Convene all community players and stakeholders who "touch" the child to initiate cross-disciplinary dialogues.
- Be proactive within their communities to advance the establishment of collaborative systems of care.
- Advocate on behalf of children and their families to support the development of an array of services to meet their needs throughout the juvenile justice and mental health systems.
- Regularly convene multi-disciplinary teams of community leaders (agencies, institutions, government bodies) to address specific issues and recurring systemic problems.
- Assure that children and families receive services that are gender and culturally competent, strength-based, developmentally appropriate, that emphasize the appropriate level of care and in the least restrictive setting.

The Need for Training

A need exists for training for all those involved in the juvenile and family courts. That training should be across disciplines. Training should include all professionals who "touch" the child with mental health needs. It should:

- Establish a common set of definitions and a glossary of mental health and juvenile justice terms that will enable juvenile justice and mental health professionals to interact with each other in commonly understood language.
- Educate members of both systems, mental health and juvenile justice, about the foundations of each profession, its mandates, and its goals.
- Provide training to be conducted at local, state, and national levels.
- Seek the cooperation and services of local colleges, universities, and substance abuse and mental health professionals to develop curricula for use in local training sessions.

Continuum of Care

Too many times services for children and youth with mental disorders are characterized by a denial of responsibility by agencies and institutions. At the core of a better and more responsive system of care is a clear understanding, at both policy and practice levels, of the need to establish a set of protocols to determine who will provide services to these youth.

Juvenile and family courts must have the authority to order and enforce reasonable and necessary services that are clinically sophisticated, culturally and gender sensitive, developmentally appropriate, and reliably funded.

We propose a system of services that includes:

Interdisciplinary collaboration

— at the system level, through interagency structures and agreements.

— at the case level through the assignment of case managers who ensure that children receive individualized services as prescribed.

A case manager

— to follow the child and family through the array of services. The selection of the case manager should be based on the agent or agency with the greatest responsibility for the child.

Comprehensive and individualized assessment

— addressing the appropriate levels of restrictiveness of placement and supervision.

An array of services, to meet both child and family needs across the juvenile justice and mental health systems. Services should include:

— interdisciplinary, collaborative, and comprehensive assessment that precedes and guides interventions.

— a complete continuum of quality services, ranging from readily accessible psychiatric services and mental health services in detention facilities, to family and community-based services, and including such non-traditional services as mentoring, respite care, and intensive problem-focused services.

— the ability to break down barriers to information sharing.

An individualized service plan

— based on the determined needs of the child and the family, and not driven by the availability of the service.

— that assures that children and families receive services that are culturally competent, gender specific, strength-based, and that emphasize the least restrictive setting and the most appropriate level of care.

— based on a continuum of care and evaluation that is clinically sophisticated, developmentally appropriate, and culturally and gender sensitive.

Treatment that is evidence-based

— that is, based on validated modalities of treatment to the extent that existing research describes these approaches as effective for children and families.

Interagency coordination and communication

— for the development and implementation of accessible, relevant, non-duplicative services, with ongoing and effective participation by the court.

Development of concurrent and blended funding

— that is flexible and allocated according to client needs.

— providing a pool of public funds that combines funding streams in order to develop quality services specific to the needs of the child and the family.

Interdisciplinary, collaborative, and comprehensive screening and assessment

Screening and assessment are not only tools for mental health practitioners. These tools also assist the judge in making the best decision for the child. The information they contain makes it possible for the judge to craft court orders that address the individual and unique needs of each child.

We agree that a universal and quality mental health assessment of every child, and of the child within the family context, must be provided at his or her entry into the juvenile justice system. This includes an initial professional screening and in-depth assessment as needed.

Minor offenses, if treated seriously and investigated early, often bring to light chaotic family life, addictions, domestic violence, abuse and neglect and other conditions that recent research has shown may result in serious delinquent behavior in older adolescents. The same family circumstances may reveal children with mental illness, conduct disorders, attention deficit disorder — both with and without hyperactivity, learning disabilities, depression, and suicidal behavior. The delivery of appropriate services and assistance to children who commit minor offenses at an early age and their families is not only beneficial to the community, but it also costs less than treatment and services do at a later date, when conditions have become chronic and behavior entrenched.

Recognizing the relationship between maltreatment of the child and later delinquency, early identification and intervention on behalf of infants and children with mental health needs is critical. It can be anticipated to result in fewer costly, punitive, and restrictive punishments, and at less expense to the community

both in terms of the cost of treatment and in reduced crime rates.

Therefore, we recommend:

- An initial screening of each child who comes before the juvenile court upon entry into the system and, when warranted, a complete and individualized assessment.
- Validated, easy-to-use, easy-to-interpret screening instruments and the use of comprehensive screening and assessment protocols which are understood and accepted by all players within the system of services.
- That every in-depth mental health assessment performed for a child should reflect the world in which the child lives. It should include information from the child's family, school, peers, competent treatment professionals, and review of relevant reports.
- That all infants who come before the court from birth to age three should be screened. Newborns should be screened at three, six, and 12 months for developmental delays and, if necessary, referred to more intensive assessment.

Funding

Successful community programs and systems of care utilize community resources efficiently, pool funds, and eliminate duplication and fragmentation of mental health services. They require true community collaboration, creative and non-traditional approaches, and the willingness to eliminate traditional barriers between institutions.

We take note here of a number of issues that impact the ability of courts and communities to make genuine system change, but that are beyond the scope of this paper. The high cost of drugs continues to get higher. Advances in pharmacological treatment of mental disorders make the traditional distinction between ailments of mind and body questionable. The conflict between the obligation of mental health professionals to help the patient in the best way possible, or at least to do no harm, and the priority of many managed care organizations to contain costs is a subject as yet only marginally addressed. The inequity of separate, sparsely funded benefits for mental health and substance abuse treatment in insurance plans and HMOs becomes questionable in the light of current knowledge.

We recommend:

- Pooling or decategorization of available funds into a single funding stream.
- That a single agency, interagency team or entity determine what dollars are spent and for whom.
- That funding should be flexible, based on client needs rather than on categorical funding schemes.
- That payment systems should be specific to the needs of the child and the family and based on the ability to pay.
- Reexamination of separate service and benefit levels for mental illness treatment and mental health conditions in health plans and HMOs.

Substance Abuse, Dual Diagnosis, and Treatment

Drug and alcohol abuse and addictions often coexist with mental disorders. Juvenile courts and service providers must be prepared to deal with the issues of dual-diagnosis and treatment for both conditions for children and for their families.

We recommend:

- That treatment providers be prepared to offer treatment for dually diagnosed children and youth, particularly those services for mentally disordered youth with substance abuse problems.
- That sources of treatment for such dually diagnosed populations, if they are not available, be developed.
- That substance abuse services for children and adolescents reflect their developmental needs and are not merely replications of substance abuse service delivery systems originally designed for adults.

Other Issues

The issues below reflect the complex nature of the delivery of mental health services within the juvenile justice system. As courts and communities engage in the process of reconstructing the delivery of mental health services to members of the community, these are some of the issues they will need to address.

Infant Mental Health -

Recent advances in knowledge about the development of the child's brain and how it works make it impossible to ignore the needs of infants and toddlers. The effects of family separation, of violent households, communities, and cultures on the developing brain of an infant are compelling. Juvenile and family courts are beginning to address these issues, but there is much more to be done.

Status Offenders -

Juvenile and family courts are aware that a truant child is often a troubled child. New school/court approaches to truancy emphasize finding out why the child is not in school and providing a remedy. Runaways often run from abuse and may be thrown out by families who reject them, often for gender identity issues. Underage alcohol consumption and smoking are not only illegal, but also are potential health and addiction problems.

Aftercare -

Issues include family stabilization, environmental factors, and the community. How will these issues be addressed? Why provide therapeutic programs and services to an adolescent and then return him to unchanged environmental and family conditions that contributed to his criminal behavior? A mentally healthy environment for the return of the child which includes the mental health of adult caretakers, as well as training and assistance for adult family members in caring for a child with mental health problems, must be part of aftercare programming.

The Stigma of Mental Illness -

As medicine advances and we become more aware of the biological basis of much of what was once considered emotional imbalance or illness, the stigma attached to mental illness must be confronted and appropriately addressed. Children in grades K through 12 can be educated about mental health just as they are educated about physical health. Public service campaigns and announcements can address mental health issues.

Girls in the Juvenile Justice System -

Females bring with them into the juvenile justice system complex health and mental health issues related to sexual behavior, substance abuse, trauma, and violence. The mental health needs of girls are very different from the needs of boys. Many of them will not seek help. Instead they rely on internalization, avoidance, and self-harm as coping strategies. The mental health needs of girls must be regarded as different both in content and context from those of boys.

Youth of Color in the Juvenile Justice System -

African-American adolescents are more likely to be referred to the juvenile justice system rather than the treatment system. They are less likely than their white counterparts to have previously received mental health services. When they do receive services, they tend to be diagnosed with more severe disorders, suggesting the need for prevention and early intervention services to this group of children and their families. Additionally, treatment providers should be competent to diagnose, counsel, and treat minority youth.

Gay and Lesbian Youth in the Juvenile Justice System -

This is a population of youth whose mental health needs too often go unidentified or unaddressed. Although they may come before the court as runaways or throwaways, or for a number of other offenses, these children use alcohol and other drugs to self medicate, are often severely depressed and at high risk for suicide. Competent counseling and assistance that addresses their and their families' unique needs is necessary.

In Conclusion

These are not problems that are easy to solve. Nor will they conveniently go away. Solutions will require patience, determination, and time. Compromise will be demanded of all, not just once but many times. Two groups of professionals whose goals and purposes may be in direct conflict will be challenged to become better acquainted with each other and with the culture and requirements of their professions. Judges and court professionals will need to understand the client orientation of mental health professionals. Mental health professionals will need to understand that judges must consider community safety needs in their decisions.

This very preliminary paper lays the groundwork for what can be a fruitful community collaboration. It by no means addresses all the issues associated with this com-

plex problem. But it can provide the basis for discussion and a very basic framework for establishing a system of mental health care for the infants, children, and families who come before the nation's juvenile and family courts.

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