

SYSTEMS-BASED PRACTICE

JUVENILE JUSTICE SYSTEM

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SYSTEMS-BASED PRACTICE: JUVENILE JUSTICE SYSTEM OBJECTIVES*

Knowledge

The resident will demonstrate an adequate knowledge of:

1. The primary and secondary missions and two main principles of the juvenile justice system.
2. The concept of status offenses.
3. Key federal legislation related to the juvenile justice system.
4. Range of potential roles and responsibilities of the juvenile justice system.
5. Trends in the juvenile justice system.
6. Goals of the youth service plan.
7. Legal processes and protections that a youth may experience after entering the juvenile justice system.
8. Critical issues of the juvenile justice system.
9. Common dilemmas for professionals working with youth and families in the juvenile justice system.
10. Common dilemmas for professionals working with juvenile probation officers and other court officials.
11. The multiple roles of the child psychiatrist in the juvenile justice system.
12. Two of the evidence-based interventions and/or promising practices.

Skills

The resident will demonstrate the ability to:

1. Evaluate a youth involved with the juvenile justice system.
2. Differentiate the clinical role of the child and adolescent psychiatrist from the forensic role.
3. Participate collaboratively in child and family teams with the youth, the family, juvenile justice system representatives and other stakeholders identified by the court and family.
4. Communicate effectively with juvenile justice system representatives.
5. Prepare a variety of reports, dependent on the needs of the court and the family.
6. Encourage the development and use of natural supports in order to support desired mental health treatments, rehabilitation and decrease future recidivism.

Attitude

The resident will demonstrate the commitment to:

1. Look at the youth and family from a strengths-based perspective and participate meaningfully in a child and family team.
2. Support the work of juvenile justice professionals and offer feedback when indicated.
3. Support collaboration and cooperation between system partners to maximize effective resources in juvenile justice to achieve maximum rehabilitation.
4. Advocate for the needs of the youth and family within the juvenile justice system.

****Appendix 1 describes the systems-based practice competency in the RRC Program Requirements**

OVERVIEW

Child and adolescent psychiatrists (CAPs) regularly work with children and adolescents involved in, and at risk of involvement in, the juvenile justice system. Therefore, it is important the mandates, definitions, roles, services, and responsibilities of the juvenile justice system be understood. It is also important that the culture and value system of juvenile justice be appreciated. Familiarity with evidence-based and promising practices in juvenile justice is also important, and there is much to be learned from each other.

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INTRODUCTION

The primary mission of the juvenile justice system is to provide rehabilitation for children and youth who come under the system’s jurisdiction. Juvenile court differs from adult criminal court by emphasizing treatment and needed services, providing more informal proceedings, and sealing juvenile court records to promote transition to adulthood. A second mission of the juvenile system is to protect society. There is often a tension between the primary and secondary missions. Juvenile law is governed by two principles that serve as a guide on the treatment of children and youth in response to their criminal acts. These two principles are “best interest of the child” and “parens patriae.” These two principles serve as a balance between the needs of the state and protection of its constituents.

The principle of “best interest of the child” authorizes the state to provide the necessary services and supports to a delinquent child or youth in order to remain in the least restrictive setting to receive rehabilitation for their behaviors. The state assists in supporting the youth by successfully re-integrating the youth into the family and community. The principle of “parens patriae” allows the state to act in the role of parent for youth in the juvenile justice system and authorizes the state to legislate for protection, care and custody of youth. Victims’ rights and experiences must also be recognized. Restorative justice is an approach emphasizing rehabilitation through mediation and repair rather than punishment. If all agree, victims, offenders, and community members meet with facilitators to share their experiences, discuss harms, and mediate a consensus for what the offender can do to repair the harm and make amends to the victim and community. Harms to the victim are also assessed and addressed. The approach highlights healing and accountability. Restitution and rehabilitation may still occur.

The juvenile justice system is part of the child and adolescent behavioral health system of care. Youth involved with the juvenile justice system have high rates of behavioral health—mental health and problem substance use—needs, many of which were unmet prior to juvenile justice system involvement. With its emphasis on rehabilitation, child and adolescent psychiatrists and other stakeholders should advocate for juvenile justice systems to provide effective behavioral health services. These services include behavioral health screening, emotion and behavior regulation skills, and treatment for identified disorders. In addition, some youth involved with the juvenile justice system may benefit from enhancing family cohesion and warmth, appropriate academic programming and support; and increasing connections to caring adults, prosocial peers, and positive role models.

Status offenses are a unique concept of the juvenile justice system. Status offenses occur when the youth is engaging in behaviors outside their normal developmental role expectations. These offenses include curfew violations and truancy from school. State officials are torn between their desire to provide services for at-risk youth and families and the public pressure to respond to all forms of youth misbehavior with tough new sanctions, which may include incarceration of status offenders. However, most states do not incarcerate youth for status offenses. Incarcerating youth for status offenses is a detrimental practice. Incarceration will expose low-risk youth to youth engaged more serious negative behavior and may increase the likelihood a status offender will progress to more criminal behavior. Young, first time detainees are also at increased risk for victimization. Youth adjudicated of status offenses are not community protections concerns; incarceration needlessly disrupts their lives and traumatizes them.

In the 1990s, a political scientist predicted, without any basis, an imminent surge of violent and cold-blooded juvenile superpredators. As a result, many jurisdictions instituted “get tough on juvenile crime” policies, leading to punitive approaches, harsh sentencing, and easing the transfer of juveniles to adult criminal court. The explosion of juvenile superpredators never happened, and instead, the rate of juvenile crime and violent juvenile crime actually dropped. Unfortunately, what exploded was the numbers of youth detained, given harsher sentences, and tried and punished as adults. Studies show these harsh policies harmed children and worsened outcomes. The political scientist later acknowledged his predictions were misguided and apologized for the unintended consequences. Despite these documented negative outcomes and the discredited superpredator theory, many jurisdictions are only now, decades later, dismantling the vestiges of the “get tough” on juvenile crime approaches.

Victims’ rights are recognized now.

Several federal legislative acts have shaped the juvenile justice system. The 8th and 14th Amendments outline the constitutional rights of youth. Federal law and most states set the age for criminal culpability at the age of majority (typically 18 years of age). An important early development of the juvenile justice system was the establishment of the first family court, which was designed as a court with jurisdiction limited to the legal matters of children and families. *In re Gault* juveniles facing criminal charges were given due process rights similar to adults.² However, this ruling did not allow juveniles the right to a jury trial. *In re Winship* the burden of proof to convict a juvenile was raised as compared to the adult standard of beyond a reasonable doubt.³

The United States Supreme Court, in a 5-4 ruling, declared that mandatory sentences of life without parole are unconstitutional for juveniles that are convicted of homicide. The court held that in *Miller V. Alabama* and *Jackson V. Hobbs* mandatory sentencing of juveniles to life without parole is a violation of their 8th Amendment rights against cruel and unusual punishment. However, sentencing an individual who committed an offense before age 18 to life without the possibility of parole is still an option in many states if the sentence is not mandatory for a given offense. The argument for different sentencing for adolescents was made based on the science of adolescent behavior and brain development. The brief asserted that adolescents behave differently because their brains are not fully developed and exhibit functional differences from mature adult brains. In writing for the majority, Justice Kagan said, “mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features – among them, immaturity, impetuosity and failure to appreciate risks and consequences.” This ruling builds on recent decisions by the court that highlighted the developmental and neurological differences between juveniles and adults.

The role of the federal government in advancing the juvenile justice system includes funding programs and setting standards for the care and rights of youth in the system. The federal government has made attempts to raise state standards for the juvenile justice system and to reduce the national burden of juvenile delinquency.

The Juvenile Delinquency Prevention Act of 1974 initiated a national policy of status offender "deinstitutionalization" supporting the development of community-based treatment programs and prohibiting incarceration of these youth.⁴ In the following years, most states embraced this policy, drastically reducing status offenders being held in detention. An important aspect of the act includes a requirement for states to help train individuals in occupations providing services within the juvenile justice system. This act defines juvenile delinquency as any act that is otherwise a crime, is committed by someone less than 18 years of age and sets forth rules by which state laws must comply regarding juvenile court procedures and punishments. Finally, the law establishes a federal mandate to provide technical assistance in the juvenile justice system.

The U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention (OJJDP) is an outgrowth of this legislation. OJJDP’s mission is to strengthen the juvenile justice system's efforts to protect public safety and provide services that address the needs of juveniles and their caregivers/families. OJJDP also provides technical assistance to states to improve their juvenile justice systems.⁵

The federal Prison Rape Elimination Act (PREA) of 2003 directs detention and correctional facilities to prevent, detect, and respond to sexual abuse and victimization. The Act applies to juvenile facilities. PREA provides technical assistance and establishes a “zero tolerance” policy. It requires reporting, implementation of best practices, protections for youth at increased risk for victimization, and staff training.

ROLES AND RESPONSIBILITIES OF THE JUVENILE JUSTICE SYSTEM

The juvenile justice system is supposed to balance “*parens patriae*” and “best interest of the child.”

- Integrates federal law mandates into the local children’s code and/or juvenile civil law.
- Involves youth engaged in juvenile delinquency or status offenses.
 - Provides legal counsel for the youth
 - Defines pathways for youth remanded to adult criminal court
- The juvenile justice system represents youth independent of caregivers/parents.
- Through a series of court decisions, it has been determined that individuals who are detained in justice settings have constitutional rights to needed health care, including mental health care. In addition, detained youth are entitled to humane conditions of confinement.
- Provides appropriate educational services to the youth.
- The court process involves developing a youth service plan consisting of rehabilitation, societal sanctions, safety of the youth, and community safety.
 - The goals of the plan are to reduce the youth’s recidivism and maximize growth and development in accordance with juvenile justice law.
 - Post adjudicatory assessments are the most common referrals from juvenile court.
- Determines the safety of the child to remain in the caregiver/family home or in need of immediate out-of-home placement.

THE JUVENILE JUSTICE LEGAL PROCESS

- Juvenile law is governed at the local (curfew and school attendance), state, and federal levels.
 - There is considerable interstate variability in juvenile justice legal processes.
 - District courts serve as the court of jurisdiction for most juvenile offenses.
 - However, cases can occur in the state and federal appellate and supreme courts.
 - On rare occasions, there are federal juvenile cases.
 - Probation department staff monitor youth when delinquent behaviors lead to sentencing.
- Youth may be arrested by police officers, truant officers or members of the sheriff’s department due to a witnessed, reported or alleged violation of juvenile law.
- After the arrest, the youth moves through a series of legal proceedings after a petition is filed with the court.
 - These stages are known as pretrial, adjudication, sentencing and post-sentencing or post-adjudication.
 - **Pretrial stage** – Law enforcement representatives decide if the youth will be arrested and petition the court to charge the youth. The youth is then arrested and charged with an offense. The court representative decides whether to hold the youth in a county or state approved detention site or release the youth while awaiting adjudication (or fact-finding hearing). Some jurisdictions allow for bail, a practice further disadvantaging youth from low socioeconomic status households.

- ***Transfer to adult criminal court***-jurisdictions have mechanisms for trying youth as adults. Historically, this process was reserved for older youth charged with very serious crimes. The criteria for courts to consider when deciding whether to try a youth as a juvenile or adult; the “Kent Criteria” are described below. For youth found guilty of crimes committed before age 18, most jurisdictions allow sentencing up to age 21, though some states have extended sentencing up to age 26. Transferring youth to adult criminal court exposes youth to much longer sentences. During the “tough on juvenile crime” era, many jurisdictions altered this step by requiring youth of a certain age or of a certain age and serious charge to be tried as adults without a hearing; or starting such youth in adult criminal court and putting the onus on the defense to make the case for transferring youth to juvenile court.
- ***Adjudication*** – The juvenile law in the jurisdiction defines the process of the court proceedings, which may include whether the judge or district court magistrate accepts the charges or diverts the youth into a rehabilitation program. If the charge is accepted and filed, the youth is provided with legal counsel to advise them on making a plea of guilty versus not guilty. The court process includes the discovery of the facts, the judge or magistrate, in certain cases the jury, and renders a judgment of guilty or not guilty. For youth found guilty, they move into the sentencing phase.
- ***Sentencing*** – This phase may include probation, a specific rehabilitation site, or placement in a detention facility. The youth may become a custodial ward of the state during this phase. Upon completion of this stage, youth enters a post-sentencing phase.
- ***Post-sentencing*** – This phase may include revocation of probation, entering a period of parole status, re-sentencing or placements in community transitional services. Providing indicated behavioral health services during the post-sentencing phase have been shown to decrease recidivism rates.

CRITICAL ISSUES OF THE JUVENILE JUSTICE SYSTEM

- In the 1990s, a political scientist predicted, without any basis, an imminent surge of violent juvenile superpredators. As a result, many jurisdictions instituted “get tough” on juvenile crime policies, leading to punitive approaches, harsh sentencing, and easing the transfer of juveniles to adult criminal court.
- The explosion of juvenile superpredators never happened, and instead, the rate of juvenile crime and violent juvenile crime actually dropped. Unfortunately, what exploded was the numbers of youth detained, given longer sentences, and tried and punished as adults.
- These harsh policies harmed children and worsened outcomes.
- The political scientist later acknowledged his predictions were misguided and apologized for the unintended consequences.
- Despite these documented negative outcomes and the discredited superpredator theory, many jurisdictions are only now, decades later, dismantling the vestiges of the “get tough” on juvenile crime approaches.
- By the early 2000’s, a number of states began revising the practice of treating juvenile delinquents as adult offenders based on emerging evidence regarding the negative effects of treating youth as adults and the distinction between adolescent and adult brain development and thinking.
 - Evidence-based practices and treatment began to be enacted in some

states. These practices included universal screening for risk and protective factors and mental health and substance use disorders; and access to effective treatments.

- Advocates established a Constitutional right to physical and mental health services for youth in juvenile justice facilities.
- Female delinquency has increased significantly more than their male counterparts over the past decade.⁷
 - The needs of females in the juvenile justice system have been overlooked in the past.
 - Girls' pathways to involvement with the juvenile legal system differ from boys.
 - There are unique mental health comorbidities in females involved with the juvenile justice system and higher rates of victimization than the general adolescent population and justice system-involved males.
 - Advocates have petitioned state systems to provide gender-specific services and supports based on these findings.
 - Some jurisdictions have developed specialty Girls Courts to better address the needs of girls involved with the juvenile justice system.
- Minority youth are also disproportionately represented in the juvenile justice system compared to the percentage of their minority group residing in the state.⁸
 - Minority youth make up approximately 1/3 of the general population but consist of 2/3 of the juvenile justice population.
 - Youth of color, especially African-Americans, have been shown to suffer disadvantages at every step of the juvenile justice system, including propensity to be stopped by police, undergo arrest, denied diversion, charged by prosecutors, transferred to adult criminal court, detained while awaiting trial, offered less favorable plea bargains, found guilty by courts, and sentenced to lengthier sentences.
 - Some advocates, community partners, governments, non-government organizations, clinicians, researchers, philanthropic foundations, and other stakeholders have invested significant efforts to eliminate Disproportionate Minority Contact (DMC).
- The increasing knowledge about the public health and mental health needs of youth in the juvenile justice system offer opportunities for CAPs to improve their state's response to youth involved with the juvenile justice system.
- High percentages of youth involved with the juvenile justice system have had prior contact with the child welfare system. Youth may have concurrent involvement with both the child welfare and juvenile justice systems. The terms crossover and dual system youth respectively are sometimes used to describe these youth. Similar to DMC, many stakeholder groups strive to prevent youth involved with the child welfare system from progressing to juvenile justice system involvement.
- The American Academy of Child and Adolescent Psychiatry (AACAP) Children and the Law Committee is an example of child psychiatry efforts to advocate for advancements to the juvenile justice system. The Committee charges includes:
 - Develop and promote training in the evaluation and treatment of youth involved with the juvenile justice system.
 - Serve as a liaison between AACAP and other professional organizations on matters concerning child psychiatry and the law.

- Develop and assist with position papers and practice parameters for AACAP on issues pertaining to the legal system and children and adolescents.
- Review requests for AACAP to file or sign on to amicus briefs.
- Promote access to comprehensive mental health and treatment services for all youth involved with the judicial system in both juvenile justice and community-based settings.

DILEMMAS WITHIN THE JUVENILE JUSTICE SYSTEM

- CAPs may face clinical and ethical dilemmas when working with the juvenile justice system.
- First and foremost, individuals working in the system must understand the youth's social ecology, individual history, family culture, and developmental level.
- The juvenile justice system representative should ensure the determination of Miranda rights for a youth is conducted in a manner that recognizes the youth's level of development.
 - *Grisso et al.* reported that youth younger than fourteen are less likely to be competent to stand trial or understand Miranda rights.⁹
 - This may be observed in alleged offenses in children who have been victims of abuse or failure to view youth responses to legal representatives with their developmental status in mind.
- The CAP may encounter a system failing to provide assessment and treatment for mental health and substance use disorders. This provides an opportunity for advocacy.
- When facing transfer to adult criminal court, youth should be evaluated by adolescent forensic experts experienced in youth development, behavioral health, and rehabilitation. Unfortunately, some jurisdictions do not have access to this type of expertise. Furthermore, during the "tough on juvenile crime" era, many jurisdictions enacted laws and policies to facilitate trying youth as adults to permit harsher sentencing. In *Kent v. United States*, the US Supreme Court established criteria courts are to consider when deciding to whether to try a youth in juvenile or adult court. The "Kent Criteria" are: 1) seriousness of the charged offense, 2) whether offense was aggressive, violent, premeditated, or willful, 3) whether offense was against persons or property, 4) prosecutor merit of the case, 5) presence of adult accomplice, 6) defendant's maturity and sophistication, 7) defendant's prior record, and 8) prospects for adequate community protection and defendant's amenability to rehabilitation. Some jurisdictions declare lack funding to provide adequate services. As discussed above, a series of court decisions have determined individuals detained in justice settings enjoy Constitutional rights to needed health care, including mental health care, in addition to other rights, such as humane living conditions. Therefore, lack of funding cannot justify substandard health care nor conditions of confinement. In addition, the federal Civil Rights of Institutionalized Persons Act (CRIPA) empowers the US Department of Justice Special Litigation Section to bring court actions against local and state governments for violating the rights of youth detained in juvenile justice facilities. CRIPA also applies to other institutional settings. The Department of Justice has brought court actions against governments and juvenile justice systems to protect the rights of detained youth. These rights can involve the conditions of confinement, access to effective health care and mental health care, freedom from victimization, and appropriate education services.
- Non-government attorneys also file class action lawsuits against governments and juvenile justice systems to protect the Constitutional rights of detained youth, but they cannot use CRIPA. More recently, plans by the DOJ or plaintiffs' attorneys to investigate

- or bring actions have led to negotiated juvenile justice reform.
- The youth and family may encounter difficulties during the legal process including:
 - Racism
 - Low socioeconomic status
 - Lack of knowledge about the impact of social economic status and social determinants of behavioral health
 - Lack of recognition of ethnic minority cultural values
 - Conflicts with the legal system
 - Lack of understanding of how the juvenile justice system works and youth and family rights
 - For example, a family may not question the steps of the pretrial process or volunteer ideas about their ability to address the youth's issues that would support alternatives and thus prevent progression to the adjudication phase. The caregiver may not have a sense of how the juvenile justice system service options will support them in meeting the court requirements in order to allow the youth to remain in the home, but instead may look to the court to provide custodial supervision.
 - A youth being held in a detention setting during the pretrial and adjudication stages may encounter a number of emotional difficulties.
 - The youth may be subject to overcrowding, culturally foreign and unsafe environments in detention or holding areas.
 - The supervising staff may have very little knowledge of child development and have minimal education about accessing health, education, mental health or substance abuse issues.
 - Youth may have difficulty accessing reasonable mental health care.
 - In detention, the youth may have limited contact with their family, community and natural supports leaving the youth vulnerable.
 - During the adjudication process, the youth and family may not be provided with the legal resources for a developmentally and/or legally informed representation of the youth's actions in relationship to the charge and entering a plea.
 - A number of states provide training supports to the youth's legal representative as well as court appointed advocates to assist the youth and family in negotiating the legal process.
 - The state may provide a guardian to represent the interests of the child, which may be needed for youth who are shifting jurisdiction to adult criminal court.
 - The juvenile justice system representative needs to recognize the level of the child's development and capacity to understand criminal sanctions.
 - Many communities lack state or federal funding to adequately meet the developmental, education and treatment needs of youth placed back into their community.
 - Experts must know available services and be open to ongoing advocacy.
 - Once a youth is housed in a detention center, either pre- or post-adjudication, the youth is no longer Medicaid-eligible. Under federal Medicaid rules, individuals who are detained in justice settings must have their Medicaid suspended or terminated. Once they are released, they must reapply. Any delay may prevent a youth from accessing needed physical or mental health care, and/or medications. Some states have implemented systems to resume Medicaid eligibility on the day of release.

- Youth with limited education success and untreated or undertreated mental health or substance use disorders have higher rates of recidivism. The juvenile justice system or the youth may not have access to services and, if the system or the family has limited health resources, then the service need may be unmet. Youth involved with the juvenile justice system are more likely to qualify for additional academic supports and related services through the federal Individuals with Disabilities Education Act.
- Finally, although many states have procedures about the pathway of progression through the juvenile justice system and provide services for rehabilitation, many services may not be cost effective or have any positive outcome in rehabilitation. The Washington State Institute for Public Policy (WSIPP) has evaluated services for justice system-involved youth for effectiveness, cost-effectiveness, and racial and ethnic representation in study groups.
- The juvenile justice system focuses on issues of rehabilitation, public safety, and justice.
 - Many professionals working in the system have minimal knowledge about child development and a limited understanding about mental illness, mental health assessment and service delivery.
 - Often mental health resources in the juvenile justice system are inadequate to address the unique mental health issues of youth involved in the system. As discussed previously, detained youth are entitled to needed health care, including behavioral health care; though legal advocacy may be required to provide access. Some jurisdictions have invested in mental health, substance use, and family treatment resources in both community and residential juvenile justice settings.

ROLES FOR CHILD AND ADOLESCENT PSYCHIATRISTS

Clinician

- The CAP can provide a psychiatric evaluation during the pretrial period.
 - This may include needing to define the intent of the evaluation for the court, differentiate the clinical findings from any expert's finding, and provide psychotherapy and psychopharmacology services.
- The CAP should clarify issues of consent, assent and confidentiality with the youth and caregiver.
 - This may also involve making sure the youth and caregiver understand the court process, their professional role and obtaining consent and assent.
 - During the initial evaluation, the CAP should review all available information through the juvenile justice system and may need to collaborate with the family for additional information. It is important to include the current caregivers as part of this process for the youth whenever possible.
 - The evaluation should include a thorough family, developmental, trauma, illicit substance use, education, placement, prior treatment, child welfare, and criminal histories.

- Upon completion of the evaluation, an assessment, formulation, diagnosis, and a list of treatment recommendations serve as a useful guide in initiating psychiatric treatment of the youth.
- The CAP is a valuable member of the team and participates in the team meetings and planning for the youth.

Expert Witness

- Forensic evaluation of youth involved in the juvenile justice system is significantly different from any psychiatric clinical evaluation.
- The CAP as a forensic consultant is not engaged in a therapeutic process but under contractual agreement with the court to perform an evaluation as specified by the court.
- The forensic evaluation provides information that is requested as part of the legal proceeding and is utilized in decision-making by the judge or magistrate.
- The CAP performing a forensic evaluation should:
 - review their role and task as requested by the court judge or magistrate
 - clarify issues surrounding reimbursement for the service
 - clarify their role as a consultant to the court
 - define the limited confidentiality afforded the youth and family.
- As with the clinical evaluation, the CAP should systematically obtain significant collateral information, which may involve:
 - an evaluation of the youth and family interacting
 - identifying mitigating factors such as child development
 - the need to establish competency
 - the recognition of malingering and/or exaggeration of traits that will influence sentencing of the juvenile
- The CAP should never have a dual role as primary clinician and forensic evaluator.
- One can testify as a clinician, but this should only be done with written permission from the child and parent or by a court order. A subpoena does not substitute for a court order.

Advocate

- The CAP may serve as an advocate for the integration of mental health services within the juvenile justice system.
- This includes collaboration with juvenile justice professionals in each step of the legal process.
- The CAP may collaborate with professionals in the system at the policy level by assisting in drafting developmentally appropriate policies; educating the appropriate legislative members about cost effective evidence-based interventions; partnering with consumer advocacy groups promoting access to mental health care; and, supporting implementation of medical practices and delivery systems of rehabilitation that are high quality, strengths-based and informed by the juvenile's and the family's goals.

Consultant

- The CAP may also serve in a consultant capacity.
- As a consultant, some of the roles may include training staff about mental illness and substance abuse issues for this population.
 - The CAP may play a role in how to intervene with youth who are presenting with behavioral problems in the detention facility and the community.

- This can also help the families to:
 - Better understand the youth's needs
 - Understand how to better access services within the system
 - Appreciate the critical role of family and community supports in the rehabilitation of the youth.
- The consultant may work directly with the agency director regarding ways to improve care and be asked to participate in service planning meetings.
- Consultants may also work with government and juvenile justice system administrators to help design and/or implement improvements to a juvenile justice system, program, or facility.

Treatment Provider

- Many CAPs contract with detention centers, residential programs and group homes to provide mental health treatment services for youth.
- As such, they do clinical evaluations, provide psychotherapy, work with families, and prescribe medications.
- They may participate in treatment team meetings and consult with staff on how to manage individuals with mental health issues.

EVIDENCE-BASED MENTAL HEALTH INTERVENTIONS FOR YOUTH IN JUVENILE JUSTICE

- The juvenile and violent juvenile crime rates are declining in the United States. However, some jurisdictions maintain harsh approaches that unnecessarily detain and involve youth due to:
 - Mandatory sentencing laws.
 - Increased community pressure to activate the juvenile justice system rather than divert youth with delinquent behaviors.
 - Disparities in access to mental health and substance abuse treatment.
 - Strained child welfare systems.
- Meanwhile, other jurisdictions have invested in prevention, early intervention, and evidence-based juvenile justice practices. These include:
 - Nurse home visiting programs beginning during pregnancy for at-risk first-time mothers.
 - Parent training for young children exhibiting disruptive behavior.
 - Comprehensive screening, evaluation, and services for truancy and other status offenses and/or when youth first have contact with the juvenile justice system.
 - Emphasizing diversion and evidence-based treatment for youth and families involved with the juvenile justice system.
 - Strengthening the child welfare system.
 - Providing nurturing milieus and evidence-based services in detention facilities.
 - Providing effective and multi-domain transition services when youth shift from long term detention back to their home communities.
 - Arranging for mental health, substance use, and family treatment when indicated.
- Youth detained for specialized status offenses, violent and/or sexual offenses, as well as youth with mental illness and substance use disorders, traditionally have higher rates of recidivism than the general juvenile delinquent population.
- The cost of detaining these youth is greater than for other populations.⁹
- In the late 1980s, researchers started applying evidence-based principles in designing

interventions to target improvement in juvenile justice outcomes.

- This included examining the cost-benefit ratio of rehabilitation and level of confinement for sentenced youth.
- Early outcome studies reported that residential programs were more effective if the youth was incarcerated for a longer period of time, if the program had a consistent structure, strong and positive staff relationships, use of cognitive behavioral therapy or other evidence-based therapies, and co-occurring treatment for health and substance use disorder issues.⁹
- Multisystemic Therapy (MST) is an intensive family- and community-based treatment that addresses the multiple determinants of serious antisocial behavior in juvenile offenders.¹⁰
 - The multisystemic approach views individuals as being nested within a complex network of interconnected systems that encompass individual, family, and extrafamilial (peer, school, neighborhood) factors.
 - Intervention may be necessary in any one or a combination of these systems.
 - MST targets chronic, violent, or substance abusing male or female juvenile offenders, ages 12 to 17, at high risk of out-of-home placement, and the offenders' families.
 - MST addresses the multiple factors known to be related to delinquency across the key settings, or systems, within which youth are embedded.
 - MST strives to promote behavior change in the youth's natural environment, using the strengths of each system (e.g., family, peers, school, neighborhood, indigenous support network) to facilitate change.
 - The major goal of MST is to empower parents with the skills and resources needed to independently address the difficulties that arise in raising teenagers and to empower youth to cope with family, peer, school, and neighborhood problems.
 - MST also promotes youth socializing with prosocial peers and preventing contact with negative peers.
 - Within a context of support and skill building, the therapist places developmentally appropriate demands on the adolescent and family for responsible behavior.
 - Intervention strategies are integrated into a social ecological context and include strategic and structural family therapy, behavioral parent training, and cognitive behavior therapies.
 - MST uses a home-based model of service delivery to overcome barriers to service access, increases family retention in treatment, allows for the provision of intensive services (i.e., therapists have low caseloads), and enhances the maintenance of treatment gains.
 - The usual duration of MST treatment is approximately 60 hours of contact over four months, but frequency and duration of sessions are determined by family need.
 - Difficulties can include the expense and lack of community and state support. Even though the system has been shown to be cost-effective, start-up costs are high and savings from reduced juvenile justice system involvement may not accrue to the justice system or behavioral health care system.
 - MST emphasizes quality improvement systems, including continuous training, supervision, and expert consultation, and the use of fidelity tracking tools. The Therapist Adherence Measure (TAM) uses caregiver reports to track therapist

adherence to MST treatment principles, while the Supervisor Adherence Measure (SAM) uses therapists reports to assess supervisor adherence to MST supervisor protocols. Higher fidelity scores on both the TAM and SAM are correlated with lower recidivism rates.

- This tends to be less effective with severe delinquents.
- Treatment Foster Care Oregon (TFCO) was formerly known as Multidimensional Treatment Foster Care. TFCO is a cost-effective alternative to group or residential treatment, incarceration, and hospitalization for adolescents who have problems with chronic antisocial behavior, emotional disturbance, and delinquency.
 - TFCO Training for community foster families emphasizes behavior management methods to provide youth with a structured and therapeutic living environment.
 - Community families are recruited, trained, and closely supervised. TFCO provides TFCO adolescents with treatment and intensive supervision at home, in school, and in the community
 - TFCO also emphasizes:
 - Clear and consistent limits with follow-through on consequences
 - Positive reinforcement for appropriate behavior
 - A relationship with a mentoring adult
 - Separation from delinquent peers
 - TFCO targets youth with histories of chronic and severe criminal behavior at risk of incarceration and those with severe mental health problems at risk for psychiatric hospitalization.
 - TFCO has been shown to be effective for girls.
 - TFCO Training for Community Foster Families emphasizes behavior management methods to provide youth with a structured and therapeutic living environment.
 - After completing a pre-service training and placement of the youth, TFCO parents attend a weekly group meeting run by a program supervisor where ongoing support and supervision are provided.
 - TFCO utilizes a daily telephone check-in with foster parents with a standardized checklist called the Parent Daily Report (PDR). The PDR items query youth behavior and foster parent stress associated with negative behaviors. This helps identify specific problems to target and when more intensive support for the foster parent is needed. The PDR also provides data for tracking youth progress.
 - TFCO staff is available for consultation and crisis intervention 24 hours a day.
 - The family which the youth will return to after this stay are also trained in the same parenting strategies the youth experiences in the foster home.
- Several studies have shown that MST and TFCO are cost effective.⁹⁻¹³
 - These studies demonstrated that youth who participated in MST or TFCO had decreased recidivism rates.
 - They also noted that identifying and treating all of the youth's conditions in an integrated fashion provides better treatment outcomes, and addressing educational issues and providing environmental structure decreases recidivism rates.
- Promising interventions for adolescent substance abuse treatment include:
 - Cognitive behavioral approaches including the Cannabis Youth Treatment Series (CYT) and The Seven Challenges.^{14,15}

- A substance abuse approach using system of care principles and developed by the Robert Wood Johnson Foundation is the Reclaiming Futures Model.¹⁶
- Good examples of community based treatment programs can be found in Seattle, WA, Portland, OR and Dayton, OH.

CONCLUSION

The juvenile justice system is part of the behavioral health system of care. The primary mission of the juvenile justice system is to provide rehabilitation to youth offenders. A secondary goal is community protection. In order to assist youth offenders, the juvenile justice system assumes the role of the parent, also known as “*parens patriae*” and promotes “the best interest of the child” by providing youth and family the necessary rehabilitative services in the least restrictive setting. When detained and treated out-of-home, the juvenile justice system must assure appropriate transition services to youth shifting back to their family and home community. Juvenile justice laws and policies vary from state to state but all states work under the principles of “*parens patriae*” and the “best interest of the child.” Many jurisdictions deviated from the primary mission of rehabilitation, but the ineffectiveness and negative effects and costs of administering punishment without treatment, have led states to emphasize prevention, early intervention, treatment, and evidence-based services.

Youth offenders are sometimes charged with status offenses, which may include curfew violations and truancy from school. Most states do not incarcerate youth for status offenses, which is considered a negative practice. Sentenced juvenile offenders proceed on to the pre-trial, adjudication, sentencing, and post-sentencing phases that are charged with more serious offenses. These phases of the juvenile justice system process determine if the youth offender will be housed by the state in a detention center, transitioned to a residential treatment center, or released back into the community with their family. Each phase of the juvenile justice process aims at rehabilitating the youth back into the community. Restorative justice is an approach emphasizing accountability and repair among victims, offenders, and community members.

In the 1990s, a political scientist predicted, without basis, an impending upsurge of violent, remorseless “superpredators.” This prediction turned out to be the opposite of what happened—the juvenile crime and violent crime rate dropped afterwards. Unfortunately, nearly every state passed harsh juvenile crime laws, emphasizing punishment, providing longer sentences, and easing the transfer of youth to adult criminal courts. Over 20 years later, some jurisdictions are only now repealing these harsh approaches.

A series of lawsuits have established detained youths’ rights to needed health care, including mental health care, humane conditions of confinement, and appropriate education services. Some jurisdictions plead lack of resources to provide appropriate services, but the US Department of Justice and non-government attorneys can file or plan court actions to drive system improvement and resource allocation. Multisystemic Therapy (MST) and Treatment Foster Care Oregon (TFCO) are examples of evidence-based treatments for youth involved with the juvenile justice system. MST and TFCO are community based programs that reduce further justice system involvement through addressing the multi-systemic needs of justice-system involved youth and families.

Child psychiatrists have many roles in the juvenile justice system such as performing forensic examinations for the court, acting as a consultant in treatment, being a clinician for the patient, providing justice system consultation, and advocating for the juvenile during this process. The roles of consultant and clinician are very important in providing psychiatric treatment and advocating for the juvenile offender. Serving as an advocate may involve many different systems of care (educational, community) in addition to the juvenile justice system. Being an advocate involves working closely with federal and state legislation to examine and improve current policies in order to better serve those in the juvenile justice system. The U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention (OJJDP) is one legislative program working to strengthen the juvenile justice system's efforts in providing services to address the needs of juveniles and their caregivers/families. In addition, the American Academy of Child and Adolescent Psychiatry (AACAP) works closely with policy makers to advocate for the best possible care to children in all systems of care.

APPENDIX 1*

Residents must demonstrate an awareness of and responsiveness to the larger context and system of health care, as well as the ability to call effectively on other resources in the system to provide optimal health care. Residents are expected to:

IV.B.1.f) Systems-based Practice. Fellows must demonstrate an awareness of and responsiveness to the larger context and system of health care, including the social determinants of health, as well as the ability to call effectively on other resources to provide optimal health care. (Core)

* Accreditation Council for Graduate Medical Education. Program Requirements for Residency Education in Child and Adolescent Psychiatry.

https://www.acgme.org/Portals/0/PFAssets/ProgramRequirements/405_ChildAdolescentPsychiatry_2019_TCC.pdf?ver=2019-03-28-161025-277. July 1, 2019.

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16. Reclaiming Futures. <http://www.reclaimingfutures.org>. Accessed October 14, 2009.

OTHER RESOURCES

Web sites

National Center for Juvenile Justice: <http://www.ncjj.org>

Texts

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Juvenile Justice System – Discussion Vignette I – Trainee Version

Ethan Fount is a 16 year old Caucasian American male who was sentenced for up to two years for assaulting a student at school. He has completed five out of six months of a boot camp program and is preparing for a return to his community where he will be on a one year mandatory parole. Ethan had been living with his mother, younger sister and aunt in an inner city apartment complex. His mother says that prior to his arrest she had little control of his behavior; he would stay out late most nights often not returning home to sleep. His mother was never sure who he was with. He is currently a high school freshman with a history of difficulty in school for several years with poor grades, multiple absences in the last year, and several suspensions for aggressive behavior. At the time of his arrest his “tox screen” was positive for cannabis. The previous year, his father was arrested, charged and incarcerated for distributing cannabis. Ethan’s mom is seeking aftercare services that his parole officer stated he has to secure. She is meeting with the case manager to set up appointments. She states he needs anger management services and she wants help to make sure that he stays out of gangs. The case manager is reviewing Ethan’s information in the clinical staffing team.

1. What kind of services might Ethan benefit from in his efforts towards rehabilitation?

2. How may Ethan have progressed through the juvenile justice system?

a. Discuss a typical scenario for progression through the juvenile justice system.

b. Discuss effective mental health program components for incarcerated youth.

Juvenile Justice System – Discussion Vignette II – Trainee Version

Maria is a 15 year old Hispanic female who has had chronic behavioral problems since first grade. She was removed from her biological mother's home at 7 years old and has been in multiple foster homes. Maria started using alcohol at 9 years old and marijuana at 11 years old. By age 12, Maria was caught stealing a car and breaking into homes. She was placed on probation and had mandated services, including mental health and substance abuse services. In the last three years, she has had multiple felony offenses, has spent time in detention and now she has been committed to a training school for 16 months. Most recently, while in detention awaiting placement at the training school, she experienced suicidal ideation.

1. As stated above, Maria spent some time in a detention center before she was sent to the training school and became suicidal. What are some reasons for increased emotional difficulties in detention sites?

2. A possible alternative placement for Maria is multidimensional treatment foster care. Why would Maria be a good candidate for TFCO?

3. Describe TFCO.

