



Mental Health Court Partnership Helps Youth with Serious Mental Illness

by Meghan Lang

In a groundbreaking move, a California juvenile delinquency court has opened its doors and ushered in child advocates. The Santa Clara Juvenile Mental Health Court has teamed up with NCYL to enhance the services it provides to delinquent youth with serious mental illness.

The Problem

There is a staggering rate of psychiatric disorder among juvenile detainees in our country. In a report to Congress, the Coalition for Juvenile Justice (CJJ) estimated 50 to 75 percent of incarcerated youth nationwide have a diagnosable mental health disorder.¹ A recent study of detained youth concluded that, “nearly two-thirds of males and nearly three quarters of females met diagnostic

criteria for one or more psychiatric disorders.”²

These disturbing figures confirm what advocates have long known: increasing numbers of juvenile detention facilities have become de facto psychiatric warehouses.³ Although the causes of this trend are numerous and complex, growing consensus among experts holds that many youth come under court supervision due to delinquent behavior that stems from unmet mental health needs. This observation locates the root of the problem outside of the juvenile justice system and begs the question: why are the mental health needs of so many youth going unmet?

In a nutshell, mental health services are expensive and access to them is limited. It is often difficult, and sometimes impossible, for a

family to find and pay for appropriate treatment for a mentally ill child. The U.S. General Accounting Office (GAO) released a study in April highlighting that this difficulty – caused by the utter dearth of accessible, affordable community mental health services – has caused a crisis. Parents across the country are voluntarily relinquishing custody of their children to the juvenile court so that these children get the mental health services they need.⁴

Desperately ill children should not need to be jailed by their parents in order to receive health care. Yet individual families point to a multitude of factors that influence them to do just this: lack of medical insurance, private and public health insurance restrictions,

the high cost of treatment services, the shortage or unavailability of appropriate services, the difficulty of meeting eligibility rules for services, and the failure of child-serving agencies and schools to provide the mental health services to which youth are entitled. Additionally, the GAO study indicated that confusion among state and local officials regarding mental health programs poses additional challenges for parents, often resulting in misinformation and missed opportunities for parents to access help for their children.⁵

Youth with serious mental illness often have multiple issues that require comprehensive and coordinated services. When these youth become court-involved, it is critical that the system affirmatively connect the youth with appropriate mental healthcare.

The Problem-Solving Court

Santa Clara County in California formulated a unique judicial response to this problem. Turning to a “therapeutic jurisprudence” model, the county crafted

(continued on p.2)

1 CJJ is federally funded organization appointed by the nation's governors, which provides assistance and guidance to elected officials on juvenile justice issues. See generally <http://www.juvjustice.org>; J. Hubner and J. Wolfson, *Handle with Care: Serving the Mental Health Needs of Young Offenders: 2000 Annual Report*, <http://www.juvjustice.org/publications/annualreport/2000/report.pdf>.

2 Linda A. Teplin, et al., *Psychiatric Disorders in Youth in Juvenile Detention*, 59 Arch. General Psychiatry, 1133, 1133 (Dec. 2002).

3 Michael Faenza, *NMHA Statement on the Criminalization of Mental Illness*, <http://www.nmha.org/newsroom/system/news.vw.cfm?do=vw&rid=228> (September 21, 2000) (“Our nation's jails and prisons have become, by default, the psychiatric warehouses of the new millennium.”)

4 Child Welfare and Juvenile Justice, U.S. Gen. Accounting Office, Report to Congressional Requesters No. GAO-03-397, *Federal Agencies Could Play a Stronger Role in Helping States Reduce the Number of Children Placed Solely to Obtain Mental Health Services*, (April 2003); see also Bazelon Center for Mental Health, *Relinquishing Custody: The Tragic Result of Failure to Meet Children's Mental Health Needs* (March 2000) (reporting on initiatives to address custody relinquishment and the lack of accessible mental health services.)

5 Id. at 4-6.

by Meghan Lang

(continued from front)

Mental Health Court Partnership

the country's first Juvenile Mental Health Court.⁶ The basic idea is to facilitate the provision of mental health services to youth under the close supervision of a judge.

California's detention data is even worse than the national projections. An estimated 50 to 90 percent of incarcerated juveniles in California have a diagnosable mental disorder, and "some of these children are incarcerated simply because their county does not offer appropriate mental health treatment."⁷ In Santa Clara County specifically, a system-wide screen confirmed that juvenile detainees were "significantly impaired" when compared to the general juvenile population: 37 percent were severe trauma victims, 19 percent were seriously depressed, nine percent exhibited psychosis,

6 Therapeutic jurisprudence takes an interdisciplinary view of justice, employing both behavioral sciences and the law as complementary tools in analyzing and crafting sound law. Without trumping other judicial considerations, such as public safety or constitutional protections, therapeutic jurisprudence looks to the practical effects law has on individuals within the legal system and assumes that, all other things being equal, the law should be restructured to better accomplish therapeutic values. See David B. Wexler, *Putting Mental Health into Mental Health Law: Therapeutic Jurisprudence*, 16 L. & Hum. Behav. 27, 32 (1992).

7 Little Hoover Commission, *Young Hearts & Minds: Making a Commitment to Children's Mental Health*, (Oct. 2001) at i.

and eight percent reported suicidal ideation.⁸

For two years the Court has been working to identify detained youth with serious mental illness and divert them from incarceration to appropriate community care.⁹ Eligible participants are identified early and promptly screened into the program. The Court provides immediate access to supportive mental health services and expedited placement in the community. Successful completion of the program results in dismissal of the underlying delinquency petition.

Arguably, the strongest asset of the Court is the multi-disciplinary, collaborative court team.¹⁰ This group, comprised of juvenile justice and behavioral health stakeholders, acts as kind of a case manager. The team plans for and supervises individualized mental health treatment services, including pharmacological intervention, individual counseling, family counseling and special educational oversight. The Court also has discretion to join and hold accountable

8 David Arredondo, et al., *Juvenile Mental Health Court: Rationale and Protocols*, *Juvenile and Family Court Journal*, at 4-5 (Fall 2001).

9 The Court defines serious mental illness as "brain conditions with a genetic component, including major depression, bipolar disorders, schizophrenia, severe anxiety disorders, severe ADHD; developmental disabilities such as pervasive developmental disorders, mental retardation, and autism; Brain syndromes, including severe head injury. Unless complicated by another condition, adjustment reactions, oppositional defiant disorders, conduct disorder, and personality disorders would not qualify juveniles for [the Court]." Arredondo, et al. at 6.

10 The Court team is a non-adversarial, dedicated staff made up of a judge, a prosecutor, public defender, probation officers, and county mental health staff.

any other party that owes the youth a duty of care.¹¹ This is an important tool for holding other child-serving agencies accountable for efficient and effective provision of services.

By diverting delinquent youth from a punitive setting to a more rehabilitative environment, the Court presents a real opportunity for youth to receive individualized mental health care.

The Project

Expanding upon its commitment to multi-agency collaboration, the Court will now work with NCYL to coordinate the provision of critical civil services to its youth through the Juvenile Mental Health Court Project. NCYL, in partnership with San Jose-based Legal Advocates for Children and Youth (LACY), will employ its expertise in public benefits, educational accommodations, and healthcare to assist youth and their families to obtain ongoing mental health services and economic security. By ensuring continuity of care, the Project will help youth make a successful, supported transition out of the Court program and back into the community.

11 Cal. Welf. & Inst. Code § 727 (a) (2000) ("When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or 602 the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court. To facilitate coordination and cooperation among government agencies, the court may, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency that the court determines has failed to meet a legal obligation to provide services to the minor.")

For example, many of the youth before the Court are eligible for Medicaid (or Medi-Cal in California), a federal program that provides comprehensive health coverage for children from low-income families. However, in California detained youth lose Medi-Cal eligibility while in custody. The Project will assist some youth to make an initial Medi-Cal application and help others to reapply to resume coverage when they are placed back in the community. The Project will also assist qualified youth to apply for Supplemental Security Income (SSI) and the Cash Assistance Program for Immigrants (CAPI). These are, respectively, federal and state income assistance programs available to seriously disabled children whose families have little income or resources.

Focusing on the long-term needs of youth after juvenile justice involvement, child advocates and juvenile justice partners will work together to provide seriously disordered youth with access to the full array of benefits and services needed to promote their mental health and reduce recidivism. Most importantly, this collaboration will ensure each youth has continued access to effective community-based mental health treatment not only while under the jurisdiction of the Court, but also after the delinquency case has been dismissed.

Meghan Lang is an Equal Justice Works Fellow with the National Center for Youth Law, and the directing attorney of the Juvenile Mental Health Court Project.