

## Citizens for Juvenile Justice (CfJJ)

### POSITION PAPER:

#### MENTAL HEALTH AND THE JUVENILE JUSTICE SYSTEM

*Behavior problems in children and youth have traditionally been the focus of activities by the juvenile justice system, or the mental health system, or both. Confusion and conflict about the appropriate roles and interactions of these systems has reigned since they each developed, in uneasy collaboration with one another, over 100 years ago. Massachusetts is rich with mental health services and has a tradition of innovative, flexible, community-based juvenile justice services; but these advantages have not always led to success in joining the efforts of mental health and juvenile justice effectively. The following principles represent the position of Citizens for Juvenile Justice on basic issues that we believe should guide understanding and improvement in services, to help this critical collaboration to become fair and effective.*

#### **Principle #1: The juvenile justice system is responsible for the safety of youths in its care.**

First, we believe that children and youth deserve to be safe. Whether in detention, in DYS treatment facilities, in mental health facilities, or (ideally) in their homes and communities, part of the essential responsibility of programs is to do their best to prevent kids from being harmed, by themselves or by others. The need for safety is not a mental health issue, since much of the harm that may come to kids in programs may come from situations that are not generally thought of as mental health problems. We believe that agency responsibility requires the best management of risks not just from suicide or self-harm, but also from accidents, assaults stemming from gang rivalries or other conflicts, or predation by staff or other residents. Risk management needs to take account of mental health issues, but should never be limited to those issues; mental health services need to take account of safety, but should never be limited to that issue.

We also understand that managing risk well does not always mean eliminating it completely. Often, a child's interest in positive growth and development is served best by accepting some risk, and helping the child to manage it positively. Sometimes the strict containment of risk results in such a high level of restriction that it is adverse to the child's healthy development, and may be harmful to the child's mental health. One of the inevitable challenges of working with youth is balancing the need for independence and growth and the need for safety.

**Principle #2: At every stage, the juvenile justice system must account for the child's individual mental health status and needs when responding to behavior problems.**

We support measures such as a standardized process for mental health screening of youth at entry into juvenile court, with more specific and detailed mental health assessments when indicated by history or by recent symptoms. For kids found to have a mental disorder, disposition and treatment planning must take careful account of the specific relationship between mental disorder and behavior problems. How much and in what way mental disorders may have contributed to bad behavior must continually inform decisions about treatment planning, evaluation of treatment progress, and risk assessment, on an individual basis. Staff should have access to mental health information as youths move through the system, to ensure continuity of care and ongoing attention to special needs in this area.

Discretion in case processing is both a strength and a weakness in juvenile justice. Research shows that discretionary decisions about arrest, detention, and disposition appear to be vulnerable to racial and socioeconomic bias, and that access to mental health care in juvenile justice may be similarly affected. Appropriate programming decisions are based on well-informed clinical consideration of mental health issues, not on informal personal impressions. We believe that good education about mental illness in children and teens for police, probation, detention staff, and caseworkers can help to promote appropriate discretion in these decisions.

**Principle #3: Juvenile justice facilities should not be a substitute for mental health facilities.**

Mental health care can be expensive and hard to access, especially in acute situations. Too often, when a mental health problem includes difficult behavior, kids in need are channeled into court and detention, in a well meaning effort to keep them safe, when it seems to be too difficult to obtain appropriate mental health care. Though the effort to keep sick kids safe by locking them up may be well motivated, it is bad for kids and families, bad for mental health services, and bad for youth corrections. It unfairly exposes mentally ill children to the aversive sanctions, long delays, and potentially traumatic environments of youth corrections, and can deprive them of needed treatment and of the ongoing support of their families. It can disrupt the efforts of juvenile justice facilities to provide appropriate rehabilitative education and training to residents, by inappropriately draining program resources and attention to the containment of problems of emotional instability and self-harm.

**Principle #4: Mental health facilities should not be a substitute for juvenile justice facilities.**

Most bad behavior in children and youth is not a direct result of mental illness. More commonly, such behavior stems from failures in ordinary socialization within families, schools, and peer groups; or from the developmental challenges of adolescence, such as excess risk-taking, impulsiveness, or rebellion against authority; or a combination of these problems. A critical aspect of helping kids to improve in these areas is to insist on behavioral accountability. Mental health facilities must not neglect fostering accountability and personal responsibility in their clients; but they may appropriately pay more attention to the discovery and treatment of problems with mood or perception, which adversely affect youths' behavioral control. Kids with more primary difficulties in socialization may sometimes try to avoid responsibility for their behavior by seeking refuge in mental health facilities, and they can seriously disrupt treatment efforts in facilities by posing undue risks to residents and staff, and by undermining the therapeutic culture of emotional directness and trust.

**Principle #5: Youths in juvenile justice facilities are as entitled to mental health care as youths in the community.**

Though detention should not be used in place of mental health facilities, many children who are in detention or juvenile justice facilities for legitimate juvenile justice reasons have significant mental health problems. (Many studies have found that children and teens in juvenile justice facilities show significantly higher prevalence of mental health problems than those in the community, though these results may reflect the problems of inappropriately placing kids with mental health needs in the juvenile justice system.) For children and youth who are in juvenile justice facilities for good reason, and who have mental health needs, custodial responsibility includes providing appropriate mental health care.

This care should include

- 1) a thorough diagnostic assessment, including contact with family members and review of previous clinical records;
- 2) specialized testing when indicated by concerns about cognitive or developmental issues, or ambiguous psychopathology;
- 3) specialized psychiatric consultation and treatment when indicated by the suggestion of conditions that may be responsive to medication;

- 4) an individualized plan for treatment of the mental disorder, including specific attention to collaboration with the other elements of the youth's rehabilitation program;
- 5) ongoing appropriate family involvement; and
- 6) careful attention to maintaining continuity of treatment as the youth moves within the juvenile justice system.

**Principle #6: Families of children and youth in juvenile justice facilities have the same right to involvement in their children's mental health care as do families of kids at home.**

Advocates and providers in children's mental health services have had great success in the past two decades in dispelling the past tendency to blame parents for children's mental health problems, and in forging successful collaborations between parents and providers to promote effective treatment. In juvenile justice the challenges in this area are even greater. The juvenile justice system disproportionately involves youth of color and those from economically disadvantaged families; there can be as much or greater stigma in having a child who is labeled delinquent as in having a child who is mentally ill. In truth, kids in the juvenile justice system are more likely to have had difficult experiences in their families and to have families who continue to be under stress.

But these problems do not change two fundamental facts. Parents have a right to direct the growth and treatment of their minor children; and a child's family – however stressed it may be – remains the most basic connection the child has in the world. Parents want their kids to be law abiding and successful, and children depend on their families far longer and more importantly than they ever depend on professional providers. Effective treatment of mental health problems for youth in the juvenile justice system must include at least as much attention to supporting family strength as does treatment in the community.

**Principle #7: The juvenile justice system is responsible for helping youths connect with appropriate mental health services as they leave the DYS system.**

A basic premise of the juvenile justice system is that youth conduct problems tend to be developmentally limited. Juvenile justice recognizes that most delinquents desist from antisocial behavior by early adulthood; its interventions are targeted primarily at adolescents, and legal jurisdiction over delinquency ends appropriately at age 18 (or at most 21, in some cases). However, many teens in DYS who have mental health problems are not likely to see their problems disappear when they leave DYS. Unlike simple adolescent conduct problems,

these teens' mental disorders are often early manifestations of conditions that tend to last well into adulthood, and sometimes become even more serious and disabling over time. Part of the responsibility for caring for such youth includes active collaboration with other systems of care, to assure that their continuing mental health needs are met when they age out of DYS.

(Adopted by the CfJJ Board of Directors on April 5, 2005)