Advanced Juvenile Law:
Dispositional Options for Youth With Behavioral Health Needs

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May 12, 2016

Overview

- Identify how many youth are affected
- Learn about effective responses
- Discuss best practices related to:
  - determining dispositional options
  - drafting court orders

Who Are These Youth?

- 70% of entire JJS youth population
- 30% need immediate MH treatment
- 60% have co-occurring disorders
- 75% exposed to early-childhood trauma
  - 93% of incarcerated youth
- Higher rates of suicide, truancy, & academic failure

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North Carolina's Youth

In 2011 . . .

- 23% of all youth screened had moderate/high risk for needing SA treatment
- YDC Population:
  - 1 in 4 exposed to trauma (sexual, physical, or emotional abuse or neglect)
  - 89% had diagnosable MH disorder
  - 70% had multiple diagnoses

NC Dept. of Public Safety, Division of Juvenile Justice – 2011 Annual Report

Most Common Diagnoses

1. Substance Abuse
2. ADHD
3. Anxiety Disorders
4. Post-Traumatic Stress Disorder (PTSD)
5. Depression
6. Oppositional-Defiant Disorder (ODD)

Trauma

- Increases risk of MH & SA
- Impacts adolescent brain development
- Lifelong serious consequences, if unaddressed
- Treatment must be trauma-informed
  - E.g.
    - Trauma-Focused Cognitive Behavioral Therapy (TF-CBT)
    - Cognitive Behavioral Intervention for Trauma in Schools (CBITS)
- Resource: "*Ten Things Every Juvenile Court Judge Should Know About Trauma & Delinquency*"

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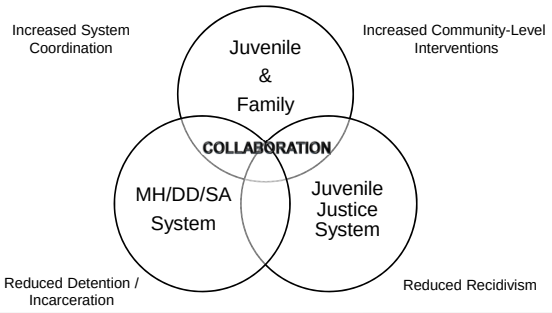
Key Components of Effective Treatment

- Early screening & assessment
  - E.g.
    - Risks & Needs assessments
    - GAIN-SS (Global Appraisal of Individual Needs Short Screener)
- Community-based, non-punitive care
- Evidence-based, trauma-informed
- Youth & family engagement (SOC model)
- Cross-system collaboration

Improving Outcomes



Successful Reform Efforts

- Louisiana
  - Models for Change initiative (2006-2012)
    - Adopted statewide use of evidence-based screening & risk assessment tool
    - More funding for community-level interventions (FFT, MST)
    - Increased referrals to EBP's from 7% to 95%
    - Reduced recidivism rate from 53% to 21%
- North Carolina
  - 21st century shift from "correctional" to "therapeutic"
    - Greater use of community-based treatment, EBP's
    - 84% drop in YDC commitments since 1998 (1,390 in 1998 to 219 in 2013)
    - 32% decrease in delinquency rate from 2006-2012

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Dispositional Options: Diversion

- Produces better outcomes than detention
  - NC Diversion Report (FY 2008-2011)
    - 38% of all complaints diverted/closed
    - 73% successful completions
    - **21% two-year recidivism rate** (versus 51.3% for unsuccessful completions)
  - NC Sentencing Commission Juvenile Recidivism Study (FY 2010/11)
    - 42% overall juvenile recidivism rate
    - Rate increases with level of involvement in JJS
      - from 31.5% for closed complaints to 52.8% for adjudicated complaints.

G.S. 7B-1706

Dispositional Options: Dismissal or Continuance for 6 months

- Dismiss at disposition
- Continue for 6 mos.
  - To allow family chance to meet child's needs:
    - More adequate supervision at home
    - Private placement
    - Kinship placement
    - Other approved plan

G.S. 7B-2501(d)

Dispositional Options: Evaluation & Treatment

- Evaluation or Assessment
  - by physician, psychiatrist, psychologist, or other expert to determine child's needs
- Drug or Alcohol Testing
  - required if adjudication involves possession, use, sale, or delivery of alcohol or drugs
  - discretionary in all other cases
- Results of initial evaluation or testing
  - only for evaluation/treatment purposes

G.S. 7B-2502

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Ordering Evaluation and Treatment

1. Initially, must allow parents to arrange
2. Who pays?
   - Parent or Guardian (G.S. 7B-2702)
   - Medicaid through LME/MCO approval
   - County, if court finds parent is unable to pay
     - Requires notice to county manager
     - County DSS must arrange for services
3. Evidence of mental illness or DD
   - Must refer child to LME/MCO
   - Hospitalization requires parent's consent
   - But, court may sign consent, if parent refuses

Dispositional Options: Level 1

- Community based treatment
- Intensive SA treatment
- Residential or non-residential treatment
- Victim-offender reconciliation
- Juvenile structured day program
- Probation (with related conditions):
  - Substance abuse monitoring and treatment
  - Random drug testing
  - Compliance with recommended treatment

G.S. 7B-2506(1)-(13), (16)

Dispositional Options: Level 2

- Higher level of care
  - residential treatment facility, intensive non-residential treatment program, intensive substance abuse program, or group home
- Intensive probation w/ conditions
- Juvenile structured day program
- State-operated multi-purpose group home
- ***Suspend a more severe disposition***

G.S. 7B-2506(13)-(23)

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Dispositional Options: Level 3

- Find "Extraordinary Needs"
  - to deviate from Level 3 to Level 2 disposition
  - community based treatment vs. YDC
    - G.S. 7B-2508(e)
- Community Commitment
  - DJJ may recommend after assessment
  - court must approve
    - G.S. 7B-2513(e)

Juveniles Who Lack Capacity to Proceed

- Non-secure custody pending hearing
  - Kinship placement
  - DSS custody
  - Other approved placement
- Diversion
  - Reduce charge to lesser, divertible offense
- Refer to local LME/MCO
- Civil Commitment (G.S. 15A-1003)
  - Outpatient or inpatient treatment may be recommended
  - Juvenile court can determine non-secure/secure custody pending civil commitment hearing

Drafting Good Court Orders

- Request "comprehensive clinical assessment"
  - psych. assessment is more narrow
  - can be completed by other MH professionals
- Allow Parent/Guardian to arrange for treatment
  - required by G.S. 7B-2502
  - consistent with SOC model

Drafting Good Court Orders

- Don't name the provider
  - If LME doesn't approve, no Medicaid funding
  - LME approval requires:
    - Child to be Medicaid eligible
    - Provider qualified to perform requested service
    - Service covered by state Medicaid plan
    - Service is medically necessary
  - LME may approve recommended treatment but require a different provider

Drafting Good Court Orders

- Court must order specific treatment, but may delegate details of service delivery
- Valid orders:
  - "Juvenile shall cooperate with an out of home placement *as directed by Alliance Behavior Health Care*."
  - Juvenile shall "cooperate and participate in a residential treatment program *as directed by a court counselor or mental health agency*."
    - *See In the Matter of V.A.L.*, 187 N.C. App. 302 (2007); *In the Matter of M.A.B.*, 170 N.C. App. 192 (2005).

Drafting Good Court Orders

- Invalid orders:
  - Juvenile shall "cooperate with any out of home placement *if deemed necessary, or if arranged by the court counselor*, including, but not limited to, a wilderness program."
  - Juvenile shall "cooperate with placement in a residential treatment facility *if deemed necessary by MAJORS counselor or Juvenile Court Counselor*."
    - See *In re S.R.S.*, 180 N.C. App. 151 (2006); *In re Hartsock*, 158 N.C. App. 287 (2003).

Drafting Good Court Orders

- Specifically order the disclosure of relevant MH/DD/SA evaluation and treatment info.
  - Subpoena alone is insufficient
  - Ordering evaluation & treatment does not entitle court to disclosure of results
- Court-ordered admissions are prohibited
  - If juvenile denies allegations, compelled admission violates 5th Amend. rights
    - *See In the Matter of T.R.B.*, 157 N.C. App. 609 (2003)

Questions?

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