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Strategies to Divert Adolescents with Behavioral Health Needs from the Juvenile Justice System



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CROSS-SYSTEM COLLABORATION: CREATING OFF-RAMPS TO COMMUNITY-BASED SERVICES FOR YOUTH IN THE JUSTICE SYSTEM

by Evan Elkin, National Executive Director, Reclaiming Futures

Over the last two decades, we have seen a significant paradigm shift in juvenile justice away from a system that relied heavily on detention and incarceration to one focused on identifying and responding to the treatment needs of justice system-involved youth. There have been numerous changes: an increase in community-based and treatment-oriented alternatives, the use of behavioral health-oriented screening and assessment tools with youth as they enter the system, and an increase in the number of juvenile probation staff who have a social work background rather than a corrections background. Today's juvenile justice system more often recognizes the importance of developmentally appropriate programming for adolescents and is sensitive to the influence of trauma on delinquent behavior.

Still, many jurisdictions lag behind on these changes, and as a whole, the nation's juvenile justice system has failed to produce strong treatment outcomes. Challenges remain in a number of fundamental areas, including the implementation of effective, evidence-supported treatment; racial and ethnic disparities; and meaningful family and community engagement. The following are five key takeaways for policymakers to consider as a way to address some of the challenges in the juvenile justice system, especially for youth with substance use disorders.

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FIVE KEY TAKEAWAYS

- 1 Youth with behavioral health conditions do not receive adequate treatment inside or outside the juvenile justice system.

Behavioral health conditions (e.g., mental health conditions or substance use disorders) are common among youth involved in the juvenile justice system. Studies indicate that 40% to 70% of detained or incarcerated adolescents have a diagnosable mental health disorder and about 45% to 50% meet the criteria for a substance use disorder, compared with 10% to 20% of the general youth population.¹

Despite these high prevalence rates, most adolescents in the justice system do not receive treatment services. One meta-analysis that synthesized 27 studies found low use of behavioral health services (mental health, substance use, or unspecified services) across all junctures in the system.² Approximately one-third (32.6%) of adolescents received services *while* detained or incarcerated, and a slightly higher proportion—37%—received such services upon *reentry* to their community. However, only one in five (21%) adolescents had received services for mental health or substance use disorders *before* they entered detention/incarceration.

The treatment rates for minority youth are even lower. Another meta-analysis found that, controlling for the level of need and diagnosis, minority youth in the juvenile justice system were less likely than white youth to receive referrals to behavioral health services.³ This is particularly concerning because minority youth are also less likely to receive treatment before they enter the system.

These statistics paint a picture of significant unmet behavioral health needs among youth in the juvenile justice system. The rates of service use at various points in the system suggest that juvenile justice is often the first meaningful opportunity to screen adolescents for behavioral health conditions and connect them with treatment.

What happens when youth do not get the treatment they need? They may experience challenges with emotional regulation and mental health, physical health, family cohesion, and school performance. They also are more likely to break the law. One particular concern for policymakers and justice system leaders is a juvenile offender's risk of future offending, or recidivism. Research has shown that different behavioral health conditions affect reoffending differently. As discussed in Edward Mulvey's chapter of this report, mental health conditions alone (without substance use disorders) tend not to be related to future offending. In a study of serious youth offenders, youth with mental health conditions had similar outcomes as youth who did not.⁴

It's a different story for substance use disorders. Research has shown a consistently strong relationship between substance use and future offending in youth and adults. While it's humane and highly beneficial to provide mental health services to youth, treating substance use problems is particularly important for reducing recidivism. Youth who receive treatment for their substance abuse disorders are less likely to get into trouble with the law again and even when they do, they tend to commit less serious crimes.

2 Most communities and justice systems are not equipped to effectively respond to the treatment needs of justice system-involved youth who have behavioral health conditions, especially substance use disorders. The missing piece is cross-system collaboration, a critical driver of successful outcomes for youth involved in the juvenile justice system.

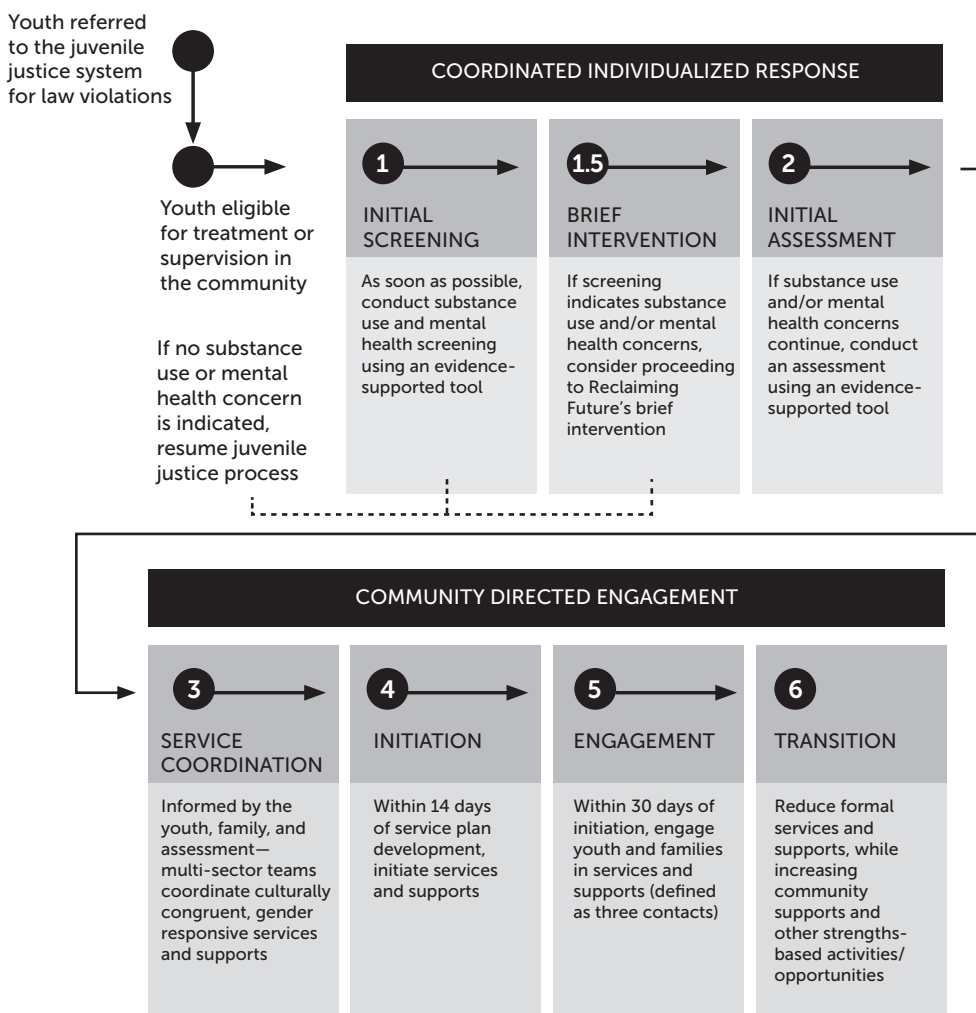
There are many reasons for low rates of treatment service use among youth in the juvenile justice system. Law enforcement and justice system workers might not screen and assess youth for behavioral health conditions. In some areas, especially rural areas, there are few resources in the community with which to connect youth. Youth might be matched with the wrong service, or if they are connected to the right service, might never participate or drop out. Finally, if families aren't engaged in the process, treatment is less effective and youth are less likely to participate.

Program frameworks like Reclaiming Futures provide a blueprint for juvenile courts and communities to address these barriers and achieve better outcomes for youth and families. The foundation for this framework is cross-system collaboration—a critical and often overlooked factor to helping youth get the treatment they need so they exit the justice system as soon as possible.

Reclaiming Futures brings together key partners from the community, including the courts, law enforcement, treatment agencies, families and youth, and community-based supports, to work toward more treatment and better treatment for youth with substance use problems. Community teams use the model to assess gaps in their screening and assessment protocols, case planning, and treatment service delivery. Working together, community teams track youth through the system to ensure youth are assessed, receive a treatment plan tailored to their needs, are matched with appropriate services and supports in a timely manner, and are followed to ensure they are engaging in those services and supports.

As shown in Figure 1 below, the six-step model has two steps focused on determining the youth's behavioral health status and four steps focused on matching youth with appropriate services and ensuring youth are participating in, and are benefiting from, those services.

Figure 1: Reclaiming Futures' Six-Step Model



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More than 40 jurisdictions in over 20 states are implementing Reclaiming Futures. (Wisconsin does not have a Reclaiming Futures site.) An evaluation of a blended Reclaiming Futures/juvenile drug court model showed that youth in the Reclaiming Futures model were more likely to receive substance use treatment than youth in a typical juvenile drug court.⁵ The evaluation also found improved youth access to treatment when there was greater fidelity to the model—especially cross-system collaboration and the use of assessments. Preliminary research on this blended model showed a net savings of nearly \$85,000 per participating youth, mostly due to reductions in future criminal offending.⁶

Reclaiming Futures is not a program, but instead is a strategy to help states and communities build the capacity to respond effectively to youth involved in the justice system. Each local jurisdiction creates its own strategy, which works well in decentralized states like Wisconsin that have county-administered human service and juvenile justice systems. North Carolina has invested in Reclaiming Futures on a large scale since 2008. With seed funding from a private foundation, the North Carolina Governor’s Crime Commission and Department of Public Safety have supported Reclaiming Futures in 14 jurisdictions, many of which encompass multiple counties.

Comprehensive approaches such as Reclaiming Futures and similar frameworks offer states the best chance to effect change on the juvenile justice system and improve outcomes for youth. Legislators and other state policymakers play an important role and can take actions such as:

- Promoting the statewide adoption of frameworks that use a structured process for working with justice system-involved youth; specifically, frameworks that identify each critical juncture along the justice pathway and create standards for response times at each step.
- Requiring the use of a validated assessment instrument at intake and throughout a youth’s involvement in treatment. One such tool is the Youth Assessment and Screening Instrument (YASI) (which is currently being phased in over a two-year period in Wisconsin).
- Ensuring that state statutes and policies support, rather than work against (perhaps unintentionally), the ability of local jurisdictions to implement reforms.
- Requiring robust data collection and data sharing within and between local jurisdictions, as well as process and outcome evaluations, to help communities evaluate their progress and make adjustments as needed.
- Providing funding for pilot projects and for statewide adoption of a framework. One often overlooked but important consideration is funding non-service elements, such as data systems, staff training, and family engagement activities, that are critical to the success and continuous improvement of Reclaiming Futures.
- Supporting initiatives that facilitate cross-system collaboration, encourage local community engagement, and increase the treatment provider network, especially in rural areas.

3

Racial and ethnic disparities exist across the juvenile justice continuum—from arrest to incarceration—and policymakers and practitioners in juvenile justice can take a data-driven approach to address these disparities.

Minority youth are overrepresented in the juvenile justice system, which is referred to as *disproportionate minority contact* (DMC) by the U.S. Office of Juvenile Justice and Delinquency Prevention (OJJDP) and others.⁷ Despite two decades of juvenile justice system reforms, racial and ethnic disparities have increased on many important indicators including arrest rates, detention, longer term placement or incarceration, and the use of alternative sentencing options. For example, in 2013, rates of diversion from formal court processing were 10% lower for black youth compared to white youth, meaning fewer black youth exited the system at this point.⁸ According to the Sentencing Project, between 2003 and 2013:⁹

- National juvenile arrests rates dropped 34%, but racial disparities between black and white youth widened by 24%. Black youth are more likely than white youth to be arrested for all major offense categories.
- Juvenile incarceration rates decreased 47% (and fell more than 50% in some states), yet the gap between black and white youth incarceration rates increased by 15%.

The dramatic decreases in juvenile crime rates, pre-trial detention usage, and incarceration rates have been driven by the increased availability of treatment-oriented, community-based alternatives. However, minority youth are underrepresented in these alternative treatment programs and have lower success rates in other programs such as juvenile drug treatment courts.¹⁰ An emerging area of interest is the number of lesbian, gay, bisexual, questioning, gender nonconforming, and transgender (LGBQ/GNCT) youth—girls in particular—who make up a larger than expected proportion of youth in detention and incarceration.¹¹ One solution to reduce the inequities in detention and incarceration rates is ensuring alternative treatment programs are available to and meet the needs of minority and LGBQ/GNCT youth.

OJJDP requires states to track racial disparities and make improvements to reduce overrepresentation of minority youth. The Reclaiming Futures model aims to address racial and ethnic disparities in the justice system. Several core components of the model have been shown by research to decrease these disparities: universal screening of all youth; conducting in-depth assessments if warranted; developing culturally sensitive, family-engaged service plans; and regular follow-up to ensure youth are engaging in services and receiving benefits from them.

4 Research on the juvenile drug treatment court model suggests there are more effective approaches to addressing the substance use treatment needs of justice-involved youth.

Jurisdictions around the country have used juvenile drug treatment courts (JDTC) as their primary approach to address justice system-involved youth with substance use needs. Yet these courts struggle to produce consistently better outcomes than other courts or treatment approaches. Research suggests that the highly intensive and costly JDTCs are no more effective than “juvenile court as usual” and that outcomes for non-white youth and girls may be comparatively worse.¹²

In 2015, OJJDP formed an expert panel to review the research to date and draw up new guidelines for JDTCs. As a result, OJJDP launched a national technical assistance effort to improve the courts. Yet there is little indication that the JDTC model and practices used by program teams have changed, and outcomes remain poor.

One persistent challenge is that federal and state funding mechanisms inadvertently limit innovation in JDTCs. For example, treatment courts are prohibited from working with youth charged with violent felonies, which can include assault charges resulting from fights in school, and therefore cannot serve the youth most likely to succeed with these intensive interventions. Also, most court-based treatment approaches do not operate as off-ramps to community resources, but instead tend to draw youth, particularly LGBTQ and minority youth, deeper into the system.

The OJJDP panel did find several components of drug treatment courts that played a role in whatever success the courts had, including: (1) strong family engagement, (2) adapting court and treatment practices to align with the science of adolescent development, (3) engagement with the community, especially treatment providers, (4) enforcing strict eligibility requirements so that its intensive approach is reserved for youth in greatest need of intensive treatment, and (5) addressing the root causes of racial and ethnic disparities. Although investing in the current JDTC model might not be warranted, policymakers can support other underutilized, but effective programs that incorporate these successful components.

5 Strong and meaningful family engagement in case planning, treatment, and other intervention programs is a critical factor for successful outcomes in juvenile justice and community settings.

There has long been consensus in research and in the justice field that meaningful family engagement is critical to supporting youth behavior change in treatment and positive youth development in general. Still, most juvenile justice jurisdictions find it challenging to involve family caregivers in the process in positive ways. Families are often seen as chaotic

or dysfunctional, court-based programs are not structured to involve family caregivers or give them a voice, and many adolescent treatment programs are not designed or equipped to work with families.

Policymakers can look to a number of innovative programs that seek to break this cycle. For example, Reclaiming Futures has worked with jurisdictions in northwest Ohio and St. Charles Parish, Louisiana, to adapt their family intervention courts for delinquency proceedings. In St. Charles Parish, the court has forged a partnership with a community-based organization where families work with a family navigator to actively participate in case planning. Families are eligible whether the youth is involved in a delinquency case or would be referred to a treatment court. The final plan is developed with and endorsed by the family and becomes the blueprint for how the case is monitored in court. This program has resulted in high levels of engagement and motivation, an array of referrals for the youth and other family members, and program completion rates above 90%.

Conclusion

Policymakers, court systems, treatment providers, community organizations, and families are looking for opportunities to create off-ramps for justice system-involved youth with behavioral health conditions, especially substance use disorders. These off-ramps prevent youth from proceeding further on the justice pathway by connecting them to well-matched, culturally appropriate treatment options as soon as possible. Creating a new pathway requires systemic change, which can be accomplished by forging strong cross-system collaborations such as those used in Reclaiming Futures' model. The other ideas and options presented in this chapter—comprehensive screening and assessment, a structured process in which no youth is left behind, and significant family engagement—can help state policymakers build an evidence-based system that responds to youth and offers meaningful ways for families and other community stakeholders to participate in the process.

Evan Elkin is National Executive Director of Reclaiming Futures, a model that helps communities and states improve cross-system collaboration and strengthens communities' capacity to better serve adolescents with behavioral health needs who are diverted from the juvenile justice system. He developed Reclaiming Futures' juvenile justice-focused approach to the Screening, Brief Intervention, and Referral to Treatment (SBIRT) assessment. Previously, he designed a treatment alternative to incarceration program for adults with mental health conditions at the Greenburger Center for Social and Criminal Justice. Prior to that, he was Director of Planning and Government Innovation for the Vera Institute for Justice. While there, he oversaw two demonstration projects and developed the Adolescent Portable Therapy program. In addition to consulting on juvenile justice research projects, Mr. Elkin served as a psychologist in numerous hospitals and specialty clinics earlier in his career. He earned his Master's Degree in Clinical Psychology from New York University.

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