

# **Position Statement 51: Children With Emotional Disorders In The Juvenile Justice System**

## **Policy**

Mental Health America (MHA) places a high priority on the care of children and youth (“children”) with behavioral problems reflecting mental, emotional and substance use conditions (“mental health conditions”). Mental health services can both prevent children with mental health conditions from committing offenses that result in juvenile justice scrutiny and from re-offending. Intensive work with families at the early stages of their child’s behavioral problems can strengthen their ability to care for their children at home.<sup>1</sup> Mental Health America believes the needs of such children and families are best met through a system of collaborative community-based mental health and substance use treatment services. The juvenile justice system, the substance abuse system, the education system and the mental health system should work together to develop integrated programs and services for these children, which should promote ongoing education as well as treatment. When children must be incarcerated, extra care must be taken to protect them from harm from others, to minimize the harm caused by incarceration itself and to provide appropriate, age-sensitive mental health services.

MHA deplores the disparate treatment of minority youth in the juvenile justice system<sup>2</sup> and urges ongoing efforts to address it, as detailed in the American Bar Association resolution, “Disproportionate Minority Representation” (August, 2003).<sup>3</sup>

## **Background**

Sixty-five to seventy percent of children in the juvenile justice system have a diagnosable mental health condition,<sup>4</sup> and children in the juvenile justice system have substantially higher rates of mental health conditions than children in the general population.<sup>5</sup> Many children are detained or placed in juvenile facilities for minor, nonviolent offenses. They are there because of a lack of community-based treatment options.<sup>6</sup> “The placement of these youth in the juvenile justice system is part of a growing trend toward the ‘criminalization of the mentally ill’—placing individuals with mental health needs in the justice system as a means of accessing mental health services that are otherwise unavailable or inaccessible in the community.”<sup>7</sup>

MHA believes that these children do not need to be incarcerated. Whenever possible, children should be diverted away from the juvenile justice system and towards community-based services including treatment as needed.<sup>8</sup> MHA further believes that these services are most effective when planned and integrated at the local level with other services provided by schools, child welfare agencies, and community organizations. These services should be recovery-oriented, strengths-based, appropriate for the child’s age, gender, language, and culture, individualized, and family-focused.

Education, advocacy, and support should also be offered to the families of these children. Intensive work with families at the early stages of their child's behavioral problems can strengthen their ability to care for their children at home. 9

In 2007, with a grant from the Office of Juvenile Justice and Delinquency Prevention, the National Center for Mental Health and Juvenile Justice (NCMHJJ) issued its *Blueprint for Change: A Comprehensive Model for the Identification and Treatment of Youth with Mental Health Needs in Contact with the Juvenile Justice System*. MHA endorses the key principles which form the basis for the NCMHJJ Blueprint:

- Children should not have to enter the juvenile justice system in order to access mental health services.<sup>10</sup>
- Whenever possible, children with mental health conditions should be diverted into evidence-based mental health treatment in community settings.
- If diversion out of the juvenile justice system is not possible, children should be placed in the least restrictive environment with access to evidence-based treatment.
- Information collected in order to provide mental health screening should not be used to jeopardize the legal interests of children as defendants.
- Mental health services provided to children should respond to issues of gender, ethnicity, race, age, sexual orientation, socio-economic status and religion.
- Mental health services to be consistent with the developmental realities of children.
- Whenever possible, families and other caregivers should be involved in treatment decisions made for children.
- Planning and services for children must be based on close collaboration among mental health, juvenile justice, education and other systems.
- Services and strategies for serving children in the juvenile justice system must be regularly evaluated to determine their effectiveness.

Similarly, MHA endorses the “Principles” of the McArthur Foundation’s “Models for Change” in the Juvenile Justice System:

“Models for Change promotes no single blueprint for change, but rather multiple models of successful juvenile justice reforms that can be adapted and replicated in other systems. The initiative's reforms, however, are all rooted in a set of unifying principles which must characterize any model system:

- [Fundamental fairness](#)  
All system participants—that is, all those who have a right to expect justice, including youth, families, victims, and communities—deserve fair treatment.
- [Juvenile-adult differences](#)  
A juvenile justice system must account for the fact that youth are fundamentally and developmentally different from adults.
- [Individual differences](#)  
Juvenile justice decision makers must acknowledge and respond to young peoples' differences from one another in terms of development, culture, gender, needs and strengths.

- [Youth potential](#)  
Youth have strengths and are capable of positive growth.
- [Safety](#)  
Communities and individuals deserve to be and to feel safe.
- [Responsibilities](#)  
Youth must be encouraged to accept responsibility for their actions and the consequences of those actions. Communities have an obligation to safeguard the welfare of children and youth, to support them when in need, and to help them to grow into adults. The juvenile justice system should reflect that it is a vital part of society's collective exercise of its responsibility toward youth."<sup>11</sup>

## Incarceration of Children

Despite our commitment to maximum diversion, MHA recognizes that some children will need to be placed in correctional facilities. Placing children with mental health conditions in correctional facilities poses special risks and obligations. Children with mental conditions are especially vulnerable to the difficult and sometimes deplorable conditions that prevail in correctional facilities. Overcrowding often contributes to inadequacy of mental health services and to ineffective classification and separation of classes of persons confined. It can both increase vulnerability and exacerbate mental conditions.<sup>12</sup>

MHA's Position Statement 56: Mental Health Treatment in Correctional Facilities<sup>13</sup> details our views concerning the rights of persons with mental health conditions in adult correctional facilities. Correctional facilities have a duty to provide medical services, including mental health and substance use treatment services, and to provide protection from harm. The juvenile justice system and separate detention facilities for children were created because of an understanding of the unique needs of children and commitment to the principle that rehabilitation rather than punishment should be the primary goal in dealing with children. Thus, children with mental health conditions in correctional facilities have an even greater need for and right to the services which must be provided to adults with mental health conditions, detailed in Position Statement 56.

### Effective Period

The Mental Health America Board of Directors approved this policy on September 18, 2010. It is reviewed as required by the Mental Health America Public Policy Committee.

**Expiration:** December 31, 2015

1. See MHA Position Statement 41, "Early Identification of Mental Health Issues in Young People." <http://www.nmha.org/go/position-statements/41>
2. Marilyn D. McShane and Franklin P. Williams, *The Encyclopedia of Juvenile Justice*, "Race and the Processing of Juvenile Offenders," at 313ff.  
[http://books.google.com/books?id=RyMwvgB\\_cgIC&pg=PA314&lpg=PA314&dq=disparate+treatment+in+juvenile+justice&source=bl&ots=LrftkkJEVD&sig=ZoOpZ7TGNZLvk](http://books.google.com/books?id=RyMwvgB_cgIC&pg=PA314&lpg=PA314&dq=disparate+treatment+in+juvenile+justice&source=bl&ots=LrftkkJEVD&sig=ZoOpZ7TGNZLvk)
3. <http://www.abanet.org/crimjust/juvjus/jpolicies.html#dmr>

4. Wasserman, Ko & McReynolds, "Assessing the Mental Health Status of Youth in Juvenile Justice Settings," *Juvenile Justice Bulletin* (Aug. 2004).
5. Greenstein, Johnson and Friedman, "Prevalence of Mental Disorders Among Youth in the Juvenile Justice System," in *Responding to the Mental Health Needs of Youth in the Juvenile Justice System*, Cocozza (ed.) (1992).
6. *Blueprint for Change: A Comprehensive Model for Identification and Treatment of Youth with Mental Health Needs in Contact with the Juvenile Justice System* ("Blueprint"), National Center for Mental Health and Juvenile Justice (2007), at 1.
7. *Id.*
8. See MHA Position Statement 52: Diversion. <http://www.nmha.org/go/position-statements/52>
9. Preventing Mental, Emotional, and Behavioral Disorders Among Young People: Progress and Possibilities, 162-69, National Research Council and Institute of Medicine (2009).
10. See also MHA Position Statement 47: Custody Relinquishment. <http://www.nmha.org/go/position-statements/47>
11. <http://www.modelsforchange.net/about/Background-and-principles/Principles.html>
12. Blueprint 58-59.
13. <http://www.nmha.org/go/position-statements/56>