The Child Psychiatrist's Role in Advocacy for Diversion of Justice-Involved Youth: A Trainee Perspective

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Racism is a structural driver of inequity.[1] Although the rate of juvenile arrests have significantly decreased in recent decades,[2] Black, Hispanic, and American Indian youth persistently have disproportionate contact with the juvenile legal system at each stage. This is due to manifestations of systemic racism such as differential access to prevention and treatment opportunities, educational disparities, socioeconomic status, legislation that disproportionately disadvantages youth of color, and cumulative disadvantage as they move through the juvenile legal system. For example, youth of color are more likely to be detained and more likely to receive severe treatment at judicial disposition, when compared to their White counterparts.[3]

Diversion is defined as interventions that redirect youth away from formal processing in the juvenile legal system. Diversion from incarceration towards community-based interventions for youth is critical for reducing recidivism and their entrenchment in the carceral system (ie, encompassing the adult criminal system and juvenile legal system). Further, diversion has been shown to reduce the likelihood of youth becoming criminally-involved into adulthood.[4] Utilizing the framework of structural competency, it is important to recognize that successful advocacy for diversion by psychiatrists necessitates addressing the structural drivers of inequities in access to care.

Approximately 50-75% of justice-involved youth (JIY) have a mental health condition,[4,5] with affective, anxiety, substance use, trauma, and disruptive disorders being the most common. When undertreated, these conditions can be a factor in impulsive or aggressive behaviors leading to involvement in the juvenile legal system.[1,5] Individuals with posttraumatic stress disorder (PTSD), for example, may respond to perceived threats with impulsiveness or hostile behaviors that can lead to their arrest.[4,5] In a systematic review, the prevalence of trauma exposure was as high as 84% of female JIY and PTSD prevalence as high as 48.9% in female JIY.[6] Learning disabilities are also overrepresented in the juvenile legal system and the adult criminal system, with limited special education support undermining timely diagnosis and treatment, leading to the worsening of behaviors and increased engagement with the school-to-prison pipeline.[1,5]

Given the high prevalence of mental illness, learning disorders, and substance use among JIY, it is critical that behavioral health services be optimized for youth in carceral settings and that diversion opportunities be prioritized and expanded.[5] Child psychiatrists frequently encounter JIY and are in a position to advocate for diversion strategies. With child psychiatrists' knowledge of development and of the interplay between mental health disorders and criminalized behavior, they are in a position to be strong advocates for community-based diversion programs. Trainees (eg, medical students, residents, fellows), however, may not feel they have the power or knowledge to successfully advocate for diversion. Trainees face unique challenges and opportunities in advocating for diversion of JIY with a mental health condition.

Trainee Perspective

Trainees who encounter youth with system involvement may encounter challenges such as navigating consent for care; supervision needs to inform safety planning, risk assessment, coordination of care, and disposition planning. These barriers may result in missed opportunities for advocacy. Seeking supervision can provide teaching opportunities that intersect with the child welfare system, correctional services, and

probation. Supervision in this context can facilitate an understanding of a patient's previous settings of care and encourage using clinical assessment as a tool to support diversion from incarceration.

The trainee is commonly a point of contact with case managers, representatives from the state departments, the probation office, and court personnel, in order to provide clinical impressions, observations, and recommendations during care conferences. A comprehensive diagnostic evaluation of a JIY creates an opportunity to provide psychoeducation to stakeholders about the specific needs of the youth. For example, it is common for youth with histories of trauma and system involvement to exhibit behavioral dysregulation, elopements, aggression, or self-harm. Stigmatizing descriptions such as "erratic", "hostile", and "unmanageable" can further alienate the youth, preventing them from being viewed as a young individual with traumatic experiences, and potentially reinforcing a negative self-attitude.

The trainee serves a valuable role in the assessment of youth and identification of person-centered interventions. For instance, trauma symptomatology in youth is frequently misattributed to psychosis or a bipolar-spectrum illness. A trainee can provide diagnostic clarity that not only informs pharmacologic and non-pharmacologic interventions, but also shapes attitudes about the individual being evaluated, and the overall trajectory of the youth through the system. Additionally, trainees can be involved in providing formal academic achievement testing for youth who have learning difficulties to offer insight into both academic strengths and vulnerabilities. Providing psychoeducation to the youth about their diagnoses can be an empowering opportunity to promote the youth's sense of control over their future, encourage their self-advocacy skills, and build an informed dialogue about their behaviors. In an inpatient setting, for example, a trainee can facilitate trauma-informed therapy in a structured environment that is centered on themes of building trust, identifying strengths, and reclaiming authorship of one's narrative. Trainees can provide new perspectives to other professionals working in systems that are strained and encourage other professionals to engage the needs and experiences of JIY. This creates a collaborative opportunity to consider intensive treatment options for identified diagnoses, countering stigmatizing narratives of delinquency and need for continued incarceration.

Many youths do not receive psychiatric intervention prior to involvement in the juvenile legal system, and once involved the carceral system, the process of diversion is frequently complex. Furthermore, mechanisms by which diversion can be supported are not typically formalized, and therefore, are often time-consuming and expensive. Trainees and other members of the interdisciplinary team may need to spend considerable time interfacing with the legal and child welfare systems to find alternative placement options. Collaboration with social work is essential for this process. With adequate education, trainees can offer valuable insights and nuance into the discharge planning process, which highlights an opportunity for trainees to have greater involvement in the utilization review process. Advocating for diversion means identifying noncarceral settings and resources, which may take longer to coordinate. Given that efforts to facilitate diversion may prolong hospitalization in many cases, trainees can play a vital role in advocacy for necessary institutional supports including longer (medically-indicated) inpatient stays, funding for interdisciplinary interventions, novel payment mechanisms, and intentional collaboration with utilization management.

Recommendations and Next Steps

Early Career Exposure to Diversion: Recognizing the overrepresentation of youth with mental illness in correctional settings, it is critical for trainees to have early exposure to carceral systems and community settings that provide clinical care and/or supportive services to this population. Examples include community rotations in mental health treatment court, county and youth detention centers, state hospitals, local jails, or local community agencies. Specific didactics regarding diversion in noncorrectional settings, such as the emergency room or inpatient psychiatry setting, could also be useful.

Support for Diversion-related Advocacy on Interdisciplinary Teams: Trainees may offer valuable perspectives regarding alternatives to incarceration as a result of their prior education and/or lived-experiences, which have made them aware of the detrimental effects of incarceration on patients and the systemic racism in the carceral system. Trainees should be supported by supervisors at their institutions to advocate for diversion when working with JIY. Trainees should also have access to supervisors whom they can contact for support across treatment settings in order to facilitate their ability to advocate for and learn from patients involved in the juvenile legal system.

Community Partnerships to Support Diversion and Criminal Justice Reform: To support system-level change, it is paramount for psychiatrists to partner with community groups and have representation from communities who are most impacted. Training is a key time for psychiatrists to learn how to partner with communities and conceptualize solutions using an intersectional framework – a framework that identifies how an individual's multiple social identities interact within systems of oppression (eg, racism, sexism, classism) – which has been proposed as a framework by which one can identify and address the unmet needs of JIY.[7] Many of the systems that attempt to address the needs of JIY fail as a result of entrenched oppressive structures. Often, these systems must partner externally to facilitate change and dismantle those structures. A goal of this process is preventing and treating trauma versus mislabeling and punishing the trauma-related behaviors.

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Take Home Summary

We recognize the importance of collaborative, multidisciplinary interventions to address the overrepresentation of youth with mental illness in the juvenile legal system. We have provided recommendations to formalize trainee experiences with diversion and support the expansion of diversion pathways through both advocacy as well as community partnerships.

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