

THE LINK

CONNECTING JUVENILE JUSTICE AND CHILD WELFARE

Rethinking Juvenile Justice

Using the IEP Concept to Create a New Juvenile Justice Paradigm

By Claudia Wright

Over the last 30 years, I have represented children and families involved in the juvenile justice and child welfare systems. I have become acutely aware of the shortcomings of these large bureaucratic systems and of their relationship to each other.

In 1998, I created and directed Gator TeamChild, the juvenile law clinic at the University of Florida Levin College of Law. Gator TeamChild is a unique entity, designed to teach lawyers and other professionals to work together in an interdisciplinary setting, on real cases, and most importantly, to represent children on all the cases they face over time—delinquency, dependency, special education, domestic violence, social security disability, immigration, and anything else that occurs.

This article is the result of the many surprising, often counterintuitive lessons we learned in that endeavor.

In this article, I suggest that we borrow from special education to improve the juvenile justice system. All of the ideas presented here were profoundly influenced by the writings of the late scientist and philosopher R. Buckminster Fuller. Fuller was a genius, the inventor of the geodesic dome. He also coined the term *synergetics*, defined by him as “the geometry of thinking.”

I use the terms *geodesic* and *synergetics* in this article to explain ideas that are otherwise hard to conceptualize. While I confess an incomplete understanding of many of Fuller’s ideas, what I am able to understand of his work has influenced my thinking about systems. I recommend *Anthology for a New Millennium* and *Operating Manual for Spaceship Earth* to anyone who is interested in general systems theory. Much of Fuller’s work is out of print now, but copies can be ordered from the Buckminster Fuller Institute at www.bfi.org.

In the research for this article I inquired everywhere I could think of to find out who was responsible for the idea of the Individualized Education Program (IEP), first mentioned in several court cases and then codified in federal law. The IEP is at the heart of special education. Whoever that person is, I would like to say thank you. The IEP is one of the most important innovations of our time.

The Idea

R. Buckminster Fuller urges the abandonment of systems that lead to narrow specialization. According to Fuller, unwarranted specialization imposes limitations on thinking that prevent us from operating with a comprehensive worldview. Comprehensive thinking will maximize our understanding of the effects of all components of a system on the whole.

Fuller describes the benefits of using whole systems to solve individual social problems by taking advantage of the inherent energy generated by crossing boundaries between systems. By integrating ideas

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DIRECTOR'S MESSAGE

This is once again a very important time to focus on what lies immediately ahead. Within CWLA, the message from President/CEO Christine James-Brown is that the connection between child maltreatment and juvenile delinquency and the work to improve the relationship between the child welfare and juvenile justice systems remains a core interest of the League and will continue to be supported and built upon.

The NACJJ focus continues to be on developing a position paper that reflects the structure and functioning of an integrated child welfare and juvenile justice systems model. In September, the committee met in Seattle to review the progress of the King County, Washington, system integration initiative. The visit provided further perspective for NACJJ and informed the development of the position paper. NACJJ intends to provide a draft for CWLA senior leadership and board review later this fall.

The MacArthur Foundation Models for Change Initiative, for which CWLA serves as a member of the National Resource Bank (NRB), formally announced the participating county site selections and conducted an orientation to the work in June. Several of these sites will have CWLA staff helping them implement their work, which began this September. Many of these counties will focus on multisystem coordination using the framework and tools developed by CWLA. The MacArthur Foundation and its NRB partners have planned the second annual *Models for Change: System Reform in Juvenile Justice Conference*, scheduled for December 4-6, 2007, in Washington, DC.

Finally, I would like to direct your attention to the material in this edition that highlights the importance of reauthorizing the Juvenile Justice Delinquency Protection Act. Organization leaders are focusing on this legislative action. The articles written about the shortcomings our youth face, and the instruction guide about what we can do, included in this edition of *The Link*, describe the need better than my words alone. I ask that you get involved and make this a priority this year.

Some of you may already have had the opportunity to correspond with the JJ Division's new Program Coordinator, Sorrel Concodora, who joined the division in July. She has made a tremendous impact in her short tenure and will strive to provide information and services that the JJ Division can offer; she can be reached at sconcodora@cwla.org. Likewise, John Tuell (jtuell@cwla.org), Director of Child Welfare-Juvenile Justice Systems Integration Initiative, and I (wpromisel@cwla.org) are available and encourage feedback on how we can be more helpful to you.

In closing, as summer ends and the school year begins, let's remember to KEEP SAFE. Enjoy this edition of *The Link*!



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The Child Welfare League of America is the nation's oldest and largest membership-based child welfare organization. We are committed to engaging people everywhere in promoting the well-being of children, youth, and their families, and protecting every child from harm.

A list of staff in CWLA service areas is available online at www.cwla.org/whowhat/serviceareas.htm.

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that have been tested in foreign systems, we can apply this philosophy to juvenile justice problems. In this way, we can more efficiently use all of our ideas and resources, and perhaps we can free ourselves at last from the outdated restrictions that have led juvenile justice reform efforts to fail in the past.

The Gator TeamChild Experience

I developed the Gator TeamChild juvenile law clinic after 20 years of observing the systems that involve the intersection of government, children, and families. A unique characteristic of the clinic is that we do not acknowledge traditional boundaries between various types of legal cases.

Our clients are children; when we accept a client, we accept and address all the legal issues he faces—regardless of the type of case or forum—and we continue to represent the child over time as his legal issues flow from one system to another.

I designed this format because I had seen over and over again that all the legal issues a child may face are connected to each other. I decided to try to deal with them as a whole to see what would happen. This was a new format for a clinic and for a law practice in general.

What I learned is that this model allows us to see and think across boundaries, to see and think in terms of whole, or synergistic, systems. I use the phrase *synergistic systems* here to refer to systems in which the “connections between the interacting and repeating components are of equal or greater value than the sum of the components themselves” (Fuller, 1981).

Almost all of the children who are Gator TeamChild clients have at least three kinds of cases:

- delinquency, in which the child has exhibited some behavior that has attracted the attention of a law enforcement entity;
- dependency, in which the child has been the victim of abuse, neglect, or abandonment by his family or by the state; and
- education, in which the child has experienced failure at school, either academic or disciplinary.

Delinquency systems are linear: In a juvenile justice system, the child follows a straight path alone. The child enters the path when her negative (socially unacceptable) behavior draws the attention of the government. Once this happens, no subsequent demonstration of positive behavior can cancel out the

negative behavior, and each event of negative behavior moves the child a step further down the path. The adults involved or connected in some way to the child may observe from the sidelines, may offer support, or may be prepared to pounce on the next negative, but they are not an integral part of the process that moves the child down the path. The path responds only to the child’s negative behavior.

The path is one of increasing restriction of freedom and of indifference to the child’s strengths and weaknesses. It does not change, even when it proves to be ineffective in changing the child’s negative behavior or when the restriction of freedom becomes prohibitively expensive. The end of the path is prison.

Similarly, dependency systems are linear from the child’s point of view. Once a child has been removed from his parents, and reunification is no longer an option, the child walks the path alone. Instances of negative behavior—a predictable consequence of child abuse—move the child further away from family and closer to the end of the path, which is a crossover to the delinquency system and the same ultimate end. Like delinquency, the system is driven by the child’s negative behavior. It does not respond to positive behavior, and the behavior of the adults connected with the child is irrelevant.

The Idea of the IEP

I see something quite different and immensely encouraging at work in the area of education for students with disabilities. The heart of the special education model is the IEP (20 U.S.C. §1400 et seq; 34 C.F.R. §300 et seq). The IEP changes the movement of children from a linear system to a geodesic, or curved, system. In the ideal model for developing the IEP, the child is surrounded by adults involved in his life and responsible for the success of his educational program.

The behavior that drives the system, and the behavior that is subject to judgment, are the behaviors of the adults. The measure is how well the adults are able to construct an environment in which the child can succeed. The child moves down the path encircled by adults who must regularly interact and connect with each other and return to the beginning again and again to review progress, create new connections, and explore new synergies. The team collaborates to provide the child with the resources he needs. If there is a failure, the adults must try again to create a plan to assist the child to make progress. The child’s success is the stated goal of all the participants.

Although not yet perfect in practice, the idea of the IEP works. It is a completely different paradigm than what exists in the juvenile justice system. I can see no reason the concept would not be just as successful, for all the same reasons, in delinquency as it is in education. The model would be developed and implemented in essentially the same way. But in adapting an idea developed for the education system to a system with the power to incarcerate, certain fundamental principles should be examined and applied.

Fundamental Principles

This model holds enormous potential and would not be difficult to implement. At the heart of the system would be a plan like the IEP. Because a juvenile system includes the power to restrict freedom, all due process protections recognized by the courts over the years must remain intact and must be fully honored. The plan team would be created and approved by the court, with the assistance of the attorneys for the child and for the state, at the point of government intrusion into the child's life. This could occur at diversion, if the child is offered and agrees to participate in such a program, or at disposition, after a child has pled guilty to a charge or has been found to have committed a delinquent act.

Instead of simply reviewing a predisposition report and meting out punishment from a limited array of programs, the court would set the plan team into action to create and carry out an individualized, comprehensive plan for the child. The court would decide, through traditional hearing processes, when success had been achieved and the case could be dismissed. The following preliminary actions would be crucial to the success of the process.

Three Levels of Assessment

Community assessment. If we accept the premise that all the adults are responsible for all the children, then adults must be prepared to meet the challenge to create environments in which children can succeed. To do this, participants in the enterprise must collect and share information. The first step is a complete, thorough, and objective assessment of the strengths and weaknesses of the community.

One of the most destructive misconceptions under which we have operated is that any one resource—boot camps, orphanages, mentors, aftercare, wrap-around services, medication—is all bad or all good for everybody. My observation is that even the most unlikely programs will work for a few, and that nothing is the answer for all.

The goal of the first level of assessment is a nonjudgmental catalogue of everything available to the community—good, bad, or mediocre—everything that is available to become part of a child's environment for success. As we begin to catalogue what we have, we will begin to see what is missing. We have to know what we have before we know what we need and where we should spend our money to obtain new resources to fill the gaps.

Family assessment. An assessment of the strengths and weaknesses of the biological, extended, and community family of the child is the next essential component. There can be no doubt as to the critical role of the family to the child's success.

To implement this new paradigm, we will need a clear, complete picture of the family, particularly as defined by the child. This family may include any combination of parents, siblings, grandparents, aunts, uncles, and cousins, as well as pseudo-relatives such as coaches, teachers, preachers, and neighbors.

The assessment should include all the people who comprise the child's home and community family. Special care must be taken in situations where the family is limited, fragmented, or transient, such as when children are in foster care, living with friends or neighbors or in group homes, or being reared by grandparents or great-grandparents. These situations should be addressed realistically and objectively to determine what contributions the adults who comprise the child's family can make and what deficits exist that must be filled if the child is to succeed.

Assessment of the child. We must have a thorough assessment of the child's strengths, weaknesses, and wishes. This evaluation should create a picture of the whole child—talent, intelligence, disabilities, learning style, personality, and mental, emotional, and physical health—which can inform the process of environmental modification. Because success is based on the individual child's unique response to stimuli, we need as much information as possible about her qualities and characteristics.

The Plan Team

As with the IEP, the purpose of the plan team is to bring together those adults who know the child, interact with him, and have the ability to affect his environment. The team may include parents, teachers, neighbors, psychologists, doctors, employers, probation officers, spiritual leaders, social workers, mentors, and friends.

Because the plan is a component of the justice system, the plan team should include the child's attor-

ney. The state attorney should participate to ensure community concerns, victims, restitution, and other such issues are adequately addressed. We should expect that every team will be different, based on the unique aspects of each child's life, and that the participants on the plan team will change over time. The goal of the team is to develop a plan that brings together all available resources to create an environment in which the child can become a successful citizen. The members of the team will assume the responsibility of implementing or monitoring the implementation of the plan's various components.

The child must be a member of the plan team. The child should be present whenever decisions affecting her are being made. If the child is too young, unstable, or immature to participate, then that child by definition is ineligible for processing in the juvenile delinquency system. For that child, assistance should come from the appropriate mental health or social services programs, regardless of the seriousness of the behavior that brought the child to the attention of the court.

The plan team should meet regularly, looping back again and again to rethink old ideas and explore new connections. The team should meet consistently over time and should be creative and flexible. The team could be responsible for arranging the appropriate assessments and updates of assessments and should report regularly to the court, which maintains the ultimate responsibility for supervising the child's progress. Operation should continue until the court decides the goal has been attained and the case should be dismissed.

Community-Based Services and the Least Restrictive Alternative

If we have learned anything over the last 50 years, it is that we cannot expect a happy ending when we send children away from their natural environments, try to fix them in an artificial environment, and then send them back home. With no skills or strategies and no resources to deal with the home and community, failure is guaranteed.

Any plan to modify behavior must be offered first in the home and in the home community. We cannot fix people, but we can fix the environment. Only under the most extreme circumstances, where safety of the child is an issue, should a child be required to live away from home to receive education, counseling, mental health treatment, or punishment.

Assessment, as described above, is an essential factor in this shift of focus. When we can understand and reconfigure our resources to ensure that every

community has the resources its children need, in the right amounts, we will be able to offer an adequate array of service choices. A prohibition on placing children in residential programs, except in the most extreme circumstances, will undoubtedly free up money and allow us to be more flexible in creating new programs.

The plan teams should apply the concept of the least restrictive alternative, which is well-known and accepted in social service and mental health systems. Strict adherence to the idea of the least restrictive alternative will further reduce reliance on expensive and ineffective residential programs.

Implementation

We see the effects of the operation of this synergistic philosophy in real life each day in our own small model, the Gator TeamChild clinic. We have learned that a concrete example of Fuller's philosophy is the IEP—the incorporation of whole systems in a geodesic model that can maximize the potential of all the interconnections that comprise the lives of children and communities.

How can we implement this radical change? Most of the legal apparatus necessary to implement the new model already exists. We have the courts, and we have all the players in place. A few minor word changes in the statutes and rules (the court could order the formation of a plan team instead of a pre-disposition report, for example) would be necessary. The changes would be almost completely procedural and would raise no difficult constitutional issues.

But it is hard to see how we could possibly provide an individualized plan for each and every child who enters our juvenile justice systems. Indeed, it would be a daunting task, but one to which we should aspire.

But we can't do it all at once. I am convinced, from my experience representing children for many years, that the answer is to start with the children with the most difficult and intransigent problems, the children on the very deep end, the crossover kids. If we look closely we see these children soaking up most of our money and time anyway, and we are making no progress.

If this model were implemented with the 10 worst children in any court jurisdiction, county, or other local entity, I predict the results would be immediate and dramatic. We have never done anything like this, so no one knows how it will turn out. My bet is that if we can make a reasonably livable life for those 10 children, the ripples will spread, and the next 10 will be easier.

Conclusion

How do we answer the inevitable objection that this costs too much? Here is Fuller's answer: "Under lethal emergencies vast new magnitudes of wealth come mysteriously into effective operation" (Fuller, 1969). In other words, wealth is really a matter of priorities and essentially a meaningless concept in the face of an emergency. The issue is not resources; it is the deployment of resources and the will to do so.

The change in deployment requires a paradigm shift. Moving things around does not require capital investment and ultimately will save money. But still, a transition will require funds. The choice is whether we can afford to try something that has a real chance of working. How much is it worth to improve the quality of life in a society, to eliminate inhumane treatment of children, and to create productive citizens? It is worth everything.

References

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Claudia Wright is a lawyer and child advocate. She has been a member of the Florida bar for 29 years. She retired in 2005 as Director of Gator TeamChild, the juvenile law clinic of the University of Florida Levin College of Law. She currently lives in Baltimore and is on the staff of the Juvenile Justice Monitoring Unit of the Office of the Attorney General. A slightly different version of this article appeared in Juvenile Justice Update, December/January 2005.

PUBLIC POLICY UPDATE

Participate in Reauthorizing the Juvenile Justice and Delinquency Prevention Act

You can participate in reauthorizing JJDP! It is critical that national, state, and local groups reach out to members of Congress to educate their representatives on the importance of reauthorizing JJDP this year. CWLA is part of this nationwide effort, and we invite your participation. The first step you can take is to log on to www.act4jj.org, where you will find additional information and materials to support your efforts to reauthorize the JJDP.

What can national organizations do?

- Educate your members and affiliates about the JJDP. A fact book and explanatory pages are housed on the Act-4-JJ website, www.act4jj.org.
- Join the Act-4-JJ e-mail list by e-mailing info@act4jj.org to receive regular updates and news from the campaign.
- Help educate Capitol Hill staffers and members of Congress by
 - attending Hill briefings, hearings, and events;
 - sending letters to members of Congress on your organization's letterhead to urge their support of the Act-4-JJ campaign's positions; and
 - asking your members/constituents to send Act-4-JJ postcards to members of Congress to draw attention to key areas of concern (download a sample postcard at www.act4jj.org).
- Enlarge the circle of support for a strong and progressive reauthorization of the JJDP by
 - signing or getting others to sign the "Statement of Principles for Reauthorization of the JJDP" for delivery to Congress (download the Statement of Principles from the website) and
 - attending monthly meetings of the National Juvenile Justice and Delinquency Prevention Coalition to receive in-person updates, analysis, and resources for field activities.
- Urge your members/constituents to use the Act-4-JJ "Take Action Kit." (This kit is available at www.act4jj.org/media/documents//document_12.doc.)

What can individuals and state and local groups do?

- Access the Take Action Toolkit at www.act4jj.org/media/documents//document_12.doc.
- Share the Action Packet with your friends, family, neighbors, and colleagues. Encourage them to take action too!
- Start a postcard campaign in your neighborhood.
- Send an action alert to your friends, family, and colleagues urging them to get involved.
- Write a letter to the editor of your local paper.
- Call, write, or visit your legislator. Use the talking points and sample letter in the Take Action Toolkit to educate your legislator about the importance of reauthorizing this vital piece of legislation this year.
- Join the Act-4-JJ e-mail list by signing up at info@act4jj.org to receive regular updates and news from the campaign.

Caught Between Two Courts

Maintaining and Enhancing Child Welfare Services for Older Youth Involved in the Juvenile Justice System

By Laval Miller-Wilson

The Models for Change Initiative of the John D. and Catherine T. MacArthur Foundation represents a major effort at improving the nation's juvenile justice system through targeted investments. Improving supervision services and supports for juveniles returning to the community from residential placements has emerged as a major issue in Pennsylvania, one of the four Models for Change states. One of the strategies for improving aftercare services is enhanced supports and better coordination of services for youth dually involved in the juvenile justice and child welfare systems.

Many adolescents involved in the juvenile justice system have a documented history of child maltreatment and have been the subject of child protective services (Wiig, Widom, & Tuell, 2003). Limited discussion has transpired, however, on how dependent youth fare in the juvenile justice system and how to best intervene in cases in which a child is considered both delinquent and dependent.

Dependent youth experience more severe sanctions (as measured by dispositions) in the juvenile justice system, compared with nondependent delinquent youth. A recent study by Professor Joseph Ryan and his colleagues found a child welfare bias in juvenile justice processing in Los Angeles (Ryan, Herz, Hernandez, & Marshal, 2007). Controlling for a variety of important factors (race, gender, types of offense), researchers concluded adolescents coming to juvenile justice from the child welfare system are more likely to receive placement.

Not only do dependent youth experience more severe sanctions in the juvenile justice system, but they are also sometimes disqualified from receiving child protective services. Anecdotal evidence from juvenile court practitioners suggests the child welfare sides of dual-jurisdiction cases are closed without regard to the impact on the issues that prompted removal from the family home and the continuing issues that prevent family reunification.

Moreover, the juvenile justice system is not adequately equipped to simultaneously address two distinct and complex problems—child offending behaviors and safety issues within the family home—without multisystem coordination of effort and resources. A

national survey of public juvenile justice agencies revealed less than 10% had developed or implemented any collaborative efforts to address the unique needs associated with maltreatment (Wiig et al., 2003). Thus it is important for child welfare and juvenile justice systems to address this critical gap in service delivery.

Models for Change

Pennsylvania—one of the states selected to participate in the MacArthur Foundation's Models for Change Initiative—is improving supervision services and supports for juveniles returning to the community from residential placements.

In a model system, juvenile justice professionals would help juvenile offenders become law abiding and productive citizens by connecting them with the programs and services they need to adjust and succeed after leaving residential treatment. Treatment plans would be integrated with aftercare plans to help offenders overcome problems, build on strengths, and acquire lifeskills. Returning young offenders would enroll immediately in school or have a job waiting. They would have quick access to the mental health or substance abuse treatment services they received while in care, and they would have support from family or other caring adults. Their life chances would be better than when they entered placement.

In 2005, leaders of key Pennsylvania agencies endorsed a common vision for aftercare by signing a "Joint Position Statement on Aftercare" that lays out the principles of a comprehensive aftercare system and commits the agencies to the goal of achieving it by 2010 (Joint Position Statement on Aftercare, 2005). At the heart of the joint policy statement is 17 goal statements, each describing some desired aspect of a comprehensive aftercare system.

One goal, expressed through two bullet statements, is to enhance supports and better coordinate services for youth who are dually involved in the juvenile justice and child welfare systems:

- County children and youth [protective service] agencies keep their doors and cases open to youth who entered the delinquency system from the child welfare system and who should be receiving foster care and other services as "dependent children" upon release from a residential facility.

- In appropriate cases, county children and youth [protective service] agencies support petitions of delinquent youth to be adjudicated dependent prior to their 18th birthdays.

What This Means

Young people and families with needs that are best addressed by the child welfare system should not be disqualified from receiving appropriate services the moment a delinquency petition is filed. Delinquent children may need the support that comes with an adjudication of dependency. There are two categories of such crossover situations.

- 1) *Youth who were dependent before entering the juvenile justice system.* Too often, protective service agencies seek to close their dependency cases when youth are arrested or adjudicated delinquent. This creates enormous problems.

If the dependency case is closed, youth lose important supports. These supports—which are actually rights in Pennsylvania’s Juvenile Act—enable them to stay in the dependency system until they are 21. When the delinquency system plans discharge for youth who are in placement, it needs to know where youth are going and what kinds of supports they will have.

An open dependency case means that probation officers and treatment staff can plan for a return to foster care, with all the planning, services, and support youth need to make a successful transition to adulthood. If the dependency case is closed, youth may be discharged to families that have no children and youth agency support. If a youth is under 18, a new dependency may need to be filled. If the youth is over 18, the youth is out of luck and will be another adult in need of housing, education, health care, and so on.

Dependency cases should only be closed if the youth agrees—after the youth and his or her lawyer are fully informed of the options—or if the youth is convicted as an adult and the period of incarceration will go beyond the 21st birthday.

- 2) *Delinquent youth under 18 with no prior child welfare involvement.* Sometimes delinquent youth reject or are rejected by their birthfamilies. When they leave delinquency placements, they need a place to turn. The dependency system is the obvious source of help, but this system is not hospitable to older youth. The ideal situation would be for a thorough examination of the aftercare plan before the youth is discharged from a delinquency placement.

Discharge plans should address significant issues, such as housing, education, health care, and connections to caring adults. In the course of reviewing the aftercare plan, if the child appears to be without necessary supports, and that the grounds for a dependency petition exist, the children and youth agency should be directed to file a petition and accept the child for service.

Where Does Pennsylvania Stand?

Like their counterparts across the country, Pennsylvania counties have fallen short of delivering aftercare of this quality. The results of a 2006 assessment of aftercare practices in each of Pennsylvania’s 67 counties found a lot of variation with regard to child welfare agencies’ handling of delinquent youth who are adjudicated delinquent (Griffin, Steele, & Franklin, 2007):

- Twelve percent of counties reported that child welfare agencies sometimes provide services to dependent youth and families after an adjudication of delinquency, but not often.
- Forty-eight percent of counties said child welfare services are never available to delinquent youth and their families. In fact, many indicated that active child welfare cases are closed at the time of referral to the juvenile probation department, as a result of mere allegations of delinquency.

Although federal funding sources require that juvenile probation and county child welfare agencies formally share case management of juveniles who straddle the two systems, the county assessment found little sharing actually takes place (JJDP). In practice, a dually adjudicated, dependent/delinquent youth is the responsibility of one agency or the other, not both.

As for the child welfare agencies supporting new dependency petitions for juveniles already adjudicated delinquent—essentially taking on responsibility where it had none before—the assessment suggested the practice is very rare:

- Seventy-three percent of counties reported it never occurs.
- Nineteen percent said it has occurred occasionally.

Finally, little documentation exists about the number and patterns of dually involved youth. Although crossing over often occurs, counties rarely can produce information on how many crossover youth were processed, the characteristics of those youth, or the outcomes they received by the court (Herz, Krinsky, & Ryan, 2006).

Where to Go from Here

With respect to meeting the needs of dually involved youth, Pennsylvania is no different from many other jurisdictions across the country. Many jurisdictions struggle with how best to process or intervene when an adolescent is before the court on both delinquency and dependency matters, particularly teenagers 13 and older. Numerous questions arise regarding the proper court response in these matters, including whether case consolidation is appropriate, and the degree of case coordination between juvenile probation/parole, child welfare, and behavioral health required to effectively intervene in these cases.

Historically, child welfare agencies have been concerned the juvenile court and their probation departments too often turn to the agency for assistance in funding-needed placement and related treatment services. Pennsylvania's Department of Public Welfare, one of the agencies that drafted and signed the joint position statement, is committed to directing county child welfare agencies to keep petitioned dependency cases open when juveniles are adjudicated delinquent and ordered into placement and suggesting best practices for shared case management of youth involved in both the dependency and delinquency systems. Other best practices and policies for dealing with youth who need supervision and support from both systems are outlined below.

Opportunities for Court Administrators

Courts must do more to track and analyze their overall caseloads, spot emerging trends in the cases that come before them, eliminate major causes of delays in court proceedings, and identify groups of children who require protective services when released. Moreover, how a court assigns a dual jurisdiction case—to judges, attorneys, probation officers, or others tied to the court process—also represents a critical step.

A 2004 publication by the National Center for Juvenile Justice (Siegel & Lord, 2004) about improving court practices and programs in dual jurisdiction cases suggests two ideas for court administrators:

- *Calendaring for One Family/One Judge.* In all dual jurisdiction cases, a single judge would be much more likely to have complete understanding of the family's court history—including responses to prior court orders—and be capable of sending consistent messages to all parties.
- *Dedicated dockets.* Courts with a considerable number of dual system cases may want to consid-

er reserving a block of time on their court calendars specifically for hearings on these matters.

Opportunities for Judges

- *Presume against closing dependency cases.* A child's protective service should not be discharged unless the court has conducted a rigorous inquiry, including requiring that the protective service agencies conduct an investigation into the situation and circumstances to which the child is to be discharged.

The court should not accept a plan that simply states the youth has been adjudicated delinquent and placed in delinquency treatment center. The court also should consider holding an evidentiary hearing if the child welfare agency seeks to discharge the youth on the grounds the youth's delinquent behavior demonstrates he or she is not cooperating or ungovernable. Developmental experts and common sense tell us it is normal for teenagers to act out or rebel as they approach adulthood. This behavior is normal and should not be accepted as the basis to discharge a youth from foster care.

- *Thoroughly review the aftercare plan before discharge from placement.* Discharge, like any disposition, should serve the youth's best interest and promote safety, permanency, and well-being. The court and the youth's attorney should require the child welfare agency and juvenile probation to present a discharge plan that covers all of the core areas:
 - education,
 - employment,
 - housing,
 - health and mental health care,
 - health insurance coverage,
 - connections with family or caring adults,
 - connection with community resources and social services, and
 - competencies in daily living skills.

Courts should also reject discharge plans that do nothing more than refer youth to homeless shelters or county public assistance offices, since these plans, on their face, do not fulfill the permanency goal of independence and self-sufficiency.

Opportunities for Guardians Ad Litem

Counsel should oppose motions to close protective service involvement when their dependent clients become involved in the juvenile justice system, especially when it is not clear the juvenile justice system is adequately equipped to simultaneously address

two distinct and complex problems: child offending behaviors and safety issues within the family home.

Counsel should make every effort to attend all delinquency court proceedings (detention, adjudicatory, disposition, and review).

It is important to at least ensure that defense attorneys have information about child welfare involvement. For example, without adequate representation or the appearance of a legal guardian at a detention hearing, foster youth may be transported to a secure detention facility. Further evaluations and reports prepared in child welfare cases are often broader in time and scope and more comprehensive than those prepared specifically for delinquency dispositions.

If the child is sent to a secure facility as part of the delinquency disposition, it is important to make arrangements for appropriate services to be continued to address the dependency case plan and the needs identified through the child welfare proceeding.

Opportunities for Delinquency Attorneys

At the outset of juvenile justice involvement, counsel should determine the degree (if any) of protective service involvement and identify and subpoena witnesses for upcoming court hearings. For example, as noted above, without the appearance of a legal guardian at the detention hearing, foster youth may be detained.

In Pennsylvania and other jurisdictions, representation does not end at the disposition hearing. Courts keep track of juveniles they have placed in residential facilities by means of routine dispositional review hearings. Counsel for youth should be mindful that,

at times, delinquent youth reject or are rejected by their birthfamilies and need a place to turn when they leave placements. Counsel should use dispositional reviews as opportunities to bring lack of housing and family supports to the attention of the juvenile court. If it appears the child will be without these necessary supports, child protective services should be directed to file a petition and accept the child for service.

Conclusion

Dual system youth present challenges for juvenile courts. Their cases often heighten conflicts between child protection and probation agencies. Pennsylvania's goal of enhanced supports and better coordination of services for youth dually involved in the juvenile justice and child welfare systems by 2010 is ambitious. Few counties have developed a comprehensive approach at this point. But the Joint Position Statement on Aftercare has had a galvanizing effect, and the situation is changing—thanks to the efforts of state and local professionals.

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- To learn more about this or other aspects of Pennsylvania's aftercare reform, contact Laval Miller-Wilson, Senior Attorney, Juvenile Law Center, at LWilson@jlc.org.*

LATEST DEVELOPMENTS

The Juvenile Justice Policy Network Listserv (JJPOLNET) is a valuable tool for all Juvenile Justice stakeholders who are interested in or participate in advocacy efforts on behalf of youth and adolescents involved with the Juvenile Justice System. With JJPOLNET it is easy to keep up with the latest Juvenile Justice news, information, and policy developments, as well as the events, publications, and work being done by the CWLA Juvenile Justice Division. To sign up for JJPOLNET, the CWLA Juvenile Justice Listserv, e-mail sconcodora@cwla.org.

CHILD WELFARE LEAGUE OF AMERICA

Models for Change Consultation and Technical Assistance

By John Tuell

Within the John D. and Catherine T. MacArthur Foundation's initiative, Models for Change: Systems Reform in Juvenile Justice (MfC), CWLA consultation and technical assistance works to produce better outcomes for children and families through policies and practices that effectively integrate and coordinate the juvenile justice, child welfare, and other relevant youth-serving systems (education, mental health, substance abuse).

During its nearly five-year history as a contributing member of the MfC National Resource Bank, CWLA has focused on raising awareness regarding the connection between child maltreatment and juvenile delinquency, and has developed a framework to address barriers and obstacles that deleteriously affect multisystem efforts to improve coordination of programs and services.

Through rich experiences in the field, CWLA has identified the range of issues that frequently affect successful multisystem reform efforts. CWLA has worked with South Dakota, Florida, Arizona, Colorado, and the U.S. Virgin Islands, and has engaged in local site-based work in King County, Washington, and Los Angeles County, California, to overcome the range of issues that often interfere with successful multisystem reform goals.

The four-phase CWLA framework, detailed in MfC literature and various CWLA publications, articulates the many issues in which CWLA focuses its consultation, training, and technical assistance.

Mobilization and Advocacy: Strategic Planning for a Reform Agenda

It is critical to effectively convene the appropriate and empowered personnel from multiple disciplines as the process of reform is engaged. The focus of this technical assistance facilitates 1) an assessment of political and environmental readiness for systems reform, identification, and commitment to strategic goals and objectives of a newly formed or preexisting collaboration; 2) identification and address of sticking points, which act as barriers to teamwork; and 3) establishment of governance and structure, which provides ongoing decision-making and oversight for reform initiative tasks.

Multisystem Data Collection and Management

The collection of data and analysis present critical challenges to the juvenile justice and child welfare

systems. A starting point is for all involved personnel to acknowledge the importance of data as a foundation for integration and coordination efforts. This work involves identifying questions to be answered (at what points and under what circumstances do children transfer from one system to the other, and which children and families simultaneously touch the child welfare and juvenile justice systems?) and a determination of the data to be collected to support integration and coordination planning. It will also involve decisions regarding management of the data collection, including confidentiality issues and legal requirements for information sharing.

This technical assistance examination primarily includes a review of the two systems' existing information systems and consideration of integrated information systems. From this analysis, CWLA can provide assistance in drafting protocols, policies, resource guides, and information-sharing agreements.

Comprehensive Services and Program Resource Inventory and Analysis

The challenges to address in inventory and assessment include duplication of services, contradictory case plans, costly repeat interventions, and lost opportunities to plan for a continuum of service delivery across multiple youth-serving systems—particularly within the child welfare and juvenile justice systems—focused on success with long-term outcomes.

This technical assistance involves compiling an inventory of programs and services; a comparative analysis of missions, mandates, and policies; identification of best practices nationally and locally; determination of the use of assessment instruments from multiple systems; review and analysis of the funding to support the services and programs; and creation of training for personnel in both systems.

THE LINK

Interested in submitting an article to an upcoming *Link*?
Contact Sorrel Concodora
at sconcodora@cwla.org.

Legal and Policy Analysis: Federal, State, and Local

This undertakes an examination of how laws, regulations, and formal and informal policies impact the ability of the child welfare and juvenile justice systems to collaborate on behalf of youth and families served by these systems. This work identifies legal, regulatory, and policy mandates that support or hinder integrated system responses on behalf of young people and families who rely on the two systems.

The research will focus on laws, regulations, and policies in a number of areas, including information-sharing, custody determination, and financial responsibility. It results in a report specific to the participating jurisdiction, which contains an analysis of strengths and challenges with regard to collaboration of the two systems and recommendations for change.

In addition to providing an analysis of the child welfare and juvenile justice systems with regard to collaboration, the research may serve as a guide for future research, which might address the coordination of other youth-serving systems (education, mental health, substance abuse). The legal research and analysis will be guided by a template and will result in a site-specific report that contains an analysis of that community's strengths and challenges with regard to systems collaboration. From this analysis, CWLA can provide assistance in drafting protocols, policies, resource guides, information-sharing agreements, and legislative recommendations.

Outcome or Performance-Based Contracting

Achieving successful client outcomes is the business of all children, youth, and family-based organizations and agencies. This work depends on carefully identifying which outcomes are sought, examining the factors (risk and protective) that affect positive outcomes, and developing a measurement and evaluation system to document achievement. CWLA technical assistance facilitates a process that will identify intermediate and long-term outcomes desired by the state or local jurisdiction and ensure effective and promising services and programs to at-risk youth and families that positively impact these outcomes.

The work is designed to ensure that future contractual partnerships will require the providers to demonstrate their capacity to deliver services (outputs) and measure impact (outcomes). Through this process, the jurisdiction will ultimately seek to broaden the pool of available providers and services. CWLA assists the jurisdiction in developing a training work-

shop for interested providers to address the revised contracting process, defining and clarifying the level of program and service data required to be collected, developing the methodology for analyzing the service/program data, and framing the new partnership between the contractor and providers.

In all of these arenas, CWLA's methodology involves developing an ongoing partnership with state and local jurisdictions that affords our presence at work sessions, often in the role of facilitator, but also as contributing member. In the latter, CWLA can identify specific national models or promising approaches that might assist a site in overcoming an issue blocking progress of the overall project.

In each instance, CWLA assists in prioritizing recommendations and strategies for reform and helps jurisdictions develop statute, policy, protocols, and interagency agreements that enhance the reform agenda. Each of these pieces of work can be engaged in isolation to serve a particular interest within a state or local jurisdiction or can be engaged in simultaneous phases to serve the overall objective of developing improved multisystem coordination that will enhance outcomes for children, youth, and families.

CWLA consultants supporting the MfC Initiative are experienced in conducting probation program audits, developing approaches to intervene on behalf of very young delinquent offenders, examining conditions and service provisions in secure care and residential treatment facilities, and effectively using Title IV-E funding sources.

The CWLA Juvenile Justice publication materials are available in PDF format online at www.cwla.org/programs/juvenilejustice.

John A. Tuell is Director for CWLA's Child Welfare-Juvenile Justice Systems Integration Initiative and maintains responsibility for managerial oversight for the Juvenile Justice Division. Mr. Tuell has consulted community leaders in King County, WA; Los Angeles County, CA; South Dakota; United States Virgin Islands; and Colorado, among other state and local jurisdictions.

ASK US...

About our consultation work in:

- Arizona
- Colorado
- King County, Washington
- Los Angeles, California
- South Dakota

For more information, contact Wayne Promisel at wpromisel@cwla.org.