

Clearinghouse REVIEW

May–June 2009
Volume 43, Numbers 1–2

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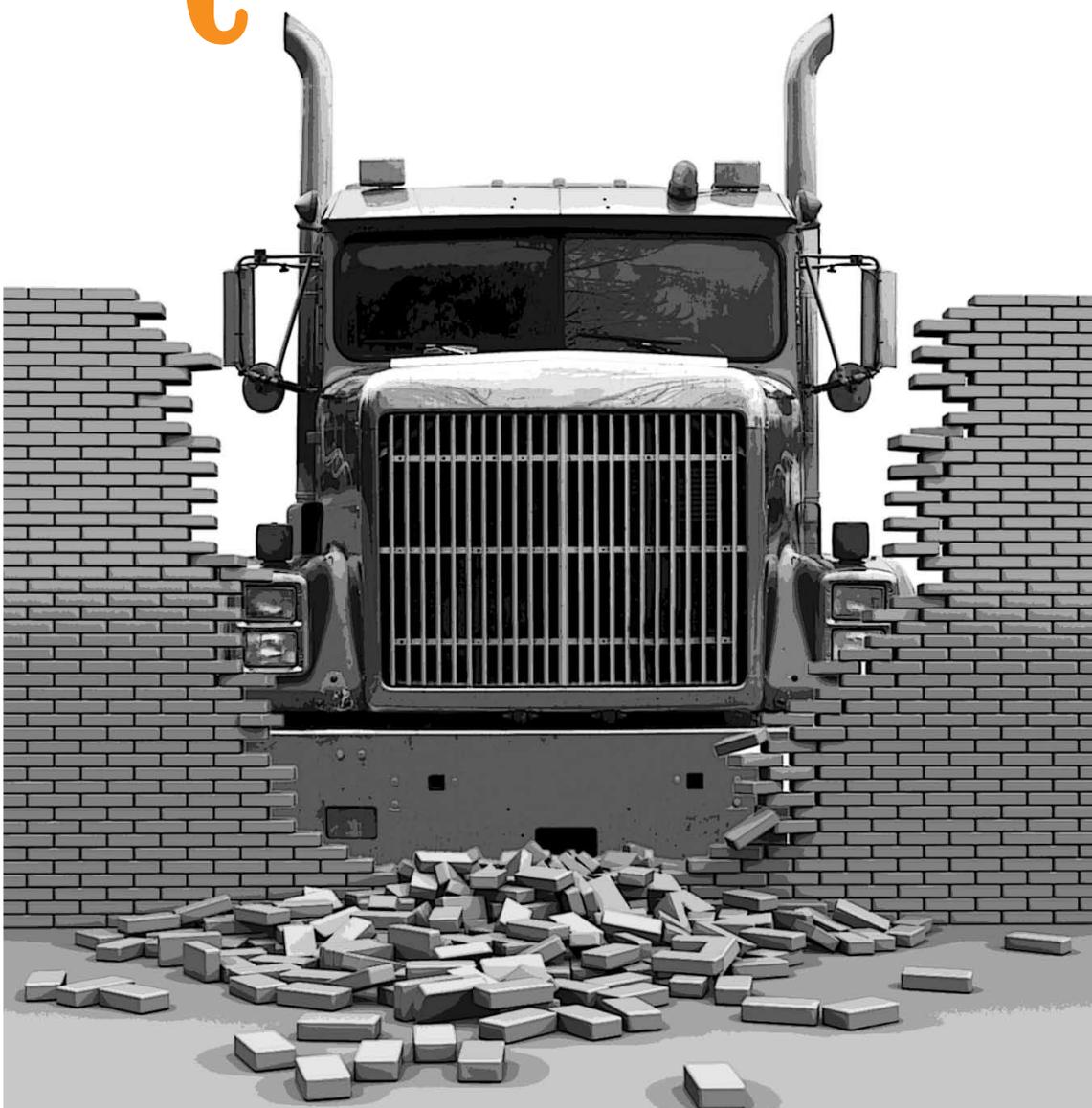
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Fresno's Juvenile Behavioral Health Court: A Better Way to Serve Youth

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Fresno County lies in the heart of California's San Joaquin Valley, midway between Los Angeles and San Francisco. Over half a million residents live in the contiguous cities of Fresno and Clovis, which together constitute the county's single metropolitan area. The remainder of the county is rural, with a few small incorporated cities and many isolated communities. These rural areas are primarily Latino; most of the population has limited proficiency in English.

For many years, Fresno County served youths who passed through juvenile court—and their families—extremely poorly. Youths with mental-health challenges were especially ill-served. That fundamental change was needed was apparent to many in the community by 2005—change both permanent and systemic. Over the last several years, a new Juvenile Behavioral Health Court has taken root; the new court is taking a radically new approach to many youths charged with delinquency offenses.

Those of us who were determined to pursue these changes realized from the beginning that progress would require a remarkable coming together of juvenile justice system-linked players, many of whom were accustomed to being at odds. The Juvenile Justice Services Collaborative, the body that shepherded the new court into existence, is made up of representatives from the juvenile court, probation department, child welfare agency, children's mental-health service providers, group homes, community-based organizations, the school system, and legal aid. Participants in the collaborative were united at its inception only by their conviction that the system was failing youth and

that change was essential. But the range of perspectives offered a rich source of new ideas; facilitated communication, if not always agreement, among former adversaries; and led to support from groups that might otherwise have opposed the new court.

The Court's Structure

The behavioral health court is a diversion court, similar to drug courts. It began operation with no dedicated funding for either staff or services; it relied instead on agencies and service providers. The court now has a single staff member—a coordinator, Amy Tillery—to oversee its operation. The court's goal is to reduce out-of-home placement, increase accountability to the community, and decrease the risk of harm to the child and the public.

Eligibility for diversion is based on criteria agreed upon by the court's initiators. These criteria are informed by those used in other alternative courts, tweaked somewhat to fit the need to garner support. Such factors as type and presence of mental illness, seriousness of offense, a youth's willingness to participate in the program, and a youth's amenability to treatment are among the criteria.

A child's lawyer may refer the child to the behavioral health court if a mental-health condition may have exacerbated the delinquent behavior. The court's clinician, who is a member of the behavioral health court team, and a probation officer meet first with the youth and the youth's family to gather information about the youth's eligibility and suitability for participation in the court. Eight to ten team members—generally representatives from the district attorney's office, the public defender's office, the probation department, legal aid organizations, the school system, the juvenile court, and county mental-health and social service agencies—meet semimonthly to consider newly referred cases. In the rare instance that the team is unable to reach consensus, the presiding judge decides. If a child is accepted, the team develops a disposition plan in four areas: individualized mental-health and medical treat-

ment, education, behavior, and terms of probation.

The entire team monitors the youth closely; the youth appears regularly before the judge at intervals ranging from biweekly to bimonthly. To graduate, youths must behave appropriately at home or in placement, attend and participate in school, participate fully in an individualized therapeutic case plan, and abide by terms of probation and attend court hearings. By adhering to these guidelines, youths learn that behavior has consequences and that the outcome is within their control. Youths "graduate" when they each meet the goals outlined by the individualized treatment plan. Progress usually takes approximately eighteen months.

The Collaborative Approach

Collaboration is a goal commonly honored more in theory than in practice. While collaboration among agencies, professions, and individuals should allow for better integration of services and improve outcomes, the complexities of implementing the approach can strain resources. In the case of the behavioral health court, the founders' determination has allowed the court to move forward as a true collaboration. Some fifteen agencies and nine professions are directly involved as team members, and in every case the entire team has input into the procedures followed and decisions made.

This approach has challenges as well as benefits; simultaneous attention to all areas of a youth's life is one of the benefits. Through the court, a team of specialists works to promote the youth's mental and medical health, education needs, home or placement adjustment, and court compliance. The result is beneficial not only to youths but also to their families.

However, overcoming communication barriers and achieving agreement among all team members—on questions such as whether to accept the applicant and what the individualized treatment plan will be—can be difficult due to different and

sometimes opposing agendas, training, or approach. We strive to meet the challenge by focusing on the bottom line: proper treatment of the child. We meet continually, both formally and informally, and make our own education a priority. For example, each profession has its own jargon that is foreign to the others. Attorneys, mental-health workers, and school professionals often work with the same concepts but use different vocabulary. Members of our team had to exhibit great patience in teaching our own terminology to others and learning theirs.

The Court's Impact on Youth

Stanford Law School's Criminal Justice Center's evaluation of the program's impact is under way, and Tillery, the court coordinator, is developing appropriate outcome measures. Meanwhile, preliminary data and anecdotal evidence indicate that the behavioral health court is productive.

Of the 155 youths referred to the court, 68, ranging in age from 10 to 18, have been accepted; 37 have been discharged, 18 of them successfully, with the remainder still in the program. Successful discharge means that the youth has worked through all of the stages of the court and is no longer in need of services, although therapeutic services are sometimes continued without court supervision. Unsuccessful discharge means that the youth does not complete the program for some reason—perhaps the youth left the program or refuses to participate further. However, some youths discharged “unsuccessfully” might still benefit through, for example, development of a successful educational plan, incorporation of parent involvement in medical and mental-health treatment, or, most important, a mental-health diagnosis that is an essential prerequisite to successful treatment.

The following vignettes describe some of the youths who have come through the court; the names are fictitious.

- Tyler, younger than most youths in the program, suffered from severe anxiety, which manifested in social pho-

bias and compulsive hand washing. He was under the court's jurisdiction for almost two years, longer than average. Periodically he experienced great difficulty in meeting the goals of his case plan—at one point he absconded from placement and had a spree of ingesting over-the-counter drugs. At times the team considered terminating his participation as unsuccessful, but we allowed him to continue because we felt that he was slowly improving and could be successful. His compliance improved; he worked his way up the stages and graduated. At his graduation his mental illnesses were being dealt with successfully with therapy and medication, and he was placed back in his own home.

- Anna had active methamphetamine addiction and several manifestations of mental illness that had gone untreated for several years. She told the team at one point that she did not know where she was on the first day she appeared in behavioral health court because of her drug use. She was not attending school or receiving any therapy. She wanted to participate and graduated fairly quickly. Clean and sober, she is now succeeding in school and receiving appropriate therapy. She expressed her profound gratitude to the team and is speaking before other youths about how their problems can be ameliorated.
- M. did not graduate but benefited nonetheless. She had a long history of assaultive behavior, caused in part by her mental-health problems. Although she was ejected from the program for violating probation, she was referred to appropriate medical treatment. She participates in a support group for transgendered youth. Her education advocate secured appropriate educational services for her, and she is attending school and passing her classes. She reports that therapy has helped her deal with the anger that caused her past assaultive behavior. She has not assaulted anyone for the last year and continues to behave appropriately in her group home and to have the highest level of privileges within that home.

- E.R. had suicidal ideation and was placed on suicide watch. However, no mental assessment to evaluate services needed to stabilize his condition was done. He successfully petitioned the court for a mental-health assessment and follow-through services, which he is receiving. He was not identified as eligible for special education, although he likely had always been eligible. Youths at juvenile hall attend a school run by the county office of education, which has the legal obligation to conduct special education assessments when requested but has routinely failed to do so. Again we obtained an order requiring the county office to do such assessments.
- A.L. had two problems. First, he had minimal clothing, although the group home where he lived was legally obligated to provide necessities and receives considerable financial support to do so. Ruling on his petition, the court ordered the group home to buy clothes for this youth and *sua sponte* directed the group home owners to do so for youths in all their facilities. This group home corporation owns and operates the largest number of group homes in Fresno County. A.L. was also having difficulty in getting juvenile probation to approve a free interpreter for his grandmother, who was his custodian and whose English proficiency was limited. The probation department had required him to rely on family members for interpretation. On his behalf his attorney, citing state and federal law that required free interpretation and prohibited reliance on family members or friends, wrote to the head of the juvenile probation department about the situation. Now the juvenile probation department must document at intake whether a family is proficient in English. If English proficiency is limited, the department must document the family's primary language, obtain an interpreter, and, for every contact with the family, document whether interpretation is provided and by whom.
- M.L., housed at juvenile hall, had a serious hearing impairment and communicated by using American Sign Language. Although the school provided interpretation in the classroom, no signers were otherwise available. M.L.'s father also communicated in American Sign Language, but no arrangement had been made for M.L. and his father to speak by phone—no TTY/TDD (telephone typewriter/telecommunications device for the deaf) system was in place, and the father was unable to use such devices in any case. If M.L. needed emergency medical attention, or if he was involved in an incident or sought to avoid one, he had to write out his problem. Again, through the collaborative nature of the team, we reached an agreement whereby the hall drew up an acceptable procedure to identify youths who needed interpretation, ensured availability of interpreters around the clock, and made videoconferencing available for youths and family members who preferred signing to TTY/TDD services.

The Legal Aid Perspective

As an attorney with Central California Legal Services one of us, Jack Daniel, is part of the behavioral health court team and participates in the decisions to accept and terminate youths in the court.¹ The court also appoints Daniel to represent some of the youths who are not receiving the educational benefits to which they are entitled in, among other advocacy matters, fighting suspensions or expulsions and securing or improving special education and Section 504 and similar services.² Daniel also assists youths in group homes that do not provide the services the youths need.

¹Jack Daniel wrote this section. He thanks Chris Schneider, executive director of Central California Legal Services, and the Youth Law Center, for their support and assistance in his work with the behavioral health court.

²Special education services are those provided under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400-1485 (2004); Section 504 refers to the Rehabilitation Act of 1973, 29 U.S.C. § 794(a) (2004), which assures children with disabilities equal access to education.

The community of interests created by the court has immensely benefited the youths that Daniel serves. Central California Legal Services has benefited institutionally as well from these new relationships—the organization received funding for a time as part of the court team. Daniel represents approximately twenty youths and keeps case files open for another fifteen or so whose ongoing situations with schools or group homes need monitoring. In the three years of the court's existence, Daniel, spending an average of one and a half days per week, has represented about sixty youths.

Daniel represents youths, not their parents; often the parents are out of the picture. His young clients tend to have a long history of serious emotional disturbances but have never been assessed for special education services. Daniel requests such assessment and, if the youth is found eligible, participates as the youth's advocate in the individualized education plan (IEP). Some youths are eligible to receive—in addition to services available under state and federal special education law—psychological services under state law.³ Daniel follows the youth's progress, helps update IEPs, ensures that the IEP is followed, and, if the youth, the parents, and professional evaluators determine that special education is no longer needed, terminates the youth's involvement in the program. At times Daniel also helps a child leave the program if the child has been misidentified as in need of special education or simply does not want the services.

For some youths, legal representation entails challenging long-term policies put in place by the systems with which the youths interact. The aforementioned vignettes describe the court's impact on individual children. Another example is some group homes' refusal to provide transportation to group home residents'

preferred school—generally the school that offers continuity because the youth was a student there before placement.⁴ On behalf of several youths Daniel filed a petition; before argument, the group home owner (the same owner as for the “clothing incident” above) agreed to provide such transportation. Daniel has not achieved complete success on this issue, however. In some cases, rather than providing transportation, the group home operator transfers the youth to a home within the attendance zone of the desired school, even if the home was not originally approved by the court and despite the loss of stability in placement that could have harmful effects on the youth. The struggle continues.

As a team member, Daniel pursued yet another form of systemic change through California's Judicial Council, whose policies govern court operations. Daniel's team became aware that confidential juvenile records were being made available to third parties who should not have access to the records. For example, public housing authorities were seeking information about a youth's drug detention as a basis for evicting the youth's family.⁵ For such third parties to obtain access to the records, California law requires notice to other parties and an *in camera* hearing, with release of all or part of the record ordered by the judge only upon good cause shown and with redaction if needed. The form used to petition for release of records did not clarify these requirements, nor did the form order attached to it. With the help of the Youth Law Center, the team's client petitioned the state to change the form pleadings and order. Daniel's team also sought changes in a California Rule of Court that incorrectly or unclearly set out the requirements. As a result, changes that tracked the team's request were published, approved, and adopted.⁶

³CAL. GOV'T CODE §§ 7570-7588 (Deering 2009); CAL. CODE REGS. tit. 2 § 60030 (2009).

⁴CAL. EDUC. CODE § 48853.5(D)(1) gives a youth the right to attend the school in which the youth was enrolled prior to detention. If a youth is transferred to a group home outside the attendance zone of that school, the group home must provide transportation.

⁵See Katherine E. Walz, HUD v. Rucker *Opened Door to Kids' Juvenile Records*, 39 CLEARINGHOUSE REVIEW 144 (July–Aug. 2005).

⁶CAL. RULES OF COURT R. 5.552 (Confidentiality of Records); Judicial Council Form–JV 570.

Youths who come through the behavioral health court have provoked remarkable change for the good within the systems that affect them—change that would have been impossible without the opportunities presented by the youth court. The youths have also responded positively to being agents of change, an all-too-rare experience for them.

Daniel is proud of the work accomplished but, as always, there is a time for reflection on lessons learned. First, although Judge Denise Whitehead did a remarkable job in setting up both the court and the community involved in it, in hindsight Daniel wishes that youths, in addition to their advocates, had been involved at both the planning and operational stages.

Further, the court explicitly excludes some youths—those with proven gang enhancements or charged with violent acts that were found or admitted to be true.⁷ While Daniel agrees that this policy was necessary to control the number of youths referred, to increase the likelihood of the court's early success, and to gain political approval, Daniel hopes that, as the court becomes more established, the pool of eligible youths will expand (although increased funding is

needed to expand the court at all). The court's full promise will not be fulfilled until it is able to serve nearly all of the youths in the community.

The youths are not the only ones who have experienced transformation through the court; Daniel has as well. Perhaps, after more than three decades in public interest law, Daniel, for one, was in a rut. Pondering Alfred Lord Tennyson's *Ulysses*, Daniel concludes that "[i]t little profits that ... an idle [legal aid lawyer] mete and dole unequal laws...." The court has allowed him not to "rest from travel: I will drink/Life to the lees...."⁸ Anyone fearing boredom need only meet the courageous and troubled youths whom he has been honored to serve.



Fresno County's behavioral health court has served some youths extremely well. For others, it has been insufficient; mental-health problems, less-than-ideal home conditions, addiction, and delinquency are hard to treat. However, most youths benefit from the court's presence in their lives. The team aims to continue to improve and to reach more youths. The struggle is well worth the effort.

COMMENTS?

We invite you to fill out the comment form at <http://tinyurl.com/MayJuneSurvey>. Thank you.

—The Editors

⁷CAL. PENAL CODE § 186.22 allows enhanced sentences for persons who participate in a "criminal street gang" or further its "felonious criminal conduct."

⁸See www.victorianweb.org/authors/tennyson/ulysses.html.

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