

Approved ABA Policy Resolution on Enhancing Access to Services for At-Risk Youth

RESOLVED, That the American Bar Association urges federal, state, territorial, tribal, and local governments to assure that adequate and appropriate services are made readily available to at-risk youth and their caretakers by ensuring that:

- a) Community mental health systems serving youth are reinvigorated and significantly expanded to provide greater access to troubled youth and their caretakers;
- b) Stronger support is given to expanding the availability of evidence-based programs for youth and greater investment is made in research to identify additional evidence-based programs worthy of replication and use for at-risk youth;
- c) A positive youth development perspective is incorporated into services and programs, including opportunities that support young people in developing a sense of competence, usefulness, belonging and empowerment, through access to developmental services and activities facilitating positive connections among youth and with adults, and also offering young people valuable information and learning experiences to help them choose healthy lifestyles; and
- d) Needed services and/or treatment should be provided to youth in need of such services by appropriate juvenile justice and child welfare intervention systems without the necessity or requirement of courts exercising jurisdiction over or adjudicating them.

FURTHER RESOLVED, That the American Bar Association urges federal, state, tribal, territorial and local governments to develop and adequately support permanent interagency and other youth resource coordination mechanisms to help assure that at-risk youth and their caretakers receive timely and effective services through public child welfare, youth services, mental health, schools, and other agencies.

FURTHER RESOLVED, That the American Bar Association urges attorneys and state, territorial, tribal, and local bar associations to help develop legal strategies to promote the above objectives while protecting youth rights to confidentiality and privacy, as well as to support government and private investment in coordinated, community-based mental health and other services to at-risk youth and families, available without involvement in juvenile justice or child protection systems.

Report¹

The New ABA Youth At Risk Initiative

Association President Karen Mathis has launched, beginning in August 2006, an ABA Youth At Risk Initiative, and Commission on Youth at Risk, addressing issues related to teenagers (13 to 19 year-olds) “at-risk” of entering juvenile and criminal justice systems. Many of these youth, and their families, face serious problems that elevate this risk: severe abuse, chronic neglect, high conflict and domestic violence within their families; desperately poor and violent neighborhoods; serious unmet mental health needs, learning disabilities, emotional or behavioral problems; gangs; bad peer group choices; and poor educational and employment options.

¹ Only the Resolution itself is official ABA policy. The Report simply provides background for the Association’s House of Delegates when considering the Recommendation.

They require use of proven, “evidenced-based” services that can help turn a youth’s life around and prevent the significant costs – to themselves, their families, and society – of involvement in delinquent or criminal acts. “Evidence-based” prevention, intervention, and treatment programs for youth and their families are resources that have been carefully evaluated to determine their long-term positive outcomes.

The ABA has long spoken out on the importance of enhancing services to youth. Beginning with the IJA/ABA *Juvenile Justice Standards* of the 1970s, the Association has been frequently on record in supporting progressive reforms aimed at children and youth. For example, the *Standards Relating to Youth Service Agencies* (1979) called for “delivery of needed services to juveniles in the community and their families,” including juveniles diverted from the courts. They called for “developing...needed resources to provide effective services” within a comprehensive, coordinated services system (Standard 2.1). In February 1984 the House of Delegates urged “members of the legal profession, as well as state and local bar associations, to respond to the needs of children by directing attention to issues affecting children including ... the needs of children who have no effective voice of their own in government... (and) implementation of statutory and programmatic resources to meet the health and welfare needs of children.” And in August 1996 the House encouraged courts to “ensure that counseling, treatment, advocacy and other assistance are made available to child victims of abuse and domestic violence through all available means.”

Much more recently, in 2004 the ABA advocated enhancement of “funding and financing for public mental health services so that...juveniles with mental health or emotional illness or disorders can obtain the support necessary to enable them to live independently in the community, and to avoid contact with the criminal and juvenile justice systems.” This recommendation also called for developing and promoting programs, policies and laws that would “improve collaboration among professionals, administrators, and policymakers in the criminal justice, juvenile justice, mental health, and substance abuse systems.”

Parents and youth, and their advocates, face a complex and often impenetrable tangle of agencies and services when seeking help. Often, access to a particular service may only be available through one of many government agencies, and then possibly only if there is a juvenile or family court proceeding through which the service can be provided and financially supported. These legal interventions carry with them a stigma to youth and their caretakers. Moreover, youth need coordinated and comprehensive services that take into consideration all their service and treatment needs, not just piecemeal and disjointed assistance that may be provided by one agency or court-contracted resource.

The Association’s recommendation is to avoid “intrusive” agency and court intervention altogether if possible. That is, services should be provided to youth and families who need them without the necessity or requirement of courts exercising jurisdiction over these youth and families, or formally adjudicating them. Some troubled youth, however, have histories that have inevitably put them and their families under the jurisdiction of courts and/or agencies for multiple types of cases (e.g., abuse/neglect, foster care, runaway, truancy, “incorrigible child”, delinquency, mental health), thus further confusing the appropriate entry point for service delivery and coordination.

Enhancement of Services to Youth

The need for community-based mental health services for emotionally and behaviorally troubled teens is acute. In 1999 a report of the U.S. Surgeon General on Mental Health found that, across the nation, “certain mental health services are in consistently short supply” including wraparound

services for youth with serious emotional problems. Treatment strategies, including comprehensive systems of care that “actively involve the participation of the multiple health, social service, educational, and other community resources that play a role in ensuring the health and well-being of children and their families” were reported necessary. In 2000, a follow-up Surgeon General’s Conference on Children’s Mental Health recommended that advocates continue to develop, disseminate, and implement scientifically-proven prevention and treatment services in the field of children's mental health. However, such services are still not readily available for far too many families.

In the 2003 report, “Achieving the Promise: Transforming Mental Health Care in America,” President Bush’s New Freedom Commission on Mental Health also noted that “... the mental health delivery system is fragmented and in disarray...lead[ing] to unnecessary and costly disability, homelessness, school failure and incarceration” and in particular fragmentation and gaps in care for children. That year, a U.S. Government Accountability Office report noted that parents and guardians of at least 12,700 children 17 and younger had turned them over to child welfare or juvenile justice systems in 2001 simply so the children could get mental health services. One federal response to this problem is the introduction in the 109th Congress of the Keeping Families Together Act (H.R. 823/S.380), a bill that would help avoid this outcome.

A promising approach to meeting youth mental health needs is called “wraparound services.” They provide a carefully managed “wraparound” approach that offers individualized, comprehensive treatment and other services within a system of care for youth with complicated multi-dimensional problems. One example is a program called Wraparound Milwaukee, which is a coordinated system of community-based care and resources for families of youth with severe emotional, behavioral, and mental health problems. It uses a “care management” model that includes a provider network furnishing an array of mental health and other services, an individualized plan of care for the youth, and a case manager.

This program also uses a reinvestment strategy in which dollars saved from decreased use of inpatient or residential care are invested in increased service capacity, as well as blending multiple agency funding streams. Under Wraparound Milwaukee, use of costly residential care has decreased 60 percent, even more costly inpatient psychiatric hospitalization dropped 80 percent, and thus the project has served hundreds of youth with the same fixed child welfare/juvenile justice monies that previously served half as many youth in residential centers. More important, program evaluation has found significant reduction of youth involvement in the juvenile justice system.

Another important approach, which has been federally supported, is the Comprehensive Community Mental Health Services Program for Children and Their Families. This is a grant program that helps develop comprehensive, coordinated, community-based and culturally competent “systems of care” for adolescents with serious emotional disturbances and their families. The main goal of this program is to build innovative home and community systems of care for youth with serious emotional disturbances and their families, while at the same time generating new knowledge about the most effective ways to meet the needs of youth with serious emotional disturbances and their families.

In a “system of care”, mental health, education, child welfare, juvenile justice, and other agencies work together to ensure that teens with mental, emotional, and behavioral problems and their families have access to the services and supports they need to succeed. These services and supports may include diagnostic and evaluation services, outpatient treatment, emergency services (24 hours a day, 7 days a week), case management, intensive home-based services, day

treatment, respite care, therapeutic foster care, and services that will help young people make the transition to adult systems of care.

Because there is an acute need for enhanced access of youth at risk to non-residential community based mental health care, the recommendation further calls for lawyers and the organized bar to support enhancement of services, and that access to specific services should not be dependent on the particular type of court action a youth and family are involved in, or even if they are not involved in the courts at all. For example, some service providers only “contract” with a child welfare agency for abused and neglected youth, while others only work with delinquent youth through a juvenile justice agency. If a youth is a truant, runaway, or “out of control” at home, they may fit into neither category, thus further limiting their access to services they need. And many of these youth actually “cross over” among these systems at various points during their childhood and adolescence.

The recommendation also notes the importance of services that build on the strengths of each youth. States, communities, organizations, and families are looking for ways to better support young people, especially those growing up in difficult life situations. Even youth in the most challenging of circumstances can succeed if they have the support of caring adults and access to a community that provides them with new skills and a positive connection with others, prevention services that help youth make positive decisions and avoid risky behaviors, and appropriate interventions when their behaviors put themselves or others at risk. There is a resurgence of interest in a strategy designed to provide youth with such opportunities, services, and support, particularly as they transition to adulthood.

That strategy is called Positive Youth Development. Based on research, practitioners have identified what keeps most young people on the right track: a sense of competence, being able to do something well (e.g., mastering job skills); a sense of usefulness, or having something to contribute (e.g., volunteering for community projects); a sense of belonging – being part of a community (e.g., identifying positively with an ethnic or social group); and a sense of power, or having control over one's future (e.g., having access to education or training). Positive Youth Development involves a communitywide approach to ensure that young people develop knowledge and skills, belong and contribute to a community, and plan effectively for their future.

Coordination of Services to Youth

This recommendation calls for development and support for permanent mechanisms to ensure effective communication among the many agencies serving youth and help assure that youth needs and the quality and quantity of support for them are adequate. The recommendation also calls for such collaboration to help achieve carefully coordinated planning of youth and family needs, as well as identification of gaps in meeting those needs. In essence, this is a call for shifting from a too often complicated jumble of services to a seamless web requiring careful examination of youth and family needs and resources to meet them.

A 2003 White House Task Force for Disadvantaged Youth report identified several critical steps that must be taken at the federal level to increase the quality of programs for troubled youth. This includes a need to reduce duplication of services, maximize expertise to aid youth across individual agency boundaries, enhance collaborative efforts, and develop a unified research agenda to identify “best practices,” including finding and elevating models of “what works” through collaboration and coordinating with existing agency structures. Such steps are also required at the state and local levels.

Proposed legislation to achieve these recommendations was introduced in the 109th Congress as a Federal Youth Coordination Act (H.R. 856/S.409). Both are bipartisan bills, and H.R. 856 passed the U.S. House of Representatives in November 2005 by a vote of 353 to 62. The legislation would establish a Federal Youth Development Council to improve the administration and coordination of Federal programs serving youth, including cabinet secretaries and members appointed by the President from among representatives of faith and community based organizations, youth-focused foundations and youth services providers, state and local governments, universities, and disadvantaged youth themselves. The focus of the Council's work would be to ensure communication among agencies serving youth, jointly assessing youth needs and programs, better allocating resources, identifying areas of overlap or duplication in youth services, addressing disproportionately at risk populations, and providing assistance to state and local coordination initiatives. These efforts are not only important at the federal level, but are critical at the state and local levels where services to youth are provided.

Indeed, there is a long history of important individual state and local youth services coordination efforts. This includes the Interagency Coordinating Council on Youth, created in 1989 to promote interagency collaboration on issues relevant to New York City youth. There is also a Los Angeles County Children's Planning Council, a legislatively-created Oregon Commission on Children and Families, and other similar interagency groups. Additionally, twenty-two states and several cities have established "children's cabinets" or similar bodies that bring high-level multiple agency administrators together. Many more state and local "blue ribbon" youth services coordination mechanisms are necessary.

We also recognize that as interagency coordination and cooperation on youth issues increases, especially at the state and local levels, there is an increased need for protection of confidentiality for youth and families to ensure that information is not wrongfully shared or misused. Lawyers and the organized bar can help assure that confidentiality rights are stressed, and that the rights of youth and their caretakers to consent to release of private information is strictly protected. When case-specific information is shared as part of coordinated service efforts, it should be for limited purposes, and on a need-to-know basis.

Conclusion

In February 2006 there was a planning conference for the Youth At Risk Initiative of President Mathis. An introduction to the conference report stated that many of our nation's youth "stand on the edge of a precipice." The report noted that lawyers, as leaders of the community, can work to enhance policies, practices, and programs that can help prevent teens from becoming delinquent or engaging in criminal acts. These recommendations are a first step towards what is hoped to be a series of new Association policies addressing America's youth at risk, building upon the national expert consensus of "what works" and a recognition that laws, policies, and practices related to troubled youth are in dire need of improvement.