



The Mental Health Court Model: Can Child Dependency Courts Benefit?

In most jurisdictions, much needed support for court-involved families with parents suffering from mental illness is hard to find. Parents with mental illness face many parenting challenges, including difficulty in meeting Adoption and Safe Families Act (ASFA) timelines given the uneven course of illness and recovery and the frequent lack of appropriate services.¹

The dependency court system needs to examine ways in which it can better address the mental health needs of parents. By exploring how adult mental health courts and juvenile mental health courts address mental health issues, dependency courts may be able to adopt approaches that better serve such families.

Mental Health Courts in Criminal Cases

Since 1996, mental health courts in the criminal court context have surfaced throughout the country. Although there is no single model, the courts have a common goal: to break the cycle of mental illness and criminal behavior and to provide effective treatment options instead of the usual criminal sanctions for offenders with mental illnesses.²

These specialty courts seek to reduce the incarceration and recidivism of people with mental illnesses by linking them to mental health services and supports that may have prevented contact with the criminal justice system initially. People with mental illness are often arrested for minor offenses for which others are not arrested, leading to a “criminalization” of mental illness. Criminal records then also create additional obstacles to treatment and services.

Judges, prosecutors, defense attorneys, and other court staff assigned to the mental health court docket are specially trained to work with defendants suffering from mental illness. The defendant, or client, is assessed by a clinician for eligibility. In addition to those with an identified mental illness, some courts include people with developmental disabilities or head injuries.

The clients generally have access to an advocate who guides them through the legal process to improve their chances of success in the program. They must also have defense counsel to represent them and protect their legal interests. Special court or pretrial-services personnel formulate treatment plans, and probation officers monitor the defendant’s adherence to the plan once it has been court ordered. Judicial supervision varies from court to court, but can last anywhere from one to two years.

Mental Health Courts and Parents

Despite their proliferation, most mental health courts have not formally addressed the issue of parents whose mental illness has resulted in the placement of their children in foster care. Generally, the parents may be referred to outside services, but there is no established procedure for how to respond.

The mental health court in Allegheny County, PA, has tried to set up such a procedure according to Court Supervisor Eric Hess. The treatment team would connect

the parents with social services and evaluate them for services to determine their individual needs. Such parents may come in contact with the MHC prior to dependency court involvement or as a result of a referral from social services.³

Juvenile Mental Health Courts

Juvenile mental health courts⁴ also offer some services that might work in the dependency court system. The Court for the Individualized Treatment of Adolescents (CITA) in Santa Clara County, CA, serves youth with mental illness, which can include brain disorders and brain injuries or even developmental disabilities such as autism. Youth who have committed certain violent felonies, however, are excluded.

A multidisciplinary team evaluates, supervises, and makes recommendations to the court regarding the youth’s case. Mental health and probation, along with a prosecutor and defense attorney, are involved. Once accepted into CITA, youth get a thorough clinical assessment including a psychological, behavioral, educational, social, and family assessment. These assessments are administered by a mental health coordinator who also does the program eligibility assessment. This same coordinator supervises and organizes treatment planning and reports to the multidisciplinary team. CITA offers a variety of mental health services such as therapy, emergency services, medication, and multi-agency involvement. Transition planning is also available so that youth can successfully return to the community.

Applicability to Dependency Courts

Elements of the mental health court model are applicable to dependency courts because the affected parents face the same types of diagnoses and need a similar high degree of hands-on help. The court and the multidisciplinary team can provide frequent reinforcement of progress or lack of progress, and the court could use its power to impose sanctions as needed. Careful screening could identify those parents likely to benefit from this approach within the timeframes of permanency planning.

Six Essential Elements for Dependency Courts

The various mental health court models offer six essential elements that dependency courts could consider:

- A multidisciplinary team that includes the necessary professionals would provide for more intensive and frequent monitoring of a parent’s mental health status,⁵ which might in turn speed up the process of either reunification or an alternative permanency plan.
- Various forms of mental health and community supports available through the court system would offer parents more skills and resources, which could increase the chances of successful reunification.
- Treatment interventions such as individualized goal plans based upon the client’s functioning level and assisting the client through the court process⁶ might

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allow for a more caring and individualized approach to parents' specific needs.

- Active involvement of the client's therapist in the courtroom, such as providing advice to the court on treatment intervention,⁷ may help judges make educated decisions about the likelihood of reunification or the need for another permanency option.
- Frequent court reviews that meet the specific needs of the client (as frequent as once a week if appropriate) provide an incentive to the parent and may encourage positive change.⁸
- An early and comprehensive diagnosis and prognosis for the parent and her ability to care for the child within a reasonable time would guide the intervention for the parent and child.

Remaining Questions

Although additional focus on parental mental health in dependency courts is certainly welcome, some questions about application of the mental health court model remain:

- Are there types of cases where criminal or juvenile mental health courts really help and others where they are less helpful? If so, would the same probably be true for dependency mental health courts?
- If mental health problems are chronic, is it realistic for mental health courts to continue their supervision for years in dependency cases, as a condition for children staying at home? If not, do they make sense?
- How deeply should courts delve into monitoring and casework?
- What about cases where a mental health issue is marginally treatable or prognosis does not look good? What would be the role of the multidisciplinary team in such cases?
- Which models (or approaches) of mental health courts are most effective?
- What are the outcomes for the children? Are they being kept safely at home, with safety plans in place?

Conclusion

Despite these unresolved questions, further exploration of the value of the mental health court model in dependency cases seems warranted and may help identify additional

resources available to parents to address their mental health while promoting timely permanency for children.

Rachael Pendleton

Notes

1. Nicholson et al., *Critical Issues for Parents with Mental Illness and their Families*, Center for Mental Health Services Research, Department of Psychiatry, University of Massachusetts Medical School (June 21, 2001) (<http://mentalhealth.samhsa.gov/publications/allpubs/KEN-01-0109/default.asp>).
2. Bernstein & Seltzer, *The Role of Mental Health Courts in System Reform*, Bazelon Center for Mental Health Law (2004).
3. Telephone interview with Allegheny County Mental Health Court Supervisor Eric Hess (June 11, 2007).
4. *Juvenile Mental Health Courts Program Descriptions: Processes and Procedures*, National Center for Mental Health and Juvenile Justice (August 2005) (http://www.ncmhji.com/resource_kit/pdfs/Diversion/Readings/JuvenileMentalHealthCourts.pdf).
5. Connolly & Fariello, *Mental Health Court: In Concert with Community Treatment*, Forensic Mental Health Association of California conference presentation (March 16, 2006).
6. Ibid.
7. Ibid.
8. Juvenile Mental Health Courts Program Descriptions, supra note 4.

Blueprint for Change: Education Success for Children in Foster Care

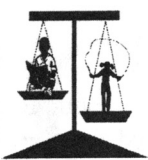
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