

CHAPTER 3: HOW YOUTH BECOME INVOLVED WITH THE JUVENILE JUSTICE SYSTEM

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HOW YOUTH BECOME INVOLVED WITH DYS

Youth who end up involved with the juvenile justice system often have common characteristics or problems. By being sensitive to these characteristics and addressing these problems early on, youth may be able to avoid juvenile justice system involvement.

Personal risk factors

Mental health problems

Youth with mental health problems are over-represented in the juvenile justice system.¹ One analysis has concluded that approximately 20% of youth in the juvenile justice system have a *serious mental disorder*.² A 2006 study of detained youth in urban Illinois found that nearly two-thirds of males and three-quarters of females met diagnostic criteria for one or more psychiatric disorders.³ Many of these youth had two or more psychiatric disorders.⁴ Further, many of these youth with a psychiatric disorder also had a substance use disorder.⁵ Similarly, a 2004 Massachusetts study concluded that 60-70% of youth in DYS facilities had symptoms of significant mental disturbance.⁶

While having a mental health problem poses a personal risk factor, it is important to remember that the vast majority of youth with mental health problems will never become involved in the juvenile justice system.

Education-related disabilities

Large numbers of youth charged with criminal offenses have either identified or undiscovered education-related disabilities, particularly learning and emotional disabilities.⁷

While having an education-related disability poses a personal risk factor, it is important to remember that the vast majority of youth with such disabilities will never become involved in the juvenile justice system.

Drug or alcohol abuse

Youth with drug and alcohol problems are over-represented in the juvenile justice system. The 2006 study of detained youth in urban Illinois referenced above found that one-half of males and almost one-half of females met criteria for a substance use disorder.⁸

While substance abuse does not cause delinquent behavior and many youth with this problem will never become involved in the juvenile

justice system, there is a correlation between substance abuse and delinquency.⁹

Environmental risk factors

Surroundings

As of January 1, 2004, 62% of new commitments to DYS came from ten cities in Massachusetts: Boston, Worcester, Fall River, Brockton, Lowell, Springfield, Lawrence, New Bedford, Lynn, and Holyoke.¹⁰ While there are multiple factors that contribute to this phenomenon, the statistic should lead advocates to focus carefully on meeting the needs of youth in these communities before they become involved in the juvenile justice system.

Experiencing violence

Youth who have experienced or witnessed violence (including domestic violence) also are at risk of involvement in the juvenile justice system. In fact, family abuse and exposure to violence are the most significant predictors of juvenile violence when comparing delinquents and non-delinquents.¹¹

The relationship between violence, trauma, and involvement in the juvenile justice system is particularly noteworthy for girls. A study of girls in the California juvenile justice system found that 92% of the girls reported having been subjected to some form of emotional, physical and/or sexual abuse.¹²

Family instability

Youth who have experienced an unstable home life also are at risk of involvement in the juvenile justice system. For example, one risk factor of juvenile justice involvement is living in a family in which there is no parent who has full-time, year-round employment.¹³


Department of Children and Families

Youth involved with the Department of Children and Families (DCF) also are at risk of DYS involvement. Nearly 55% of the DYS committed population received DCF services prior to commitment.¹⁴ In 2002, DYS estimated that about 75% of girls committed to DYS had been previously involved with DCF (as compared to 45% of committed boys).¹⁵

Warning signs

School failure

School failure is a warning sign for future involvement in the juvenile justice system. Trained educators (and observant parents) can detect likelihood of academic failure as early as grades 1 – 3. Children who are not reading at grade level at the end of grade 3 are particularly at risk.¹⁶ Among older youth, a 2000 report found that 47% of court-identified truants are arraigned within three years.¹⁷

 **Tip for families:** It is important to monitor your child's school progress from an early age and to talk to school staff if you think your child is not doing well. Once children fall behind in school, it is difficult for them to catch up. Additionally, children can suffer as a result of their school failures and can carry this damage with them through adolescence.

Weapons

Carrying weapons also is a warning sign for future DYS involvement. Many children and teenagers carry weapons (such as box cutters, knives, or guns) because they feel that it is necessary for protection from street life. However, a youth is at risk of arrest if he uses a weapon or even is caught with a weapon in his possession.


Drug dealing

Possessing, using, or dealing an illegal substance is also a warning sign for future DYS involvement. A youth may be arrested for any of these activities. Additionally, involvement with drugs may lead to other criminal acts such as larceny or assault.

How youth typically come to DYS through the court system

Probation surrender

The majority of youth committed to DYS are committed after failing to meet one or more conditions of probation, resulting in losing one's right to be free on probation (i.e., a "probation surrender").

 **Tip for families:** For this reason, it is essential, in a delinquency matter, for you be involved when your child's conditions of probation are developed. You should make sure that the terms of probation are reasonable and that your child will be able to meet them. You should work with your child's lawyer to make sure your child doesn't agree to something he cannot do.

Child in Need of Services (CHINS)

A CHINS case is one in which the child has not committed a crime, but is acting out in some other way. These behaviors include:

- A child below age 17 who runs away;
- A child below age 17 who refuses to obey the lawful and reasonable commands of his parent or legal guardian;
- A child between the ages of 6 and 16 who repeatedly and willfully fails to attend school or repeatedly breaks school rules.¹⁸

Parents, legal guardians, school officials, and police may petition the juvenile court for a CHINS petition. (Who specifically may petition depends on the problem being alleged.)

If the CHINS petition is successful and the judge finds that the child is in need of services, the court places the child under the supervision of the probation department and the child must follow a set of rules. In general, the court will pursue the least restrictive alternative. The most restrictive alternative that the court can take is to place the child in the care and custody of the Department of Children and Families (DCF). (The judge may not commit a child to DYS pursuant to a CHINS petition.)

A youth who is the subject of a child-in-need-of-services (CHINS) case is highly likely to become involved with DYS. While CHINS is not a criminal proceeding, research conducted by the Probation Commissioner found that 54% of children in CHINS cases were arraigned (charged) in juvenile or adult courts within three years of initial contact with the courts.¹⁹ Nearly three-quarters of school-initiated CHINS juveniles are later arraigned in court.²⁰

Racism, discrimination, and stigma

Institutional racism

Unfortunately, institutional racism places youth of color at risk of involvement with the juvenile justice system. This problem is due to the response of systems and people in authority to persons of certain racial and ethnic identities. Sadly, it remains true today that youth of color are being funneled into the juvenile justice system at higher rates than their white peers. While it is not fully clear, because of lack of data, all the points at which this pattern occurs, the outcomes are clear.

In 2003, minority youth accounted for only 24% of the total youth population in Massachusetts, but 39% of probation placements, 58% of detention placements, 62% of the DYS commitments and 64% of youth sent to alternative lockup programs.²¹ Thus, youth of color are overrepresented at every point of contact within the Massachusetts juvenile justice system.²²

When youth of color come in contact with the juvenile justice system (e.g. police stop, arrest, arraignment, commitment, etc.) at rates that exceed their representation in the larger community, it is called “Disproportionate Minority Contact.”

Many people in Massachusetts and in the United States are alarmed at the problem of Disproportionate Minority Contact. People studying the problem in the juvenile justice system have found that children of color are not committing more crime than their white counterparts. Rather, different treatment in communities of color and other forms of discrimination at various points in the system contribute to this phenomenon. For example, communities of color tend to be urban and are policed differently than white suburbs. Courts handle cases in urban areas differently than courts handle cases in suburban regions. School administrations in urban communities respond differently to problem situations than do their suburban counterparts. In summary, there are many reasons that youth of color are arrested and prosecuted more frequently than their white peers.

Despite the fact that Disproportionate Minority Contact is a serious problem in Massachusetts, it is important to remember that most youth of color will never become involved with the juvenile justice system.

Discrimination and stigma experienced by Lesbian, Gay, Bisexual, Transgender, or Queer (LGBTQ) youth

Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) youth are disproportionately represented among youth who are at risk for contact with the juvenile justice system.²³ This problem is due to the response of systems and people in authority to persons of certain sexual identities.

There are a number of specific reasons for LGBTQ overrepresentation in the juvenile justice system. LGBTQ youth have heightened risk for a number of conditions that increase the likelihood of juvenile justice contact including: homelessness and runaway status; involvement in survival crimes such as theft and prostitution; violence and harassment in school leading to poor performance and participation; social isolation; high rates of depression, stress and substance abuse due to family and societal rejection.²⁴ A study has also found that LGBTQ youth are more likely than the general youth population to have been physically abused.²⁵ Another study found that students who either identified as gay, lesbian, or bisexual or reported any same-sex sexual contact were significantly more likely than other students to have been involved with gangs.²⁶ Further, one report found that police were selectively enforcing certain laws, resulting in disproportionate arrest of transgender youth and LGBTQ youth of color.²⁷ For youth of color, these sexual identity issues may be compounded by race-based discrimination and marginalization.²⁸ While data about the numbers of LGBTQ youth in the justice system nationwide is not available, one New York study linked LGBTQ youth who face these adversities with heightened risk of involvement with the juvenile justice system.²⁹

One legal researcher suggests that even those individuals providing legal representation to LGBTQ youth need, first, to understand the ways in which LGBTQ youth are uniquely vulnerable to trauma, abuse, violence, and discrimination and, second, to pursue sensitive and supportive advocacy strategies with their clients.³⁰ Moreover, once LGBTQ youth enter the juvenile justice system, advocates should be watchful. Particularly, advocates should be concerned about the potential for discriminatory or even abusive treatment by staff and fellow residents, unnecessary use of isolation and segregation, and inappropriate sexual offense charges arising from consensual same-sex conduct.³¹

Despite the discrimination and stigma faced by LGBTQ youth, having a non-majority sexual identity in itself is not a problem, and most LGBTQ youth never will become involved with the juvenile justice system.

Endnotes

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