

Behavioral Health Needs and The Juvenile Justice System PPAL

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Orienting Axioms

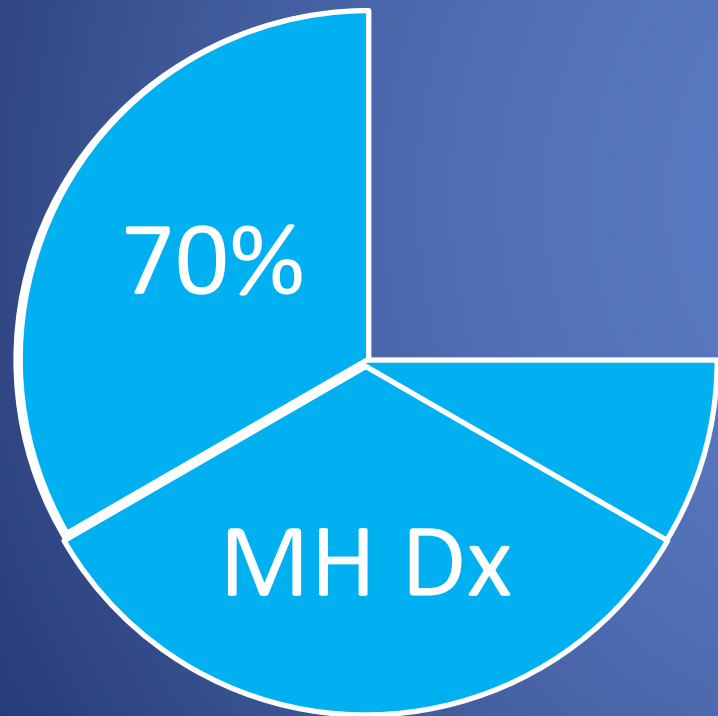
- Youth/Emerging Adulthood – Normal Period of Exploration/Risk
- Most Youth – Even Delinquent Ones – Will Figure It Out
- Mechanism: Maturity, Social Learning, Positive Youth Dev Assets
- Most Misconduct Reflects Attitudes, Values, Beliefs
- Some Misconduct Reflects Treatable Behavioral Health Conditions
- Treating BH conditions is not a guarantee that misconduct abates
- But it makes it easier for normal “social learning” to occur
- Juvenile Justice is NOT the solution for BH care/needs

What *Is* the “Juvenile Justice System?”

- 1899 First Juvenile Court in Chicago for ***Rehabilitation***
- Early 20th Century rapidly being established across US
- Era of “Training Schools” and “Reform Schools”
- 1967 *In Re Gault* “***Kangaroo Courts***” – gives basic rights
- 1980’s Spike of juvenile crime – “***Superpredator***” fears
- 1990’s States adopt punitive approach—***Mass Incarceration***
- 2000’s Neuroscience, social and behavioral sciences weigh in
- 2005 – now SCOTUS cases, ***Policy Reform begins***
- Now ***States highly variable*** in policy and practice

Greater Likelihood of Behavioral Health Conditions -- Often Co-Occurring—Among JJ-Involved Youth

JJ-Involved Youth with ≥ 1 MH Diagnosis



Self-Reported Substance Use by JJ Youth

Note Polysubstance Pattern

Alcohol	Marijuana	Other
85%	80%	27%

Framework of MA Juvenile Justice

- Jurisdiction: Juvenile Delinquency and Youthful Offender ages 12 – 17
 - JD: Max consequence is commit to Dept. of Youth Services to age 18
 - YO: Max consequence is commit to DYS to age 21 with possible DOC time after
 - Murders charged ages 14 – 17 are prosecuted as adults in Superior Court
- Misconduct **under age 11** may result in a Child Requiring Assistance (CRA) case – a “status” offense.
- Misconduct **aged 18+** that results in arrest/summons is handled as an adult criminal matter.

Upstream from Police Contact

- Consider likelihood whether conduct will get police attention or that police will be called by others (e.g., school, neighbors)
- Consider option of speaking with school authorities, neighbors, coaches, others with contact with your child about how to collaboratively respond to challenging behaviors without calling police
- Consider a conversation with local police or school resource officers to acquaint them with your child and communicate about how to collaboratively respond without an arrest – departments and individual police vary widely in their responsiveness to this so consult with PPAL

Tips from PPAL (ppal-tipsheet-JJ.pdf)

- **The police are often not on your side and may not be trained to work with children and youth.** Policing is largely *reactive* and local practices/training vary widely.
- **Cooperation and respect go a long way.** Stay calm, rational, focused on the best way to protect your child's rights.
- **Your rights as a parent right may be limited.** Especially if your child is over age 18. More later on MA law.

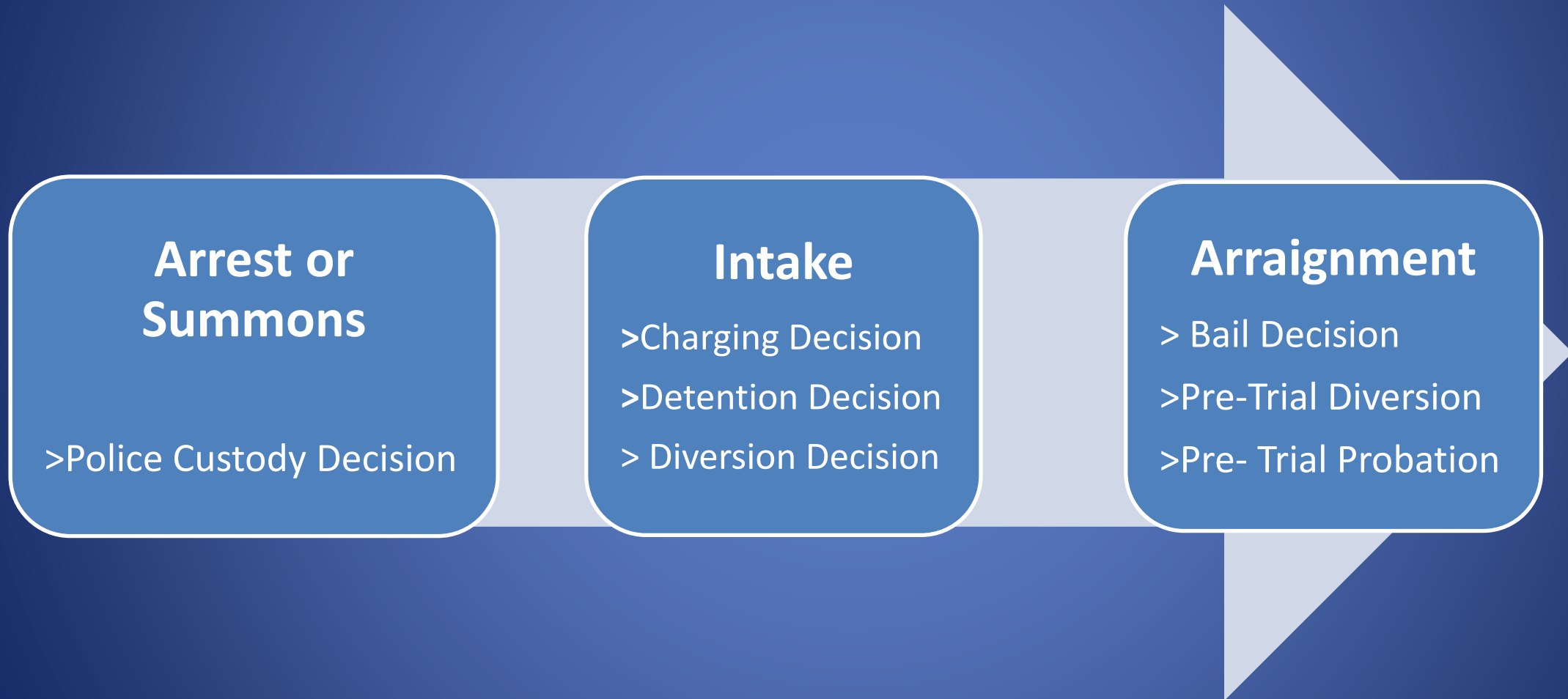
Tips from PPAL (ppal-tipsheet-JJ.pdf)

- **If your child is in custody, ask for a lawyer.** Teach your child to ask for a *lawyer* as asking for a parent does not afford the same protections. Identify in advance of a crisis an attorney with Juvenile Court experience – especially if your child has behavior challenges that can prompt police encounters. More on this later.
- **Parents shouldn't play lawyer.** Involve a lawyer and let them advise your child and communicate with police.

Tips from PPAL (ppal-tipsheet-JJ.pdf)

- **Communication is key.** Model for your child how to communicate – especially with their lawyer. Keep an open mind. Take notes of what you learn and from whom. This may be useful later. But be cautious about sharing your child's behavioral health or special education status with persons other than your child's attorney.
- **Know what's in the record.** Arrest and Juvenile Court records can be damaging in the future so work with attorney to assure they are accurate and whether/when you should attempt to seal or expunge them.

Sequence of JJ System and “Intercepts”



Arrest or Summons: “Interested Adult” Rule

- This rule is active when a minor is “*in custody*” of the police
- Minors entitled to *Miranda Warning* if interrogated in custody
 - Under 14: “Interested adult” *must be present* at interrogation
 - Ages 14 – 17: Youth must have meaningful or genuine *opportunity to consult* with “interested adult” prior to interrogation BUT Court will also consider whether juvenile is intelligent, “experienced,” knowledgeable, and “sophisticated” in considering confession

Arrest or Summons: “Interested Adult” Rule

- Protection does not apply to “unsolicited statements” by youth
- Youth must answer “routine booking questions”
- Parents/caregivers *must* be notified *prior* to booking a youth

So,

- Teach youth to directly say “I want an attorney before talking”
- Remember: Lawyer represents the child – not the parent/caregiver
- *Immediately* involve an attorney with juvenile experience
- Do NOT advise child to “tell the truth” or continue interrogation
- Remember that minor may be eligible for appointed counsel

Intake Phase

- Charging Decision – Made and reviewed in DA's Office
- Detention Decision - Cash bail or release to parent/caregiver
- Diversion Decision
 - Some police departments have diversion for less serious crimes
 - Some DA's Offices have diversion programs – know if yours does
 - Consult with attorney about eligibility, conditions, outcomes of diversion

Arraignment

- Formal proceeding in Juvenile Court – formal charges
- Youth entitled to representation by an attorney
- Juvenile Court will make a bail decision

- Some Juvenile Courts have pre-trial diversion programs
- All Juvenile Courts can place on “pre-trial probation” with conditions of release – sometimes problematic – and anticipated outcome (e.g., dismissal, CWOF, continuing hearings)

Sequence of JJ System and “Intercepts”

Trial

- > Drug Court
- > BH Health Court
- > “Dual Status” Court

Adjudication

- > As Delinquent
- > As Youthful Offender
- > As Adult

Disposition And Sentencing

- > Probation
- > Commitment

Trial Phase

- Most JD/YO cases are resolved by plea bargains – consult with attorney about:
 - Conditions of plea bargain
 - Conditions of any probation from the plea bargain
 - Whether youth has a Continued Without a Finding (CWOFF – admits that Commonwealth has *sufficient facts* but is not an admission to a delinquency charge), OR
 - Youth has admitted to facts/elements of charged delinquent act(s) so record will reflect an actual adjudication of a charge

Trial Phase

- During pre-trial probation or plea bargain phases be ***very attentive*** to any conditions for behavioral health treatment or school attendance and behavior, including the likelihood that your child can access/engage the expected care or succeed as required at school
- Be sure attorney is aware of behavioral health needs, special education needs, or other needs as they may be significant in plea agreements, probation conditions, or defense strategies at trial

Trial Phase

- The period of pre-trial plea negotiations can also be a time to arrange advocacy in other areas such as accessing behavioral health care, social services, or adequate special educational services.
- Talk with PPAL about accessing assistance and acquaint yourself with other resources (e.g., Children's Law Center, Disabilities Law Center, Medical-Legal Partnership for accessing services for court-involved youth)

Trial Phase

- If your child is represented by an attorney through the Committee on Public Counsel Services (CPCS) you may be asked to cooperate with CPCS staff social workers to generate a report and recommendations to advise the attorney and make recommendations to the Court.
- The Court may refer your child to a Juvenile Court Clinic for evaluations that can include: (a) Competence to Stand Trial, (b) Criminal Responsibility, and, (c) Aid in Disposition. Consult with your child's attorney as sometimes the referral is made at the request of defense counsel. You may be asked to participate in the evaluation process. This is not a "confidential" therapeutic relationship and reports/testimony are provided to the Court.

Trial Phase

- At the end of the phase after arraignment – the trial phase – most cases are resolved by plea agreements but your child may have had a trial by a jury or a judge (your child and attorney get to choose).
- Outcomes can range from “Not Delinquent” to a CWOF, to a finding of “Delinquent” on one or more charges, to commitment to DYS . The most common “disposition” is a community-based Probation.

Sequence of JJ Systems and “Intercepts”

Probation

- In the Community
- Conditions of Probation

Commitment

- To Youth Authority
- Secure/Other Facility Care

If Probation

- Know the conditions of probation and what is expected from your child
- Attempt to establish a collaborative relationship with the Probation Officer to achieve the common goal of having your child successfully complete the Probation. Probation Officers have wide discretion in whether to bring the child back before the Court for a violation of Probation – especially “technical violations.”

If Probation

- Probation Officers vary widely in their approaches and accessibility. If you establish a collaborative relationship with the Probation Officer, consider educating the PO about your “whole child” that includes their resiliencies, goals, positive qualities as well as their behavioral health challenges.
- Unlike some states, Probation Officers serving Juvenile Courts in MA have specifically chosen to work with youth and their families and many are dedicated to a child’s safe and successful completion of Probation in the community.

If Committed: Process of Engaging Community Supports and Reintegration on Juvenile Parole or “Conditional Liberty”



If Committed to Department of Youth Services

- “Detention” pre-trial and pre-disposition is different than the post-commitment Assessment and Treatment service system.
- Behavioral health services are minimal and focused upon maintaining safety in Detention. The Assessment and Treatment system is more focused upon rehabilitation, addressing educational/behavioral health/criminogenic needs, and returning the youth safely to community-based supervision and services.

DYS Commitment

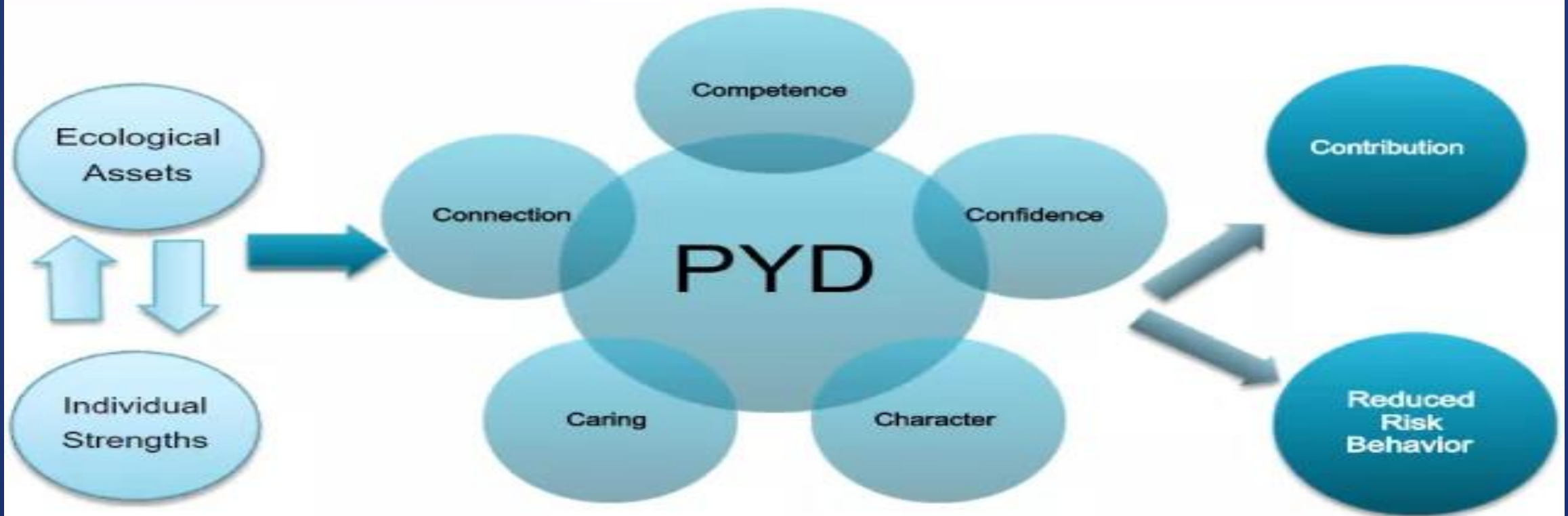
- After a period of assessment, most youth serve a period of time in Secure Treatment Units based upon a “grid” that reflects the severity of the misconduct for which they were committed and their status as JD or YO.
- DYS Secure Treatment Units focus heavily upon educational attainment, Dialectical Behavior Therapy (DBT) and Cognitive Behavioral (CBT) interventions in a trauma-informed lens, and preparing the youth and family for community integration.

DYS Commitment

- It will be important for DYS to have a “whole child” view of your child – including positive aspects/strengths/resiliencies of your child as well as behavioral health, educational, and/or social needs.
- Remember, DYS has *physical custody* of your child and can decide placement but does NOT have the *legal custody* authority to assign youth to behavioral or medical health treatments, SPED or other programming which parents/legal guardians ordinarily have to authorize.

A Systems Frame For Youth

5Cs of Positive Development



Source: Institute for Applied Research in Youth Development, Tufts University. Medford, Massachusetts.

Supporting (Effective) Interventions with JJ Youth

- **Policies Once Youth Come Into Contact with JJ System**

- First, ***stop*** relying on policies, systems, practices we know don't work!
- Prioritize ***community-based*** supports over facilities-based care
- Develop ***family and youth-driven*** policies, systems, practices
- Use ***research-based screening and assessment*** at each point in system
- Consistently ***identify needs of youth and families*** at each point

Supporting (Effective) Interventions with JJ Youth

- **Policies Once Youth Come Into Contact with JJ System**
 - Match youth/families with *evidence-based* supports and interventions
 - Develop *diversion options* at each “intercept” point in the JJ system
 - Comprehensively integrate and expand policies, systems, practices that are *trauma-informed, culturally responsive*, and routinely *monitor outcomes*.
 - Reward successful, positive behaviors and decisions as or more frequently than sanctioning negative behaviors or decisions as element *strength-based approach*.

Mental Disorders and Delinquency

- High prevalence of diagnosable and treatable mental disorders in juvenile justice youth—often also with substance use disorders, learning disabilities and other complications
- Treating behavioral health disorders => ***Key goal is to treat symptoms that increase risk and/or compromise positive social learning*** (e.g., irritability or demoralization from depression; attachment disturbance, hypervigilance or emotional dysregulation from trauma).
- Treating mental disorder is to ***support the process of social learning*** that challenges and ***replaces the attitudes, values and beliefs*** that predispose the youth to persisting misconduct. “Treatment” supports “rehabilitation” in this way.

Mental Disorders and Delinquency

- Providing traditional mental health care is not the same as targeting delinquency factors => the critical interventions must specifically target criminogenic factors with empirically-based methods. These are often “systems” interventions like MST, FTT, Therapeutic Foster Care
- Critical to support competencies so that youth can have interests and successes that are not compatible with continuing misconduct into young adulthood: SOMETHING TO LOSE

Supporting (Effective) Interventions with JJ Youth

- **Clinical Practices Once Youth Come Into Contact with JJ System**
 - Trauma-informed, evidence-based, youth and family engaged
 - “Treatment” driven by adequate and ongoing assessment
 - Distinguish goals of “treatment” from broader goal of “rehabilitation”
 - Supporting access/engagement with positive youth development assets
 - Address criminogenic factors, including:
 - Values, attitudes, beliefs that support or justify misconduct
 - Family or peer relationships that undermine positive youth development
 - Interventions matched to matrix of criminal risk x MH needs

Perspectives for Consideration

- *The Right Youth In The Right Place For the Right Reason (MA DYS)*
- *You Can Try to Force Obedience Or Try To Foster Change, But Not Both At the Same Time (Vincent Schiraldi)*
- *I Do This Work For Two Reasons. First, No Matter What This Youth Has Done, Inside He Is Still A Kid. Second, When We Get It Right and Help Get This Kid On a Positive Road, It Is The Most Perfect Form of “Future Victim Prevention.” (Clinician, MST Team for High Risk Violent Juvenile Offenders)*

Frederick Douglass

*It is easier to build
strong children than
to repair broken
men*

