Over 900,000 children in the United States were victims of abuse and/or neglect in 2006. (U.S. Department of Health and Human Services [DHHS], 2008). As professionals dedicated to the well-being of our young people know, childhood maltreatment and neglect can cause a host of short- and long-term negative consequences. Early physical abuse and neglect may impede development and cause adverse alterations to important regions of the brain, which can have long-term cognitive, emotional, and behavioral consequences (Karr-Morse & Wiley, 1999). Children abused early in life may exhibit poor physical and mental health well into adulthood.

**CHILD WELFARE AND JUVENILE JUSTICE:**

**Two Sides of the Same Coin**

*By Shay Bilchik and Judge Michael Nash*

**Author’s Note:** Many thanks to Erika Pinheiro, Research Assistant, Georgetown University Center for Juvenile Justice Reform, for her assistance in the writing and editing of this article.
Many of our maltreated youths cross over into the juvenile justice and other systems of care, as child abuse and/or neglect increases the risk of arrest as a juvenile by 55% and the risk of committing a violent crime by 96%.

THE DEMOGRAPHICS OF THE CROSS-OVER POPULATION

Race is an important predictor as to whether a youth will become known to multiple systems. Crossover is a significant contributor to disproportionate minority contact with the juvenile justice system among African-American youths, as they are twice as likely as similarly situated white youths in the child welfare system to be arrested (Herz & Ryan, 2008). Exacerbating this trend is the presence of disproportionate minority contact in both systems, with disparity existing at almost all decision points. In Los Angeles, African-American youths are 14% of the total population, but make up 30% of the child welfare population and 41% of foster care placements. African-American youths are 54% of the total population that moves from child welfare to juvenile justice (Ryan, Herz, Hernandez & Marshall, 2007).

Young people known to both the child welfare and juvenile justice systems are mostly male, but crossover contributes disproportionately to females entering the juvenile justice system. Females are the fastest growing population in the juvenile justice system. In Los Angeles, a larger proportion of females enter the juvenile justice system from child welfare than from any other single referral source (Ryan et al., 2007). Crossover females suffer from concurrent be-
behavioral and emotional problems, like their male counterparts, and are more likely to become pregnant than juvenile justice-only females. Female crossover youths also suffer from a lack of gender-specific programming in both systems.

In Los Angeles, crossover youths have common family histories of criminal behavior, mental health problems, substance abuse, and domestic violence. Seventy-two percent of crossover youths in Los Angeles County had at least one parent with a history of substance abuse, a quarter had at least one parent with mental health problems, and 36% had a family history of criminal behavior. These percentages are similar to studies and surveys of crossover youths performed in other jurisdictions (Herz & Ryan, 2008). Given these dynamics, family-centered interventions, rather than treatment programs that solely target the “problem child,” are more likely to reduce recidivism and institutional commitments (Siegel & Lord, 2004).

CROSSOVER YOUTHS: UNIQUE CHALLENGES AND COMPLEX NEEDS FOR INTERVENTION AND PREVENTION

Crossover youths often present a co-occurrence of problem behaviors in many areas of their lives. Even when a crossover youth grapples with only one disorder, the intensity of treatment needs is often greater than that of a youth known to a single system. For example, many crossover youths experience educational difficulties, ranging from truancy to poor academic performance. Foster children suspended from school are more likely to engage in delinquent behavior. Working with educators to keep at-risk youths in school with appropriate individualized service provision is essential to both preventing crossover and intervening supportively when a youth is already burdened by the treatment requirements of multiple systems of care.

The majority of crossover youths in many studies have substance abuse and/or mental health issues. In two studies conducted in Arizona and California, 80% and 83%, respectively, of crossover youths exhibited substance abuse and/or mental health problems (Herz & Ryan, 2008). Young people involved in the child welfare or justice system may face punitive consequences for aberrant behavior caused in part by an inadequately addressed substance abuse or mental health problem. Crossover youths penetrate more deeply into systems, thereby increasing the costs of treatment and reducing the odds of successful social reintegration.

Young people moving across systems may lose eligibility for educational, mental health, or behavioral health services and may experience disruptions in their relationships with attorneys, judges, and advocates. The need for services may intensify due to crossover and in response to the trauma of continued abuse or the nature of the delinquent act itself. Continuity of services, combined with an assessment of whether service provision must be amplified, is essential. Judicial leadership can facilitate cross-system collaboration to ensure that crossover youths and their families maintain access to services and continuity of representation.

SERIOUS OFFENSES AND HARSH OUTCOMES: PUBLIC SAFETY, SYSTEMIC BIAS, AND THE NEED FOR COLLABORATION

Although most maltreated youths do not become delinquent, maltreated youths are more likely to commit violent or serious crimes than those with no history of abuse or neglect (Thornberry, 2008). From a public safety perspective, addressing the needs of young people at-risk for crossover as soon as problem behaviors present themselves is vital. Inadequate provision of services for this vulnerable population transforms from an issue of systemic inefficiency to personal tragedy when crossover youths engage in violent behavior. Healthy development is dependent on caregivers consistently investing in the supervision and education of children, thereby helping children form attachments and obligations tying them to pro-social role models and reducing their likelihood of engaging in delinquent behavior. Creating and maintaining these positive bonds is essential in reducing violence in our communities.

Unfortunately, the limitations of one system can increase the burden of others. For example, multiple child welfare placements can increase the risk of delinquency. Out-of-home placements also increase risk of crossover. Virtually all crossover youths in Los Angeles (98%) had at least one out-of-home placement. Nationwide, children in out-of-home care settings are twice as likely to commit delinquent acts as those receiving in-home services, due to frequent disruptions of care. Group home settings are especially
problematic and have the largest effect in terms of crossing over (Thornberry, 2008). Child welfare youths in group homes see their families less and are less likely to reunify with them. Additionally, problem behaviors are exacerbated when youths are placed with other behaviorally challenged young people. In Los Angeles County, youths with at least one group home placement have two and one half times greater risk of delinquent behavior compared to similar youths in other foster care settings (Ryan et al., 2007).

Crossover youths tend to penetrate deeper into the juvenile justice system, as child welfare youths receive harsher treatment than non-crossover youths in courts. Crossover youths are ten percentage points more likely to be detained than non-crossover youths, even controlling for race, age, prior offense history, and current offense (Herz & Ryan, 2008). Judicial decisions resulting in detention are strongly associated with a youth having been in an out-of-home child welfare placement at the time of offense, a history of running away from placements, previous crossover referrals, or substance abuse problems. Harsher court outcomes reduce the likelihood that crossover youths will receive appropriate treatment. It is unsurprising that crossover youths are twice as likely as juvenile justice-only youths to recidivate. Without appropriate treatment, crossover youths are more likely to have health problems, persistent drug addiction, and to continue criminal behavior into adulthood.

PREVALENCE OF CROSSOVER YOUTHS AND CURRENT SYSTEM RESPONSES

The prevalence of crossover youths nationwide is difficult to ascertain. Very few jurisdictions are equipped to systematically track the number of crossover youths, much less their outcomes. Studies estimate that between 9% and 29% of child welfare youths engage in delinquent behavior (Smith & Thornberry, 1995). An Arizona study reveals that the prevalence of crossover increases as young people penetrate deeper into the juvenile justice system, with as many as 42% of all youths in probation placement being known to both systems (Halemba, Siegel, Lord, & Zawacki, 2004). Similar studies performed in other jurisdictions confirm that as sanctions become more severe in the juvenile justice system, the proportion of youths known to multiple systems increases.

An efficiently integrated information sharing system would track the number of crossover youths as well as the specific needs they present. Because many jurisdictions lack appropriate mechanisms for information sharing, it has been difficult to mobilize diverse systems of care toward collaboration. When agency professionals and judges are unaware of multi-system involvement, crossover cases can drain resources due to duplicative or contradictory case management and service provision. Where courts are aware of a youth’s dual-jurisdictional status, the substantive responsibilities of each agency can be vague or assigned inconsistently. Depending on which agency is assigned primary responsibility, a crossover youth may lose access to essential services due to the strict eligibility requirements of many funding streams.

Cross-system collaboration is also often stymied by a perceived conflict in agency mandates. While child welfare agencies focus heavily on safety, juvenile justice agencies strive primarily to reduce recidivism and improve community safety. Research over the past few decades, however, has emphasized that long-term well-being requires multi-dimensional efforts. There has been a subsequent rise of a more unified vision of child well-being across agencies, which includes: return or maintenance of youths in their homes; positive engagement of youths and families; academic success; behavioral and physical health; and preparation of young people for adulthood, all of which are related to the core work of these systems referenced above (Herz & Ryan, 2008). Federal legislation, such as the Juvenile Justice and Delinquency Prevention Act (JJDPA) and the Child Abuse Prevention and Treatment Act (CAPTA) include provisions to provide guidance, technical assistance, and funding for cross-systems work.

THE JUDICIAL ROLE IN FOSTERING CROSS-SYSTEM COLLABORATION

Judicial decisions can either contribute to or alleviate the systemic problems presented by crossover youths. Judges should capitalize on the credibility of the bench by bringing together relevant stakeholders in crafting sustainable policies to address the complex needs of crossover youths. Court administrators can make docketing decisions in concert with the judge assigned to the juvenile/family court that can greatly improve outcomes for crossover youths and their families. The activities suggested below fall within the judicial canon of ethics, and judicial leadership is critical in any jurisdiction’s evolution toward integration.

Early Use of Objective Assessment Tools

The judge or court administrator is responsible for ensuring the ability of courts to promptly and accurately identify crossover cases. In the absence of a fully automated and integrated information system, delinquency courts can work with child welfare agencies to consistently identify whether an arrested youth has current or past contact with the system; child welfare agencies should also offer liaisons so that juvenile justice officials have a consistent point of contact once dual-system status is confirmed. Because detention hearings occur rapidly, having liaisons available at each agency, preferably some of whom are available outside of normal business hours, can potentially reduce the disproportionate detention of crossover youths, as judges are more likely to detain a child, absent reliable information about the youth’s legal guardian, regardless of the severity of the offense (Sieg & Lord, 2004). A judge can advance a Memorandum of Understanding (MOU) between agencies to provide for these resources.

Judicial, child welfare, and juvenile justice professionals should collaborate in implementing an objective risk and needs assessment. These tools should ideally be used both before and after adjudication in delinquency court, as making an objective risk and needs assessment may prevent crossover in some cases where child welfare youths commit minor infractions. Early assessment will enable agencies and courts to focus resources on the most serious cases while diverting low-level cases to more appropriate community-based programs. Assessments should be holistic and should ascertain risk and needs of parents and younger siblings (Sieg & Lord, 2004).

Case Assignment and Jurisdiction

The one family/one judge approach is ideal, as it enables judges to put a youth’s delinquency in the context of broader family issues and reduce the likelihood of recidivism using a holistic approach. Continuity of counsel for both the dependency and delinquency cases is also ideal. Where combining delinquency and dependency cases is infeasible, use of a dedicated docket may reduce scheduling conflicts for dual-involved youths and their families.

When a child becomes known to multiple agencies, localities assign jurisdiction in a number of ways: concurrent, where both agencies retain responsibility for the youth; “on hold,” where the juvenile justice agency temporarily assumes responsibility for the youth; or transfer, where a child welfare case is closed when a youth is adjudicated as de-
The Center for Juvenile Justice Reform at Georgetown University advances a balanced, multi-systems approach to reducing juvenile delinquency that holds youth accountable and promotes positive youth development. The Center accomplishes these goals primarily through papers, symposia, and a groundbreaking Certificate Program of intensive study designed for judges and public agency leaders responsible for policy development and implementation in their jurisdictions.

As its primary activity, the Center sponsors two Certificate Program sessions annually, one for individuals and one for multi-system jurisdictional teams. The best practices identified and developed through its expert faculty and surveying of the juvenile justice and child welfare fields serve as “drivers” in the related Breakthrough Series Collaborative (BSC). Through the Center, BSC participants have access to a wide range of experts and leaders who can facilitate systems change.

For additional information on the Center’s programs:
Georgetown Public Policy Institute Center for Juvenile Justice Reform
Phone: (202) 687-0880
E-mail: jjrefor@georgetown.edu
http://cjjr.georgetown.edu

Catalysts behind critical system reform. The research only confirms what many in the field already know; abused and neglected children are more likely to commit delinquent acts and have problems integrating into our communities both as adolescents and adults. Collaboration will translate to healthier, more capable youths in the short-term and to safer, more stable communities in the long run. Taking on a leadership role in systems integration is not easy, but it is essential for judges dedicated to serving young people, their families, and their communities.

ABOUT THE AUTHORS:
Shay Bilchik is the Director of The Center for Juvenile Justice Reform at Georgetown University, and former Administrator of the Office of Juvenile Justice and Delinquency Prevention.

Judge Michael Nash is the Presiding Judge of the Juvenile Court in the Los Angeles (Calif.) Superior Court. He was elected Secretary of the National Council of Juvenile and Family Court Judges in July 2008.

1 Court administrators handle calendaring in some jurisdictions.

References


linquent. Concurrent jurisdiction is positive in that it allows a youth and his or her family to maintain eligibility for services offered by both agencies. However, a judge must demonstrate strong leadership when agencies attempt to place the primary burden of supervision on one another due to scarce resources. In “on hold” or “transfer” cases, judges must ensure that child welfare agencies stay involved to assure that the youth will have a suitable placement to return to when juvenile justice system involvement ends. Again, the role of the judge in creating and promoting MOUs between stakeholders smooths service provision and facilitates collaborative case management.

Case Management and Post-Adjudication
Once a child welfare youth is adjudicated delinquent, it is essential to involve all stakeholders in the management of service provision, responsive case planning, compliance with court orders, and delivery of incentives. Because of the complexity and intensity of needs exhibited by crossover youths, multi-system responsibility for service provision is necessary. Judges may mandate that child welfare workers, probation officers, a parent or guardian, and other stakeholders be present at hearings. Court administrators may also assemble a trained team of child welfare and juvenile justice professionals specifically dedicated to the management of all crossover cases. This team approach will enable staff to better understand the complex issues facing crossover youths, making appropriate placements and service provision more likely.

The judge’s role does not end when the case is adjudicated; rather, the judge should ensure that agency professionals are working collaboratively to promote successful completion of court-mandated programs. This is especially important for transition-age youths, as provision of essential services may prevent adult criminality. This extended judicial role requires manageable caseloads, as complex crossover cases may take more time and effort than single-jurisdiction cases. Having adequate staff, facilities, and resources will ensure timely and appropriate processing of dual-jurisdiction cases.

Information Gathering and Assessment
The early use of objective assessment tools and greater interagency collaboration can reduce the disparities in treatment of crossover youths, especially youths of color. Courts can judge the efficacy of reforms through the timely gathering and analysis of data on crossover cases. Solid data can be a catalyst for collaboration; when child-serving agencies know collaboration saves resources and produces better outcomes for children, stakeholders will be more invested in the sometimes difficult process of integration.

CONCLUSION
Judges and court administrators play a critical role in ensuring the best possible outcomes for crossover youths. The prestige and respect garnered by the judiciary, coupled with the power to bring disparate stakeholders together, can enable judges to become the
The link between child welfare and juvenile justice is well established. The National Council of Juvenile and Family Court Judges’ landmark *Juvenile Delinquency Guidelines*, published in 2005, noted “The Child Welfare System has an important impact on the juvenile justice system. Research is clear that youth who have been abused and neglected are at heightened risk for early onset of delinquency.”\(^1\) This notion was also well documented in Part I of this series, published in the Fall 2008 issue of *Juvenile and Family Justice Today*.\(^2\)
Given the established link between the child welfare and juvenile justice system, the question becomes how do these systems react when a youth crosses over from one system to the other? Do they coordinate their responses when a youth is involved simultaneously with both systems? Is there sufficient communication, coordination, and cooperation among courts, agencies, and attorneys involved with youths and their families?

More specifically, what happens when a youth under the jurisdiction of the Dependency Court is charged with a crime in the Delinquency Court? What happens when a youth under the jurisdiction of the Delinquency Court is abused while living at home? What happens when a youth with no dependency or child welfare involvement is charged with a crime in Delinquency Court and is also a victim of abuse or neglect? Do the systems act in concert when a youth under Delinquency Court jurisdiction who has been removed from the community does not have a safe home to return to after satisfying the terms and conditions of probation?

These scenarios do not represent all the situations where the systems potentially interact but certainly are some of the more basic ones. This article will discuss an approach to the interaction between these systems and demonstrate how Los Angeles County, California, has worked to incorporate this approach into practice.

COURT PRACTICES

In their ground-breaking work, “When Systems Collide: Improving Court Practices and Programs in Dual Jurisdiction Cases,” Siegel and Lord noted five categories of court practices relevant to the handling of dual jurisdiction or crossover matters:

- Screening and assessment;
- Case assignment;
- Case flow management;
- Case planning and supervision; and
- Interagency collaboration.

For purposes of screening and assessment, the juvenile justice system must become aware of a youth’s involvement in an abuse and neglect matter when a delinquency referral is made and vice versa. When involvement in the other system becomes known, some mechanism must be in place to notify the other system of the youth’s new dual involvement. Further, there must be a process to assess the youth’s strengths, needs, and risks in order for the systems to ultimately determine how to allocate resources for the benefit of the youth and the community.

In the area of case assignment, it is important that the court, attorneys, and others who work in the courts and on cases involving crossover youths have knowledge and understanding of the youth, including family history and prior court history, as well as the dynamics of both child welfare and juvenile justice. Siegel and Lord recommended the use of one family/one judge courts, dedicated docketts, and specially trained attorneys to handle dual jurisdiction cases.

Case flow management should focus on efficient and timely court practices. Joint pre-hearing conferences, combined dependency/delinquency hearings, joint court reports, and court orders have been suggested along with mandated appearances by probation officers and social workers at court hearings.

Case planning and supervision may be the most important area because developing and implementing case plans may ultimately determine the fate of the involved youth. Consideration should be given to the use of specialized case management and supervision units, multidisciplinary teams in case planning, special training for these units or teams, and reduced caseloads.

Finally, it is critical that the court exercises its leadership and oversight function to ensure that interagency collaboration occurs and translates into effective action on behalf of involved youths.

CROSSOVER CASES IN LOS ANGELES

California law and its application in Los Angeles County provide an interesting example of the use of many of these notions and suggested practices for the handling of crossover cases. California law has at least since 1990 legislatively recognized the child welfare/juvenile justice relationship and has mandated a procedure for handling crossover cases.

California Welfare and Institutions Code (WIC) section 241.1 mandates that whenever a minor appears to fit the description of a dependent of the Dependency Court and a ward of the Delinquency Court, the county probation department and the county child protective services department must prepare a joint assessment of the youth and make a recommendation to the court on which status—dependency or delinquency—shall serve the best interests of the minor and the protection of society.

The court must then decide which status is appropriate since the law does not allow simultaneous jurisdiction by both systems.

Prior to the implementation of WIC 241.1 in Los Angeles in 1997, a dependent youth who was charged with and found to have committed a crime was likely to be declared a ward of the Delinquency Court, thereby resulting in the termination of dependency status. No coordination existed between the systems and the only formal communication occurred after the youth was declared a ward of the Delinquency Court in order to accomplish termination of Dependency Court jurisdiction.

It is also important to note that the juvenile court system in Los Angeles is bifurcated. There are 20 full-time Dependency Courts, 19 at one location, and 28 full-time Delinquency Courts at 10 locations around the county. To the extent that inter-court communication and coordination existed then and exist today, it is through a coordinated approach rather than through a one judge/one family approach.

Since implementation of WIC 241.1 in 1997, outcomes have remained remarkably consistent. Because of the filtering process created by the joint assessments and ultimate court decisions, only 25%-30% of dependent youths who were charged in Delinquency Court became wards of the Delinquency Court. Approximately 60% of dependent youths charged in Delinquency Court remained under formal Dependency Court jurisdiction but were placed on informal delinquency supervision. These young people are commonly called “informal dual status youth.” Finally, WIC 241.1’s implementation did result in an institutionalized system of communication and coordination between child welfare and juvenile justice.

Unquestionably, WIC 241.1 had a positive impact on crossover issues in Los Angeles. Yet, weaknesses remained in the system, especially in joint assessment implementation. The departments did...
a decent job of accumulating information about the youth, but a poor job of evaluating the information due to a lack of a consistent and meaningful method of evaluation.

Further, while communication and coordination existed through the assessment process, there was no meaningful process for coordination and cooperation between the departments following case disposition. The result was that many so-called informal dual status youths eventually re-offended and became formal delinquents because of a lack of a coordinated approach to service delivery by children’s services and probation.

Finally, dependent youths who became formal wards of the Delinquency Court ended up losing their social workers, attorneys, and judges from the Dependency Court. There was also a discontinuation of existing services to the family as the burden shifted from social worker to probation officer. Wards of Delinquency Court in foster care often stayed in the delinquency system longer due to the ineffectiveness, perhaps due to inexperience, of the probation department in developing permanent plans for them. In addition, the probation department has traditionally been more focused on accountability rather than the kinds of holistic services normally provided or set up by social workers.

**DUAL STATUS PILOT PROJECT**

Recognizing some of the inherent weaknesses of the WIC 241.1 process, the California Legislature enacted Assembly Bill (AB) 129 in 2004 which made some significant amendments to WIC 241.1. AB 129 allows individual counties to experiment with the creation of a formal dual status system, that is, one in which a youth can simultaneously be under the formal jurisdiction of both the Dependency and Delinquency Courts. The potential benefits of a formal dual status system include continuity of services for youths and families, continuity of representation and relationships with social workers and judges, enhanced agency collaboration in case plan development and implementation, and potentially shorter stays under delinquency jurisdiction.

In order to have the opportunity to experiment with a formal dual status system, it is necessary for a county’s Chief Probation Officer, Director of Children and Family Services, and Presiding Judge of the Juvenile Court to agree. That has been the case in Los Angeles and at least seven other of California’s 58 counties.

Pursuant to a process developed by the Child Welfare League of America (CWLA), Janet Wig and John Tuell of CWLA\(^1\) worked with systems stakeholders in Los Angeles County to create and implement an AB 129 Pilot Project at one of the Los Angeles Juvenile Court’s ten Delinquency Court locations. This pilot project differs significantly from the WIC 241.1 process utilized elsewhere in Los Angeles. The first difference is that the joint assessment required by the statute has been significantly enhanced to include an assessment of each youth’s strengths, needs, and risks posed to the community.

Perhaps more significantly, the assessment is conducted by a Multidisciplinary Team (MDT) consisting of a probation officer, social worker, clinician from the Department of Mental Health (DMH), and an education advocate. Once disposition has been completed, the MDT serves as case manager for implementation of the case plan ordered by the court, regardless of whether the youth becomes a formal dual status youth or an informal dual status youth. The MDT oversees and coordinates the efforts of everyone from both departments who is responsible for providing services to each youth.

The last element of the formal dual status process is that both the Dependency and Delinquency Courts keep open each formal dual status youth’s case, with the Delinquency Court focusing on accountability issues and the Dependency Court continuing its focus on placement, services to the youth and family, and permanency.

There is no loss of attorneys or social workers, all of whom maintain their focus.

Thus far the process has worked well, but there have been three main challenges. The first is that it takes time for the members of the MDT, who are housed together, to function as a team. Time and regular meetings with the crossover oversight committee, chaired by the Presiding Judge of the Juvenile Court, have helped resolve many issues for the team.

The second issue relates to the assessment. It is difficult for youths to actually participate in the joint assessment process, particularly with the DMH clinician, because of the tension created...
by the need to interview the youth as part of the assessment process and the need to protect each youth’s Fifth Amendment rights in the Delinquency Court. Legislation enacted by the California legislature that was designed to protect statements made by youths during the assessment process was vetoed by the Governor due to opposition from district attorneys.12

Los Angeles is currently participating in the Child Welfare/Juvenile Justice System Integration Initiative with the Center for Juvenile Justice Reform at Georgetown University. Through that initiative, Los Angeles has developed a small experiment within its pilot site to test a youth’s participation in the mental health assessment part of the WIC 241.1 joint assessment by having the youth’s attorney present during the assessment to help protect the youth from making incriminating statements during the assessment interview.

The third issue in the process is the difficulty in linking youths and families with the most appropriate services designed to meet their individual needs, an issue that permeates all of our systems. Time and experience will judge the extent to which the formal dual status pilot project addresses this shortcoming in relevant youth-and family-serving agencies.

PRELIMINARY EVALUATION RESULTS

This pilot program is being evaluated by Professor Denise Herz, Ph.D., from the School of Criminal Justice and Criminalistics at California State University, Los Angeles. This University has had a partnership relationship with the Los Angeles Juvenile Court since the early 1990s. Preliminary results of the project have been positive.

Statistically, only 12% of dependent youths charged with crimes have become formal wards of the Delinquency Court. Further, each of those young people have also remained under Dependency Court jurisdiction. This represents a significant decrease in the number of youths crossing over to formal Delinquency Court jurisdiction.

In addition to these statistics, the preliminary results also indicate that the MDT reports are more comprehensive than previous joint assessments, and the case plan recommendations are more comprehensive as well. The most interesting data suggest that recidivism by youths in the project is slightly lower than those involved in the old 241.1 joint assessment process. However, these data need additional study before a firm conclusion can be made.

CONCLUSION

There is still much to be learned about the relationship between child welfare and juvenile justice, particularly the reasons why youths cross over and how to better serve them within the child welfare system to minimize their risk of juvenile justice system involvement. However, the increased focus on this issue by Los Angeles and many other jurisdictions, along with the work of institutions like the Center for Juvenile Justice Reform, hopefully bodes well for our youth and our communities.

ABOUT THE AUTHORS

Judge Michael Nash is the Presiding Judge of the Juvenile Court in the Los Angeles (Calif.) Superior Court. He was elected Secretary of the National Council of Juvenile and Family Court Judges in July 2008.

Shay Bilchik is the Director of the Center for Juvenile Justice Reform at Georgetown University, and former Administrator of the Office of Juvenile Justice and Delinquency Prevention.

END NOTES


4 California Welfare and Institutions Code (WIC) section 241.1 (a): (a) Whenever a minor appears to come within the description of both Section 300 and Section 601 or 602, the county probation department and the child protective services department shall, pursuant to a jointly developed written protocol described in subdivision (b), initially determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court with the petition that is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. Any other juvenile court having jurisdiction over the minor shall receive notice from the court, within five calendar days, of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented.

5 WIC 241.1 also states: (d) Nothing in this section shall be construed to authorize the filing of a petition or petitions, or the entry of an order by the juvenile court, to make a minor simultaneously both a dependent child and a ward of the court.

6 WIC 241.1 (b) states: (b) The probation department and the child protective services department in each county shall jointly develop a written protocol to ensure appropriate local coordination in the assessment of a minor described in subdivision (a), and the development of recommendations by these departments for consideration by the juvenile court. These protocols shall require, which requirements shall not be limited to, consideration of the nature of the referral, the age of the minor, the prior record of the minor’s parents for child abuse, the prior record of the minor for out-of-control or delinquent behavior, the parents’ cooperation with the minor’s school, the minor’s functioning at school, the nature of the minor’s home environment, and the records of other agencies which have been involved with the minor and his or her family. The protocols also shall contain provisions for resolution of disagreements between the probation and child protective services departments regarding the need for dependency or ward status and provisions for determining the circumstances under which a new petition should be filed to change the minor’s status.

7 A ward of the Delinquency Court is a youth who has been adjudicated and declared to be a delinquent child under the full jurisdiction and supervision of the Delinquency Court. See California Welfare and Institutions Code section 602.

8 The Delinquency Courts and Dependency Courts operate separately from each other except as discussed in the article.

9 See California Welfare and Institutions Code sections 654.2, 725(a) and 790. Youths placed on informal delinquency supervision are not formal wards of the Delinquency Court with all of the consequences attached to formal status. They cannot be removed from the community or put in foster care placement while on informal status. They are subject to limited conditions of informal probation for limited periods of time. A violation of informal probation is heard in the Delinquency Court and could result in a youth being declared a ward of the Delinquency Court.

10 California Welfare and Institutions Code sections 241.1(d) and (e) now state: (d) Except as provided in subdivision (c), nothing in this section shall be construed to authorize the filing of a petition or petitions, or the entry of an order by the juvenile court, to make a minor simultaneously both a dependent child and a ward of the court. (e) Notwithstanding subdivision (d), the probation department and the child welfare services department, in consultation with the presiding judge of the juvenile court, in any county may create a jointly written protocol to allow the county probation department and the child welfare services department to jointly assess and produce a recommendation that the child be designated as a dual status child, allowing the child to be simultaneously a dependent child and a ward of the court. This protocol shall be signed by the chief probation officer, the director of the county social services agency, and the presiding judge of the juvenile court prior to its implementation. No juvenile court may order that a child is simultaneously a dependent child and a ward of the court pursuant to this subdivision unless and until the required protocol has been created and entered into.


12 California Assembly Bill 1405 (2008).