

Support and Accountability Not Punishment

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Youth courts are part of the constellation of problem-solving collaborative justice courts. These courts address juvenile crime by holding youth accountable through a peer driven restorative process while also supporting rather than punishing the offender.

It is the belief among justice stakeholders, that traditional courts that are guided by adversarial prosecution and punishment are not effective for some classes of offenders, their victims or the community at large.¹

Prior to advances in the science of adolescent brain development, youth who broke the law were often held responsible for their misdeeds as though they were fully developed adults. We now know the brain does not reach its full potential to assess cause and effect until the mid-twenties. During this stage of development impulse control is difficult and risk taking is biological driven.

We also now know that youth who have experienced adverse childhood experiences (ACEs) can suffer from toxic trauma. Youth who have a history of trauma, including neglect, emotional, physical or sexual abuse, domestic violence, traumatic losses make up over two thirds of youth involved with law enforcement.²

Consequently, these youth have an overdeveloped fight-or-flight response and are easily triggered. Youth who must navigate tough neighborhoods and challenging family environments develop heightened survival reflexes. For these children, knowing when to fight or flee are important skills for staying safe.

When these young people bring these survival skills to school, they are often labeled early in life as defiant, disruptive, non-compliant, and delinquent, and all too often these labels are internalized and acted out.

Most illegal juvenile behavior is driven by an underdeveloped prefrontal cortex. And unlawful behavior by traumatized youth is a result of both an underdeveloped prefrontal cortex and a toxic trauma amygdala hijack. Holding these youth accountable for intentionally committing a crime only further damages their development and increases their internalization of the criminal label.

It is important that schools' officials and legal authorities understand how trauma impacts the behavior of these youth. Institutions that educate or adjudicate youth need to understand the trauma history of the child to best address their needs.

Every child who is suspended or adjudicated should be screened to assess for ACES and childhood trauma. This information is vital to creating a plan and a process for supporting healthy development.

Using the available ACES information as well as the science of youth development, which focuses on a teen's personal strengths and assets rather than weaknesses, Youth court uses a strength-based approach to help young people cultivate their capacity for positive decision-making and build self-agency and personal resiliency.

One of the major challenges for traumatized children is self-identifying their strengths. Youth who are constantly labeled as defiant, non-compliant or delinquent don't perceive themselves to have strengths. All humans regardless of trauma have strengths and through motivational interviewing strategies, Youth court has the ability to help teens identify these attributes and develop a rehabilitative plan that builds on the teen's specific positive attributes and skills.

¹Paul A. Haskins: Problem-Solving Courts: Fighting Crim By Treating The Offender, National Institute of Justice Journal, November 2019. Ford, J.

² D., Grasso, D. J., Hawke, J., & Chapman, J. F. (2013). Poly-victimization among juvenile justice-involved youths. *Child Abuse and Neglect*, 37, 788-800. doi: 10.1016/j.chiabu.2013.01.005

Youth courts have begun to adopt restorative practices and the next step is to integrate the six guiding principles of the trauma-informed approaches to their operating procedures and organizational protocols. While the precepts of the restorative justice model believe that repairing relationships are key to the project of justice, integrating a trauma-informed approach is both compatible, and absolutely crucial to its theory, and especially, its practice.³

“Adopting a trauma-informed approach is not accomplished through any single particular technique or checklist. It requires constant attention, caring awareness, sensitivity, and possibly a cultural change at an organizational level. On-going internal organizational assessment and quality improvement, as well as engagement with community stakeholders, will help to imbed this approach which can be augmented with organizational development and practice improvement.”⁴

SIX GUIDING PRINCIPLES TO A TRAUMA-INFORMED APPROACH



“In terms of responding to crime, restorative justice "comprises the idea that because crime hurts, justice should heal, and especially heal relationships. This is clearly compatible with a trauma-informed perspective on understanding harms, which seek to respond to people in ways that both recognize and take account of traumatic responses and their developmental consequences, and which avoids harming or retraumatizing them in delivering a service or implementing a policy. The values which inform restorative justice, therefore, are highly consonant with the principles of a trauma-informed approach.”⁵

“As a form of legal intervention, though with applications and interventions significantly beyond the legal arena, restorative justice seeks to right wrongs between people. While we are arguing in this paper that all legal institutions and processes can offer a more robust expression of justice by being trauma-informed, restorative justice in particular is an approach to justice which, in order to realize its own express ambitions, must work from a trauma-informed perspective. Furthermore, as an approach to law, wrongdoing, conflict resolution and, in some articulations, to inequalities, restorative justice is perhaps best situated among legal approaches, to engaging a trauma-informed perspective and demonstrating its relevance and significance to solving human problems.”⁶

³ Trauma-Informed Approaches to Law: Why Restorative Justice Must Understand Trauma and Psychological Coping, Dalhousie Law Journal Vellum 36 | Issue 2 page 506 Melanie Randall, Western University & Lori Haskell, University of Toronto

⁴ Substance Abuse and Mental Health Services Administration (SAMHSA) National Center for Trauma-Informed Care (NCTIC)

⁵ John Braithwaite, "Encourage Restorative Justice" (2007) 6:4 Crim & Public Policy 689. Trauma-Informed Approaches to Law...

⁶ Trauma-Informed Approaches to Law: Why Restorative Justice Must Understand Trauma and Psychological Coping, Dalhousie Law Journal Vellum 36 | Issue 2 page 506 Melanie Randall, Western University & Lori Haskell, University of Toronto