THE UNIQUE PROBLEMS OF JUVENILE PROBLEM-SOLVING COURTS

Senior Judge John F. Varin
Juvenile Court Director Administrative Office of the Supreme Court

Since the start of the juvenile court movement in 1899, it has been recognized that children are not little adults. Consequently, juvenile courts treat their offenders differently than otherwise similarly-situated adults might be treated in criminal court. Although the underlying purpose of both adult and juvenile courts is the same—to protect the community—juvenile courts were designed to secure this goal by addressing the underlying causes of their subjects’ behavior. Juvenile courts are thus often thought to be the first problem-solving courts.

JUVENILES ARE DIFFERENT THAN ADULTS

Justice Kennedy, in Roper v. Simmons, wrote as follows:

Three general differences between juveniles under 18 and adults demonstrate that juvenile offenders cannot with reliability be classified among the worst offenders. First, as any parent knows and as the scientific and sociological studies respondent and his amici cite tend to confirm, “[a] lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults and are more understandable among the young. These qualities often result in impetuous and ill-considered actions and decisions.” (“Even the normal 16-year-old customarily lacks the maturity of an adult”)

The second area of difference is that juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure. (“[Y]outh is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage”). This is explained in part by the prevailing circumstance that juveniles have less control, or less experience with control, over their own environment.

The third broad difference is that the character of a juvenile is not as well formed as that of an adult. The personality traits of juveniles are more transitory, less fixed. (citations omitted)

THE THEORY OF JUVENILE COURT

Based on the understanding, eloquently expressed by Justice Kennedy, that juveniles are different from adults, a different theoretical concept has historically been applied in juvenile cases. The underlying theory of juvenile courts might be best summarized by the concept of parens patriae. This term literally means “parent of the country” and refers traditionally to the role of state as sovereign and guardian of persons under legal disability. It originates from the English common law where the King had a royal prerogative to act as guardian to persons with legal disabilities such as infants, idiots and lunatics. In the United State, the parens patriae function belongs with the states.

Early reformers envisioned the juvenile court as essentially a super-parent. This theory is much different than the retributive theory generally associated with the criminal court. Though the theories of the two courts are different, the procedural requirements are the same. Due process is required for juvenile offenders just as it is for adult offenders.

The difference in theories becomes most apparent at the sentencing and subsequent phases of a juvenile case. Though community safety remains a primary concern, notions of accountability and competency development become equally important for juvenile offenders.

JUVENILE PROBLEM-SOLVING COURTS

Have Unique Considerations

Juvenile problem-solving courts, such as drug courts and mental health courts, though similar in concept to the adult models, must address different issues than their adult equivalents. The interrelationships and complexities regarding juvenile delinquent behavior, victimization, trauma, neglect, substance abuse, mental health and dysfunctional family systems emphasize the need for a separate delinquency problem solving court staffed with judges and other professionals trained to understand and address the dynamics of these relationships and complexities.

The relationship dynamics of an adolescent can be daunting to even catalogue let alone evaluate. Besides family members both immediate and extended, adolescents have many other adults in their lives that influence them such as teachers, clergy, coaches, counselors, probation officers, case worker, club leaders, bus drivers and many others. While we can hope that these adults model positive behaviors, adolescents also have regular contact, through television and the internet, with adults whose behaviors are extremely negative.

In addition to adult influence, peer pressure to act in certain ways is rampant. “Peer influence increases in late childhood and early adolescence, as parental influence begins to decline, peaks around age fourteen and gradually diminishes with development of self-identity and autonomy.” In our current culture adolescents have more access to each other then ever before through cell phones, text messaging and the internet. This connectivity can have tragic repercussions, as horrific tales of a teens committing suicide as a result of anonymous peer insinuations made on internet sites have been reported.

Technological developments also have beneficial application, as scientists are now able to document how our brains develop. Initial research seems to suggest that during adolescence several areas of the brain go through their final development stages and develop greater complexity, which in turn affects thinking, behavior and potential for learning and rehabilitation. Research suggests the prefrontal cortex, that portion of the brain that governs a person’s executive functions of reasoning, advance thought, and impulse control is the very last area of the human brain to develop. In addition, other parts of the adolescent brain that influence response to stimuli are developmentally different from those of adults. In this case, cutting edge science might just confirm what any parent could conclude: children’s brains are different than adults.
TREATMENT AND PROCESS IN JUVENILE PROBLEM-SOLVING COURTS

As with adult problem-solving courts, the treatment component is an essential part of the juvenile court's concern. The design and implementation of a treatment plan for a juvenile offender must take into consideration the relationship and developmental complexities noted above. In addition, the juvenile's family's amenability to treatment must also be evaluated, and family treatment plans designed and implemented accordingly. One can easily conclude that any juvenile problem-solving court is in essence a family problem-solving court.

Once a juvenile and their family become engaged in the problem-solving court, the process is the same as the adult version. Team staffings and court hearings are used, but the complexities noted above result in different team compositions, different emphases, and other differences than the adult versions. The teams frequently are larger as a result of the number of adults from different agencies who may have a role in the life of a juvenile or juvenile's family. This factor can result in coordination and time difficulties for team staffing and court hearings.

A juvenile's motivation for completing a problem-solving court is different than that of an adult. As noted, an adolescent's thinking ability is different. Deferred gratification is an abstract thought process that may not be fully developed in a teen offender. Thus, having a case dismissed or not going to prison may not carry the same motivating urgency as they might for an adult. A juvenile is more concrete and present-focused. As all parents learn, punishment must be swiftly administered to have significant impact. Incentives are critical to the success of problem-solving courts, but incentives for a juvenile are much different than for adults. Incentives must be concrete and delivered quickly after a successful effort.

The offender's family must also be motivated to participate and be engaged if the juvenile is to be successful. Finding what motivates a family is very difficult, yet must be considered and implemented for a juvenile problem solving court to be successful.

Because peer pressure is so prevalent for an adolescent, plans must be made to address this issue. The peers who negatively pressure the juvenile will continue to be available to the juvenile during their tenure in the problem-solving court; and, efforts have to be instituted to block this access. It may be necessary to ban or limit cell phone use or access to the internet. At the same time, new positive peer associations have to be developed. This task alone can be extremely difficult and requires the problem-solving team to really work together in finding solutions.

THE IMPORTANCE OF COMMUNITY

Community collaboration must occur if juvenile problem-solving courts are to be successful. These courts need to be designed to reflect community concerns and priorities, access community organizations in policy making decisions, and seek general community participation and support. The issue of developing positive peer associations illustrates this requirement most vividly. Juveniles who find themselves in juvenile problem-solving courts have been seen as a threat to the community and have been accordingly shunned by the community. Their closest friends are often similarly situated. Yet, to really make a change for a juvenile engaged in a problem-solving court, new positive peer associations must be found.

IDAHO'S JUVENILE PROBLEM-SOLVING COURTS

Idaho can be proud of the effort made by the many communities that have taken on the challenging task of supporting a juvenile problem-solving court. Currently, there are juvenile drug courts in Ada, Twin Falls, Minidoka-Cassia, Bannock, Bingham, Bonneville and Madison-Jefferson Counties. These courts served 230 participants in Fiscal Year 2007. In addition to the juvenile drug courts, Idaho has a current pilot project to determine the effectiveness of a juvenile mental health court. This court, located in the Seventh Judicial District, takes cases from several of that District’s counties. Some communities are also using the problem-solving court model in cases involving truancy.

With the commitment shown by those involved with these courts, Idaho's communities will be safer. Truly Idaho's juvenile problem solving courts are fulfilling the role of parens patriae.

ABOUT THE AUTHOR

Hon. John F. Varin is a Senior Magistrate Judge with 22 years of judicial experience, the last 13 years as a juvenile court judge serving six south-central Idaho counties. He established and presided over the first Idaho Juvenile Methamphetamine Court in Twin Falls County, to address the issues of juveniles using or dependent upon meth. He graduated from the University of Idaho Business College in 1968 and the University of Idaho Law School in 1971. Since 1995 he has been the chair of the Idaho Supreme Court Juvenile Justice Advisory Team, composed of a judge doing juvenile work from each of Idaho's seven judicial districts. He is currently the chair of the Idaho Supreme Court Juvenile Rules Committee and was appointed Idaho's Governor as Chair of the State of Idaho Juvenile Justice Commission. He is currently the Juvenile Court Director for the Administrative Office of the Supreme Court.

ENDNOTES

4. Idaho Code § 20-501