

JUSTICE AND THE DEVELOPING BRAIN

Training Series
May – July 2020

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and
William James College



CPCS

MORE
THAN WORDS



Implications for Juvenile Justice Practices: Research-Based Responses Along the Sequential Intercept

Themes:

Evidence-Based Practices

Built on Foundation of Consistent Positive, Genuine Engagement

Community-Based Whenever Possible

Youth Voice and Family Engagement

Collect Data and Let It Drive Your Decisions

Typically Less Expensive, Fewer Inadvertent Bad Consequences

Be Strategic, Be Collaborative But Anticipate Inertia if Not Opposition

Overview of Learning Series

- **05.26** Framing the Issue and Overview of Adolescent Neurodevelopment
- **06.09** The Developing Brain in Social Environments: Adverse Childhood Experiences and Positive Youth Development Assets
- **06.23** Behavioral Health in Delinquency: Mental Health and Substance Use Disorders
- **07.07** **Implications for Juvenile Justice Practices: Research-Based Responses Along the Sequential Intercept**
- **07.21** The “Heuristic” (Predicting) Brain: Implicit Bias in Responding To Challenging Youth Presenter: Sean Hammond, JD

Normative Adolescent and Emerging Adult Development: There Is A *Lot* Goin' On



Session 1:

This is Your Brain on (Normal) Adolescence and Emerging Young Adulthood

Session 2:

This is Your Developing Brain As It Develops in Your Social Environment

Session 3:

This is Your Developing Brain in Your Social Environment Functioning and Developing With Underlying Brain Dysfunction: Mental Health Disorder and/or Substance Use Disorder

WARNING

**THIS PRESENTATION
CONTAINS SOME
GENERALIZATIONS**

THERE *ARE* EXCEPTIONS TO THESE GENERALIZATIONS



@JNNBRNDL @WEAREHEARKEN

Recapping

- The developing adolescent brain is different from adult brains in both structure and function. It drives adolescents more towards risk-taking, stimulation-seeking, peer affiliations, preferences for novelty, and preferences for more immediate perceived rewards.
- By age 16, most adolescents are as good as most adults in “cold cognition” situations. In “hot cognition” situations they remain vulnerable to poor decision-making, failure to identify options, failure to accurately perceive and apply risks to themselves and situations, and failure to identify/weigh potential consequences

Recapping

- Youth most likely to become involved with and penetrate the JJ system have higher “adversity loads” in childhood that place them at developmental, neurodevelopmental, social, and medical risk. (E.g., ACEs study and subsequent research)
- Higher “adversity loads” exacerbate the normal tendencies of adolescence and prolong the process of brain maturation.
- However, “exposure to adversity” does not equal “trauma”—protective and resilience factors can “buffer” the impact of adversity

Recapping

- What distinguishes youth with high adversity exposures but good functioning from those who are “traumatized” by them and face significant challenges?
 - Number, intensity, nature, chronicity of exposures (ACEs \geq 4)
 - Access and engagement with Positive Youth Development assets
 - Impact of Social Determinants of health, behavioral health, crime
 - Nature and impact of social networks, especially family and peers
 - Critical: Consistent relationship with \geq positive, caring adult

Recapping

- The term **Behavioral Health** incorporates both **Mental Health Disorders** (Psychiatric Disability, Learning Disability, Intellectual Disability, Developmental Disability) and **Substance Use Disorders**
- Juveniles with Behavioral Health challenges are wildly overrepresented with the majority presenting with **Co-Occurring Mental Health Disorders** and Substance Use Disorders.
- This is not surprising given that these disabilities can compromise academic and social learning, that JJ youth tend to have high ACEs scores, and their access to quality Behavioral Health care limited.

Recapping

- Compromises of academic learning limit life opportunities. Compromises of social learning complicate the otherwise strong tendency towards self-desistance from misconduct as even very seriously delinquent youth enter their early to mid-20's.
- Even so, young adults ages 18-24 comprise 9.5% of the US population but account for 23% of all arrests. But the sooner the drivers of compromised social learning are addressed, the more likely an earlier and more consistent self-desistance.

Recapping

- In the absence of access to quality community-based resources that serve as Positive Youth Development assets, the more difficult the path to self-desistence. This is particularly true if the social networks in which youth are embedded foster and support criminogenic attitudes, values, and beliefs.
- Behavioral Health disorders are related in complicated ways to misconduct. Access to quality, evidence-based behavioral healthcare is difficult and inconsistent, especially care for youth with co-occurring Mental Health Disorders and Substance Use Disorders

Today

- So, what can we do to address these challenges?
- ***The Good News:*** There are ***multiple points*** upon a **Sequential Intercept Model** where policies and practices can be altered or instituted to dampen unwarranted penetration in the JJ system and support a trajectory of self-desistance.
- ***The Less Good News:*** Most of the most effective points for a public-health model of intervention or innovation lie ***before*** a youth is likely to come into contact with police and courts. These address Social Determinants of health, behavioral health, and criminogenic risk.
- However, Social Determinants (including Positive Youth Development assets) can (and ***must***) be built into our thinking about youth both before and after they come into contact with police and courts.

Beyond the Adversarial System: Achieving the Challenge

(at Resource Link)

When system actors share their expertise and think beyond individual cases, and beyond their individual agencies, to broader criminal justice system reform they are able to ferret out potential weaknesses throughout the system, discover new resources, and reach collective solutions.

Poll

- When you think about youth who commit delinquent acts, do you think of them most often as:
 - (a) Victims
 - (b) Offenders
 - (c) Resources
 - (d) Something Else

Step One: What Frame? Do We Share It?

(Acknowledgement to John Jay College)

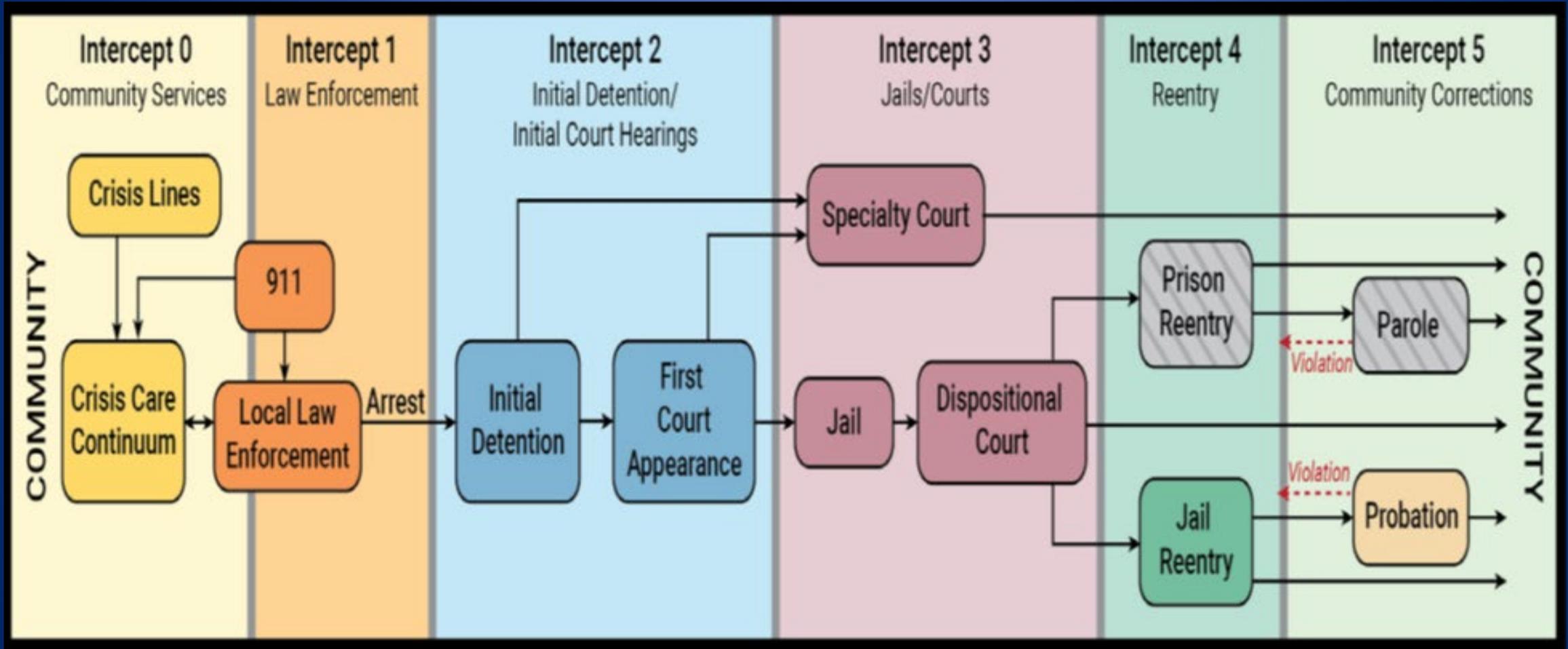
Changing the Frame

| ASSUMPTIONS | PRIMARY LENS | | |
|--|--|---|---|
| | Youth as Victim | Youth as Villain | Youth as Resource |
| Origins of Most Delinquent Behavior | Symptom of underlying disturbance | Anti-social impulses, lack of restraint due to permissiveness and the absence of punishment | Normative response to adolescent needs for status, belonging, power & excitement, lack of empathy |
| How Delinquent Youth Compare with Other Adolescents | Fundamentally different in psychological and emotional makeup | Fundamentally different motivations and impulses toward deviant behavior | Largely similar to other adolescents but with fewer social assets |
| Delinquent Youth Capacity for Behavior Change | Incapable of conventional behavior without therapeutic interventions | Incapable of conventional behavior without strict discipline and the threat of punishment | Inherently capable of conventional behavior with sufficient access to supports and pro-social opportunities |
| Principal Intervention Strategy | Individual or family-based therapeutic treatment | Deterrence and retributive punishment | Skill development, attachment and engagement |
| Role of Treatment | Primary | Secondary | Secondary |
| Risks of Treatment | Could fail to address underlying cause(s) | Could delay or impede deterrence | Could introduce stigma or harm—i.e., iatrogenic effects |

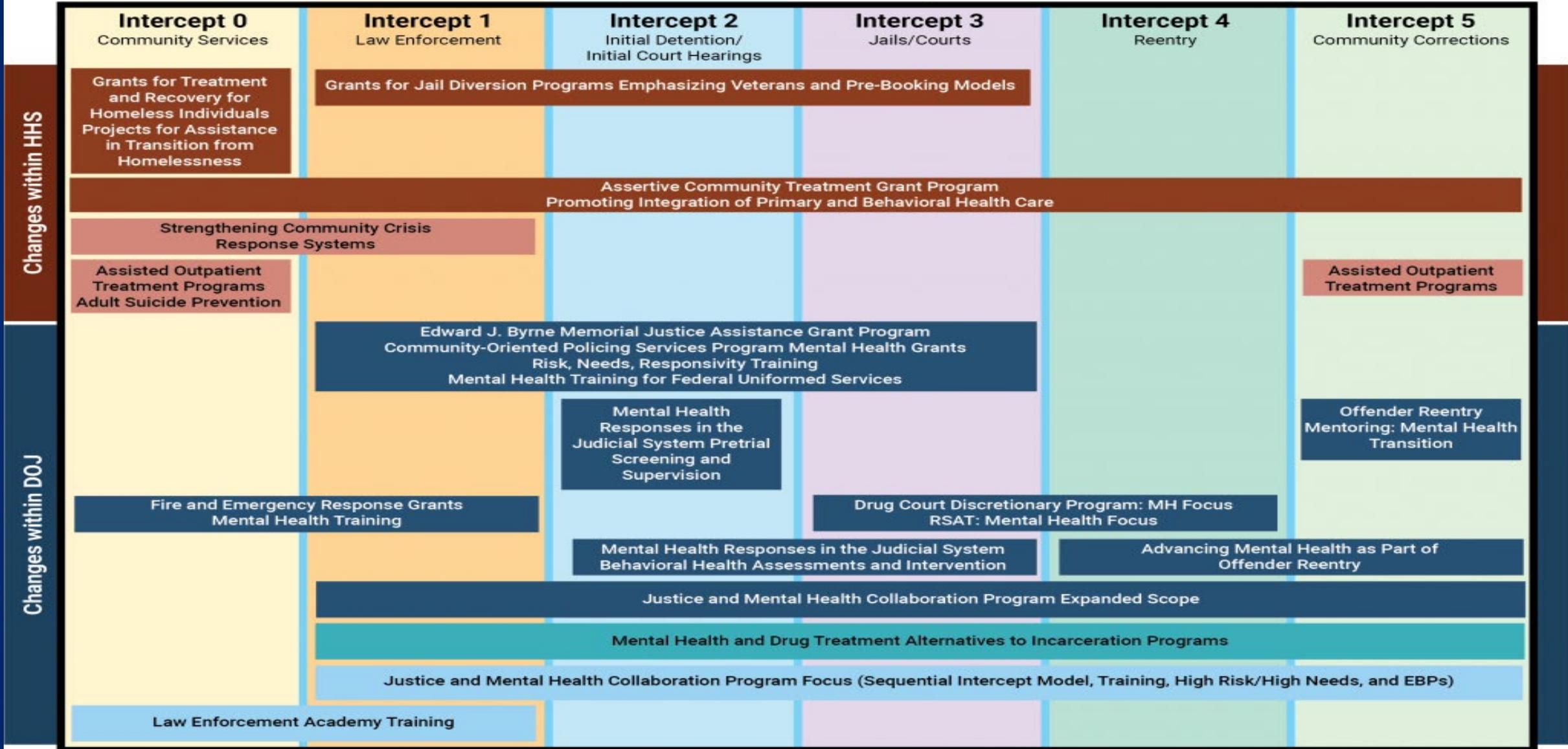
Poll

- What do you know about the Sequential Intercept Model?
 - (a) Never heard of it
 - (b) Have heard of it but don't really know what it is
 - (c) Have heard of it, know what it is, but have never applied it
 - (d) Have heard of it and have applied it in thinking about Juv Justice

The Sequential Intercept Model



The 21st Century Cures Act & the Sequential Intercept Model



Intercept 0
Community Services

Intercept 1
Law Enforcement

Intercept 2
Initial Detention/
Initial Court Hearings

Intercept 3
Jails/Courts

Intercept 4
Reentry

Intercept 5
Community Corrections

Changes within HHS

Changes within DOJ

Grants for Treatment and Recovery for Homeless Individuals
Projects for Assistance in Transition from Homelessness

Grants for Jail Diversion Programs Emphasizing Veterans and Pre-Booking Models

Assertive Community Treatment Grant Program
Promoting Integration of Primary and Behavioral Health Care

Strengthening Community Crisis Response Systems

Assisted Outpatient Treatment Programs
Adult Suicide Prevention

Assisted Outpatient Treatment Programs

Edward J. Byrne Memorial Justice Assistance Grant Program
Community-Oriented Policing Services Program
Mental Health Grants
Risk, Needs, Responsivity Training
Mental Health Training for Federal Uniformed Services

Mental Health Responses in the Judicial System
Pretrial Screening and Supervision

Offender Reentry Mentoring: Mental Health Transition

Fire and Emergency Response Grants
Mental Health Training

Drug Court Discretionary Program: MH Focus
RSAT: Mental Health Focus

Mental Health Responses in the Judicial System
Behavioral Health Assessments and Intervention

Advancing Mental Health as Part of Offender Reentry

Justice and Mental Health Collaboration Program Expanded Scope

Mental Health and Drug Treatment Alternatives to Incarceration Programs

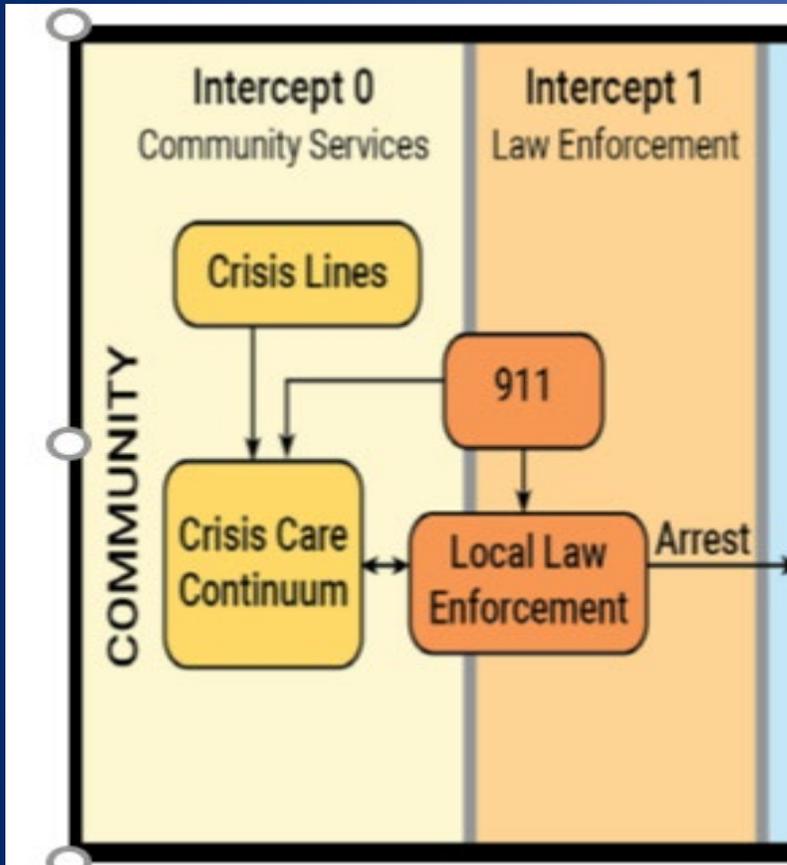
Justice and Mental Health Collaboration Program Focus (Sequential Intercept Model, Training, High Risk/High Needs, and EBPs)

Law Enforcement Academy Training

- HHS: Changes to Existing Programs
- HHS: New Programs or Activities
- DOJ: Changes to Existing Grants/Programs
- DOJ: New Grant Programs
- DOJ: Subtitle B Comprehensive Justice and Mental Health

Intercepts 0 and 1

Intercept 0



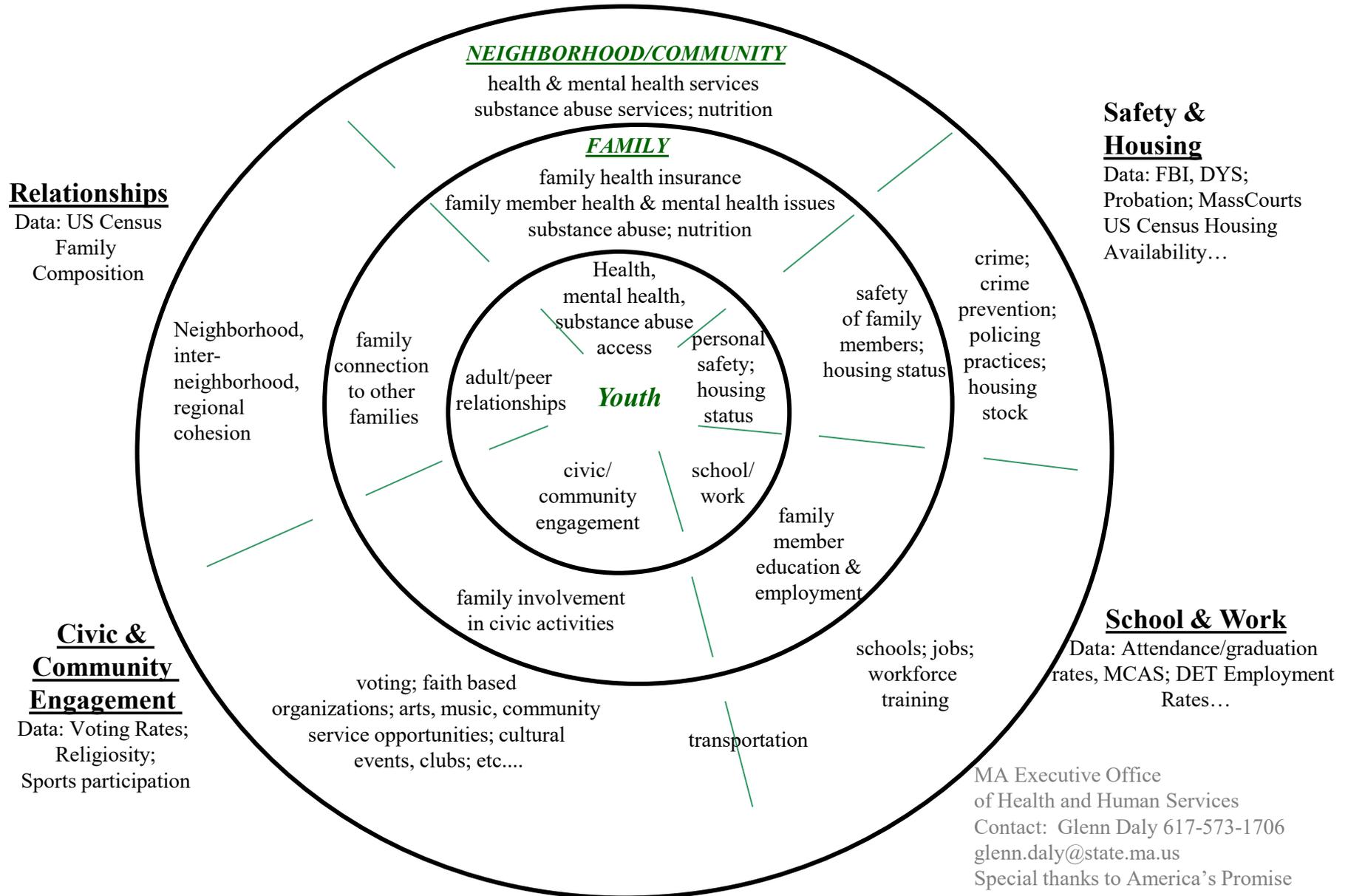
Social Determinants of Health, Behavioral Health...*and* Crime

- Food Insecurity and Quality
- Housing Insecurity and Quality
- Income Insecurity
- Unemployment
- Unhealthy Living Conditions
- Unhealthy Working Conditions
- Poor Access to Quality and Evidence-Based Medical and Behavioral Health Care
- Poor Access to Quality Education
- Childhood Adversity (ACEs)
- Discrimination
- Workplace Harassment
- Intimate Partner Violence
- Embedded in Social Networks That Foster Attitudes, Values, Beliefs or Behaviors That Result in Negative Health, Behavioral Health, and/or Social Conduct (Including Violence)

Shared Vision “America’s Promise” Framework

Health & Mental Health

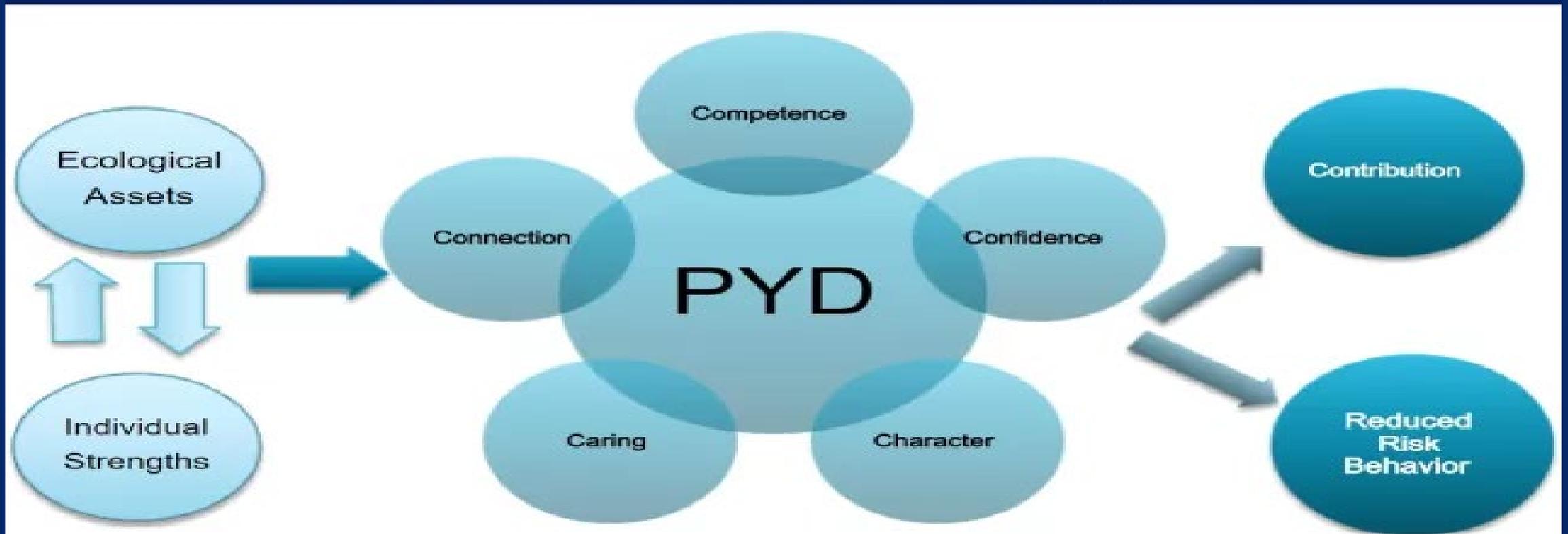
Data: Medicaid, DPH, DMH health indicators



MA Executive Office
of Health and Human Services
Contact: Glenn Daly 617-573-1706
glenn.daly@state.ma.us
Special thanks to America’s Promise

A Systems Frame For Youth

5Cs of Positive Development

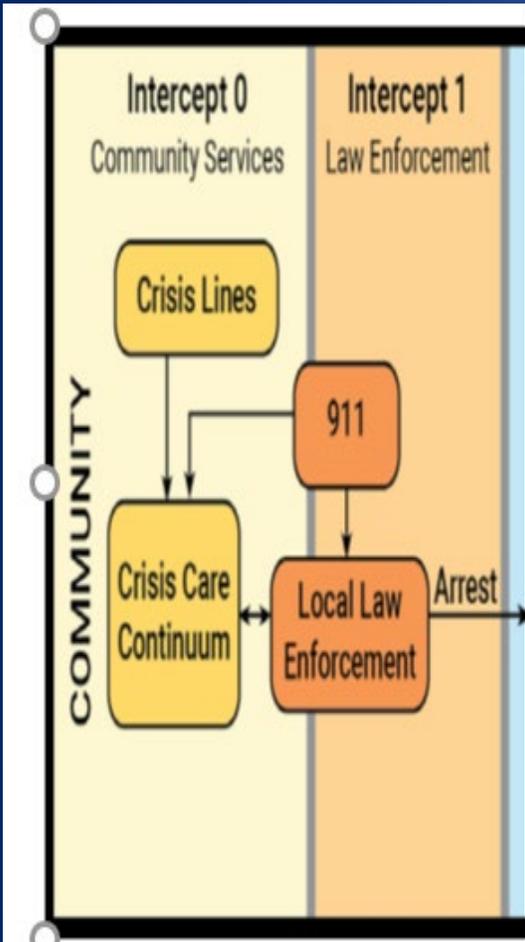


Source: Institute for Applied Research in Youth Development, Tufts University. Medford, Massachusetts.

Intercepts 0 and 1

Intercept 0

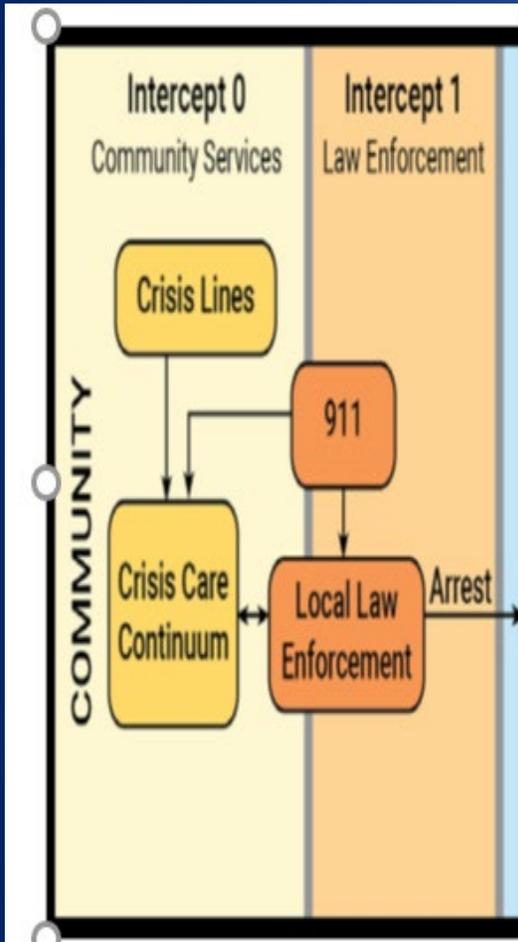
- Any policy or practice consistent with addressing social determinants
- Alternatives to police response to behavioral health crisis, or protocols for police to rapidly refer into a system better equipped to respond over time. Continuum of crisis responses including stabilization beds, peer crisis services, referrals to entities familiar with working with youth at risk of arrest.
- Any policy or practice consistent with facilitating access by youth to Positive Youth Development assets
 - Run your own PYD: Police Athletic League
 - Engagement with community PYD activities and developing relationships which may support other Intercept points (e.g., pre-arrest diversion, pre-arraignment diversion, re-entry)



Intercepts 0 and 1

(Legislative Primer Series, Young Adults in the Justice System, Using the SIM Model to Guide Local Reform)

Intercept 1 (Pre-Arrest and Ends at Arrest)

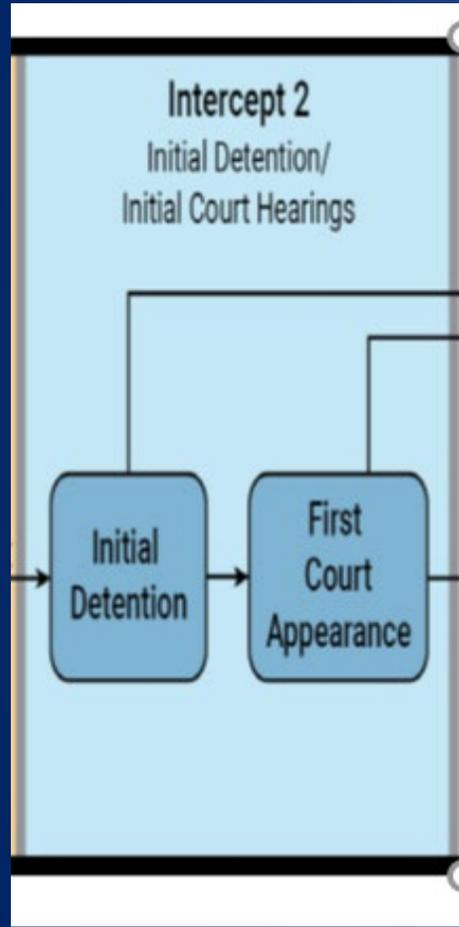


- Consistent community policing practices including de-escalation, use of force policies/practices, community/youth engagement
- CIT training, BH ride-along/BH consults
- Models lowering school-based arrests (CT), arrests on public transportation,
- Police pre-arrest diversion programs with protocols for BH diversion, access to social services (e.g., emergency shelter, urgent protective placement), communications with family/caregivers, schools as warranted

Intercept 2

(Legislative Primer Series, Young Adults in the Justice System)

Intercept 2



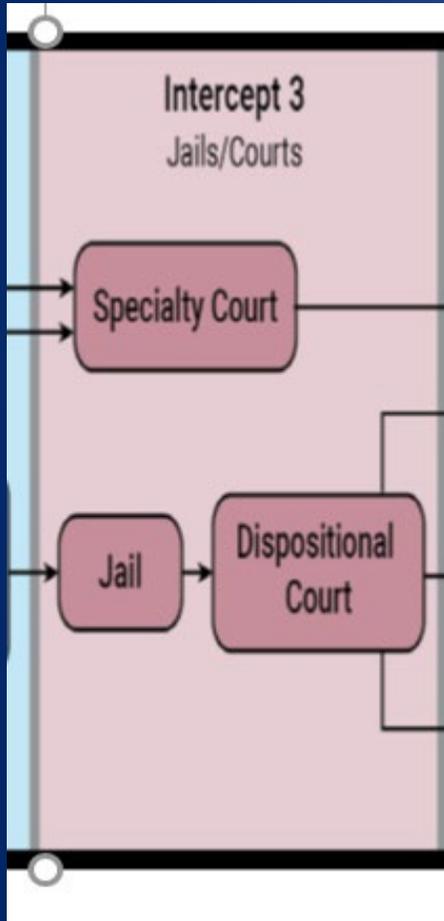
- Pre-arraignment diversion (prosecution, court) based upon validated risk and BH screens (with confidentiality MOUs) with links to PYD/services
- Prosecution review/monitoring of charging practices
- Pre-arraignment court intake including validated risk and BH screens, adversity screens (with confidentiality MOUs) and links for more detailed assessment or service referrals as needed
- Use of validated Bail Screens
- Implementation of JDAI practices
- If detained, validated screening (MAYSI-2), with detention based upon risk, shortest duration possible

Intercept 3

(Legislative Primer Series, Young Adults in the Justice System)

Intercept 3 (“Jail” on Slide, here DYS Detention)

- DYS and others national models in JDAI practices with very sharp drops in MA of hardware-secure detained youth, attention to education
- DYS detention routine screening with MAYSI-2
- Capacities to meet needs on continuum of BH care
- Limits of capacity to support distressed youth fully since cannot talk to youth about alleged offenses
- ? Limits on how long youth who are ICST can be detained



Intercept 3

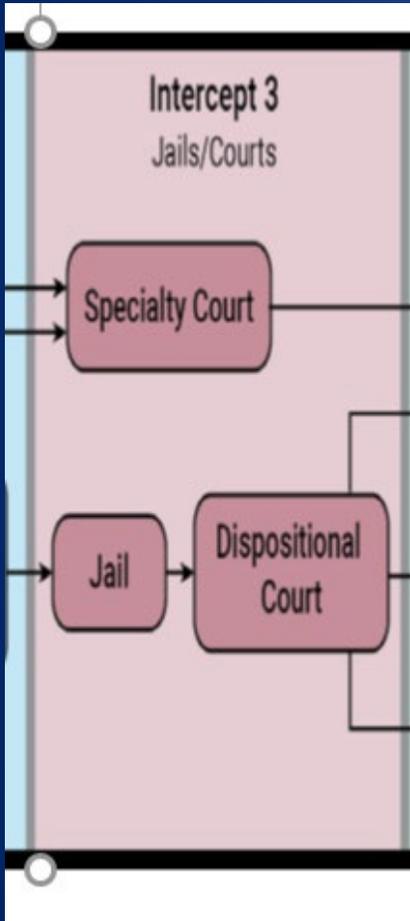
(Legislative Primer Series, Young Adults in the Justice System)

Intercept 3

- Specialty Courts/Dockets

- Juvenile Drug, Mental Health, and BH Treatment Courts
- Felony First Time Controlled Substance Offenders
- Dual-Status Dockets
- School-Based Offenses Dockets
- Gun Offense Dockets

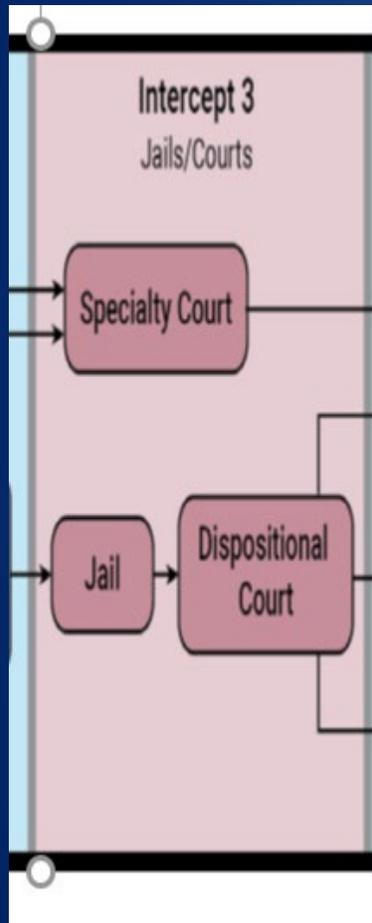
- **Common Features:** Developmental Perspective, Family Engagement, Highly Individualized, Youth Voice, Procedural Fairness, EBP in screening and assessment, EBP in matching to treatment, Trauma Informed, Culturally Responsive, Consistent Commitment by All Legal System Actors, Contingency Management that Rewards Progress/Sanctions, Takes Into Account the Nature of Addiction or Mental Health Disorder



Intercept 3

Intercept 3 (“Dispositional” Court – Traditional Track)

- MA only state with statewide Juvenile Court Clinic but limits on case capacity, variations in utilization, and little to no treatment capacity
- MA widely regarded for quality of juvenile defense bar
- MA has very poor framework for dealing with ICST youth
- ? Practices and outcomes for pre-trial conditional release
- ? Practices on “standard conditions” and “technical viol”
- ? Actual youth understanding in colloquy practice
- Variable practices in who is to come up with alternatives
- Little research on plea bargaining “in the shadow of the law”





QUESTIONS?

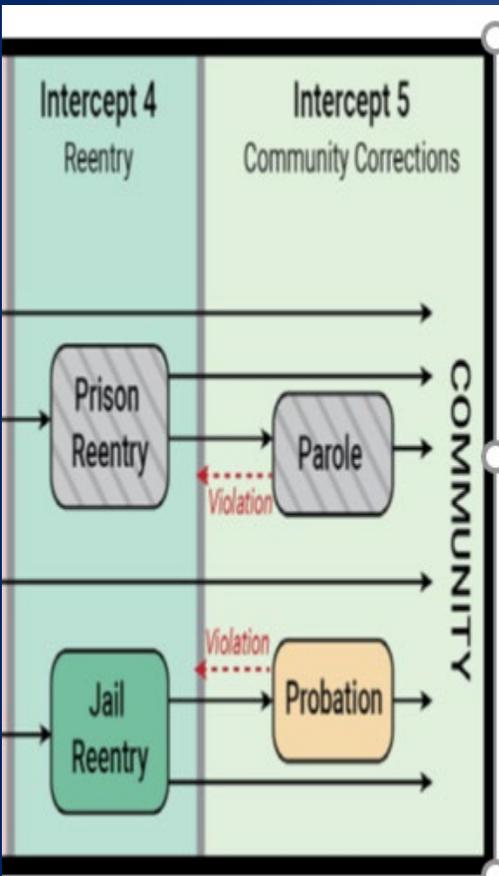
COMMENTS?

CONCERNS?

Intercept 4

Intercept 4 (“Jail/Prison” in MA is DYS Detention or Secure Treatment after DYS Commitment)

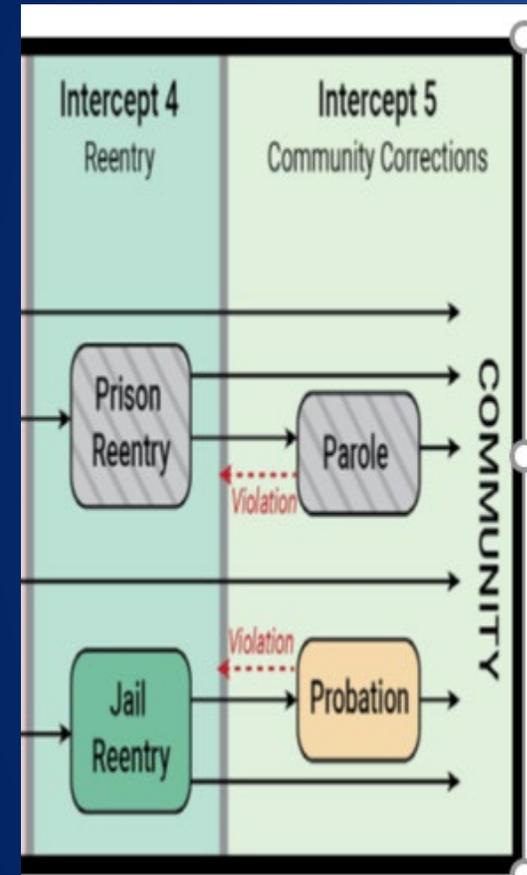
- DYS nationally regarded for trauma-informed secure treatment based upon a therapeutic model (Dialectical Behavior Therapy – DBT) and emphasis upon education
- Evidence-based approaches long embraced by senior DYS leadership and reflected in innovations on JJ practice.
- Community-based DYS staff supervise “conditional release” and reinforce DBT skills with youth and staff. DYS embraces model of community-based interventions, increased focus on reentry.
- Not all communities have good social support networks for youth, access to entities committed to innovative work with court-involved youth (e.g, MTW, Roca, UTEC, Roxbury Youthworks, others in Boston area and elsewhere)



Intercept 5

Intercept 5 (“Parole” in MA is DYS “Conditional Release”)

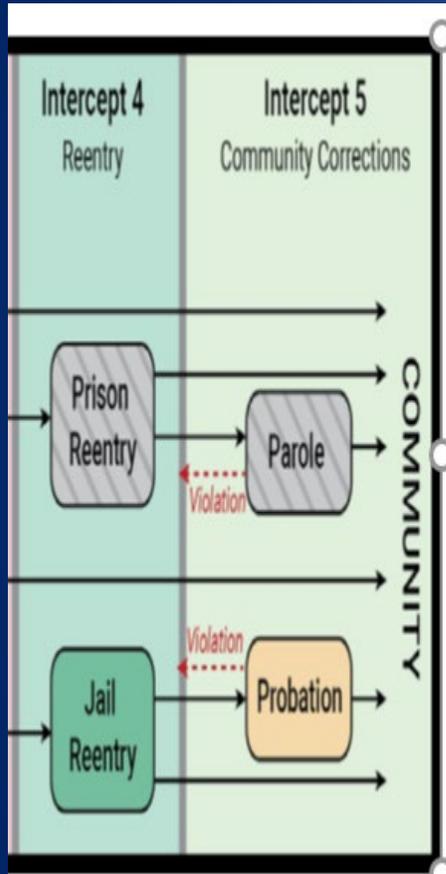
- DYS increasingly focused on developing supports for reentry, including family and youth engagement in reentry planning
- Challenges include reluctance of some schools to accept returning students and reluctance of some reentering youth to return to schools. Also, DYS and court-involved youth often have BH or social needs that limit effective access to BH care or social services. Also, MA has 1 MST program and DYS does not control access to it.
- Juvenile Probation in MA specialized for youth. Increasingly evidence-based with use of risk tools. Issues include “fines and fees” for youth, case loads, “technical violations,” ability to facilitate access to PYD assets (some JCC have “case manager” positions).



Intercept 5

Intercept 5 (“Parole” in MA is DYS “Conditional Release”)

- MA Probation recognized as a national model for required specialized training in:
 - Supervision and counseling of youth and young adults
 - Social and behavioral development of youth, young adults
 - Cultural competency
 - Rehabilitation of youth and young adults
 - Educational programming
 - Relevant community-based services and programs



Poll

- If you were to advocate for prioritizing different Juvenile Justice policies and practices from Intercept 1 through 5, where would you want to begin?
- (a) Intercept 1 Law Enforcement
- (b) Intercept 2 Initial Detention and Court Proceedings
- (c) Intercept 3 Detention and Court Practices
- (d) Intercept 4 Detention/Secure Treatment Practices/Reentry
- (e) Intercept 5 Community Supervision/Corrections

Areas to Consider Together

- Raise the Age of Juvenile Court Jurisdiction to Age 21
- Follow states (e.g. CO, FL, SC, VA) that have adult criminal jurisdiction begin at age 18 but young adult offenders serve sentences in separate facilities designed and programmed for young adults
- Consider MA practices for juvenile/young adult sealing and expungement of juvenile/criminal records. VT *requires* expungement of records of 18 – 21 year old offenders except for limited enumerated crimes. WI allows courts to order expungement *at the time of sentencing* upon successful completion of the sentence.

Areas to Consider Together

- Legislative action to require adoption of evidence-based models from Sequential Intercept 1 – 5, or alternatively, to collect process and outcome data if the model is thought to be an “innovative” or “best practices” model (e.g., IL, WA, OR). Commit to EBP such as MST, Functional Family Therapy, Oregon Model Therapeutic Foster Care, adapted Moral Reconciliation Therapy (MRT). Commit to probation plans, court clinic reports, DYS case plans, etc. that ***routinely*** include consideration of access to PYD assets.
- Integration of this data into JJ/CJ data “dashboards.” (See *Developing Data Dashboards to Drive Criminal Justice Decisions*) including demographics, arrests, emergency services use, BH referrals, housing status, food/income security status, educational status, engagement in services, recidivism

Areas to Consider Together

- In Probation and DYS Conditional Release: Consider development of specialized BH caseloads with additionally trained personnel (e.g., San Antonio, some federal districts)
- Consider juvenile and young adult Deferred Sentencing Programs similar to the DSP program in federal court in Rhode Island

Areas to Consider Together

- Develop county or region-wide Juvenile Justice Coordinating Councils Modeled after Criminal Justice Coordinating Councils (See *Beyond the Adversarial System*) to identify shared goals, system gaps and opportunities.
- Include key stakeholders (e.g., government, non-profits, schools, employers, youth and family members, knowledgeable behavioral health or social sciences professionals. Commit to culture change, developing trust, and gathering or generating data to guide collaborative decision-making.
- Feed into a statewide Juvenile Justice Coordinating Council. Consider including young adults 18 – 21 (or perhaps 24) as within the scope of the discussion.

Areas to Consider

- Consider making Juvenile Court access more youth and family friendly (e.g. some sessions after school hours and into early evening, a “rocket docket” to avoid waiting hours in court for cases that can be heard very briefly at the beginning or end of the court day).
- Consider revisiting law and practice for juveniles who may not be CST, are found ICST but “remediable,” or found ICST on grounds that are reasonably foreseeable to be beyond “remediation” (e.g., Intellectual Disability, Developmental Disability, TBI)

Resources

- K Heilbrun, NES Goldstein, et al. **The Sequential Intercept Model and Juvenile Justice: Review and Prospectus.** *Law & Human Behavior* (June 14, 2017).
- **Link to site with free downloads of many of the resources cited in or relied upon for this presentation:**
<http://www.safetyandjusticechallenge.org/resources/>

Resources

- SAMHSA Juvenile Drug Courts Help Youth With Trauma
<https://www.samhsa.gov/homelessness-programs-resources/hpr-resources/juvenile-drug-courts-help-youth>
- OJJDP Juvenile Drug Treatment Court Guidelines
<https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/250368.pdf>

Resources with Websites

- National Center for Youth Justice and Opportunity
- Justice Project, Council of State Governments
- Juvenile and Young Adult Justice Project, Center for Law, Brain & Behavior at Mass General Hospital
- Urban Institute
- Justice Policy Institute
- National Conference of State Legislatures
- Safety and Justice Challenge (Supported by John D. and Catherine T. MacArthur Fndn)
- Square One Project, R Street Institute *A Call for New Criminal Justice Values*

Thank You for your time today.

Any questions or comments?

*Quote Often Attributed to
Frederick Douglass*

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

