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# Sobreviviendo la Adolescencia: The Inherent Value of Effective and Culturally Competent Mental Health Screening and Assessment for Youth in the Juvenile Justice System

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# Introduction

Children of all ages need a healthy start in life. Throughout their development, they need to feel safe, and have shelter, have secure attachments to family, school and community. They need to live in a place that is conducive to learning, be well-nourished and have access to routine medical care and a good education. As part of healthy development, children also need to be taught boundaries and how to take responsibility for their own behaviors. When gaps occur during the early stages of development the likelihood of developing mental health problems rises. This is particularly important as children enter adolescence. The World Health Organization (2015) identifies adolescence as a critical period of preparation for adulthood in which key developmental experiences occur. It further states that, "Besides physical and sexual maturation, these experiences include movement toward social and economic independence, and development of identity, the acquisition of skills needed to carry out adult relationships and roles, and the capacity for abstract reasoning. While adolescence is a time of tremendous growth and potential, it is also a time of considerable risk during which social contexts exert powerful influences."1

Adolescence is the age or stage of human development characterized by a multitude of physiological and socio-emotional changes in growth and development. The World Health Organization (2015) further identifies adolescence as the period in human growth and development that occurs after childhood and before adulthood, from ages 10–19 with the biological determinants of adolescence being fairly universal; however the duration and defining characteristics of this period may vary across time, culture and socioeconomic situations.<sup>2</sup> It is classified as a time of building one's identity and purpose as children are transitioning into adulthood. In the best of circumstances, adolescents are faced with countless decisions that will shape and impact their lives, so it is critical that they have the tools and resources to make sound decisions that will keep them on the path to healthy adult development. During this critical stage of development, adolescent's mental health problems often go undiagnosed as "growing pains" or simply delinquent behavior.

Untreated and often neglected, these adolescent populations many times fall into the juvenile justice system. Many of these youth have also been subjected to poverty, violence, substance abuse, academic disadvantage, and delinquent behavior.<sup>3</sup> Mental health problems may include major depression, bipolar disorder, conduct disorder, attention deficit, hyperactivity disorder, anxiety disorder, conduct problems, substance abuse, and post-traumatic stress disorder.<sup>4 5</sup>

Recent research has established that a large proportion, up to 70 percent, of youth involved in the juvenile justice system in the United States have significant mental health problems with at least 20 percent experiencing disorders so severe that their ability to function is significantly impaired. Research indicates that more than half of all youth that come into contact with the juvenile justice system have a diagnosable mental health or substance use disorder; many times they are concurrent issues. Nationally, the increasing involvement of youth with mental health issues has become an area of concern for policymakers and stakeholders, but rarely has this issue been studied through the lens of race and ethnicity. Latino youth face additional obstacles to diagnosis and treatment when cultural, language and discrimination disparities factor into the equation.

The manner in which demographic data is collected often times does not reflect the extensiveness of Latino diversity. Self-identification is critical to understanding and serving the population impacted. By being allowed to self identify, these Latino youth are given the opportunity to exist both on paper and in person.

It is imperative that professionals in the juvenile justice system methodically identify what these mental health needs are through effective and purposeful mental and behavioral health screenings in order to respond appropriately to initiate change towards healthy development. The implementation of sound and culturally competent screening and assessment tools are critical to accurately identifying and ultimately treating mental and substance use disorders among those in the juvenile justice system. Ideally, diagnosing mental health problems among youth and adolescents at an early age will go a long way in preventing them from entering the juvenile justice system in the first place since early treatment will assist in positive outcomes for these adolescents.

For adolescents who do enter the juvenile justice system, early and accurate identification of youth with mental disorders is a critical need. Existing legislation, such as the Juvenile Justice and Delinguency Prevention Act, allocates state funds for mental health services in the juvenile justice system. At present, mental health screenings are not mandated. Legislation needs to be revised to reflect mandated mental health screenings for all youth upon entry into the juvenile justice system. Additionally, the implementation of sound and culturally competent screening and assessment tools are critical to accurately identifying and ultimately treating mental and substance use disorders among those in the juvenile justice system. If intervention can take place early and be culturally relevant, then the risk of re-entering the juvenile justice system may be reduced.

# BACKGROUND

### Structure of the Juvenile Justice System

The juvenile justice system was conceived as a way to intervene constructively in the lives of teenagers in order to steer them away from the harsher adult criminal justice system. Juvenile courts were established throughout the Unites States in the early 1900's based on the recognition that children are different from adults; while children may violate the law, they remain uniquely suited to rehabilitation (Leadership Conference on Civil and Human Rights, 2014). The establishment of significant differentiations between adult and juvenile court systems led to a significant shift in focus to the offenders and not the offenses, and on rehabilitation rather than punishment.

Even though there is no federal juvenile justice system, the federal government has established a number of federal juvenile justice agencies and grant programs in order to influence the states' juvenile justice systems. The Juvenile Justice and Delinquency Prevention Act of 1974 created many of the federal entities and grant programs that continue to operate today. These include the Office of Juvenile Justice and Delinguency Prevention (OJJDP) and the State Formula Grants Program. The OJJDP was authorized to assist state, local and tribal jurisdictions in their efforts to improve their juvenile justice systems (National Research Council, 2014).<sup>6</sup> Early authorizing legislation recognized that juvenile offenders should be treated differently than adults and should receive individualized services in a developmentally appropriate setting.

Recent research focuses on examining adolescent development for reforming the juvenile justice system. In 2013, the National Research Council (NRC) published a report—Reforming Juvenile Justice: A Developmental Approach—that examined the research on adolescent development and the effects of justice system interventions. The report made four broad recommendations based on the central idea that a developmental approach should guide juvenile justice system improvements.<sup>7</sup> This report asserts that the adolescent development goals are in direct alignment with the goals of the juvenile justice system, namely holding youth accountable, being fair, preventing reoffending and promoting positive social adolescent development.

Latinos in the Juvenile Justice System According to the Office of the Juvenile Defender (2012), the exact number of Hispanic/Latino youth in the juvenile justice court system remains unknown because most data sources fail to collect information that separates data on Hispanic/Latino youth from White youth or to distinguish among Hispanic/Latino youth of Mexican, Caribbean, Central American, or South American descent.<sup>8</sup> Hispanic and Latino youth can come from as many as 26 different nations with significant differences in language, socio-economic background, customs and values.<sup>9</sup> Latinos are diverse and may not only arrive from many different countries, but from many different cultural groups and/or have had roots in the United States for centuries. Many share Hispanic values and lifestyles that are intermingled with indigenous languages and cultures<sup>10</sup>. The question of how to refer to these ethnic groups is often controversial.

The manner in which demographic data is collected often times does not reflect the extensiveness of Latino diversity. Self-identification is critical to understanding and serving the population impacted. By being allowed to self identify, these Latino youth The concept of cultural competency has a positive effect on delivery of care by allowing us to deliver services that are respectful of and responsive to the health beliefs, practices as well as cultural and linguistic needs.<sup>23</sup>

are given the opportunity to exist both on paper and in person. Self-identification will allow for greater accuracy in data collection, allocation of resources and a greater ability to properly assess and identify interventions for these youth.

Available data however, does indicate that Hispanic/Latino youth are disproportionately represented in the juvenile justice system and receive harsher treatment than White youth, oftentimes for similar offenses.<sup>11</sup> When compared to White youth, Hispanic/Latino youth are four percent more likely to be petitioned; 16 percent more likely to be adjudicated delinquent; 28 percent more likely to be detained; 41 percent more likely to receive an out-ofhome placement; 43 percent more likely to be waived to the adult system and 40 percent more likely to be admitted to adult prison.<sup>12</sup> In order to better understand the scope of this problem, greater data collection needs to be conducted.

According to the US Census Bureau, as of 2013, Latinos make up 17 percent of the U.S. population making them the nation's largest ethnic or racial minority.<sup>13</sup> Within this population, many youth are at a high risk for mental health related difficulties.<sup>14 15</sup> Many are faced with disparities and risk factors including language barriers, socio-economic status, coming from broken homes, separation from parents or family members and high association with delinguent peers that could all affect diagnosis and treatment. Latino immigrant youth show higher dropout rates, higher pregnancy rates and limited access to health services and other community resources. These are significant risk factors for delinguency. In many situations, criminal activity is a bi-product of undiagnosed mental health issues. In fact, numerous studies indicate that children from families of color and

high poverty communities are less likely to have access to health services. Youth from minority racial and ethnic groups are one-third to one-half less likely to receive mental health services as White youth and the greatest disparity was found for Hispanic/Latino youth.<sup>16</sup> This disparity exists in access to care and service completion and quality. The lack of access to quality health services and the lack of insurance coverage in high poverty areas each contribute to disparities in access to mental health diagnosis and treatment. Performing culturally competent mental health screenings are crucial to more accurately identify some of these risk factors for delinguency, insuring referral to adequate resources and preventing recidivism.

# MENTAL HEALTH SCREENING IN THE JUVENILE JUSTICE SYSTEM

#### History

In the early 1990's, mental health screenings within the juvenile justice system were virtually nonexistent.<sup>17</sup> A review of the literature indicates that mental health screenings were typically superficial, non-standardized, and the field was lacking simple, scientifically-sound and easily administered instruments that could be used to identify potential mental health problems among youth entering the system.<sup>18</sup> The recognition of this deficit created enormous public interest and governmental efforts to respond to what has been identified as a crisis.<sup>19</sup> In many jurisdictions, juvenile justice systems have formed partnerships with mental health systems to increase accessibility to community-based mental health services or have created mental health capacity within its own juvenile justice system.<sup>20</sup>

## Scientifically Sound Mental Health Screening Tools

Mental health screening is a relatively brief process carried out by non-clinical staff using a standardized mental healthscreening tool. The purpose of mental health screening is to identify youth whose mental or emotional conditions suggest that they might have a mental disorder, suicide potential, or present a risk of harm to others in the immediate future.<sup>21</sup> An initial screening may lead to further in-depth evaluation in the form of a clinical assessment. Clinical assessments offer more comprehensive individualized evaluation.<sup>22</sup> Clinicians perform these assessments as a follow-up for youth whose initial screening scores suggest that they might have mental or emotional problems. The assessment process may include psychological testing, clinical interviewing, and obtaining past records from other agencies for review by the clinician assessor.

# Importance of Cultural Competence in Screening

In order to successfully work with these youth, we must first understand how they self-identify. It is important to avoid labeling or making generalizations about characteristics and traits based on cultural stereotypes. When conducting mental health screenings, it is also important to take into consideration the cultural differences among adolescents. According to the National Institute of Health, culture is often described as the combination of a body of knowledge, a body of beliefs and a body of behavior. Culture involves a number of elements, including self-identification, language, thoughts, communications, actions, customs, beliefs and values. The concept of cultural competency has a positive effect on delivery of care by allowing us to deliver services that are respectful of and responsive to the health beliefs, practices as well as cultural and linguistic needs.<sup>23</sup>

Nationally there is a shortage of mental health providers from diverse racial and ethnic communities or others who are adequately trained or grounded in the culture, language, values and world views of those they serve.

With regard to mental health treatments, the American Psychological Association advises all clinicians to "recognize ethnicity and culture as significant parameters in understanding psychological processes" (APA1990) and to seek out opportunities to learn about the cultural background of their clients so as to be able to serve them more effectively.<sup>24</sup> Further, the National Child Traumatic Stress Network states that "cultural competency needs to be a priority" (Culture and Trauma brief, pg. 5) and urges practitioners to consider culture and acculturation when working with clients.<sup>25</sup>

Nationally there is a shortage of mental health providers from diverse racial and ethnic communities or others who are adequately trained or grounded in the culture, language, values and world views of those they serve. This being said, mental health services, including many mental health screening tools may not have the needed sensitivity to appropriately serve many of the youth and families in our most diverse and economically disenfranchised communities. Cultural and linguistic competency must be present when serving these youth.

#### **Mental Health Screening Tools**

Numerous screening instruments have been developed to identify and assess mental health. The Massachusetts Youth Screening Instrument—Second Version (MAYSI-2), a 52 item self-report instrument that identifies potential mental health and substance use problems among youth, is a widely used mental health screening tool (National Center for Mental Health and Juvenile Justice). Examples of other screening tools noted include:

The Child and Adolescent Functional Assessment Scale (CAFAS), which is designed to assess the degree of impairment in children and adolescents with emotional, behavioral, or substance use systems or disorders (Hodges, 2005);

- The Global Appraisal of Individual Needs Short Screener (GAIN-SS) is a selfadministered instrument used to quickly identify individuals who would have a disorder on the full GAIN. Its four tests evaluate internal disorder, behavioral disorders, substance use disorders, and crime/violence (GAIN website); and
- The Substance Abuse Subtle Screening Inventory for Adolescents – Second Version (SASSI-A2) is a 15-minute screening that addresses four types of ongoing problematic uses of alcohol and other drugs.<sup>26</sup>

### Rationale for Implementing Mandated Mental Health Screenings

The National Center for Mental Health and Juvenile Justice offers the following reasons for implementing mandated mental health screenings for youth as they enter the juvenile justice system.<sup>27</sup> According to the report mandatory screening will help:

- Identify youth who may have mental health problems requiring attention—to avoid worsening problems;
- Reduce the risk of self-harm by identifying youth who present an imminent risk of suicide or self-injury;
- Increase safety for youth and staff by identifying youth whose mental health problems present an imminent risk of harm to self or others;
- Identify youth with potential substance use problems that require immediate attention;
- Obtain mental health information as part of a method of diversion away from the juvenile justice system, instead referring youth to community services that might best meet their ongoing mental health needs and public safety interests;
- Identify youth who require further assessment to determine whether they might have longer-range treatment needs that should be taken into

consideration during disposition planning;

- Document the level of need for mental health services by developing and collecting screen-based data on all youth admitted to the program;
- Fulfill federal, state, or local regulatory obligations to identify and respond to serious mental health needs of youth in juvenile justice custody; and
- Avoid legal liability associated with youth injurious behaviors that might have been avoided if mental health screening had been in place.

Mandating mental health screenings and implementing a sound and culturally competent screening and assessment system for youth upon entering the juvenile justice system will create benefits on three important levels.

First, culturally competent, mandated screenings help agencies assign youth to proper levels of treatment. These referrals are critical in conserving resources and, without the appropriate referral, many youth are thrust into the justice system where this critical treatment may or may not be available. Although the original intent of establishing a juvenile justice system was for youth rehabilitation, there is no good evidence that placement in juvenile justice settings is actually rehabilitative, in fact, research has demonstrated that it can make youth worse.<sup>28 29</sup> Indeed, the deeper youth penetrate the juvenile justice system, the more time they spend with more deviant peers, it is more likely that they will offend as an adult and less likely to be rehabilitated.<sup>30</sup>

Second, culturally competent, mandated assessments permit professionals to provide the proper types of services. A "one size fits all" approach to service utilization and treatment does not work. For example, youth who do not have a major Mental health professionals, juvenile justice systems, schools and educators, parents and family members, the medical community, federal, state and tribal governments, the private sector, faith based and community services must continue to join forces to address the ever-changing dynamics that play into what influences the development of our most valued resource, our children.

substance abuse problem do not belong in substance abuse treatment programs. Youth who receive services that have nothing to do with their specific dynamic risk factors are more likely to become repeat offenders than youth who receive only targeted services commensurate with their dynamic risk.<sup>31</sup>

Finally, identification of the mental health needs present among the youth entering the juvenile justice system is a benefit because it provides a means to document the need for resources and services in the community. Awareness of the extent of mental health concerns, well-being needs, and dynamic risk areas are critical for jurisdictions and communities to allocate resources and develop appropriate policy and management plans. Without this form of diagnosis, accurate data is difficult to ascertain and can continue to hinder the development of resources critically needed by youth offenders.

#### **Current Legislation**

Since this great need has been established, mental health screening has become a standard procedure in many juvenile justice programs across the nation. These screenings are intended to serve as initial identification of youth with mental health and/or substance abuse disorders. In the absence of a national juvenile justice system, individual states are given the task of deciding whether or not to provide these screenings and during what stages they are performed. In 1974, The Juvenile Justice and Delinquency Prevention Act (JJDPA) was signed into law to provide funds to states that follow "core protections," on the care and treatment of youth in the justice system. The four "core protections" of JJDPA are:

- Deinstitutionalization of Status Offenders: the deinstitutionalization of status offenders and non-offenders requires that youth who are runaways, truants or curfew violators cannot be detained in juvenile detention facilities or adult jails;
- Jail Removal: "Jail Removal" disallows the placement of youth in adult jails and lock ups except under very limited circumstances;
- Sight and Sound: the "Sight and Sound" separation protection disallows contact between juvenile and adult offenders (i.e., if juveniles are put in an adult jail or lock up under the limited circumstances the law allows for, they must be separated from adult inmates);
- Disproportionate Minority Confinement (DMC): the DMC provision requires states to address the issue of overrepresentation of youth of color in the justice system. This requires states to take concrete steps to reduce racial and ethic disparities in the juvenile justice system.

In 2008, Senator Patrick Leahy of Vermont introduced S.3155[5] to reauthorize the JJ-DPA through FY2013. Although the JJDPA and corresponding reauthorizations do address the allocation of funds for mental health services both in the prevention capacity as well as within the juvenile justice system, no mandate of mental health screening is present. Legislation needs to reflect that these screenings be mandated for all youth upon entry into the system. Early, accurate identification of youth with mental disorders in the juvenile justice system that account for cultural factors is a critical need. Once identified, these youth can receive the services required to improve their lives, reduce recidivism rates, and promote community safety.

# CONCLUSIONS AND RECOMENDATIONS

Addressing the needs of adolescents who have mental health problems requires the collaboration of many entities. Mental health professionals, juvenile justice systems, schools and educators, parents and family members, the medical community, federal, state and tribal governments, the private sector, faith based and community services must continue to join forces to address the ever-changing dynamics that play into what influences the development of our most valued resource. our children. Juvenile justice and mental health professionals have made great strides in seeking and delivering appropriate treatment and interventions for these youth, but the needs are still overwhelming. Continued research is needed in all aspects of care and assessment. The introduction of sound and culturally competent screening tools into the juvenile justice system can make a dramatic impact on diagnosing and proper placement for adolescents experiencing mental health problems. Issues of gender, language, ethnicity, race, age, sexual orientation, socioeconomic status and faith must continue to be an integral part of mental health services.<sup>32</sup>

Mental health cuts across all aspects of human development. As such, policy makers and legislators have the monumental task of examining every aspect of child development, from birth, to early childhood and middle childhood, through adolescence as well as all the internal and extraneous influences on healthy and unhealthy development during this critical stage. Policymakers and legislators must also further examine early identification practices of mental health problems among young children, and access to early intervention programs well before entering the juvenile justice

# The ultimate goal of instituting effective and purposeful mental and behavioral health screenings is to respond appropriately to adolescents with mental health problems and initiate change towards healthy development.

system. Parenting programs that focus on human development, effective parenting strategies, discipline, encouragement, and identification of potential mental health problems need to be more widespread and taught to all parents, caregivers, and prospective parents. Educational entities also need more training and support on differentiating between inappropriate behaviors where applying natural and logical consequences would suffice as treatment and identifying actual mental health issues that require additional interventions. This will assist in making the appropriate referrals for treatment and services. The medical community can be instrumental in helping parents and schools in identifying youth with the need for mental health screening and services. Community service programs are also key players in providing services to support children and parents in developing skills toward healthy development and interaction. Links need to be made between each of these and other entities as prevention and intervention measures to assure and enhance healthy adolescent development.

Continued collaborative efforts to identify and respond to adolescents experiencing mental health issues is needed -the earlier the better. Upon entry into the juvenile justice system mental health screening becomes even more critical. Legislation must be revised to reflect mandated, culturally competent, effective and purposeful mental health screening for all youth entering the juvenile system. Benefits include appropriate placement and services; avoiding labeling and making generalizations about characteristics and traits based on cultural stereotypes. Administering screening in the youth's native language will also yield accurate and useful data and information. It will increase safety for youth and staff by identifying youth whose mental health problems present an imminent risk of harm to self and others. It will obtain mental health information as part of a method of diversion away from the juvenile justice system, instead referring to community outreach services. It will fulfill federal and state or local regulatory obligations and avoid legal liability associated with youth injurious behaviors due to improper placement. Further, the use of sound and culturally competent mental health screening and assessment tools will serve as a resource for data collection and contribute to risk reduction for the recidivism into the juvenile justice system unnecessarily.

The ultimate goal of instituting effective and purposeful mental and behavioral health screenings is to respond appropriately to adolescents with mental health problems and initiate change towards healthy development. Culturally sound and competent screening tools further acknowledges and validates the inherent differences and diversity among youth based on race, ethnicity, language, culture, socio-economics, gender, customs and values. Effective utilization of this valuable information will not only serve to facilitate the work of the juvenile justice system and the services it provides, but it will also serve in advocating for healthy adolescent development. The demographic data collected on the Hispanic/ Latino population is of critical value in addressing existing disparities and contributing to further research.

Adolescents need the resources and tools to successfully survive this complicated stage of development. Developing a healthy identity and a sense of purpose is what youth need to become productive adults. Positive mental health includes developing positive attributes such as positive self-esteem, confidence, self- discipline, responsibility, pro-social behavior, and resiliency. Mandating an effective and culturally competent mental health screening and assessment for adolescents in the juvenile justice system is of paramount importance in assuring that adolescents thrive in their development.

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