

Chapter 9: Prevention and Diversion Programs

Jill Joline Myers

Probation is the most frequent form of disposition. The belief is that the deeper an offender goes into the system, the more difficult it is to treat them successfully and the more likely that they will fall into the criminal abyss. Inside institutions offenders learn criminality and therefore it is best to avoid unnecessary commitments and when possible, treat the juvenile while remaining with the family and in the community. The trend is to maintain control of the youth using diversion and special needs community-based treatment programs. The success of these programs depends upon how the probation is administered and whether the goals of the program matches and meets the needs of the offender.

In Missouri, probation is administered on a local level usually within the judicial circuit where the child resides. Each circuit has a Deputy Juvenile Officer who at intake screens cases for sufficiency, prepares a social study of the child, determines whether to place the youth on informal adjustment with supervision or to file a petition and formally process the matter. If the court, after adjudication determines that probation is appropriate, the Deputy Juvenile Officer supervises the youth while on probation, and provides assessment for the court for disposition and placement options.

According to 211.081 RSMo. and Supreme Court Rule 133.01, informal adjustment allows the Deputy Juvenile Officer to provide counseling and advice to the juvenile and his or her parent including sanctions and services with parental consent for a maximum of six months. Because the caseworkers are local, they are able to maintain a close working and supervisory role over the offender as well as an awareness of the options available for funding and treatment. The most typical examples of administrative (pre-adjudicatory) supervision include diversion programs, teen courts, drug courts, and truancy courts. Many of these informal approaches include a financial restitution and community service option including a community work restitution solution where probationers are allowed to perform a set number of hours of work in lieu of payment. The work is usually performed at public institutions like hospitals, shelters and community centers but Missouri also provides the option at state parks. Section 211.085.1 RSMo. provides specifically that a child who has been adjudicated for a nonviolent crime and who is 14 or older may be required to work for any employer at minimum wage in order to make restitution.

Diversion

The Missouri Juvenile Court Diversion program began in the late 1970s as an early intervention program designed to divert at risk juveniles from the more rural areas from commitment to the Division of Youth Services. Now diversionary programs include both urban and rural communities and involve law violators and status offenders. The authorization for diversionary programs comes from the Missouri State statute, RSMo. 219.041.

The goal of diversion is to keep juveniles outside of the formal justice system, yet retain control over youthful offenders. This is done at a much-reduced cost to taxpayers by working with at-risk youth and their families in their home communities. If the offender fails the diversion program or chooses not to participate, his/her case can be returned for continued processing. In 2006, 39 of the 45 judicial circuits operated juvenile court diversion programs and offered services to 3,228 youths. A total of 2,820 or 87% of those at risk youths were successfully diverted from commitments to DYS (2006 Annual Report).

The trend in Missouri is to use diversion and non -custodial settings or placements whenever possible. Thus, it is surprising to find that commitments for status offenders in Missouri is ranked among

the highest in the country. As previously noted, status offenders comprised 12.6% of Missouri's confined juvenile population, ranking third in the nation only slightly behind Indiana at 13.7%, and Iowa at 12.8 (Moone, J. 1997). Nationally, about only 2.6% of the juveniles in public facilities were placed for status offenses. Clearly, Missouri commits status offenders significantly above the national average. Perhaps this can be attributed to the decline in expenditures and funding by DYS. In 2002 DYS had a budget of \$58 million and it expended 9% or 5.4 million dollars of its budget in the form of Juvenile Court Diversion spending (FY2002 Annual Report). Whereas in 2006, DYS had an operating budget of \$57 million and only used 7% or \$4 million of its budget in the form of Juvenile Court Diversion funding.

Restorative Justice

Another mechanism to keep juvenile offenders outside of the formal justice system while still holding them responsible and accountable for their actions or, in rare instances, for dealing with youthful offenders once they are placed back in the community involves the restorative justice concept. The idea of a balanced approach to juvenile probation led to the development of restorative justice. Restorative justice attempts to reconcile the interests of the victim, the offenders and the community through supervised programs that meet their mutual needs. The offender admits responsibility for the harm created and takes steps to make amends. The victim and the community support the offender while he/she rectifies the situation by paying restitution or performing community service, and the community examines the conditions that facilitated the initial harm. The process allows victims to be made whole and provides insight to offenders on how their actions affected others. Reportedly restorative justice practices lower recidivism rates and save costs by keeping offenders out of detention facilities (Missouri Bar, 2007).

In the criminal adult Missouri system there is explicit statutory authorization for restorative justice practices. There is no such explicit authorization in the Missouri juvenile system like there is in 36 other states, including Illinois, Kansas, and Wisconsin; but restorative justice is utilized in 13 of the 45 circuit courts in Missouri under a broad reading of Chapter 211 in both formal and informal cases. Section 211.081 allows the juvenile court to make such informal adjustment as is practicable. Section 211.083 authorizes the child to make payment or perform reparation as long as it is reasonable and Rule 113.01 authorizes referrals to public or private agencies that may provide beneficial guidance or services to the juvenile or the juvenile's custodian.

The three most utilized restorative justice practices in Missouri include victim impact panels, victim offender dialogues, and community accountability boards. Three circuits use victim impact panels, five use Community Accountability Boards and eight employ victim offender dialogues in juvenile court (Restorative Justice 2007). All of the programs include accountability, competency, and public safety components. For example in the victim offender dialogue practices, the offender is accepted into the program only after acknowledging the harm or wrongdoing. Accountability is also incorporated into the process by requiring restitution and/or community service including writing letters of apology, providing proof of grades, or removal of graffiti. Several of these activities also highlight the competency component by encouraging the offender to make measurable gains in education, social, and civic abilities that enhance their capacity to function as a productive citizen (Restorative Justice, 2007). The public safety component is included in that each circuit that uses this approach has determined which offenses are suitable for Victim Offender Dialogues. To date most circuits allow its usage for misdemeanors, auto theft and status offenses but not for sexual offenses.

One circuit uses restorative justice after adjudication. In this program called "Respect Yourself and Others" the offender attends life skills training which deals with such topics as education, drugs and social skills, participates in a restorative justice activity, attends a citizenship class, performs community service work and creates a personal improvement plan. Although restorative justice programs are relatively new to Missouri's juvenile system and only approximately one third of the state's circuits use

restorative justice programs, the results of the programs are impressive. The Respect Yourself program boasts of a drop in recidivism rates from 25-30 % to 5.6 % since 2001. The Victim Offender Dialogues programs also report positive results showing that 27.1% of juveniles who successfully completed the program re-offended compared to 41.1% of the juveniles who were not in the program (Restorative Justice, 2007). Furthermore, the cost of rehabilitating an offender using the dialogue program is cheap, between \$232 and \$338 per offender (Katz, J. 2000).

Teen Courts

Another informal adjustment option utilized by Juvenile Officers is teen courts. Teen courts are a community-based intervention program where youths are confronted by their peers to face and accept personal responsibility for their actions. Minor offenses and misdemeanor charges are addressed so that the offender can make it right with the victim and perhaps learn from their mistakes. Historically due to heavy caseloads and the need to address more serious offenses, these types of cases were given a low priority. Now they are being addressed and the situation is being resolved. Currently there are eleven such programs operating in Missouri. Most of these programs, like the restorative justice programs addressed above, require that the juvenile admit to the charges prior to acceptance and participation into the program however, in two counties, Jackson and Lafayette, their programs are organized to determine whether the allegations are true.

Like teen courts most drug courts are pre-plea or admission of allegation courts but some are used as a method of alternative sentencing. Drug courts were developed to respond to the dramatic increase in substance abuse problems and institutional overcrowding as a result thereof. The success of adult drug courts led to their introduction into the juvenile system, particularly in abuse and neglect cases. There, they are used as a treatment based alternative to youth correctional facilities and detention centers and as a method of working within or alongside the family structure. Drug courts work cooperatively with community-based programs to help the abuser recover, stay in recovery and remain crime free by changing their lifestyles. The pre-plea drug programs are typically reserved for non-violent, low risk offenders since their danger to the community is less and their chance of success is greater.

School Programs

A number of prevention and early intervention programs are operated at the schools or in conjunction with school programs. One such program where the court, the schools and the families work together is Truancy Court. Per Missouri law (Chapter 167.031 RSMo 1994) all children between the ages of 7 and 17 must attend school; failure to do so constitutes the status offense of truancy. If the child does not attend regularly, the parent or guardian will be in violation of the law and guilty of a class C misdemeanor subject to a \$25 fine for each day the child is absent. Thus, truancy court was established to work with students and their families who display a pattern of absenteeism to improve student attendance, enhance achievement and thereby reduce delinquent behavior. The Truancy Court is supported through a Safe Schools educational program grant from the Missouri Department of Secondary Education; through a Juvenile Accountability Block Grant and Formula Grant administered by the Missouri Department of Public Safety and the Missouri Juvenile Justice Advisory Group; from funding provided by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention; and from matching funds provided by each participating school district (Missouri Truancy Project 2007).

Since truancy is deemed a significant predictor of juvenile delinquent behavior and eventual economic hardship, the purpose of truancy court is to intervene early, before, if possible, the child falls considerably behind his/her peers or before a formal referral to family court. When a student displays a pattern of absenteeism --typically ten to thirty absences in the previous school year, he/she is invited to

participate in the program.. The ultimate purpose of the program is to improve student attendance so that academic achievement will be enhanced and delinquent behavior will be reduced.

In St. Louis, the Truancy Court voluntary diversion sessions are held weekly at the school at 7:30 am with robed judges reviewing attendance, behavior, and grades of the participants. Additionally, as part of the program, tutoring, counseling, home visits, and parental support services are offered to the participants and their parents. The results of a three year evaluation of the program conducted by the University of Missouri revealed that 60% of the participants reduced their rate of absenteeism by an average of 44%. Furthermore, Missouri programs have been touted as models by the U.S. Department of Justice and the U.S. Department of Education and replicated throughout the United States (St. Louis County Truancy Court).

Even before the initiation of truancy court, the priority of education was well established in Missouri's juvenile system. If a child is placed in a setting that results in the child attending a school other than the home school, the law requires that the child's school records be forwarded to the new school within two business days. No more languishing out of school for permanent plans or arrangements to be finalized. School attendance has always been a high priority. Further, if the child is placed within the custody of a DYS facility, the child attends one of the Missouri DYS school institutions. The Division of Youth Services itself has a school district accredited by the Missouri Department of Elementary and Secondary Education. The Division employs more than 150 teachers at 42 sites. Each child within its custody receives educational services, most, 40%, receive special education services provided by certified special education instructors. The success rate for youth within the Missouri DYS system who take the GED is high. Seventy-five percent pass the exam.

Truancy is but one of the problems associated with juveniles and schools. School safety is increasingly becoming a matter of state and national concern. In 1996 Missouri passed legislation entitled the Missouri Safe School Act which deals with such topics as school district operation, enrollment, residency requirements, reporting and record keeping, and school discipline policies. Many of the initial policies have been amended or are in the process of being amended to meet the challenges of today's students.

The Safe School Act requires that each district in Missouri develop a written discipline policy, define "acts of school violence" or "violent behavior", and include a provision regarding weapons. For example, Section 160.261 (RSMo. Supp. 2005) states,

"Acts of violence" or "violent behavior" is defined as "the exertion of physical force by a student with the intent to do serious bodily harm ...to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities." The term "school" includes, but is not limited to, a school playground, school parking lot, school bus, or a school activity on or off school property. The term "weapon" must be defined in the policy and shall mean "firearm" as defined under 18 U.S.C. 921 and items as defined in § 571.010 RSMo, including a blackjack, concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun, and a switchblade knife.

The Act also requires that school administrators report acts of school violence to district employees with a "need to know". Need to know employees are those employees who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. The Act also requires school administrators to report certain serious offenses such as felonies and drug, weapon, and gun violations occurring on school property, on a school bus, or during school activities to law enforcement. Any student who is suspended

for violation of a Safe Schools Act offense is not allowed within 1000 feet of any public school property unless residing within that distance or given prior permission by school district officials.

The discipline policy must be distributed and provided to the pupil and his parent/legal guardian at the beginning of each school year. A copy must also be made available to the public at the district office during normal business hours.

A school board may also authorize the immediate removal of a student upon a finding by the principal, superintendent, or school board that the student's prior conduct indicates the potential for harm to himself or others; but, prior disciplinary actions cannot be used as the sole basis for the removal of the student. A hearing must be held unless the parent/custodian or student who is 18 years of age waives the hearing. Finally, all district employees must receive annual training regarding the discipline policy along with approved methods of dealing with acts of school violence, the discipline of students with disabilities, and the confidentiality of student information.

The policy and requirements cited above deal with what is now considered "old school" issues. The policies mention physical violence and tangible problems. Current issues and violence involve cyber technology. Today's society is confronted with the challenge of restraining high-tech incivility among students while ensuring a safe and appropriate learning environment without sacrificing the constitutional rights of children, society, and the educational institutions. Cyber bullying, the willful and repeated harm inflicted through the medium of electronic text (Patchin & Hinduja, 2006), is a ubiquitous threat affecting one in three teens (12-17) and one in six preteens (6-11) (Fight Crime 2006).

Cyber bullying is not just a fresh face on the traditional bully. Cyber bullying reaches beyond the schoolyard as technology affords the bully a veil of anonymity with instantaneous 24/7 access to the victim before an unlimited Internet based audience of bystanders and supporters. The bullying involves an ongoing pattern of physical or psychological aggression that is threatening, coercive, relentless, and leaves the victim feeling powerless (Fox *et al* 2003). Technologically savvy children, "flame", "out", "phish", "bash", "spam", "impersonate", and threaten approximately one third of all adolescents online through e-mail or instant messages over the always accessible anonymous anarchy of the Internet.

The effects of these cyber attacks on child victims are pervasive and alarming. Every day 160,000 children miss school because they fear bullying (Choices or Consequences, 2005). Additional devastating psychological complications emerge including: suicide, depression, loss of interest in learning (Ma, Xin *et al*, 2001), a drop in academic grades and a high risk of dropping out (McDougall, 1999). Bullying, like abuse, is now believed to be intergenerational (Sampson, 2002) and significant connections between serious illegal activities and bullying have been reported. In fact one study reports that 60 % of boys who were bullies in grades 6 -9 had a least one conviction by age 24 (Olweus, D. 1993) and 40% of those boys had at least three convictions by age 24 (Fox *et al* 2007). Drug abuse has also been associated with bullying (Kinlock, T. 2004). Further, and perhaps most alarming, is the study by the U.S. Secret Service and the U.S. Department of Education that reports that 71% of the 41 school shooters between 1974 and 2000 had been targets of bullies (Vossekuil, B *et al* 2002).

Since cyber technology is embraced by students, provides a new platform for bullying, and causes significant and potential far-reaching effects for students (victims, bullies and bystanders) and educational institutions, the schools, the juvenile system, the State, and the courts are all struggling to find ways to monitor, regulate, control and combat this increasingly abusive activity through policy enforcement mechanisms, legislative enactments and basic First Amendment law. Cyber bullying poses a challenge to those who seek to prevent or reduce its usage and impact. Controlling cyber bullying causes considerable conflicts between the Constitutional rights to free speech afforded to juveniles and the power of society to control it.

The problem is twofold. Schools are unsure of their roles as gatekeepers or morality police for “bullying behavior”, (Mean Girls, 2004) and activity between students and are mindful of their civil liability in attempting to regulate, censor or discipline behaviors including cyber bullying, that occur off-campus and/or during non -school hours. School violence is a serious concern in today’s world and society and courts are recognizing the seriousness of threats made by students against teachers or other students. Children are not immune from prosecution or civil suit. Harassment, threats and stalking are illegal in person (offline) and online. Although the threats are being taken more seriously, not all threats are serious enough to be considered criminal activity. Some cyber bullying may be deemed rude and disrespectful behavior that still merits sanctions, particularly in school settings. The dilemma is understanding the legal limits for controlling inappropriate behavior from protected speech.

Several Supreme Court cases provide direction to schools as to what types of behaviors may be regulated. Students don’t shed their constitutional rights to freedom of speech and expression at the schoolhouse gate; however a student’s right to expression may be restrained and/or punished even when the expression does not rise to the level of criminal activity. A student’s expressions may be curtailed:

- (1) when the expressive conduct “materially and substantially interferes with the requirements of appropriate discipline in the operation of the school” (*Tinker v. Des Moines Ind. School District*, 1969);
- (2) when the expressive conduct fails the school’s civility test by being publicly vulgar, lewd, obscene or plainly offensive at a school related function (*Bethel School District v. Fraser*, 1986); or
- (3) when the expressive conduct is inconsistent with the basic educational mission (reasonably related to legitimate pedagogical concerns) of the school (*Hazelwood School District v. Kuhlmeier*, 1988).

This lesser “reasonably related standard” appears to be appropriate in situations where the expressive activities bear the imprimatur of the school – school controlled functions- and the school official has a legitimate educational reason for controlling the expression.

The cases clearly establish that minors are entitled to a degree of Constitutional protection; but those rights will be balanced against the need for affirming the comprehensive authority of school officials to proscribe and control conduct in the schools (*Tinker* at 506-07). It is permissible to prevent disruption of educational activities using discipline particularly if the conduct materially and substantially interferes with the operation of the school. Further, the extent of a student’s Constitutional protection is proportionately decreased the younger the age of the student. Limited rights are justified because there are “higher priorities and values in elementary education than First Amendment principles” (*Muller v. Jefferson Lighthouse School*, 1996).

School Boards must be permitted “to establish and apply their curriculum in such a way as to transmit community values,” and that “there is a legitimate and substantial community interest in promoting respect for authority and traditional values be they social, moral, or political” (*Board of Education v. Pico*, 1982). Thus, although speech may be protected under the First Amendment, schools are not necessarily limited in their authority to prohibit, discipline, or punish students for certain inappropriate communications. The Court will not limit or undermine the school’s authority to discipline some forms of speech (*In re Douglas*, 2001).

Some cyber bullying may be Constitutionally protected speech, but depending on where the bullying takes place, or where the bullying originated, like on school property or at school events, or whether the bullying affects school performance and activities, it may be regulated and the bullies may be disciplined. If the conduct materially and substantially interferes with the operation of the school, then the

Tinker test applies. Substantial interference is met when either an actual substantial disturbance occurs or when a “reasonable forecast of a possible future disruption” is shown given the totality of the circumstances (*Boucher v. School Board*, 1998). Rarely do potential future disruptions rise to the level of justifying interference without articulating a specific threat of physical injury or actual harm (*Emmett v. Kent School District*, 2000); but showings of psychological harm or emotional distress have been held to meet the test in extreme cases (*J.S. et al v. Bethlehem School District*, 2000). In the Bethlehem Area School District case, the Pennsylvania Supreme Court found that a material disruption occurred when a student accessed/shared on campus an off campus website aimed at a particular school and school personnel when the site included an image of a decapitated teacher’s head dripping blood while the face transformed into an image of Hitler. The site also requested that visitors contribute money for a hit man.

Since court decisions are rather vague regarding regulating cyber speech and cyber activities among school students, many states have attempted to regulate the activity. In fact, forward thinking states have already passed anti-bullying legislation, and many schools have adopted Acceptable Use Policies (AUP) for computer usage covering before and after school use – making it a contractual issue between the school and the student. Missouri was not among the first responders. The early existing state legislative responses are varied (*High, B*, 2007). Some include cyber bullying in the law with gang prevention legislation, some just apply it to Internet bullying if a school computer is involved like Washington, and others indirectly include it under the umbrella of bullying behavior. Missouri is considering this latter approach.

Missouri is currently exploring expansion of its definition of unacceptable behavior by updating its legislation to include bullying and pending bills (SB 674 and HB 843, 2005) propose to “prohibit school employees, volunteers, or students from bullying a student while on school property, at school functions, or in a school bus.” Further, pursuant to the legislative proposal, employees who witness a bullying incident are required to report it. Missouri does, however, engage in some of the cyber safety programs sponsored by ISafe and other like organizations.

Historically, in May 2004 Vermont was the first state to pass cyber bullying legislation as a response to the suicide of 13 year old Ryan Halligan due to cyber bullying. Missouri did not follow suit then but now, as a result of a 2006 tragedy that occurred in a small Missouri town, changes and legislative actions are being instituted. The event that ultimately triggered Missouri’s response involved Megan, a victim of a cruel My Space hoax, who committed suicide just days before her 14th birthday. Although those allegedly involved, including a mother known to Megan, will not be criminally charged, city officials have since unanimously passed an ordinance making online harassment a misdemeanor punishable by a \$500 fine and up to 90 days in jail. Other Missouri towns are also considering similar legislation (*Shoemaker- Galloway, J*. 2007). Small steps, yet still progress toward controlling an emerging phenomena.

Iowa’s SF61 Bill passed March 5, 2007 is an example of how some progressive states are legislating bullying policy and school policy. Iowa’s legislation requires, all schools to adopt a policy declaring harassment and bullying (including cyber bullying) in schools as against school policy. The definition of bullying includes conduct that creates an objectively hostile school environment and that meets one or more of the following conditions: (1) Places the student in reasonable fear of harm to the student’s person or property. (2) Has a substantially detrimental effect on the student’s physical or mental health. (3) Has the effect of substantially interfering with a student’s academic performance. (4) Has the effect of substantially interfering with the student’s ability to participate in or benefit from the services, activities, or privileges provided by a school. Perhaps Missouri will follow this trend.

Cyber bullying prevention has not been fully developed due to the novelty of the problem and the emerging solutions for responding to the behavior. It appears however, that this conduct, especially non-

criminal conduct could be addressed effectively through restorative justice approaches involving the victims or through diversion programs requiring the offender to attend netiquette training (Net Manners.com). Schools can assist by developing clear policies that specifically define the forbidden behavior including what on and off campus communications and activity will result in disciplinary action if the activity results in a substantial disruption of the learning environment. Schools will also have to establish graduated consequences and remedial actions and educate school personnel, the students, the parents and the community on the procedures for reporting, preventing and investigating bullying (Hinduja & Patchin, 2007). Since bullying does not begin or end at the schoolhouse doors, the solution should focus on all parties, the bully, the victim, the bystanders, the school, and home environment.

Sex Offenders and Victims

A related concern in the juvenile system is the protection of children from online abuse. Missouri participates in the U.S. Attorney's campaign initiative to prevent online sexual exploitation through Project Safe Childhood. The initiative's purpose is to protect children from online exploitation and abuse through a public outreach and awareness campaign that delivers Internet safety tips to parents and children. The program came about because both nationally and in Missouri prosecutors have seen an increase in child sexual exploitation cases involving the Internet. In fact, in the Eastern and Western Districts of Missouri, there has been a tripling of child sex offense cases between 2002 and 2005 (U.S. Attorney's Office, 2006). In addition to increasing prosecution efforts and providing more investigators to target the predators, the program also has launched a public outreach and awareness campaign entitled "I Know Better" (INOBTR). Missouri's specific goal is to "teach every child to know better than to be the next victim of one of these predators" (U.S. Attorney's Office, 2006).

Juvenile sex offenders have been traditionally provided with specialized treatment aimed at their specific problems. A noted psychologist and researcher from the University of Missouri-Columbia believes that this approach may not be the best technique for rehabilitating these troubled youths. In the traditional approach, usually delivered in an institutional setting, the belief was that juvenile sex offenders were unique to other offenders and had specific problems common to them. Dr Borduin's comprehensive study of male juvenile sexual offenders findings showed that juvenile sex offenders and nonsexual offenders were alike. Both groups displayed more overall behavioral problems, limited family bonding, high involvement with deviant peers, and poor academic achievement. (Borduin, C & Ronis, S, 2007). Thus, he concludes that in treating the juvenile sex offender, one should use the same community-based approach that is used for other types of offenders. These juvenile sex offenders have the same problems as other youths in the juvenile justice system, problems with school, family, and community, thus they need support from their parents, their teachers, and their communities. The sex offense was merely the crime that brought them into the system.

Drug Courts

It is no secret that the growth of substance abuse has caused a strain on the court system. Missouri has experienced the same, if not a greater growth, in substance abuse than the rest of the nation; hence Missouri now uses drug courts as a treatment-based alternative to placement in youth services facilities, detention centers and institutions. The drug courts exist throughout the state. Initially drug courts were aimed at adult populations, but now they involve juvenile offenders and family drug court that deal with abuse and neglect cases. Per the 2003 OJP Drug Court Clearinghouse, Missouri has 15 juvenile and five family active drug courts with an additional eight juvenile and eight family courts planned for future implementation. Most of the drug courts are pre-adjudication or pre-plea courts; however a few are used as an alternative to disposition. Typically, the pre-adjudication drug courts are used for non-violent, first time offenders or low risk offenders.

Although no statistics were available unique to juvenile drug courts in Missouri, studies show that adult drug courts are a cost-effective method for dealing with drug abuse and drug related crimes. The initial cost is higher than other forms of treatment; however, the return on investment cost is significantly less. Those who graduate from a drug treatment program have a 27% recidivism rate as compared to a 44% recidivism rate for conventional sentencing (Richardson, L 2005). Other forms of savings include avoided costs for criminal justice processing, crime victim costs, drug free babies costs, vehicle crash costs, recidivism supervision, jail time and police costs, public assistance programs costs such as ADFC and food stamps and assorted healthcare costs ((Richardson, L. 2005). This 2005 State of the State Study concluded that the annual cost of incarceration in Missouri is \$14,005 while the annual cost of drug court is \$6,190. Thus, the cost avoidance calculates to \$7, 815 annually per person. Since there were 3,573 non-violent offenders participating in drug court, the avoided costs of diverting those offenders in that year was \$27.9 million. Stated another way, if the 3,573 non-violent offenders were diverted to drug court rather than being incarcerated, the potential savings from reduced recidivism would have been \$8.5 million annually (Richardson, K 2005). It stands to reason that juvenile court practices would yield similar results and savings.

Because Missouri has had the most methamphetamine clandestine laboratory incidents in the nation in 2006 with 1,268 incidents involving labs, dump sites and chemical, glass, equipment seizures, many children are at risk. In fact DEA reports that more than 500 children have been located in seized Missouri meth labs in 2002 alone (Kostiuk, K 2007). As a result of Missouri's infamous position as a leader in illegal methamphetamine manufacturing, the Institute of Public Policy is now working with the Missouri Juvenile Justice Association (MJJA) on a Children in Meth Labs Project. In addition to the inherent dangers in meth labs, (highly toxic and easily combustible), meth labs also pose other dangers to children including developmental delay, cognitive defects, behavioral problems and an increased risk of physical, emotional, and sexual abuse. Thus, the goals of the project are to provide improved safety and medical treatment for the children exposed to the labs through the development of a coordinated multi-disciplinary and interagency response. Specifically, they are working toward developing guidelines for the 20 agencies to use in coordinating evidence collection, medical assessment and treatment, protective custody proceedings and decontamination issues.

Another byproduct to substance abuse is vehicle related incidents. In 1987 Missouri passed the Abuse and Lose Law (RSMo. 577.500) to offer further discouragement to would – be youthful offenders. The law provides that in addition to the primary criminal penalties associated with substance abuse and driving, offenders under the age of 21 years would also be subjected to a suspension or revocation of their driving privileges. Specifically, the Missouri Abuse and Lose Law requires Missouri courts to suspend or revoke the driving privileges of any person determined to have committed any of the following offenses before turning 21 years of age:

- any alcohol related traffic offense; or
- possessing or using alcohol while driving; or
- possessing or using an illegal drug; or
- altering a driver's license (fake ID); or
- trying to use someone else's driver's license.

The driver license suspension period for a 1st offense Missouri Abuse and Lose Law violation is 90 days. The driver license revocation period for the 2nd and subsequent Missouri Abuse and Lose Law violations is 1 year.

Mental Health Courts

The State of Missouri, like the other jurisdictions, is facing an increase in the number and severity of persons including youth with severe mental health issues. Institutions are populated with people who have histories of mental illness with extensive histories of involvement with the justice system but,

because of their institutionalization, are not participating in the mental health treatment agencies and programs available in the community. The pressures and problems that surround these offenders is similar to those of substance offenders. If the system does not address the root causes, the problem will continue and recidivism will occur. Thus, as of April 2003 Missouri has established mental health courts as part of their problem solving initiatives in St. Louis City Municipal Court, in St. Louis County, Jackson County, Greene County and in Boone County. These courts focus on the problems facing mentally ill and disabled persons in the criminal justice population (Mental Health Courts, Missouri). To date no mental health courts have been established in the juvenile system; but that appears to be just a matter of time. Currently, Missouri has opted to spread youths with mental health issues around within the system so as not to have too many youth with multiple needs at the same facility. In extreme cases, Missouri will contract with a private provider (Korenstein, Amy, 2006).

Fire Prevention

Fire prevention is another area that must be addressed within the juvenile system. Nationwide more than half of the intentionally set fires are started by youths and 85% of juvenile fire play goes unreported. DYS has joined with the Missouri's Fire Marshal's Office to deal with this issue within the community. Missouri's Fire Marshal's Office received funding in 2006 to establish a juvenile fire prevention coalition to address this problem. The goal of the program is to decrease the fire setting behavior through education not through the court system. The program trains parents to identify danger signs regarding their child's interest in fire setting. Children experiencing these issues are said to be at a higher risk for fire setting (State Fire Marshal Program 2006).

Probation

Probation, the formal supervision of an offender in the community, is the most common form of disposition. The Deputy Juvenile Officers who determine whether to formally process the cases are the individuals who supervise the youth when they are placed on probation. The role of juvenile probation is one of a catalyst inspiring development of safe communities and healthy youth and families by addressing the needs of the offenders, the families, the victims and the community. This is accomplished by holding the offenders accountable and by seeking suitable resources and promoting professional development in the probation officers themselves. As was the case in informally handling juvenile matters, the juvenile officer often conducts a social study to determine the best course of action individualized to meet the needs of the specific child while on probation (Rule 119.05).

The Division of Youth Services employs several levels of professional persons to work with individuals involved in the juvenile system. DYS assigns a case manager to each youth committed to the agency for supervision. This case manager stays with the child throughout the placement. The case managers or service coordinators provide a link between the child and family and the family and the court. The coordinators are responsible for ensuring that the child adheres to the court orders, is appropriately supervised, and is adjusting to school, work, and treatment programs as recommended by the court. Service coordinators are geographically located in close proximity to the communities they serve so that frequent contact and interaction can be achieved. The service coordinators are responsible for preparing a predisposition assessment which is used to develop an individualized treatment plan for each child.

The decision to place a child on probation is ultimately that of the judge. The factors that are considered include, the crime, premeditation, the attitude toward the police, the system and the court, the child's social background, peers and criminal associates, curfew and drug testing. But ultimately most children are placed on probation. The level of probation may vary. Some require more intensive supervision and in those cases the probation officer increases the contacts per week with the child and

his/her family. Overall Missouri's philosophy and culture emphasizes treatment versus corrections. The focus is not on punishment but on caring by providing appropriate treatment services in the least restrictive environment.

References

Adoption Assistance and Child Welfare Act, 1980. P.L. 96-272; 42 U.S.C. Section 420.

Bethel School District No. 403 v. Fraser, 478 U.S. 675, (1986).

Board of Education v. Pico, 457 U.S. 853 (1982).

Borduin, Charles & Ronis, Scott, 2007. Juvenile Sex Offenders Require Comprehensive Treatment, Study Finds, Research at MU: News & Press Releases.
http://research.missouri.edu/news/stories/070207_juveniles.htm.

Boucher v. School Board of the School District of Greenfield, 134 F.3d 821, (7th Cir. 1998).

“Choices or Consequences”, May 24, 2005. The reference to the quote can be found at:
http://web.lexisnexis.com/universe/document?_m=e3937fd01f811a146e0332a2d169857f&_docnu.

Emmett v. Kent School District No. 415, 92 F. Supp. 2d 1088 (W.D. Wash. 2000).

Fight Crime: Invest in Kids. 2006. Opinion Research Corporation.
<http://www.fightcrime.org/releases.php?id=232>.

Fox, J., Elliot, D., Kerlikowske, R., Newman, S., & Christeson, W. (2003). Bullying prevention is crime prevention. Washington, D.C.; Fight Crime: Invest in Kids, cited in Greenberg, Martin Alan *ACJS Today* Volume XXXII, Issue 3, October 2007, The Utility of a Criminal Justice Internship for the Prevention of School Bullying.

Hazelwood School District v. Kuhlmeier, 484 U.S. 260, 273 (1988).

High, Brenda. Making the Grade: How States “Graded” on Their Anti Bullying Laws, Bully Police USA, <http://www.bullypolice.org/grade.html> (last visited Oct. 30, 2007).

Hinduja, S. and Patchin, J.W., April 2007. Cyberbullying: Legal and Policy Issues, www.cyberbullying.us.

In re Douglas D., 626 N.W. 2d 725, 743 -744 (Wisc. 2001).

J.S. ex rel.H.S. and I.S. v. Bethlehem Area School District, 757 A.2d 412 (Pa. Commonwealth 2000).

Katz, Joanne. 2000. Victim Offender Mediation in Missouri's Juvenile Courts: Accountability, Restitution and Transformation 29 (Missouri Department of Public Safety 2000).

- Kinlock, Timothy W. J. 2004. Drug Issues, Spring 2004, at 293 cited in Dickerson, Darby, Cyberbullies on Campus (2005) *The University of Toledo Law Review*, Fall, 2005, 37 U. Tol. L. Rev. 51 fn. 33.
- Kostiuk, Katherine. 2007. MU Researchers and the Missouri Juvenile Justice Association Develop Guidelines for Managing Children Found at Methamphetamine Labs *Missouri University News*.
<http://munews.missouri.edu/news-releases/2007/0226-children-methamphetamine.php>.
- Lewan, Todd. 2007. Missouri tries a new approach on teen offenders, *The Olympian*, 12/30/07. <http://www.theolympian.com/national/story/312267.html> Mo. tries new approach on teen offenders
- Limber, Susan P. & Mark A. Small, 2003. State Laws and Policies to Address Bullying in Schools, 32 *Sch. Psychol. Rev.* 445, 447 (2003), available at <http://law.utoledo.edu/students/lawreview/volumes/v37n1/Dickerson.htm>
- Ma, Xin *et al.* 2001. Bullying in School: Nature, Effects and Remedies, 16 *Research Papers Educ.* 247, 251, available at http://www.educationarena.com/educationarena/sample_pdfs8/rred16_3.pdf.
- McDougall, Lynne. 1999. A Study of Bullying in Further Education, *Pastoral Care in Educ.*, June 1999, at 31,32, available at <http://www.Ebscohost.com>.
- Mean Girls (Paramount Home Studios 2004).
- Mental Health Courts in Missouri. <http://www.courts.mo.gov/page.asp?id=310>.
- Missouri Juvenile Court Improvement Project in its Re-Assessment of Proceedings in Foster Care and Adoption Cases, (2004). Supreme Court of Missouri, September, 2005.
- Missouri Juvenile Court Truancy Project, 2007.
<http://www.courts.mo.gov/hosted/circuit22/Juvenile/2007%20Juv%20docs/2007%20Truancy%20&%20Ed%20Neglect%20brochure.pdf>.
- The Missouri Bar, 2007. Restorative Justice in Missouri's Juvenile System, May – June 2007. <http://www.mobar.org/flc5b-86a7-4e65-9f8e-2605e210eb38.aspx>.
- Missouri Safe School Act.
<http://education.umkc.edu/safeschool/documents/OVERVIEW%20SAFE%20SCHOOLS%20LEGISLATION.doc>.
- Missouri University News, 2007. News Bureau, University of Missouri-Columbia
<http://munews.missouri.edu/news-releases/2007/0226-children-methamphetamine.php>.
- Moone, Joseph, 1997. States at a Glance: Juveniles in Public Facilities, 1995, Series: OJJDP Fact Sheet, Published: November 1997, Subject: Juvenile corrections;
<http://www.ncjrs.gov/textfiles/fs-9769.txt>.

Muller v. Jefferson Lighthouse School, 98 F.3d 1530, 1538 (7th Cir. 1996), *cert. denied*, 520 U.S. 1156 (1997).

NetManners.com, <http://www.netmanners.com> Yale University Library, What is Netiquette?, <http://www.library.yale.edu/training/netiquette>.

Olweus, Dan. 1993. Bullying at School 9- 10; available at <http://www.Ebscohost.com>.

OJP Drug Court Clearinghouse and Technical Assistance Project, Summary of Drug Court Activity by State and County, Juvenile Family Drug Courts, November 7, 2003, <http://spa.american.edu/justice/publications/juvfamchart.pdf>.

Patchin J.W. and Hinduja, S. (2006). Bullies Move Beyond the Schoolyard: A Preliminary Look at Cyberbullying. *Youth Violence and Juvenile Justice*, 4(2), 148-169.

Promoting Safe and Stable Family Amendments of 2001, P.L. 107-133.
www.acf.hhs.gov/programs/cb/laws/index.htm.

Restorative Justice in Missouri's Juvenile System, 2007.
[Copyright \(c\) 2007 Journal of the Missouri Bar Journal of the Missouri Bar](#), May/June, 2007, 63 J. Mo. B. 128, Article: Restorative Justice In Missouri's Juvenile System, Hon. T. Bennett Burkemper, Jr., Nina Balsam, and May Yeh.

Richardson, Lilliard E., Jr., & Valentine, David. (Report 38-2005), October 2005). State of the State on Drug Courts in Missouri. <http://truman.missouri.edu/uploads/publications/38-2005.pdf>.

Sampson, Rana. 2002. U.S. Dept. Justice, Bullying in Schools 9 (Problem-Oriented Guides for Police Series Guide No. 12) available at <http://www.cops.usdj.gov/mime/open.pdf?item=272>.

Shoemaker-Galloway, Jace, 2007. Cyberbullying Ends in Tragedy Suicide in Missouri Brings Attention to Electronic Bullying
http://internet.suite101.com/article.cfm/cyberbullying_ends_in_tragedy.

St. Louis County Truancy Court: Schools, Families and Courts Working Together to Improve Student Attendance
<http://www.co.st-louis.mo.us/circuitcourt/truancy.html>.

State Fire Marshal Provides Parents with Youth Fire Intervention Programs, 2006.
Department of Public Safety, State of Missouri.
<http://dps.mo.gov/dps/NEWS/NewsReleaseHome.htm>.

Tinker v. Des Moines Independent School District, 393 U.S. 503, 509 (1969).

U.S. Attorney's Office, Western District of Missouri, 2006. U.S. Attorneys launch initiative to protect children from online abuse, October 10, 2006.
<http://www.usdoj.gov/usao/mow/community/safechildhood.html>.

Vossekuil, Bryan et al., U.S. Secret Serv. & U.S. Dep't of Educ., 2002. The Final Report

and Findings of the Safe School Initiative: Implications for the Prevention of School Attacks in the United States 15 (2002), available at http://www.secretservice.gov/ntac/ssi_final_report.pdf. ; and http://www.findarticles.com/p/articles/mi_m2248/is_153_39/ai_n6143558.

Washington State Anti Bullying Law, http://www.bullypolice.org/wa_law.html (last visited Oct. 30, 2007).

Internet Links for Additional Information:

Copyright (c) 1996 Journal of the Missouri Bar Journal of the Missouri Bar, January/February, 1996, 52 J. Mo. B. 46, Article: Creating Options For Dealing With Juvenile Offenders (Juvenile Crime Bill), Christine M. Blegen.

<http://www.ncjj.org/stateprofiles/profiles/MO06.asp?print=yes&topic=Profile&state=MO06.asp>

<http://www.courts.mo.gov/page.asp?id=246>.

<http://www.dss.mo.gov/dys/index.htm>.

http://www.senate.mo.gov/06info/bts_web/Bill.aspx?SessionType=R&BillID=48.

<http://www.isafe.org/imgs/pdf/education/Cyber>

NCJJ, 2006; <http://www.ncjj.org/stateprofiles/profiles/MO06.asp?print=yes&topic=Profile&state=MO06.asp>; Last updated April 24, 2006.

[Your Missouri Courts Home](#) :: [Know Your Courts](#) :: [Specialized Court Divisions](#) :: [Juvenile and Family Court Divisions](#) :: [Ethnic and Gender Equity in Missouri Juvenile Court Decisions: Preliminary Findings](#)

Review Questions

1. Discuss the problem solving courts that are used within the juvenile justice system and describe whether these courts truly meet the needs and serve the goals for which they were established.
2. To what extent should cyber bullying be addressed by the schools as opposed to the courts?
3. Draft an example of cyber bullying legislation that would assist in preventing school violence, would help prevent youth suicides and still respect a minor's Constitutional right to free speech.
4. How would a restorative justice approach work with cyber bullying behavior? Provide examples using the three components of the offender, the victim and the community.

5. If Dr. Borduin's study of treatment modalities of sex offenders is incorporated within the Missouri juvenile system, how would the community respond if they knew the offense for which the youth was charged. Does the community have the right to know that a youthful sexual offender is among them to the same extent as they are aware of an adult sexual offender?
6. Should Missouri create a juvenile version of its adult mental health courts?