

Position Statement on Legal Proceedings and Access to Psychiatric Care for Juvenile Offenders

Approved by the Board of Trustees, July 2013

Approved by the Assembly, May 2013

"Policy documents are approved by the APA Assembly and Board of Trustees...These are...position statements that define APA official policy on specific subjects..." – *APA Operations Manual*.

Juvenile adjudication involves a balance between protecting society and rehabilitating young offenders. State statutes vary substantially in procedures and criteria for determining whether juvenile offenders are tried in juvenile court or in adult court and in the disposition process for some serious juvenile offenders after adjudication.

Some state statutes provide that transfer and sentencing decisions be made entirely on the basis of the seriousness of the offense involved. In contrast, other statutes confer discretion on judges, prosecutors, and other officials to make determinations about what legal responses may be appropriate in particular cases. Such discretionary decisions usually include consideration of the nature of the offense in question, but may also include consideration of other issues, such as the degree and type of risk that the offender may present to the public and the offender's likelihood of responding to rehabilitative services.

Mental illness and neurodevelopmental disorders can have a significant influence on criminal behavior in children and adolescents, and judicial responses to juvenile offenders may have an important impact on their access to treatment for such conditions. The American Psychiatric Association (APA) supports the principle that juveniles with mental illness and neurodevelopmental disorders should have the opportunity to obtain appropriate psychiatric assessment and treatment. Therefore, the APA supports procedures for responding to juvenile offenders that include explicit consideration of the level of

development, the nature and impact of mental disorder, and the impact of legal decisions on the offender's access to appropriate care. The APA opposes statutes which permit or require juvenile suspects to be transferred or waived into adult court without judicial review.

Juvenile offenders are at much higher risk for mental disorders than the general population. When it appears that a juvenile offender may suffer from mental or neurodevelopmental disorder, the results of a competent psychiatric assessment should be considered in making discretionary decisions regarding such issues as placement, supervision, transfer to criminal adult court, and disposition. The APA recommends that such assessments be performed by psychiatrists or other mental health experts who have special training and/or experience in the diagnosis and treatment of children, adolescents and their families and who are familiar with the range of behavioral, emotional, developmental, psychological, and social problems experienced by juvenile offenders, as well as with the interventions available to the court for responding to these problems.

A competent assessment includes a thorough diagnostic evaluation of the juvenile, including the juvenile's educational history and mental health history, as well as an evaluation of the juvenile's family and others who may be instrumental in providing supports and fostering treatment adherence, thereby increasing the likelihood that the youth will benefit from the intervention. To the extent possible, it should specify the types and length of interventions that will be required if treatment is to be successful and address the availability of the necessary treatment within the justice system. While avoiding explicit predictions about an offender's future behavior, the assessment should identify factors bearing on the risk of future offending.

This statement supersedes the 1996 position statement.