

CHINS Practice Guide



Practice Guide to CHINS

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APPENDIX

Introduction

The Georgia Practice Guide to CHINS is an advisory document intended to provide a framework for the implementation of CHINS practice and procedures in each local jurisdiction. The guide can be tailored to the specific needs and resources of each jurisdiction. The goal is to establish uniformity while recognizing the need for local flexibility. The guide is based on basic principles and advanced best practices.

The guide is approved by the CHINS Committee of the Council of Juvenile Court Judges. It was developed through the joint efforts of a multidisciplinary workgroup: Melissa Carter, Emory Barton Center, Joe Vignati, DJJ, Elizabeth Locker, DFCS, Hon. Michelle Harrison, Chair CJCJ CHINS Committee, Jerry Bruce, AOC, Samantha Wolf, CJCC, and Stephanie Mikkelsen, CJCC. Many other stakeholders provided input and their assistance is greatly appreciated. The goal of the guide is to bring consistency and improved practice throughout the state.

Purpose

Effective Interventions for Children in Need of Services

Addressing the needs of Children in Need of Services (CHINS) returns Juvenile Court to its roots: treating adolescents as adolescents and not “mini” adults. By definition, CHINS (prior to 2014 were designated as status offenders) involve **non-violent and non-criminal behavior**. A system of care incorporating a multi-disciplinary approach provides the opportunity to correctly assess and treat this behavior and its root causes. If not, the community will have a de facto system of ineffective law enforcement intervention, escalation to emergency room visits, or even inpatient psychiatric admission. The behavior may then escalate into delinquency, negative educational consequences, or self-harm.

The challenge of CHINS is determining if the behavior is: “normal” teen behavior; a youth or family in crisis; or a youth who is a victim of abuse or neglect. Truancy, ungovernable, unruly, and the other acts of CHINS can be related to underlying issues in a child’s life.

Adolescent brain development research shows that the brain does not reach full development until the mid-twenties. Specifically, the prefrontal cortex, which allows for regulating emotions, assessing risk, impulse control and other executive functions, is still developing in the teen years. Teens are **wired** to make emotional decisions, exercise immature judgement, succumb to peer pressure, and fail to appreciate risk taking. Underlying disruptive behavior may simply pass with lessons learned or can be addressed with minimal intervention and services: “a teen being a teen”.

A disruptive child may be experiencing a crisis in the home or at school. The child may have experienced trauma or has unmet mental health needs: anxiety, depression, undiagnosed mental health issues, ADHD, etc. The family itself may be experiencing a crisis: serious medical condition, break up of a family, domestic violence, or economic. A family may also have

underlying dysfunctional family problems. A child may be experiencing bullying at school or has unmet special educational needs.

A disruptive child may also be a victim of abuse or neglect. A close examination of many truancy cases unearths neglect issues. All forms of abuse and neglect including domestic violence, substance abuse, lack of parenting skills, physical and sexual abuse can cause a child to run away, not attend school, or act unruly. An inadequate CHINS response will miss these children and unnecessary abuse and neglect will result.

The first step in developing an effective CHINS system of care is the recognition that these are behaviors, which to some extent are to be expected from this age group. These behaviors do not always result in delinquent conduct. It is frustrating to deal with youth who are acting out, but part of their behavior may truly be “normal” or may be a response to conditions at home or school that are beyond their control.

The next step is the implementation of a multidisciplinary approach. Due to the nature of CHINS behavior, different agencies provide services to various aspects of the child’s needs but may not reach the underlying causes or needs of the child and family. An effective system of care will provide prompt screening, ongoing assessments, and appropriate services.

The Georgia Practice Guide to CHINS has been developed through the joint efforts of state stakeholders. The guide provides a basic approach to a CHINS system of care and an expanded approach incorporating best practices.

Principles and Foundations of a CHINS System

A CHINS system requires an organized multidisciplinary approach that is directed by local needs and services in a manner that will support a sustained system. The practice guide is built on the premise of the following requirements:

- 1. Court Protocols**
- 2. Collaboration/ System of Care**
- 3. Assessment: early response, screening, assessment, and ongoing assessment**
- 4. Interventions: diversion and treatment**
- 5. Data**

First Requirement: Court Protocols

Article 5 of the Georgia Juvenile Proceedings Code (O.C.G.A. §15-11-380 *et seq.*) governs proceedings involving Children In Need of Services (CHINS). This Article is wholly new to Georgia's youth law landscape, and blends aspects of child welfare and juvenile justice cases – areas that have not traditionally overlapped in Georgia. The legislative purpose in enacting the CHINS Article (hereinafter, "CHINS") is fourfold:

(1) To acknowledge that certain behaviors or conditions occurring within a family or school environment indicate that a child is experiencing serious difficulties and is in need of services and corrective action in order to protect such child from the irreversibility of certain choices and to protect the integrity of such child's family;

(2) To make family members aware of their contributions to their family's problems and to encourage family members to accept the responsibility to participate in any program of care ordered by the court;

(3) To provide a child with a program of treatment, care, guidance, counseling, structure, supervision, and rehabilitation that he or she needs to assist him or her in becoming a responsible and productive member of society; and

(4) To ensure the cooperation and coordination of all agencies having responsibility to supply services to any member of a family referred to the court.
(O.C.G.A. §15-11-380)

It is immediately apparent that the legislative purpose is based upon an understanding that the etiology of what we have called "status offenses" is complex and that its solution involves more than a simplistic attempt to hold children accountable for their actions. There is certainly an important component of youth accountability in CHINS, put in sharp relief by the fact that the dispositional options for CHINS include supervised or unsupervised probation and any order available for a dependent or delinquent child (except for residential placement) (O.C.G.A. §15-11-442(b)). But the greatest burden of accountability in CHINS is not the youth, as it is in delinquency cases. There are two novel additions to the layers of accountability in CHINS.

First, the clear language of O.C.G.A. §15-11-380 places a real focus on the accountability of families for the kinds of behavior that lead to CHINS. Paragraphs (1) and (2) of that Code Section are frankly family-focused. The child's behaviors are not seen as isolated acts, but as effects that in many instances flow from causes found within the matrix of family behavior and relationships. Steps taken to address CHINS behavior must take into consideration the conditions of family life and the ways in which family life affect the behavior of children. The family focus is not new: it is, after all, the whole focus of Articles 2 (Dependency Proceedings) and 3 (Termination of Parental Rights) in the Code, and these Articles carry forward a good deal of our traditional approach to child welfare cases.

What is new is the legislative recognition that child welfare and juvenile justice are not always an either/or proposition, but overlap in a great many ways. The focus of CHINS is corrective and restorative rather than punitive. Interventions are always to be made in the least restrictive and intrusive way possible (see, e.g., O.C.G.A. §§ 15-11-415(a) [providing that pre-adjudication detention may occur only when "no less restrictive alternatives will suffice"], and 15-11-442(b) [requiring the court to order the "least restrictive and most appropriate disposition"]), and must be designed to help the child "in becoming a responsible and productive member of society" (O.C.G.A. §15-11-380(3)).

These aims cannot be realized, however, without an additional novel layer of accountability, and that is the juvenile court itself. O.C.G.A. §15-11-380(3) and (4) require a plan of treatment for the child and a coordinated network of local services. Ordering a plan of treatment is the sole responsibility of the court: "All disposition orders shall include written findings of the basis for the disposition and such conditions as the court imposes *and a specific plan of the services to be provided*" (O.C.G.A. §15-11-442(c) – emphasis supplied).

CHINS differs starkly from dependency and delinquency proceedings in that there is no responsible agency designated. The Division of Family and Children Services is responsible in cases of foster care, and in cases where its services are needed to achieve reunification even where the child is not in foster care (see, e.g., O.C.G.A. §§15-11-202 and 15-11-215(f)). The Department of Juvenile Justice or an independent probation provider is responsible for services in delinquency cases (see O.C.G.A. §15-11-601).

There is no state agency responsibility in CHINS. Instead, the statute assumes that the court is responsible for creating the protocols and agreements under which services are

provided to children in CHINS cases. After all, no “specific plan of the services to be provided” (O.C.G.A. §15-11-442(c)) can be included in a CHINS order if the court has not previously arranged for the provision of such services. What is the source of a court’s authority for this kind of protocol? O.C.G.A. §15-11-38 provides broad authority for juvenile courts to create protocols for the provision of services in dependency, delinquency, and CHINS matters “within the geographical jurisdiction of the court” (O.C.G.A. §15-11-38(a)). For example:

“the court may enter into protocol agreements with school systems within the court's jurisdiction, the county division of family and children services, the county department of health, DJJ, any state or local department or agency, any mental health agency or institution, local physicians or health care providers, licensed counselors and social workers, and any other social service, charitable, or other entity or any other agency or individual providing educational or treatment services to families and children within the jurisdiction of the court.” (O.C.G.A. §15-11-38(c))

O.C.G.A. §15-11-38(d) requires the creation of a multiagency staffing panel to develop interventions pursuant to the court’s protocols. The creation of this panel can only be the responsibility of the court: there is no other entity with statutory authority to convene and coordinate the efforts of multiple agencies within the court’s jurisdiction. The same Code Section specifically tasks the court staff (other than the judge) with working with the multiagency panel to ensure that the parent (or guardian or legal custodian) and the child understand the importance of following the plan of intervention and services. It is the court which orders the plan, and failure to comply with it may subject the family to a DFCS referral (*Id.*).

Despite ambiguities in drafting, the clear intention of the legislature was to rely upon local juvenile courts to coordinate local services and to marshal them in a coherent plan for the remediation of CHINS behaviors. There is no other authority capable of doing this, and without the convening authority of the court, there can be no implementation of CHINS. It appears anecdotally that avoidance of CHINS implementation is in fact the approach of some courts. The kinds of activities envisioned by O.C.G.A. §15-11-38 are unusual in the experience of many judges, and the work of local convening is often difficult, especially in areas without a robust array of service providers.

Weighing against these difficulties, however, is the generous grant of flexible authority enshrined in CHINS: authority which may be brought to bear on the behaviors which most directly deflect youth from successful outcomes. Juvenile Courts have an unprecedented ability

in CHINS matters to construct the framework for successful interventions. It is a common complaint that the CHINS Article lacks specific statutory direction except in broad procedural and due-process areas. But the lack of a statutorily-designated agency and the broad parameters of the court's convening authority create a situation in which the court is free to craft a set of procedures which make the best use of the actual resources available for interventions. CHINS provides the outlines and boundaries within which courts address these cases, but leaves the procedures for providing services directly to the court. This is an ability unavailable to almost any other court in Georgia, and unavailable to juvenile courts in dependency and delinquency matters.

CHINS encourages courts to be creative and proactive in addressing individual and family responsibility for children's behavioral issues, and provides broad authority for designing a system of service delivery. Courts should embrace this opportunity. CHINS interventions may prevent children from becoming delinquent or dependent by addressing the underlying causes of such behavior, rather than simply reacting to behavior after the fact. Courts which neglect CHINS jurisdiction rob the children and families in their communities of vital interventions which can change the course of a child's life for the better, and deny themselves the opportunity to become the center of gravity in their communities for provision of services to children in need. Juvenile court judges have the expertise, experience, and wisdom to oversee the protocols needed for CHINS cases, and the responsibility to employ these strengths for the benefit of their communities. CHINS provides an arena for judges to shine as problem-solvers and as benefactors of families.

Second Requirement: Collaboration/ System of Care

Given the multi-faceted needs of the CHINS population, the most effective response necessitates an interplay of the various agencies that serve families and children. Collaboration occurs when the various stakeholders work together toward common goals. It requires cooperation and collective action, which often best occurs in regular meetings and task teams. Those task teams can be ongoing or targeted for specific projects.

CHINS matters are behavioral-based and require an integrated multi-disciplinary approach. A child may be experiencing normal developmental immaturity or a situational crisis at school or home. The child and family will have multiple and varying needs requiring the services of different agencies. The system of care can blend those services into a coordinated approach to provide the best outcomes. The goal is to have a framework that supports a collective team approach and will sustain the efforts over time.

Role of the Judge:

I. Introduction

The most important role among all stakeholders involved in any juvenile justice and child welfare system is the juvenile court judge and this includes working with children in need of services (CHINS), the focus of this Practice Guide. When considering the varying descriptions of the juvenile court and its role in juvenile jurisprudence, we find a class of judges unlike any other that extends beyond the traditional and embraces the nontraditional. The role of the juvenile court judge combines judicial, administrative, collaborative, and advocacy components, and it's the latter two descriptions that invites for some feelings of dread, anxiety, and even anguish. It is for these feelings of angst that it becomes essential, if not critical, that a conversation take place in the beginning of this Practice Guide about the role of judges in matters involving children in need of services, and also because CHINS involve special needs that in some critical ways distinguish them from delinquent and dependent children. These unique characteristics of CHINS underscores the importance of the nontraditional role of juvenile court judges if the best outcomes are to be achieved at the systemic level, as well as at the individual level involving the child and his or her family.

II. The Unique Characteristics of CHINS that Define the Judge's Role

As discussed elsewhere in this Guide, the adolescent brain research conducted in the late nineties revealed that adolescents are neurologically wired to do stupid things despite their intensive intellectual and creative activities.¹ The frontal lobe cortex is what translates emotion into logic and is critical to governing our handling of conflict and processing critical reasoning, but we learned from the MRI studies that the frontal lobe is not fully developed until about age

¹ *Brain development during childhood and adolescence: a longitudinal MRI study*, Jay N. Giedd, Jonathan Blumenthal, Neal O. Jeffries, F. X. Castellanos, Hong Liu, Alex Zijdenbos, Tomás Paus, Alan C. Evans, and Judith L. Rapoport

twenty-five (25). This discovery corroborated what the behavioral sciences have been saying for decades to explain the risk-taking behaviors of teenagers, and supporting the adage often repeated by adults angered by maddening teenagers, "He is going through the teenage rebellious years."

This research has taken hold and is driving policy through the law in very profound ways as demonstrated by the U.S. Supreme Court landmark decisions in *Roper v. Simmons*² striking down the execution of juveniles and *Graham v. Florida*³ and the *Miller v. Alabama* and *Jackson v. Hobbs*⁴ decisions striking down life sentences without the possibility of parole for juveniles. These decisions illustrate the impact of research on due process, which is analogous to how juvenile court judges can enhance due process on the bench by working off the bench to provide leadership in building a system of care that delivers better outcomes at all stages of a CHINS process.

Keeping in mind that CHINS are not delinquent (although at risk of becoming delinquent), our understanding of the adolescent brain and how it works demands that judges work to create a system that accommodates the uniqueness of CHINS who's adolescent brain, already prone to risk-taking and making adults mad, are often suffering from abuse, neglect, and other traumatic issues. How judges respond to these non-delinquent, high needs teenagers can help them or hurt them, and avoiding harmful unintentional consequences requires the judge to bring stakeholders together to build a system of care that is grounded in practices supported by research.

This research is what drove our policymakers in 2013 to remove the Valid Court Order (VCO) exception in the Georgia juvenile code. The original purpose of the VCO exception was to provide judges with a tool to enforce their orders and protect status youth who repeatedly exposed themselves to harmful situations. The philosophy was that youth should be held accountable for disobeying the court, and some youth, particularly chronic runaways, were safer locked up than they would be on the street. Notwithstanding this philosophy, we have since learned that detaining youth in secure facilities has proved to cause far-reaching, negative consequences. Research shows that youth who spend time in secure custody are less likely to complete high school, avoid re-arrest, find employment, and form stable families. They are also more likely to abuse drugs and alcohol.⁵ Ironically, the risk associated with status youth becoming delinquent is increased when they are introduced to criminogenic environments like detention centers, and thus a pathway to delinquent conduct and adult criminality is

² 543 U.S. 551 (2005)

³ 130 S. CT. 2011 (2010)

⁴ 132 S. CT. 2455 (2012)

⁵ M. Szalavitz, Why Juvenile Detention Makes Teens Worse. Time Magazine. Aug. 7, 2009. Retrieved from <http://www.time.com/time/health/article/0,8599,1914837,00.html>

accelerated. Furthermore, youth of color continue to be disproportionately impacted by the juvenile justice system, including at the detention stage.⁶

The underlying causes of status offenses are typically linked to factors associated with family dynamics, school concerns, trauma, mental health needs, and peer group influences.⁷ Locked detention is not designed to treat or to resolve such causes. Rather, the negative outcomes that can arise from detention far outweigh any benefits of short term confinement with no access to critical services needed to eliminate the reasons for running away in the first place. Detention can exacerbate underlying causes of the young person's behavior and simultaneously expose them to predatory behaviors of other youth charged with more serious, delinquent offenses. This exposure can increase the risk of emotional harm and escalation of delinquent behavior.⁸

For all of these reasons, detention should never be the default option in matters involving CHINS. Rather, secure detention should only be used if a youth poses a serious threat to public safety, or if there is a strong, documented reason to believe that the youth will not return to court for required hearing dates. Status offenses such as running away, skipping school, violating curfew, and using tobacco and/or alcohol under age generally do not meet this threshold.

Limiting judges' ability to order the detention of status youth has historically been a source of contention among judges, placing judges at odds with many juvenile justice practitioners, service providers, and advocates. Therefore, it is important that a frank discussion is had regarding the judge's role in CHINS cases whenever it involves detention.

At times, status youth (CHINS) present a threat to themselves, and naturally we want to protect them. However, using detention with the intention of safeguarding youth facilitates a process that exposes status youth to greater risks and may cause their behavior to deteriorate, sometimes causing a greater threat to themselves or others. This presents a difficult paradox for juvenile court judges, believing that judges must decide between the lesser of two evils: 1) do we release a status youth to his or her family or community and run the risk that s/he may be victimized or run away again? Or 2) do we detain them, knowing that detention may expose the youth to further physical and emotional harm? No matter how difficult the choice, we must

⁶ B. Holman & J. Ziedenberg (2009). The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities, A Justice Policy Institute Report (The Justice Policy Institute, Washington, DC).

⁷ National Center for School Engagement. (2009). What is Truancy? (NCSC, Denver, CO) at <http://www.schoolengagement.org/TruancyPreventionRegistry/Admin/Resources/Resources/40.pdf>; H. Hammer, D. Finkelhor, & A. J. Sedlak, NISMART: National Incidence Studies of Missing, Abducted, Runaway and Thrownaway Children, Runaway/Thrownaway Children: National Estimates and Characteristics. (U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Washington, DC, 2002) at <http://www.ncjrs.gov/pdffiles1/ojdp/196469.pdf>

⁸ U. Gatti, R. E. Tremblay, & F. Vitaro, Iatrogenic Effect of Juvenile Justice, 50 Journal of Child Psychology and Psychiatry (2009); D. Weatherburn, The Specific Deterrent Effect of Custodial Penalties on Juvenile Reoffending (Australian Institute of Criminology, Canberra, 2009).

guard against doing anything that will make matters worse, even when it feels contrary to our protective instincts. When we as judges fail to guard against this, we may end up contributing to juvenile delinquency and future offending, rather than preventing it.

It is this “Lesser of Two Evils Dilemma” that creates this provocative debate around detention of CHINS, but this dilemma also emphasizes the need for judges to work off the bench using their inherent collaborative influence as well as their statutory authority (as described below) to create a system of care that targets the underlying reasons status youth behaviors.

Finally, developing a system of care is critical to creating a “Front-End Loading” approach to case processing of CHINS, which involves a system that delivers services to CHINS at the front door of the court to avoid the child’s appearance in court, if possible. Just as the research shows that students are twice as likely to drop out of school if arrested on campus, and four times likely if they appear in court,⁹ the research is similar for CHINS as stated earlier. The juvenile court should be reserved for the kids that scare us, not those who make us mad, and when a CHINS requires a petition, it should ideally be reserved for the most serious cases necessitating a court order tailored to the child’s needs.

Juvenile court judges are uniquely situated within the juvenile justice system to understand these unique characteristics of a CHINS, and to influence others in the system to work together in a system of care that specializes in targeting CHINS to assess and treat on an individual basis. The next section discusses the juvenile court judge’s unique role as a convener, and how this role is critical to creating a system of care to address CHINS before, or upon entering the door of the juvenile court.

Basic Requirements for Collaboration and the System of Care:

(1) Participants.

The system of care requires an inclusion of all agencies that routinely interact with children and families in Juvenile Court: Court, Department of Juvenile Justice, Department of Family and Children Services, Prosecution, Defense Counsel, Guardian ad Litem, Mental Health, Schools, Law Enforcement, and private providers. This list is not exhaustive and should be tailored to each individual community. Other possible members are the faith based community, civic organizations, CASA, and other nonprofit agencies.

The members of each agency will need to be individualized by agency structure. For example, school system administrations vary greatly in structure and duties. The school portion may also include school resource officers, school social workers, and counselors. Each Juvenile Court has its own staff structure and administration duties. Also, law enforcement may consist of only the Sheriff’s office or have multiple municipalities.

⁹ Sweeten, G. (December, 2006). *Who will graduate? Disruption of high school education by arrest and court involvement*. Justice Quarterly, 24(4), 462-480.

It is important to have buy-in from each agency's leadership and participation by each agency's employees who will be in position to make decisions and support the work of the collaborative.

Membership decisions are locally driven. The goal is to have those at the table who can provide the resources and services for the multiple needs of the families and children. The system of care needs to work in a coordinated effort. Task groups can be formed for ongoing issues such as needed or specific goals.

(2) Meetings

A regular meeting or staffing schedule needs to be established and followed. Local needs will dictate the schedule. It is also helpful to have a name or designation for the group, i.e. "ARCC": At Risk Children's Committee. The task groups should have regular meetings as well. Monthly reports of all group efforts should then be provided to all members on a regular basis. Sustainability requires the ongoing commitment of all participants. Delegation of responsibilities and tasks within the collaborative to the various stakeholders will provide buy in and stronger support for the system of care.

The local system of care should be an ongoing and sustained multi agency effort. Memorandums of Understanding will clearly define roles, guide the coordination of services, and allow the sharing of treatment information for identified CHINS. In addition, there should be regularly scheduled meetings, temporary task teams, and agency leadership communications. Collaborative partners should share in the administration of the system of care. The CHINS system of care should be an integral part of the system as are arraignments, initial reviews, and all other requirements of the juvenile code.

Best Practices:

Collective Impact Formula

An advanced form of collaborative work is named "collective impact formula" and is utilized by both the private and public sector. It is best described as a highly structured form of collaboration: Common Agenda, Mutually Reinforcing Activities, Continuous Communication, Shared Measurement System Base/Support Organization. Given the complexity of this approach, it is not included in this practice guide but reference is made for those who are interested.

The Judge's Role as Traffic Cop: The Crossroads of Systems

To address the unique needs of CHINS, and avoid the harmful effects associated with detention and court involvement, a "Community Based Model" (CBM) that includes juvenile

court judges as conveners has shown to be effective in improving outcomes for CHINS. This model was published in 2010,¹⁰ and it is grounded in three key suppositions:

- First, the model recognizes that juvenile courts are generally the worst delivery system of direct services to youth. The primary function of the court is to adjudicate youth and hold them accountable in keeping with due process. Juvenile courts are not effective treatment providers, and many courts do not possess the resources required to treat the underlying needs of youth, including status youth.
- Second, the model recognizes that the "juvenile justice system" is not only the court, but includes all public and private entities that service youth. Sadly, the negative characteristics of bureaucracies may create "silos" and barriers to communication among court service/youth service entities. Such disconnection wreaks havoc on youth and families, especially if the youth and/or family have multiple needs requiring services from two or more entities. In addition, when two or more providers work with a single youth/family without coordination to address different needs, they sometimes work at cross-purposes. Many communities, by and through various providers, are equipped to address most of the needs presented by status youth and to develop a cooperative treatment plan to meet all of the identified needs of status youth.
- Finally, the community-based model presupposes that juvenile courts are incomparable agents for change within the juvenile justice system. The juvenile court sits at the intersection of juvenile justice, youth success, and community safety, and the juvenile court judge is the traffic cop. Of all stakeholders, juvenile court judges have the greatest potential to influence and connect everyone who can help meet the needs of youth and families.

In addition to deciding cases fairly, juvenile court judges must play an active role in bringing together the multiple child service agencies in our communities to ensure that our collective efforts are producing the best outcomes for youth, families, and communities. Put another way, judicial leadership both from the bench and off the bench is the key to good practices whether involving detention decision-making, producing effective disposition orders, and key to CHINS is creating systems of care using a CBM. This has been coined "The Dichotomy of Judicial Leadership," meaning that we should endeavor to be judges from the bench, but off the bench we should advocate for collaboration.¹¹ As pointed out by former NCJFCJ President Judge Leonard P. Edwards, "This may be the most untraditional role for the juvenile court judge, but it may be the most important."¹²

¹⁰ Teske, S. & Huff, B. (2010). *The dichotomy of judicial leadership: Using collaboration to improve outcomes for status offenders*. *Juvenile & Family Court Journal*, 61(2), 54–60.

¹¹ Teske, S. & Huff, B. (2010) at p. 57.

¹² Leonard P. Edwards, *The Juvenile Court and the Role of the Juvenile Court Judge*, 43 *Juvenile and Family Court Journal*, Spring 1992, at 29.

The Nontraditional Role of the Georgia Juvenile Court Judge as Public Policy

It is a matter of public policy in Georgia for juvenile court judges to embrace this dichotomy to bring the courts and local stakeholders to the table to create a system designed to divert status youth away from detention and into programs that better serve them. The law creating this public policy is found in O.C.G.A. §15-11-38, which authorizes juvenile court judges to establish “a community based risk reduction program, within the geographical jurisdiction of the court, for the purpose of utilizing available community resources in assessment and intervention in cases of delinquency, dependency, or children in need of services . . .” This statute expressly authorizes juvenile court judges to collaborate with other stakeholders by bringing them together to enter into written protocols. This section will discuss the framework of §15-11-38 and how collaboration should be employed within the judge’s role working off the bench.

A community based risk reduction program allowed pursuant to O.C.G.A §15-11-38 is aligned with the CBM described in the previous section because the creation of such program is squarely placed on the shoulders of juvenile court judges by convening community stakeholders. O.C.G.A. §15-11-38 (c) provides:

As part of an early intervention program, the court may enter into protocol agreements with school systems within the court's jurisdiction, the county division of family and children services, the county department of health, DJJ, any state or local department or agency, any mental health agency or institution, local physicians or health care providers, licensed counselors and social workers, and any other social service, charitable, or other entity or any other agency or individual providing educational or treatment services to families and children within the jurisdiction of the court.

In keeping with the Code of Judicial Conduct, policymakers were careful to make sure that the juvenile court judges roles are narrowly tailored to achieve the ends of collaboration: improvement of systems through candid discussions between local stakeholders including experts in education, social services, mental health, families, and service delivery. O.C.G.A. §15-11-38 (c) limits the judge’s role to avoid any conflicts stating “The court's involvement shall be for the limited purpose of facilitating the development of the program and for the purpose of protecting the confidentiality of the children and families participating in the program.” The judge’s limited role, albeit critical to creating a system of care, is further addressed in O.C.G.A. §15-11-38 (d) by providing that “The staff of the court, ***other than the judge***, shall work with the other agencies involved to educate a child's parent, guardian, or legal custodian and such child on the importance of following the intervention plan and on the consequences if anyone is referred to the court.”

Understanding public policy that promotes collaboration is one thing, but understanding collaboration and how juvenile court judges should collaborate is an entirely different thing.

This requires defining collaboration within the framework of judicial leadership, and a discussion of how collaboration works for judges.

Understanding collaboration requires an understanding of how systems work. As previously stated, CHINS suffer from any number, or combination of issues that cause their disruptive, ungovernable, and/or truant behaviors. Using an epidemiological approach to addressing such behaviors, a system of care adopts two basic epidemiological principles that drive assessment and treatment of disruptive behaviors just as epidemiologists do for diseases: 1) Disruptive behaviors do not occur by chance, there are always determinants for the disruptive behavior to occur; and 2) Disruptive behaviors are not distributed at random: distribution is related to risk factors that need to be identified, studied in order to identify solutions. This public health model approach guides systems of care to view the behaviors that decide a child to be in need of services as symptoms of an underlying cause that needs to be studied in order to assign the appropriate treatment that will ameliorate the root cause.

But traditionally, this burden of assessment and treatment has been shouldered by juvenile courts and as presupposed using the CBM, juvenile courts are generally the worst delivery system of direct services to youth. Knowing that many of the root causes of CHINS involve the child's emotional and psychological welfare that has been negatively impacted by trauma in varying forms, assessing the causes and treating them extends beyond the capacity and capabilities of a court. It requires multiple stakeholders working together on the same child that is managed by a single system acting as an umbrella that can strategically divide labor among its providers to maximize efficiency and effectiveness while avoiding the duplication of services.

How judges bring stakeholders together requires a discussion of collaborative theory and the connecting of organizations to enhance desired outcomes of each participating organization. Applying a systems model to collaborative phenomena requires a shift from the organization to the problem domain.¹³ When this shift occurs, the nature of the questions also changes. A problem domain-focused as opposed to an organization focused analysis drives the evaluator to understanding that each system sometimes works within a larger system with shared boundaries. Instead of asking how do we address disruptive youth, which will lead to punitive measures given the shortfall of resources, the question becomes who else shares our problem and has resources to help us? By shifting from an organization to a problem domain-focused lens when problem-solving within a multi-system framework like juvenile justice, collaboration becomes the core value in the algorithm for reducing disruptive like behaviors. Focusing only on the court as a subset of a larger system doesn't invite collaboration, and when collaboration doesn't occur to solve a problem that requires multiple stakeholders, the outcomes are poor. But when all stakeholders are engaging together under a single umbrella called a system of care toward a single desired outcome (i.e. reducing disruptive and truant behaviors), the likelihood for success increases.

¹³ Wood, D. & Gray, B. (June 1991). *Toward a comprehensive theory of collaboration*. Journal of Applied Behavioral Sciences. 27(2). 139-162.

A review of the literature reveals several definitions of collaboration, but we have chosen the following we believe encompasses all attributes of collective action:

Collaboration occurs when a group of autonomous stakeholders of a problem domain engage in an interactive process, using shared rules, norms, and structures, to act or decide on issues related to that domain.¹⁴

This definition, however, does not identify how collaboration begins and by whom, which requires a discussion of leadership and other related factors that drive organizations to take collective action to solve a problem. Generally, organizations that seek collaboration do so when influenced by any one or combination of factors that include consequential incentives, interdependence or uncertainty.¹⁵ It is important to understand that these factors may be used by one organization to influence another to join a collaborative effort. For example, a juvenile court judge who recognizes a 1,248 percent increase in school referrals to the court—of which 92 percent are low level offenses including school fights, disorderly conduct, and disrupting public school, as was the case in Clayton County, Georgia—is burdened with an overwhelming docket. This becomes a consequential incentive to address the negative impact of zero tolerance.

Agency collaboration becomes an opportunity to show police and the school system the negative impact of low level referrals, including a decline in graduation rates and little to no improvement in reducing drugs and weapons on campus. It is an opportunity to convince the other stakeholders that the problem is interdependent because no organization on its own can increase graduation rates, improve school safety and reduce the court docket. To act alone brings some uncertainty, but acting together reduces fear of the unknown through the “interactive process,” also coined “Principled Engagement”.¹⁶

There remains one other factor essential to driving collective action—leadership. There is usually an identified leader in a position to initiate the collaborate effort. Leadership typically takes the form of a convening role. A convener’s role is “to identify and bring all the legitimate stakeholders to the table”.¹⁷ The convener, in order to be effective, must possess the following characteristics:

- Convening Power—the ability to bring stakeholders to the table;
- Legitimacy—the stakeholders perceive the convener to have authority, formal or informal, within the problem domain;

¹⁴ Wood, D. & Gray, B. (June 1991).

¹⁵ Emerson, K, Nabatchi, T. & Balogh, S. (May, 2011). *An integrative framework for collaborative governance*. Journal of Public Administration Research and Theory. 22. 1-29

¹⁶ Emerson, K, Nabatchi, T. & Balogh, S. (May, 2011).

¹⁷ Gray, B. (1989). *Collaborating: Finding common ground for multiparty problems*. San Francisco: Jossey-Bass.

- Vision—the convener understands the problem domain and related issues to process stakeholder concerns and needs; and
- Stakeholder Knowledge—the convener can identify the stakeholders and possesses knowledge of each stakeholder role in the problem domain.¹⁸

Within the problem domain of juvenile justice, child welfare, and CHINS, it follows that juvenile court judges possess all the characteristics of a convener to bring stakeholders together. The juvenile court is the one place where all agencies serving children and youth intersect. The juvenile court is the common denominator of all child service agencies.¹⁹ With the juvenile court situated at the crossroads of juvenile justice, the juvenile judge is placed in a unique role.²⁰ Juvenile judges are “incomparable agents for change within the juvenile justice system, and with the respect and authority accorded the bench, are in a unique position to bring together system stakeholders.”²¹ Their authority on the bench translates into informal authority off the bench,²² except in Georgia where legislators acknowledged the value of a juvenile court judge’s informal authority and elected to formalize it through O.C.G.A. §15-11-38.

An example of convening to create a community based risk reduction program is the Clayton County Collaborative Child Study Team, or also referred to as the Quad C-ST. It is a multi-disciplinary panel created by the judges in Clayton County using O.C.G.A. §15-11-38 to address CHINS. The number of CHINS petitions filed with the court fell dramatically, and outcomes improved through an improved delivery of services that 1) targeted the underlying causes of the disruptive and truant behaviors using assessment tools created by providers; 2) developed evidenced based programs and treatment to match the child’s underlying issues causing the disruptive and truant behaviors; 3) delivered services consistently to ensure treatment is not disrupted; 4) reduced the time it took to respond to the needs of the child by cutting out the petition filing process except for those who refused services; and 5) created quality control measures under a system of care model to collect data and measure performance and outcomes. The system of care in Clayton County is a 501 (c) (3) and is funded through different sources including the Clayton County Public School System, Clayton County Juvenile Court, Kaiser Permanente, and several grants.

Conclusion:

Effective treatment for CHINS requires ongoing effort. The Court has an obligation to establish a system of care that sustains as an ongoing court process. There needs to be a

¹⁸ Gray, B. (1989)

¹⁹ Teske, S., (2011) *Journal of Child and Adolescent Psychiatric Nursing* 24 88–97 Wiley Periodicals, Inc., 1.

²⁰ Teske, S. & Huff, B. (2010) at p.7

²¹ Teske, S. & Huff, B. (2010) at p.7

²² Wood, D. & Gray, B. (June 1991)

commitment from the various agencies and an organized system of care. Flexibility is needed for local needs, but there should be in place a known system with regular ongoing meetings, staffings, and work.

The role of the judge in matters involving CHINS is broad to include the authority to bring stakeholders together for the purpose of collaboration. It is a matter of public policy in Georgia for juvenile court judges not to be confined to the bench, but to work collaboratively off the bench to enhance the traditional role of due process on the bench. The extent to which any juvenile court judge is effective in matters involving children and adolescents is directly proportional to the services he or she can access in the community. Georgia policy makers acknowledged the unique role of juvenile court judges to forge partnerships for the benefit of children and youth, and made formal what was already an informal authority to engage community stakeholders to create community based risk programs to prevent and address delinquency, dependency, and CHINS through O.C.G.A. §15-11-38.

Collaboration is a core strategy in addressing the underlying issues of CHINS because the juvenile court, nor any single entity, can adequately assess and service the needs of a child exhibiting disruptive and truant behaviors. It literally takes a village to fix the child, but someone has to call the village together, and that someone is the juvenile court judge. The juvenile court judge possesses the key characteristics of an effective convener, and most importantly he or she is at the crossroads of the juvenile justice, dependency, and CHINS systems. Whether it may feel comfortable or not, juvenile court judges are unlike any other class of judges because they are incomparable agents for change. We have been given the tools to create a system of care that improves outcomes for status youth.

Third Requirement: Assessment Process

The statutory purpose of Child in Need of Services is found at O.C.G.A. §15-11-380:

- (1) To acknowledge that certain **behaviors or conditions** occurring within a family or school environment indicate that a child is **experiencing serious difficulties** and is in **need of services** and corrective action in order **to protect such child from the irreversibility of certain choices** and to protect the integrity of such child's family;*
- (2) To make family members aware of their contributions to their family's problems and to encourage family members **to accept the responsibility to participate in any program of care** ordered by the court;*
- (3) To provide a child with a **program of treatment, care, guidance, counseling, structure, supervision, and rehabilitation** that he or she needs to assist him or her in becoming a responsible and productive member of society; and*
- (4) To ensure the cooperation and coordination of **all agencies having responsibility** to supply services to any member of a family referred to the court. (emphasis added).*

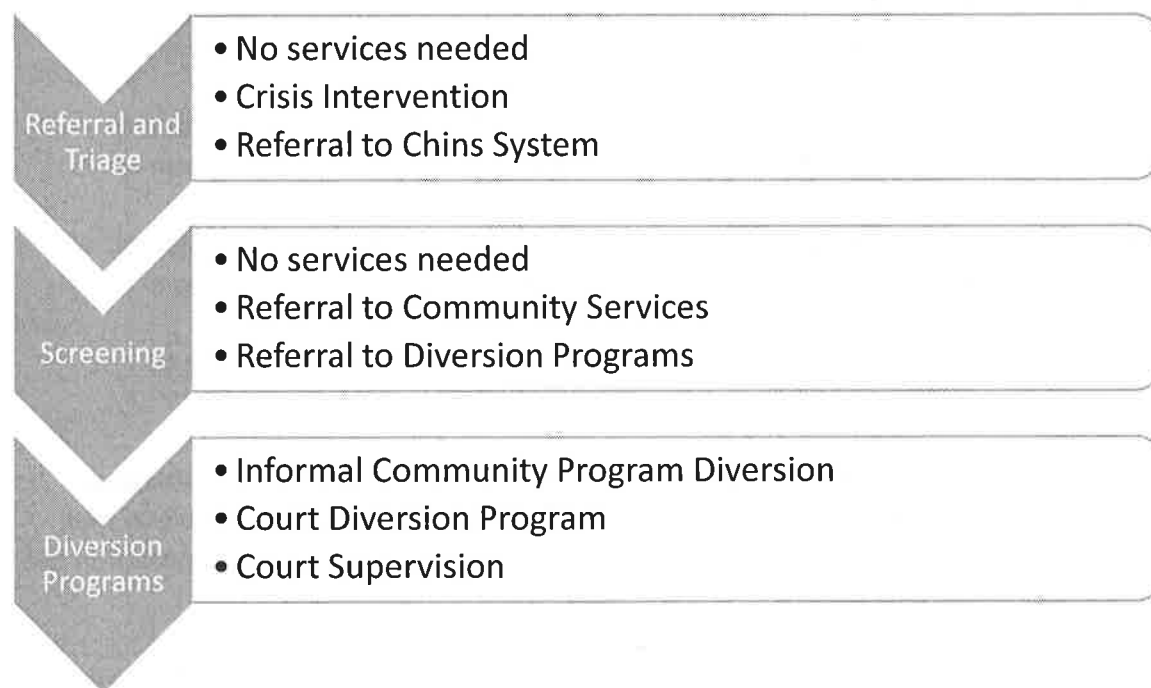
The legislative intent is clear: the focus for a child in need of services is a multiagency system of care to address the behavioral needs of the child as well as the family's role in that treatment. The foundation of a successful system involvement is an accurate assessment of the needs of the child and family.

The first step in the assessment process is the referral and triage. Many of these youth are in crisis mode. Without an effective behavioral health response, parents, schools, and others may only have the option to call law enforcement or the emergency room. The result may then be a brief detention or stabilization stay in a psychiatric facility with little to no follow up. The local CHINS collaborative must determine how crisis interventions will occur, which could include crisis intervention training for schools and law enforcement.

The next step is screening. Screening can range from a basic interview with the family and child, informal assessment tools, to formalized evaluations depending on the local needs and resources. The screening process will determine the child's needs and appropriate services. The overriding goal is to keep low need/low risk youth out of the court system and when to link those higher need youth with appropriate services in the community.

If a referral to community services does not meet the child's needs and formal court intervention is necessary, then a reassessment process should be in place. Ongoing reassessment will ensure the services put in place are targeting the child's needs, that the family is meeting its obligation to participate and support the child, and whether more court intervention is needed. The reassessment process can then identify children who are victims of abuse or neglect and require protective services.

The local system of care must establish an assessment process integrated into its protocols. The assessment process should track as follows:



Mental health and behavioral services vary greatly in each community. Community resources and involvement vary as well. In establishing the local system of care, the CHINS collaborative will need to assess what services exist, agency capacity, and the best multiagency approach. The various agencies will need to assess the community needs, resources, and develop protocols: how are referrals made, who can triage, who will screen and what screening tools will be used, are there community services to meet needs outside of court involvement, how will cases be managed, who will be responsible for reassessments.

Due to the unique nature of each mental health system of each jurisdiction, each approach will be different. The triage, screening, and assessment process will be determined by the local system of care.

Best Practices:

1. Crisis Intervention Response Services. Established protocol to triage emergencies and refer families to appropriate behavioral services rather than the use of emergency room care or the justice system. Examples would include triage responder, crisis hot lines, mobile services, crisis stabilization units, and respite care programs.

2. Diversion from court contact by the use of a multidisciplinary team to establish early intervention with referral to appropriate services. Examples would include L.I.P.T. and truancy panels.

3. "Diversion Hubs": central service provider to conduct the screening, assessments, coordinate and connect to ongoing services and provide ongoing case management. Examples include MARC, multi-agency resource center; Juvenile Assessment Resource Centers; and Community Treatment Centers.

Fourth Requirement: Interventions

The interventions or programs for CHINS will vary for each jurisdiction based on needs, resources, and commitment of the local system of care. A collaborative should routinely assess the needs of the community, develop appropriate resources, and ensure accurate screening, assessments, and case management are occurring.

Examples of interventions include parent teen communication, anger management, functional family therapy, strengthening families, multisystemic therapy, and truancy panels. Protective orders to ensure parental compliance are available pursuant to O.C.G.A. §15-11-29 and 29.1. Protective orders are very effective with truancy cases involving middle and elementary school age children.

Best Practices:

Given that CHINS are non-criminal and non-violent behavioral matters, all efforts should be made to minimize formal court involvement. “Diversion Hubs” which serve as central assessment and service providers will best meet the needs of CHINS. Examples include MARC, multi-agency resource center; Juvenile Assessment Resource Centers; and Community Treatment Centers.

The process of referral, screening, and any case management will depend on resources available and it may not be feasible or preferable to occur outside the court setting. If diversion hubs are not available, then the protocols should minimize formal court involvement. Diversion programs similar to informal adjustment should be put in place. If a diversion fails, then the matter can be referred to the court for protective orders and/or more strict case management.

Fifth Requirement: Data

Accurate and useful data is vital in today's court system. A valid data system provides the basis for support to sustain the daily work of a system of care. Funding decisions and community support are often linked directly to data: in defining the issues and reviewing results. An effective data protocol will standardize the collection process, track outcomes, target community needs, identify system strengths and weaknesses, and serve as a basis for ongoing review and improvement.

Data fields should include biometrics such as gender, age, race, type of case and outcome results and tracking. Suggested data fields:

Biometrics: age, gender, race/ethnicity, offense(s)

Outcome: Diversion at Intake; Diversion to DJJ; Diversion to DFCS; Diversion agreement successful; Diversion agreement failed; Court Intervention

Reentry: 6 month pre-offense and 6 month, 12 month post case closed: number and type offense(s);

Education: 6 month pre-offense and 6 month post, 12 month post case closed: attendance, disciplinary reports, grade point average;

Services provided to the family: (list of current court programs);

Well-being: 6 and 12 month post-closing of case: youth reports same, better, or no difference; family reports same, better, or no difference

90 day follow up as to the child and the family

Data fields can be tailored to local issues but should include basic biometrics and outcome measures. The local data collection system will depend on available resources and can range from a basic manual entry spread sheet to computer case management programs. Court staff should inquire with their current court system providers as to possible modifications of existing case management computer systems. Many systems currently collect the biometrics and may be able to easily add additional data fields.

Best Practices:

The Carter Center has developed a data dashboard as part of its CHINS pilot project. The data system is in use in the Northwest Regional System of Care in the following counties: Cherokee, Douglas, Haralson, Paulding, and Polk.

Acknowledgments

The intent of this guide is just that: to serve as a guide for judges and the local systems of care as they work to serve the needs of CHINS and their families. Hon. Michelle Harrison, Douglas County Juvenile Court and Chair of the Council of Juvenile Court Judges CHINS Committee and Hon. John Sumner, Cherokee County Juvenile Court and Co-Chair of the Council of Juvenile Court Judges CHINS Committee oversaw the creation of the guide with the invaluable assistance of Council Staff Anne Kirkhope. Hon. Steve Teske, Clayton County Juvenile Court and Jerry Bruce of the Office of Administrative Courts contributed to key sections in the guide.

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APPENDIX

