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The Competency Attainment Outcomes of 1,913 Juveniles Found Incompetent to Stand Trial

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Our study examines the outcomes of remediation services provided to 1,913 juveniles who have been determined to be incompetent to stand trial and ordered into remediation services by the court. These services were offered based upon statutory guidelines legislated in 1999, through a statewide, community-based program maintained by the Virginia Department of Behavioral Health and Developmental Services (VA DBHDS). Recipients of these services were eight through 18-years-old and were predominantly African-American (73%), Caucasian (21%), and Hispanic (3%). Our outcome data indicate that 76% of the youth ordered into remediation services were determined by the court to have been remediated, 19% unlikely to attain competency, and 5% had their charges dismissed. Remediation services were offered within the community and received by the majority of the youth within three months at an estimated cost of \$5,000 per juvenile. Rates of remediation differed based upon the age and mental status of the youth receiving services with 7% of youth aged eight to 10 years being remediated compared to 44% of those aged 14 to 16 years of age. Youth with a diagnosis of both intellectual disability and mental disorder were the least likely to be remediated with 51% determined to be unlikely to attain competency and an additional 28% having their charges dismissed. These outcomes are similar to those obtained with incompetent adult defendants, often through costly periods of inpatient hospitalization, raising the question of why states would not provide these due process protections to the most vulnerable youth within the juvenile system.

Key words: juvenile competency, juvenile attainment, competency to stand trial, juvenile remediation, attainment outcome

THE COMPETENCY ATTAINMENT OUTCOMES OF 1,913 JUVENILES FOUND INCOMPETENT TO STAND TRIAL

In response to the robust documentation of the vulnerabilities of many delinquent youth, scholars, researchers, and policy analysts have increasingly joined forces in advocating for the importance of greater legal protections for youth involved in the juvenile justice system (Teplin, Abram, McClelland, Dulcan, & Mericle, 2002; Viljoen, Klaver, & Roesch, 2005). Gone are the days of a gentle juvenile court defined primarily by a parental-like concern about the treatment and rehabilitation of wayward youth. In its place, has emerged a juvenile court that is determined to hold youth accountable while providing good enough services and ensuring that youth are afforded the legal rights that have been awarded to them by statute and judicial decision-making. One topic that has found resonance as part of this transformation involves the doctrine of competency to stand trial as it might be interpreted and applied in juvenile court.

Defined specifically in *Dusky v. United States* (1960), the U.S. Supreme Court determined that in order to proceed through an adjudicatory process, defendants in criminal court must have "...sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding" and "a rational as well as factual understanding of the proceedings against him." These capabilities were seen as central to autonomy of the defendant's decision-making, essential in reducing erroneous convictions, and pivotal in preserving the integrity and dignity of the legal process (Bonnie & Grisso, 2000).

The application of this doctrine to juvenile court seemed to many a natural extension of the right to an attorney as articulated in *In re Gault* (1967) and as a requisite predicate to the more adversarial processes being promoted in juvenile court. This position has now been arguably accepted throughout the United States with all 47 U.S. jurisdictions that have examined the issue affirming its applicability in juvenile court. As of May 2018, the National Conference of State Legislators reported that only 21 states had enacted juvenile-specific competency laws, with the U.S. Supreme Court having yet to rule on its necessity in juvenile court (Soulier, 2012). However, in many additional states, courts have held that adult competency statutes apply in juvenile court. Moreover, since 2010, eleven states have enacted juvenile-specific competency statutes with Michigan, Oregon, South Dakota, and Georgia all having passed them in the past five years.

Despite this growing endorsement of this legal right in juvenile court, a number of legal and programmatic questions remain unanswered and unresolved. Bonnie and Grisso (2000) have endorsed the principle, but argued that an alternative legal standard may apply when juveniles are being adjudicated in juvenile court, particularly when the potential outcomes are less serious with shorter or abrogated periods of incarceration for the juvenile being adjudicated (Grisso, 2004). Developmental researchers have emphasized the importance of psychosocial maturity to the decision making of youth, implying the relevance of these considerations to the assessment

of competency in juvenile court (Steinberg, Cauffman, & Monahan, 2015; Kruh & Grisso, 2009; Stepanyan, Sidhu, & Bath, 2016). Superimposed on these debates, although largely unexplored in academic and legal circles, is the complex programmatic question of what to do with youth who are found incompetent to stand trial.

Early debates often involved rhetorical assertions that many youth would be held in “legal limbo” until they aged-out of incompetency. More practical discussions have focused on the lack of programming for remediating individuals who are not psychotically ill and for whom inpatient treatment would be ill-advised, unavailable, and/or developmentally disruptive to the youths’ involvement in their families, communities, and schools. The reality of trying to remediate youth who range in age from eight through 21 years also creates an intervention quagmire that can daunt the most creative and experienced professionals working in the juvenile justice system. These programmatic complexities also are often exacerbated by unstable family situations that are incapable of providing the structure and routine necessary to promote and support a comprehensive remediation process.

These challenges have given rise to rather dispersed remediation programming in some states. These programmatic struggles appear to have arisen in part due to missteps within state legislatures, which have passed juvenile competency laws without specific and linked programming guidelines for remediation programs for all youth found incompetent to stand trial. In other instances, states lacking specialized juvenile competency law, have followed the logic of prior experience, and applied criminal court competency restoration models to juveniles based upon case-law holding that they are applicable. Often in these instances, court personnel adopt the educational approach used in state psychiatric hospitals, generally in conjunction with medication management, to restore adults. This stance assumes that remediation is a rather straightforward instructional undertaking and from this understanding, well-meaning clinicians attempt to lecture youth, often in groups, into competency. Other practitioners err on the side of comprehensiveness and place youth residentially, for a number of months at great cost, assuming that the interventions offered to youth admitted for clinical reasons, will over time actualize a remediation process for incompetent youth. In states where juvenile competency laws have been identified by statute but without any guidance concerning remediation, the adversarial pulls of the defense and prosecution have been found to promote a fluid definition of the remediation process devoid of consistent legal oversight. In these circumstances, defense attorneys try to embellish the impairments of their underage clients seeing it as a way to maneuver them out of the court system, while prosecution argue for the need to detain youth in some jurisdictions for months or years simply because community-based competency programs remain unavailable. Each of these programmatic challenges has a compelling, albeit often unseen, effect on the placement and treatment of the most vulnerable youth in juvenile justice systems nation-wide.

Adjudicative Competency in Juvenile Court

Juvenile competency typically involves a psycho-legal assessment performed on court order by a licensed mental health professional upon petition by it’s the defense, prosecutor, or sua sponte by the court (Warren, Jackson, & Jones, 2016). It has been defined as a functional assessment that addresses capabilities rather than knowledge, is contextual in nature, and is calibrated according to the complexity of the legal situation facing each defendant (Jackson, Warren, & Jones, 2014).

For those found incompetent to stand trial (IST), the vast majority have been charged with a felony (Warren et al., 2009).

Historically in conducting these assessments, evaluators have considered whether mental illnesses or intellectual disabilities are significantly impacting the ability of youth to demonstrate the abilities articulated in the *Dusky* decision, knowing the high prevalence rates of these disorders among detained youth (Teplin et al., 2002; Viljoen et al., 2005). Mental illnesses and intellectual disabilities are frequent predicate conditions for a finding of incompetent to stand trial among these youth (Bath & Gerring, 2014; Stepanyan et al., 2016). More recently, the issue of developmental immaturity as it influences the legal decision-making of youth has received considerable attention in the academic literature (Bath & Gerring, 2014; Kruh & Grisso, 2009; Grisso et al., 2003; Stepanyan et al., 2016). Of the 21 states with juvenile competency legislation, 14 states have included developmental immaturity as a factor that is pertinent to the assessment of adjudicative competency among youth in juvenile court (Bath & Gerring, 2014). Age is relevant as studies consistently find that competency is more frequently demonstrated by older (ages 14 and older) as compared to younger youth (Cowden & McKee, 1994; Grisso et al., 2003).

Incompetent to Stand Trial: Remediation Services

The court generally agrees with the opinion offered by the forensic examiner with the majority of youth being found competent, a finding that revives the adjudicative process and the participation of the youth in it (Kruh, Sullivan, Ellis, Lexcen, & McClellan, 2006). However, after a judicial determination of incompetence to stand trial, the legal proceedings are suspended, and the judge is required to arrange for programming that will seek to remediate the impairments that led to the finding of incompetency. These remediation services can only commence upon a court determination of incompetency to stand trial (Walker, Pann, Shapiro, & Van Hasselt, 2016).

There is little guidance in the academic, clinical, or educational literature on remediation practices and service delivery systems appropriate for delivering services to youth in the juvenile justice system (Bath & Gerring, 2014). Many of the states that recognize juvenile competency by statute fail to address the provision of remediation services following a finding of incompetency. While there is a growing recognition of the importance of this type of mandate (Lee, 2013; Larson & Grisso, 2011), many states find that the passing of juvenile competency laws requires a considerable period of consensus building which is unable to immediately weather the impact of additional programming requirements and the cost estimates that accompany it. To our knowledge, there are state-wide juvenile remediation programs in only four states: Virginia, Florida, Louisiana, and Maryland (Warren et al., 2016).

Despite this lack of comprehensive programming, there are three points that we would suggest are emerging as best practices in the provision of juvenile remediation services. First, best practices recommend that services be provided in the least restrictive environment allowed by the court (Larson & Grisso, 2011). This practice standard is responsive to the developmental needs of youth to remain connected with their families and local communities, particularly prior to being found guilty of any wrong doing. Therefore, while the court is required to determine if a

youth should be detained prior to trial specifically in order to protect the interest of the community, this practice standard assumes that no youth will be detained simply or exclusively for remediation purposes. Second, in *Jackson v. Indiana* (1972) the Supreme Court concluded that Jackson's lengthy stay in a psychiatric facility for restoration services violated the equal protection and due process clauses of the Fourteenth Amendment of the US Constitution. Based upon this legal precedent, states with remediation services legislation tend to limit the amount of time remediation services may be provided before the charges must be dropped against a youth who has been determined to be incompetent. Limiting the time during which efforts can be made to remediate a youth ensures that placement is not simply for detention purposes and that progress is being made either toward the goal of competency or a determination of unattainability, thereby protecting due process as opined in *Jackson*. Finally, although remediation services are typically educational or psycho-educational, to be successful remediation services must seek to identify and respond to the impairments that prompted the initial finding of incompetency, therefore requiring that services be individualized, at least to some extent (Stepanyan et al., 2016).

When factors that interfere with competency are amenable to medication such as in the instance of major mental illness, the remediation process is considered promising (Stein, Kan, & Henderson, 2016). However, when developmental immaturity and/or intellectual disability are at the root of incompetency, competency can be more difficult to achieve, and these conditions can contribute to the finding that the youth is not amenable to remediation. For at least some of these youth, educational efforts will be unable to address the limited understanding that prompted the initial finding of incompetency, and other interventions to address the underlying condition are not available (Chien et al., 2016).

There is general agreement in the literature that research addressing competency evaluations is much more robust than research addressing the aftermath of a competency evaluation both in terms of the outcome of remediation services and the avenues pursued when a youth is determined to be unlikely to attain competency. A few studies have examined the outcomes associated with remediation services across different service delivery systems and locations. Interestingly, despite these differences, it appears that approximately 70% of youth are able to attain competency after participation in a credible remediation program (Chien et al., 2016; McGaha, Otto, McClaren & Petrila, 2001; Warren et al., 2009). This figure is only slightly lower than the outcome data found in the adult competency literature, which generally finds that approximately 75% of adult defendants can be restored to competency (Zapf & Roesch, 2011; Gay, Vitacco, & Ragatz, 2017).

Only two studies have, as of yet, explored the differences between youth who can attain competency after participating in remediation services from those who cannot. Research in Virginia supports the finding that approximately 70% of incompetent youth can attain competency following a period of remediation, but this outcome has been found to vary widely depending on the impairment that contributed to the initial finding of incompetency (Warren et al., 2009). Among youth deemed to have an intellectual disability singularly or in conjunction with a mental disorder, only 46% and 48% respectively were able to ultimately meet the standards for competency and proceed through an adjudicative process. However, 84% of youth

with only a mental disorder were ultimately remediated as were 91% of youth who suffered from no mental disorder and no intellectual disability, this latter group often experiencing aspects of developmental immaturity (Warren et al., 2009). More recently, in a small Connecticut sample of 58 youth in a locked facility receiving remediation services, only lower IQ scores predicted an inability to achieve attainment despite a high prevalence of psychopathology (Chien et al., 2016).

Post-Remediation Services: Youth Unlikely to Attain Competency

Based on *Jackson*, courts have a limited amount of time to provide remediation services before having to make a determination of competency. At some point, depending on state statute, the remediation services provider must opine whether the defendant is likely to attain competency in the foreseeable future, and based upon this opinion, may request further evaluation of the youth and review by the court (Warren et al., 2016). If the remediation service provider, evaluating mental health clinician, and the court agree that the youth is unlikely to attain competency (i.e., is not responding adequately to remediation efforts), the courts must relinquish jurisdiction of the youth as a fair and just court process is not possible to achieve. However, the manner and method of relinquishment varies significantly based upon state statute (Larson & Grisso, 2011; Lee, 2013).

In some states, the case is dismissed and the youth is simply released. Whether the case is dismissed with or without prejudice has implications for whether the case can be retried at some point in the future (Lee, 2013). In other states (e.g., Kansas), civil commitment or certification proceedings are initiated immediately, thereby transferring jurisdiction of the youth from the court to another state authority (Lee, 2013). In Virginia, the court has the option of issuing a Child in Need of Services (CHINS) petition, allowing the court to remain involved in the supervision of a youth, although not in an adjudicatory capacity.

Although a minority of youth in the juvenile justice system are deemed to be unamenable to remediation efforts, the public policy issue of what to do with these youth is vexing (Lee, 2013; Parker, 2012; Bath & Gerring, 2014). Youth with minor charges often have their charges dismissed; yet, for youth charged with violent offenses, or youth who are older and do not meet commitment or certification standards, the options available to the court or the general public are often unappealing. It is important under these circumstances that forensic oversight and careful review by the court does not allow the process to continue indefinitely essentially to avoid the possible release of a violent youth to the community. Placement of violent youth in an expensive residential treatment center, often at great distance from the youth's home community, reflects another extreme and costly intervention which at times is used to assuage safety concerns of the community. Undoubtedly, a collaborative arrangement between the youth, the family, and the service community in their neighborhood constitutes the outcome that is most likely to assist the youth and protect the community in the long-run. Consultative involvement of juvenile probation officers in the planning of these interventions can prove useful in identifying the avenues by which disruptive behavior can be both treated and managed while the youth is living in the community.

In reality, we know very little about what happens to youth post-dismissal. As public safety is the mission of the juvenile justice system, there are legitimate concerns about subsequent violations

of the law. In a study of adults post-dismissal, Snyder (2017) found that 3.03% were charged with a new crime over a five-year period. However, there is no parallel research among youth. Given that intellectual disability and/or developmental immaturity constitute significant explanations for the inability of these youth to attain or regain competency, we might speculate that youth are unlikely to reoffend, but this remains an empirical question requiring further study.

The Virginia Remediation Model

The Virginia remediation model was developed over a ten-year period by the Virginia Department of Behavioral Health and Developmental Services (VA DBHDS) in conjunction with the Institute of Law, Psychiatry, and Public Policy at the University of Virginia with generous funding provided by the Virginia Department of Criminal Justice Services. The program is manual-based and encompasses nine practice components. These include: a close adherence to the legal basis of trial competency; services being provided to each youth in a time-sensitive, community-based and individualized manner; all sessions occurring in the context of dyadic relationship that is developmentally and culturally appropriate; all educational interventions being dose-sensitive and provided by consistently trained and supervised personnel; and program review and development occurring in response to a data-driven understanding of service delivery outcomes.

The VA DBHDS Juvenile Competency Program is made up of three categories of professional staff: the Program Director who is a licensed clinical social worker with extensive experience in the juvenile justice system and the juvenile competency program; juvenile competency supervisors who are licensed mental health professionals who have completed training as juvenile forensic evaluators at the University of Virginia as well as training as juvenile restoration counsellors by the VA DBHDS; and juvenile restoration counsellors who provide services to each youth multiple times a week in the least restrictive setting allowed by the court. In addition, juvenile forensic evaluators trained by the University of Virginia are available throughout the Commonwealth at many of the local CSBs and in private practice who provide independent evaluations to the youth as they proceed through the remediation program when requested by the program Director or on order by the court. Program standards require that each Remediation Counselor be supervised in the field in the presence of each youth by a juvenile Remediation Supervisor on a monthly basis. State statute requires that each juvenile's progress toward attainment be reviewed by the court every three months. Currently, there are three Remediation Counselors who work directly for the VA DBHDS out of their central office in Richmond, Virginia that provide approximately 60 percent of the remediation services offered youth state-wide. The remainder of the services are provided through a fee-for-service contract with 19 CSBs licensed by the Commonwealth that operate throughout the state.

Each youth receiving remediation services is paired with a Remediation Counselor who meets with the youth either in their home, another community location, or in detention, if this has been deemed necessary for the safety of the community by the charging court. The Remediation Counselor and youth meet two to three times each week for sessions lasting from 45 minutes to an hour. Each session is unique and developed creatively by the Remediation Counselor to build upon each youth's current level of understanding, identified learning styles, and developmental maturity associated with ages ranging from 8 to 18 years. As such, they are fashioned to be

responsive to the learning needs of youth with varying types or combinations of intellectual, psychiatric, or developmental impairments. These educational sessions are intertwined with case management activities which seek to address the impairments that are contributing to each youths' incompetent status. For example, the Remediation Counselor may become involved in obtaining prior psychological or educational testing, in arranging for a psychiatric assessment to determine the need for psychotropic medication, procuring sensory aids such as glasses or hearing aids for youth in need, obtaining the services of a court-certified translator, and/or transporting the parent and youth to the next competency review hearing.

Each Remediation Counselor participates in a three-day training program prior to offering services in the community. During the training, they learn about the competency legal standard, the remediation process as defined by practice standards and state statute, pertinent case management interventions, and are provided an array of different tools to use as part of the attainment process. These include hands-on experience with two interactive videos, flashcards, courtroom boards, puzzles and games, and an assortment of ideas for role-playing and fashioning lesson plans to build upon prior instruction. The two interactive videos, both developed through grant funding, provide information for youth of different ages and facing different degrees of legal jeopardy. *Jamal in a Jam* is a rather short interactive video that follows the experience of a 10 or 11-year-old boy when facing a charge of assault in juvenile court. *DJ and Alicia* involves 23 separate chapters which follows the experience of a 15-year-old boy and a 13-year-old girl who become involved with the police and progress through adjudication, one in juvenile court, and the other in criminal court. Each of the interactive videos is based solely on verbal and visual content and uses a point-and-click method to indicate an understanding of the legal construct, thereby being unaffected by degree of literacy or learning style of each youth. The stories used in each of the interactive programs are compelling, entertaining, at times humorous, and yet provide comprehensive education concerning all of the information that is required by a youth to be determined competent to stand trial in juvenile court. These tools are used within the context of the relationship of the Remediation Counselor with the youth and are always associated with the careful consideration and discussion of how the information being portrayed in the interactive CD is relevant and applicable to the legal situation facing each youth. Preliminary data collected from youth who have undergone remediation services in Virginia suggest that they find the relationship with the Remediation Counselor to be rewarding and their understanding of the adjudicative process significantly enhanced in a way that they perceive to be significant to their appreciation of the legal circumstances affecting them.

Written into the Virginia statutory guidelines concerning juvenile competency is a requirement that the referring attorney provide all relevant collateral documentation concerning each youth to the evaluating clinician within 96 hours of the petition being received by the remediation program. The continued progression of each youth toward competency must be reviewed by the court every three months, and when an independent evaluation is scheduled to confirm the completion of services, the evaluation must be finalized and the report submitted to the various members of the court within 14 days. These time-sensitive deadlines were written into statute in order to ensure youth the right to due process while capturing and punctuating the youthful experience of time passing.

The VA DBHDS Juvenile Competency Program is mandated to provide services to all youth determined to be incompetent to stand trial in juvenile courts throughout the Commonwealth of Virginia. It is currently providing services to approximately 150 youth throughout the state each year at an estimated cost of \$700,000 per year. As a cost comparison, the daily rate providing treatment to youth in the only child and adolescent psychiatric facility operative in Virginia is estimated to be in excess of \$650 a day.

Purpose of the Current Article

The present article seeks to update an article by Warren and colleagues published in 2009 and to address more explicitly programming considerations relevant to these data. In the first paper, factors related to the remediation of competency among youth were identified. Since that time, an additional 1,339 youth have been court ordered into remediation services from throughout the Commonwealth of Virginia. This expansion of the same dataset allows for a more focused examination of youth for whom remediation or attainment was not possible. The field is in critical need of this descriptive and analytical information to improve policy and programmatic decisions concerning seriously impaired youth who have demonstrated a penchant for contact with the juvenile justice system. A better understanding of the contours of the interventions that proved successful in remediating the majority of the youth in the larger cohort is also important to allow for the ongoing review of the program's efficiency and effectiveness and to enable the program to be reliably replicated in other locations.

Based upon our review of the literature, we hypothesize:

- Community-based services will successfully facilitate the restoration of the majority of incompetent youth regardless of their specific impairment; although, the additive effect of combined impairment will diminish the likelihood of a youth reaching attainment.
- Rates of inpatient hospitalization and residential treatment will be low among the youth undergoing remediation services and the majority of youth will be remediated while living in the community or during court ordered detainment.
- The majority (at least 70%) of youth will be determined to have been remediated within six months of being court ordered into the program and within one year for those who are ultimately determined "competency unattainable."
- The estimated cost of remediating youth using a community-based, child-specific remediation process will be less expensive, but equally effective to known programs using an inpatient or residential intervention format.

METHOD

Sample

The sample includes 1,913 youth who were court ordered into restoration services by juvenile courts throughout the Commonwealth of Virginia from January 1, 1999 through December 30, 2017. Juvenile competency laws were enacted by the General Assembly in July of 1999. The sample was made up of youth who varied in age from eight to eighteen years. The majority were African-American (73%) with the remainder being Latino (3%) and White (21%). The sample was overwhelmingly male (84%).

Procedure

The data were collected directly from the administrative software developed by the Virginia Department of Behavioral Health and Developmental Services (VA DBHDS) to manage the Juvenile Competency Program and to facilitate the billing of services with many of the Community Services Boards (CSBs) that provide community mental health services throughout the state. The VA DBHDS Juvenile Competency Program is made up of three categories of professional staff: the Program Director who is a licensed clinical social worker with extensive experience in the juvenile justice system and the juvenile competency program; juvenile competency supervisors who are licensed mental health professionals who have completed training as juvenile forensic evaluators at the University of Virginia as well as training as juvenile restoration counsellors by the VA DBHDS; and juvenile restoration counsellors who provide services to each youth multiple times a week in the least restrictive setting allowed by the court. In addition, juvenile forensic evaluators trained by the University of Virginia are available throughout the Commonwealth at many of the local CSBs and in private practice who provide independent evaluations to the youth as they proceed through the remediation program when requested by the program Director or on order by the court. Program standards require that each restoration counsellor be supervised in the field in the presence of each youth by a juvenile Remediation Supervisor on a monthly basis. State statute requires that each juvenile's progress toward attainment be reviewed by the court every three months. Currently, there are three Remediation Counselors who work directly for the VA DBHDS out of their central office in Richmond, Virginia that provide approximately 60 percent of the remediation services offered youth state-wide. The remainder of the services are provided through a fee-for-service contract with 19 CSBs licensed by the Commonwealth that operate throughout the state.

Dependent Variables

Age. The age of each youth is obtained from the court order that is submitted to the VA DBHDS from the petitioning court for each youth. It reflects the age of the youth at the time that they are court ordered into remediation services.

Current offense. The offense represents the most serious charge for which the youth has been indicted. It is coded as being a felony or misdemeanor.

Impairment. At the time of discharge from the remediation program, based upon the totality of their experience with each youth, the Remediation Counselor in collaboration with the Remediation Supervisor determines if the initial finding of incompetency was the result of: 1) an intellectual disability only; 2) a mental disorder only; 3) both an intellectual disability and a mental disorder; or 4) factors other than an intellectual disorder or mental disorder, often assumed to be developmental immaturity. Diagnoses are recorded only if they are identified in the record as having been made by a licensed mental health practitioner.

Length of time in the remediation program. The time spent in the remediation program is calculated based upon the date on the court order that initiated the provision of services and the date of the final court hearing at which a ruling of the youth's competency was determined by the court. During the course of participation in the program, each session is recorded by the Remediation Counselor including the amount of time spent with the youth and the activities that

were engaged with while meeting with the youth. The time spent providing remediation services can include: conducting direct face-to-face educational sessions; travelling to and from the location of the session; collecting releases of information to obtain collateral educational and psychological information and prior forensic reports; transporting youth and family members to court hearings; referring youth and their families to other services in the community; assisting with medication management; record keeping; and any other activities that might be subsumed under the category of case management. These activity logs are used by CSB staff when submitting their bill to the VA DBHDS for the services provided for a particular juvenile.

Location of services. The session log includes a notation concerning the location of each session which is coded to reflect whether the location is inpatient or community-based. Inpatient refers exclusively to hospitalization in a psychiatric facility including residential treatment. Community-based involves locations such as the family home, home of a member of the extended family, foster home, group home, and/or detention if this has been ordered by the court.

Lifetime number of remediation orders per youth. Number of remediation orders refers to the number of times that a specific youth has been court ordered into remediation services for a discrete crime (or series of crimes) prior to turning eighteen years of age or aging out of the jurisdiction of the juvenile court, including the current court order.

Outcome Variables

Determination of the court. The outcome of each service series is coded according to the final case disposition by the court that initially determined the youth to be incompetent. This may include the youth having been remediated to competency and being determined to be able to proceed through an adjudication process; the court determining that the youth is not remediated and unlikely to be attainable in the foreseeable future, thereby requiring that the youth be diverted from further adjudication on the current charges; and the charges against the youth being dismissed prior to a post-remediation competency determination. The cohort of dismissed cases include a variety of different circumstances. A recommendation of Unrestorably Incompetent to Stand Trial (URIST) and the ordering of a CHINS petition might have been made with the court choosing to ignore the recommendation and dismiss without prejudice. The prosecution may have withdrawn or nolle prossed the charges and a finding of URIST was not made, possibly as an option to bring the charges back at a later date when the juvenile may have had an increase in cognitive development or if any additional charges were incurred at a later date. In other instances, the remediation counselors may have been unable to locate the youth and a letter was sent to the court reflecting the difficulty of locating the juvenile, and no additional order was issued, thus indicating a lack of a desire to pursue the charges. Finally, a juvenile may have moved out of state and legal jurisdiction of the court, and no additional restoration order was issued.

Data Analyses

Our data analyses included descriptive statistics, bivariate analyses, and multivariate analyses. We conducted statistical comparisons between our three outcome groups (i.e., remediated, determined unlikely to attain competency, and charges dismissed) concerning their demographic characteristics at the time of being court ordered into the program, and the clinical impairments

that had been associated with the initial finding of incompetency by the courts. These were conducted using chi-squared analyses (χ^2) and associated effect sizes according to the Phi (ϕ) calculation. We also conducted three logistic regressions using step elimination: likelihood ratio to determine the effect of age, clinical condition, and charge on the outcome of the remediation process (remediated or not); the decision to dismiss charges prior to resolution of the remediation process; and the length of time a youth remained in the remediation program prior to a final court determination of their competency (six months or less and more than six months). Descriptive post-hoc analyses were conducted on the intervention used by restoration counsellors when working with youth in the VA DBHDS Juvenile Competency Program.

RESULTS

Descriptive and Bivariate Analyses

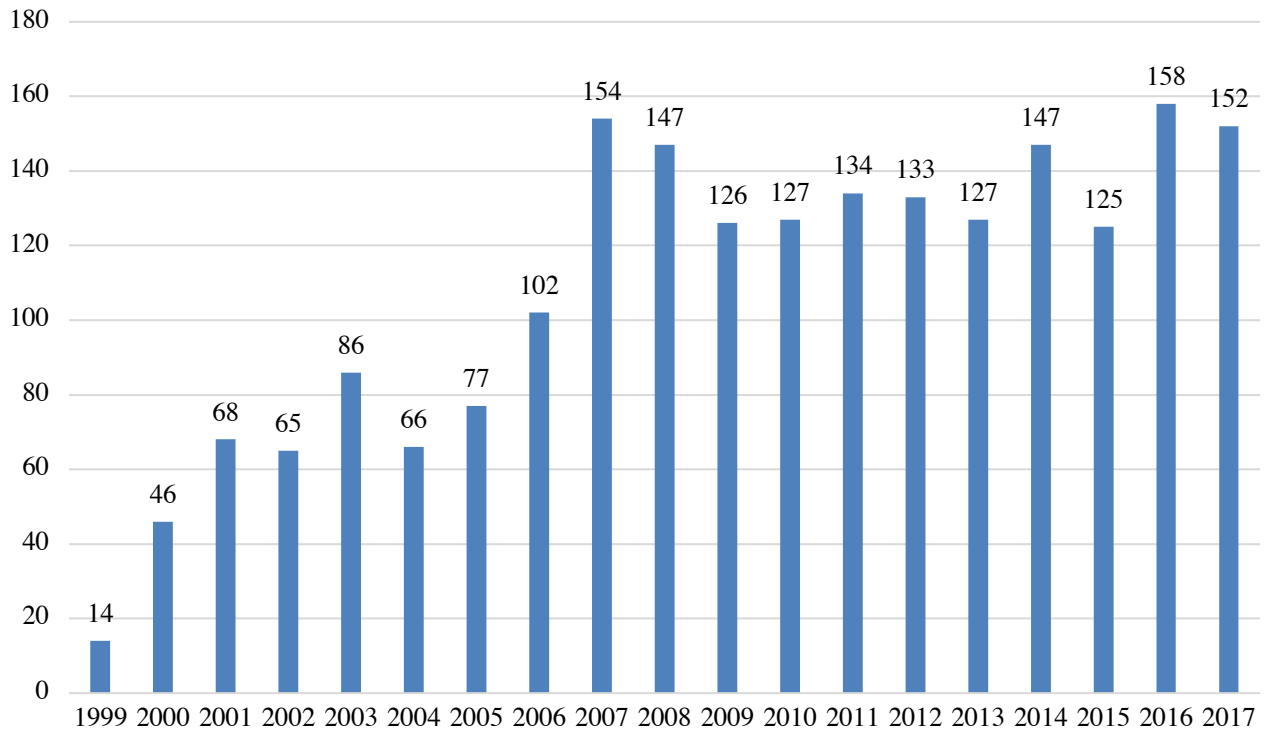
Figure 1 indicates that a total of 1,913 youth have been court ordered into remediation services over a 19-year period of the Virginia Juvenile Competency Program with a low of 14 court orders being issued in 1999, the year of the passing of the original juvenile competency legislation, and a high of 158 youth in 2016. Over the past ten years, the mean number of youth receiving remediation services each year has been 137. The total number of service delivery episodes was 2,054 over the 19-year period with 127 youth (7%) returning to remediation services on more than one occasion. As illustrated in Figure 1, the number of youth court ordered into remediation services increased in a linear fashion over the first nine years following the enactment of juvenile competency legislation in Virginia but then began to stabilize over the next 10 years. Within the larger group, 106 (6%) youth returned for two separate cycles of remediation services, 19 for three cycles, and two for four cycles, each of these suggesting re-engagement in some type of illegal activity. There were no significant differences in outcomes among those who returned for additional cycles of remediation services from those who did not.

As indicated in Table 1, the majority of youth who are court ordered into remediation services are male, African-American, over the age of 13 years, and are charged with a felony offense. Many are living at home with a single parent. Of the youth court ordered into remediation services, 76% of the youth were determined by the referring court to have been remediated and capable of continuing through the adjudicatory process. Among the remaining youth, 19% of youth were determined to be unlikely to achieve attainment in the foreseeable future. Of the 5% of the youth who had their charges dismissed by the prosecution, over one half (57%) had been initially charged with a felony.

Age was found to be determinative of the outcome of the services with 44% of youth under the age of 14 and 66% of those who are 14 years of age or older being remediated. Youth between the ages of eight and 10 years were found to be unlikely to be remediated (21%) in comparable rates with their 14- to 16-year-old (20%) and 17- to 18-year-old (23%) counterparts, although this outcome was less common among youth aged 11 through 13 years (15%). Of note, the youth aged eight to 10 years most often had their charges dismissed, which could be indicative of the role of developmental maturity in adjudication. Our data indicate that age did not bear much influence in determining whether charges were dismissed; of the nine percent of misdemeanors which were dropped, 14% were charges against eight to 10-year-olds, 34% were against 11- to

13-year-olds, 36% were against 14- to 16-year-olds and 16% were against 17- to 18-year-olds. Similarly, of the four percent of felonies which were dismissed, 24% were charges against 8- to 10-year-olds, 31% were against 11- to 13-year-olds, 33% were against 14- to 16-year-olds, and 12% were against 17- to 18-year-olds.

Figure 1. Number of Juveniles Served by Year



Total Number of Individual Juveniles: N=1,913

It was determined that gender and race of the youth were not significant factors in the final restoration outcome; however, age at offense and charge type were considered to have a high level of significance in association with the restoration outcome. Both age at offense and type of charge will be examined more closely in the multivariate logistic regressions in Table 5. Family status of youth proved to be significantly associated with the final restoration outcome, but the small associated effect size may indicate a very weak relationship between the factors and the restoration outcome.

Table 1: Demographic characteristics of youth by remediation outcome

	URIST (n=346) N (%)	CST (n = 1,419) N (%)	Dismissed (n = 102) N (%)	χ^2	ϕ
Gender				2.839	0.039
Male	294 (19%)	1,214 (76%)	81 (5%)		
Female	52 (19%)	205 (74%)	21 (7%)		
Race				5.666	0.055
African American	246 (18%)	1,048 (77%)	71 (5%)		
Asian	0 (0%)	2 (100%)	0 (0%)		
Hispanic	15 (23%)	47 (72%)	3 (5%)		
Multi-racial	2 (22%)	7 (78%)	0 (0%)		
Other	4 (24%)	13 (77%)	0 (0%)		
Caucasian	77 (19%)	293 (74%)	27 (7%)		
Unknown	2 (17%)	9 (75%)	1 (8%)		
Age at Offense				32.153***	0.131
8-10	30 (20.5%)	95 (65.5%)	20 (14%)		
11-13	102 (15%)	536 (80%)	33 (5%)		
14-16	162 (20%)	623 (76%)	35 (4%)		
17-18	52 (22.5%)	165 (71.5%)	14 (6%)		
Charge				14.872***	0.089
Felony	259 (19%)	1,049 (77%)	58 (4%)		
Misdemeanor	87 (17%)	368 (74%)	44 (9%)		
Family Status				26.627*	0.119
Both Parent	51 (20%)	190 (75%)	11 (5%)		
Single Parent	208 (18%)	899 (77%)	56 (5%)		
Grandparent	24 (23%)	73 (69%)	9 (8%)		
Home of Other Relatives	15 (15%)	83 (83%)	2 (2%)		
Foster Family	12 (20%)	40 (67%)	8 (13%)		
Home of Friend	1 (12.5%)	7 (87.5%)	0 (0%)		
Independent Living	9 (30%)	19 (63%)	2 (7%)		
Adoptive Parent	4 (20%)	13 (65%)	3 (15%)		
Unknown	22 (17%)	95 (74%)	11 (9%)		

$p < 0.05^*$, $p < 0.01^{**}$, $p < 0.001^{***}$

Table 2 examines the impairment that was underlying the initial findings of incompetency as it was associated with the three different outcomes of the remediation interventions, i.e. the youth was remediated, the youth was determined to be unlikely to attain competency, or the charges against the youth were dismissed prior to a final finding concerning competency. Both mental status and the specific degree of intellectual disability were found to have strong significant relationships with the outcomes of remediation interventions, while whether or not the youth was

identified as being the recipient of a 504 plan in their school was not significant. As indicated, youth who suffered from an intellectual disability only were more likely to be determined not amendable to remediation. The severity of the intellectual disability was strongly associated with remediation outcome with only 19 youth (1%) with moderate ID and 244 or 17% of those with mild ID being remediated. In contrast, only 2 (5%) youth with borderline intellectual function (BIF) were found to be unlikely to attain competency. Youth who are diagnosed with a mental illness only are more often remediated (87%). Despite the significant levels of impairment found among these 1,913 youth, only 2% to 3% were found at the time of entering the program to have an identifiable special education status through their local school districts.

Table 2: Clinical characteristics of juveniles by remediation outcome

	URIST (n=345) N (%)	CST (n=1,418) N (%)	Dismissed (n=102) N (%)	χ^2	ϕ
Mental Status				396.332** *	0.461
BIF	2 (5%)	36 (92%)	1 (3%)		
MI	47 (7%)	584 (87%)	39 (6%)		
MI/BIF	21 (13.5%)	124 (79.5%)	11 (7%)		
MI/ID	178 (44%)	196 (49%)	29 (7%)		
ID	67 (50%)	60 (44%)	8 (6%)		
No MI/No ID/No BIF	29 (6%)	415 (91%)	14 (3%)		
Unknown	1 (25%)	3 (75%)	0 (0%)		
	URIST (n=252) N (%)	CST (n=263) N (%)	Dismissed (n=40) N (%)	χ^2	ϕ
Intellectual Disability Level				70.735***	0.357
Mild (IQ 55-70)	156 (36%)	244 (57%)	29 (7%)		
Moderate (IQ 40-54)	95 (76%)	19 (15%)	11 (8%)		
Severe (IQ 25-39)	1 (100%)	0 (0%)	0 (0%)		
	URIST (n=346) N (%)	CST (n=1419) N (%)	Dismissed (n=102) N (%)	χ^2	ϕ
504 Plan?				1.642	0.030
Yes	4 (14%)	22 (76%)	3 (10%)		
No	342 (19%)	1,397 (76%)	99 (5%)		

p<0.05*, p<0.01**, p<0.001***

To better understand the characteristics of youth who had been found incompetent but were determined to have no mental illness, no intellectual disability, and no borderline intellectual disability, we examined this group by age. We found that among this group of 486 youth, 233 were below the age of 14 years, and within this group 87% were remediated and 5% had their charges dismissed.

As summarized in Table 3, of the 1,913 youth, the majority of youth (58%) remained in the remediation program for three months or less regardless of outcome. By six months, final determinations by the court had been made for 80% to 92% of the youth in all three outcome groups. Only 15 (0.8%) remained in the program for more than 12 months.

Table 3. Services Provided for Juveniles

	URIST (n=346) N (%)	CST (n=1,419) N (%)	Dismissed (n=102) N (%)
Time Spent in Program			
3 months or less	174 (50%)	874 (62%)	65 (64%)
Up to 6 months	102 (30%)	428 (30%)	24 (24%)
Up to 9 months	52(15%)	82 (6%)	8 (8%)
Up to 12 months	12 (4%)	26 (2%)	5 (5%)
More than 12 months	6 (1%)	9 (1%)	0 (0%)

To explore quantitatively the characteristics of the group of youth who had their charges dismissed after being referred into the remediation program (n=102), we examined their length of time involved in the program prior to the action being taken by the court. We found that a majority of youth (64%) spent three months or less in the remediation program with 88% of final determinations by the court made by six months. No youth with their charges dismissed stayed in the remediation program for over 12 months.

As indicated in Table 4, the majority of youth court ordered into remediation services were restored in the home of their families or extended families. Only 4% to 6% of the youth received remediation services in a psychiatric facility and in all of these instances their reason for admission was based upon their need for inpatient psychiatric treatment and not for remediation services per se. An additional 17% of the youth in each of the three outcome categories (i.e. remediated, unlikely to attain competency, and charges dismissed) were remediated while being held in local detention centers and 1% to 2% in adult jails, these placement decisions being made by the court for reasons of community safety, and again not for the purposes of remediation.

Table 4. Location of Youth While Receiving Services

	URIST (n=321) N (%)	CST (n=1,364) N (%)	Dismissed (n=94) N (%)
Service Location			
Home of Family	174 (54%)	713 (52%)	44 (47%)
Home of Relative	13 (4%)	46 (3%)	2 (2%)
Foster Home	7 (2%)	25 (2%)	4 (4%)
Group Home	10 (3%)	37 (3%)	5 (5%)
Residential Treatment	35 (11%)	81(6%)	13 (14%)
Psychiatric Hospital	16 (5%)	51 (4%)	6 (6%)
Juvenile Detention Center	55 (17%)	360 (17%)	16 (17%)
Adult Jail	6 (2%)	26 (2%)	1 (1%)
Emergency Shelter	0 (0%)	9 (1%)	1 (1%)
Other	5 (2%)	16 (1%)	2 (2%)

Multivariate Analyses

To further explore the effects of age, clinical diagnosis, and charge on the perceived attainability of the youth in our population, we ran three logistic regressions. In the first, the dependent variable included youth who were remediated as compared to those who were determined to not be able to attain competency. The second logistic regression examined the impact of these same three variables on the length of time that the youth remained in the remediation program, this being dichotomized into six months or less and more than six months. A third logistic regression compared youth who had their charges dismissed after being ordered into the remediation program from those who for whom there was a different outcome in order to explore whether age, clinical diagnoses, and charge were influential in the decision made by the prosecution or the court to drop the charges rather than having the youth proceed through the remediation process. These three analyses are summarized in Table 5.

As indicated, for all three models age at offense was significant for determining the amount of time a youth participated in the program, whether they were restored or unlikely to attain competency, and if their charges were dismissed or not. The first logistic regression determined, in addition to age at offense, that the diagnoses of only having an intellectual disability or having both a mental illness and an intellectual disability to be significant in the final outcome of a youth, for whether they are restored or unlikely to attain competency. For both regressions of the dichotomized time period and comparison of restored and unlikely to attain competency, the type of charge was removed from the final model as it was insignificant. The time period regression also indicated that the absence of a mental illness, intellectual disability, and borderline intellectual function had an influential role in the length of time a youth spent in the remediation program. The third regression of youth who had their charges dismissed or continued in the program indicated that along with age at offense, the type of charge was influential in the

decision to drop the youth's charges or not. Youth who had been charged with a felony were less likely to have their charges dismissed after being court ordered into remediation services. The youth's specific diagnosis was not significant in this decision. Diagnostic information was much more limited for youth who had their charges dismissed as compared to those youth who proceeded through a remediation process.

Table 5: Binary Logistic Regression Outputs

	Time Period (< or > 6 months)		Restored vs. Un-restored		Dismissed vs. Not Dismissed	
	β	(SE)	β	(SE)	β	(SE)
Age at Offense	-0.091**	(0.036)	-	(0.034)	0.165***	(0.049)
Charge ^A			0.140***			
Felony	-	-	-	-	0.704***	(0.210)
Diagnosis ^B						
MI	-0.244	(0.495)	0.250	(0.745)	-0.643	(1.031)
MI/BIF	-0.479	(0.560)	1.101	(0.766)	-0.986	(1.065)
MI/ID	0.241	(0.499)	2.857***	(0.737)	-1.127	(1.036)
ID	0.563	(0.527)	3.103***	(0.752)	-0.989	(1.082)
No MI/No MR/No BIF	-1.114*	(0.525)	0.104	(0.754)	-0.051	(1.054)
Constant	-0.690	(0.682)	-0.928	(0.865)	0.854	(1.211)

p<0.001***p<0.01**p<0.05* ^A Misdemeanor is the reference group ^B BIF is the reference group

Descriptive Post Hoc Analyses

Table 6 summarizes the psycho-educational and case management activities that were used by the Remediation Counselors, separately by the age of the youth being served. Most broadly, the list illustrates the diverse educational tools that were used with youth of all ages and the case management activities that were used as adjuncts to these activities. Concerning the educational tools, these were made up of interactive applications including DJ and Alicia and Jamal in a Jam, but also spontaneous activities that were creatively generated by the Remediation Counselor in response to the particular needs of each child. This pattern of utilization did not vary greatly between the youth who were under the age of 13 years and those who were 13 years of age or older. Medication management was not uncommon among both the younger (36%) and older youth (41%).

Mental health therapy was also used with approximately one-fifth of each group and home-based services in 16% to 17% of the two groups. Residential treatment was used with only 9% of the youth in each age group and psychiatric hospitalization occurred with 4% to 5% of the youth with this in all cases occurring because of the mental health needs of the youth and not specifically for remediation purposes. Substance abuse treatment was used infrequently.

Table 6. Restoration Tools

	< 13 y/o (n=495) N (%)	Average Number of Sessions	> 12 y/o (n=1,237) N (%)	Average Number of Sessions
Restoration Tool				
Educated Juvenile	489 (99%)	27.14	1,225 (99%)	24.15
Role-Played Court Process	212 (42%)	4.43	528 (43%)	4.19
Role-played Talking with Defense Attorney	182 (37%)	4.36	491 (40%)	4.31
Took Juvenile to Visit Real Court Room	17 (3%)	1.47	18 (1%)	1.39
DJ and Alicia CD ROM	87 (18%)	3.37	231 (19%)	3.77
DJ and Alicia Flashcards	11 (2%)	4.55	78 (6%)	3.10
DJ and Alicia Workbook	1 (<0.5%)	2.00	3 (<0.5%)	2.67
Played <i>Jamal in a Jam</i> Board Game	101 (20%)	2.54	225 (18%)	2.38
Utilized <i>Jamal in a Jam</i> Workbook	132 (27%)	2.61	262 (21%)	2.49
Practiced <i>Jamal in a Jam</i> Flashcards	240 (48%)	7.94	579 (47%)	6.96
Watched Courtroom Simulation Video	102 (21%)	2.10	328 (27%)	2.15
Created or Practiced Individualized	180 (36%)	9.32	459 (37%)	7.61
Flashcards				
Board Game	78 (16%)	3.05	169 (14%)	3.42
Film Clip	20 (4%)	1.50	40 (3%)	1.43
Coloring Book	32 (6%)	2.84	51 (4%)	2.63
Other Tools used	266 (52%)	5.56	609 (49%)	5.32

*One Client may have participated in multiple types of tools, each time a tool is used it is considered a new event.

	< 12 y/o (n=598) N (%)	> 13 y/o (n=1455) N (%)
Services Provided by other Providers		
Medication Management	217 (36%)	594 (41%)
Home-Based Services	100 (17%)	226 (16%)
Mental Health Therapy	112 (19%)	298 (20%)
ID Services	1 (<0.5%)	5 (<0.5%)
Residential Treatment Services	55 (9%)	133 (9%)
Inpatient Psychiatric Hospital	21 (4%)	72 (5%)
Substance Abuse Treatment	5 (1%)	19 (1%)
Other	70 (12%)	181 (12%)

*One client may have participated in multiple services provided by other providers; each indication of a different service is considered a separate and individual service event.

Discussion

These data indicate that 76% of youth ordered into remediation services can attain competency, a percentage that is equal to that found among adult defendants determined by the court to be incompetent to stand trial (Gay et al., 2017; Zapf & Roesch, 2011). This is a rather unexpected finding given the factor of age and the developmental processes that are associated with it, particularly in view of recent research into psychosocial immaturity which demonstrates its effects on legal decisional-making among youth. As such, it offers an important empirical correction to the earlier concerns of a significant number of youth having to age out of incompetency. However, age does matter to the remediation process with 66% of youth aged eight to 10 years being remediated all compared to 80% of those aged 11 to 13 and 76% of those 14 to 16 years of age. It is possible that the less frequent manifestation of psychotic disorders in persons under the age of 18 years offsets the influence of age allowing the overall rates of remediation and restoration to remain comparable among youth and adults.

These data reflect a four percent increase in the proportion of youth who were remediated compared to the earlier Warren et al. (2009) study which examined 563 youth and found that 72% of youth were remediated and determined able to proceed through an adjudicative process. It is possible that this increase simply reflects random error over time in the comparison between the smaller and larger samples. Alternatively, various factors may be impacting the rates at which youth of various ages are remediated, including: the growing experience of many remediation counselors in working with incompetent youth; the development and availability of more technologically advanced and age-specific tools; and the increased calibration of practice standards among forensic evaluators and the juvenile justice legal community at large. Given this “success rate,” it is unclear how much more these rates of remediation can improve given the important role of these programs to identify youth who are unlikely to reach attainment so that they can be diverted in a timely fashion from the juvenile justice system. Obviously, the goal is not to remediate all youth but rather, as contemplated by *Dusky* and *Jackson*, to differentiate the two groups of incompetent youth – those who are remediable from those who are not – so that the jurisdiction of the court can be fairly applied to the one group while relinquished for the other.

Moreover, our data indicate that the process of remediation, when it is successful, unfolds rather rapidly, and for the majority of youth occurs within three months of the youth being court ordered into the program. Even 50 percent of youth determined unlikely to attain competency had a final resolution of their competency status within this same time period. This efficacy is undoubtedly enhanced by the regular court reviews that require indications that the youth is continuing to make progress toward remediation if the services are to continue. Emphasis is also placed on the timely identification of youth who are so seriously impaired that it is evident that they will not respond to remediation efforts. In these instances, the programmatic guidelines require that eight sessions be provided to the youth both to ensure that no progress can be achieved despite the best efforts of the remediation counselor and that dissimulation or malingering is not impacting the perceived capabilities of the youth receiving services. Successful remediation of the majority of the youth also enhances the confidence of program staff to recognize youth who are not likely to attain competency, thereby short-circuiting

interventions that can continue unnecessarily when inexperienced staff feel uneasy about the quality of the services that they are offering to incompetent youth.

These results were obtained while the youth were living within the least restrictive setting allowed by the court, a contextual factor that is not only developmentally appropriate to their status as children, but which also significantly impacts the costs of this type of programming. Psychiatric and residential treatment is now costing in excess of \$650 a day, making a three-month period of remediation approximately ten times the cost of programming that is most often provided to the youth in their homes. The cost of community-based services varies between juveniles primarily based upon the length of time that they remain in the remediation program. Currently, the services contracted for by the VA DBHDS Juvenile Competency Program are reimbursed at \$70.00 an hour culminating in an average cost of \$3,780 per youth, excluding the agency cost of the staff employed directly by the VA DBHDS. This estimated cost includes: two one-hour remediation sessions each week, one hour of travel per youth per week, one hour of supportive case management per youth per week, and one hour of remediation supervision each month with travel. Another estimation can be derived by dividing the total overall operational budget of the program by the average number of youth served in one year resulting in a slightly higher cost of \$5,109.00 per youth.

In underscoring the efficiency and cost-effectiveness of this type of community-based programming, it is crucial to emphasize that these outcomes are obtained using a clearly articulated intervention strategy implemented by well-trained staff under the umbrella of articulate and informed statutory regulations. Less potent programs cannot be expected to yield the same types of outcomes in the same amount of time. As indicated earlier, remediation supervisors are experienced juvenile forensic evaluators who have completed six days of juvenile forensic training at the University of Virginia and three days of remediation training provided by the VA DBHDS. Remediation counselors have completed the three days of remediation training delivered by the VA DBHDS and are supervised in the field with their juvenile clients every 30 days. Further, all forensic professionals in Virginia are provided multiple continuing education events each year by the Institute of Law, Psychiatry and Public Policy at the University of Virginia designed specifically to provide updates to research and practice while seeking to enhance a sense of community and collaboration among forensic practitioners from across the Commonwealth. These different training venues address the legal, clinical, and programmatic components of good forensic practice and effective service delivery while also inculcating shared practice standards concerning how much ability and understanding is required for a juvenile to be determined to be competent. This type of calibration is more difficult to achieve in states where training is not mandated by statute and administrative oversight is not provided through a single state-wide program.

One aspect of the program that we believe is central to its success involves the dyadic relationship between the remediation counselor and juvenile undergoing remediation services. Once a remediation counselor is assigned to a juvenile, the program director seeks to ensure that this relationship is not interrupted or undermined except in unusual circumstances. This type of arrangement prompts in the majority of cases the remediation counselor to become invested in the juvenile with whom they are working and to develop an individualized appreciation of their

learning styles, the types of impairments that have contributed to the finding of incompetency, and the contours of their family and living situation that is possibly affecting their progress toward attainment. Through their work with each youth, each Remediation Counselor also acquires and reviews the academic, psychological, and psychiatric records pertaining to each youth, allowing them to develop an informed and textured understanding of each youth and their unique struggles and strengths as they seek to navigate their way through the juvenile justice system. Each of these dynamics allows for a more immediate understanding of what can be done to assist each juvenile and does so in the context of a one-to-one relationship which is not complicated by group dynamics which can be particularly disruptive to adolescents given their susceptibility to peer pressure. Moreover, the dyadic relationship allows the Remediation Counselor to constantly focus on the rational understanding demonstrated by each youth and how each construct presented applies to their unique legal situation, a central aspect of the remediation process and one that cannot be easily achieved in a group context.

Our data do not directly address the issues of what to do with youth who were unlikely to attain competency and have previously acted violently in their local community. Virginia statute allows the juvenile court to wrap services around youth determined unlikely to attain competency through a Children in Needs of Services (CHINS) petition which requires their voluntary participation in individual or family counseling or forced compliance through a court order. Our data do suggest, however, that the majority of youth deemed unlikely to attain competency do not return to the remediation program based upon further illegal actions. Ninety-three percent of our study cohort were court ordered into the remediation program only once over the 19 years of service delivery that has been consistently based upon statutory guidelines. For those who did return, six percent returned two times, one percent three times, and .01 percent four times. These numbers argue against rather inchoate fears expressed by some that juvenile competency laws will provide a back door through which impaired, violent youth can be extracted from the jurisdiction of the juvenile court and provided a carte blanche for further misconduct unrestrained by any type of legal mandate. However, it is important to note that these numbers do not capture instances in which a youth who has undergone remediation services and been found unattainable offends repeatedly but is not referred for an examination of their competency for later charges. Moreover, these findings may be unique to Virginia, where the juvenile court provided a mandate for filing a CHINS petition and therein maintaining court jurisdiction over the youth who have been determined by the court to be unattainable to at least one charge.

Obvious in our sample is the overrepresentation of African American youth. As reported 71 percent of the present study cohort was African-American. This proportion is contrasted to calculations indicating that African-Americans represent 17 percent of all juveniles and 31 percent of all juvenile arrests (Puzzanchera & Hockenberry, 2013). This type of overrepresentation of African-American youth in the juvenile justice system obviously reflects a complex social problem with deep roots in racism, poverty, educational disadvantage, unemployment, and familial and community disintegration. On the other hand, our data also clearly demonstrate that African-American youth are not being overlooked or set aside concerning issues of adjudicative competency and that the outcome of the remediation efforts offered to them are not significantly different from those obtained by the youth from different ethnic groups. These findings argue against any consistent bias within the courts, the bar,

Virginia's community of juvenile forensic evaluators, or remediation program staff in the efforts made to ensure due process to juveniles of all ages and racial ethnicities. More complex is the question of why proportionally more African-American youth are being found incompetent and court-ordered into the remediation program. This difference may reflect racial differences according to which non-minority youth receive mental health and developmental services more quickly and consistently, allowing them to avoid a gradual immersion in disruptive and eventually delinquent behavior.

When considering these data, it is important to underscore that they are administrative data and not research data per se. They have therefore not been subjected to psychometric testing. However, since the inception of the program, there have only been two program directors responsible for overseeing the VA DBHDS Juvenile Competency Program, each of whom had singular responsibility for entering data into the program database. This administrative structure argues for considerable consistency and comparability in coding and data entry. The validity of the data is also strong as it reflects decision-making by the court based upon informed forensic assessments of adjudicative competency by well-trained and highly experienced juvenile evaluators. Our outcome measures are also rather rudimentary involving broad categories such as mental illness, cognitive disability and/or developmental maturity singularly or in combination. However, these categorizations are determined by Remediation Counselor with the Remediation Supervisor at the time that a case is closed, suggesting an informed and record-rich understanding of the clinical conditions that are most directly pertinent to the outcome of the remediation services. The time lines reflected in the data clearly emerge and are maintained through the careful scaffolding of statutes that require consistent court review of each juvenile and a powerful adherence to the timelines identified in line with *Jackson*. It would not be possible to achieve these outcomes if this type of statutory support did not exist relegating program interventions and timelines to evaluators and service providers exclusively. Finally, our data analysis are simplistic in nature and make use of primarily dichotomous data. Given the programmatic focus of this article, we determined that these type of data analyses were more in line with the quality of the data that we were presenting as well as in the programmatic interests of the majority of our readers.

IMPLICATIONS FOR PRACTICE

Given these caveats, these outcomes obtained at modest costs raise the questions of why states would *not* provide these types of procedural protections to the most vulnerable youth in the juvenile justice system. In many instances, the parents of these youth are unable to provide the informed guidance that might be beneficial to their children and there is no longer an assumption that the court itself will perform a parental function for each and every juvenile that appears before it (Woolard, Cleary, Harvell, Chen, 2008). Moreover, defense attorneys working in juvenile courts are often new to the field and are reimbursed at a modest or flat rate making it impossible for them to either explore all the impairments that might be impacting a juvenile's understanding of the court process or to attempt to remediate the juvenile's understanding and appreciation of the adjudicative process over repeated and frequent meetings with them. These circumstances make it likely that the most impaired youth will docilely and quietly proceed through a court process that they do not fully understand and to which they have contributed

little. In an era when juvenile records were expunged once a youth reached the age of 18 years, or juvenile offenses had no relevance to sentencing consideration in the criminal court, these repercussions were not as significant as they are now, when juvenile convictions can follow a youth into adulthood and significantly contribute to sentencing enhancements as an adult. Given the high stakes of these outcomes, it is difficult to formulate convincing reasons for condoning vacuous legal processes which carry with them possible life-long consequences for at-risk youth often from the most disadvantaged segment of our society.

This being said, there appears to be certain characteristics of the Virginia model that have contributed to its success over the past 20 years. First, the remediation process is clearly articulated in state statute with the mandate being placed squarely on the VDBHDS to provide remediation services to incompetent youth as it is required to provide restoration services to incompetent adults. Second, this state mandate, which is supported by statutory training requirements offered by the University of Virginia, ensures a consistent degree of calibration across the Commonwealth concerning legal and practice standards pertinent to juvenile competency and remediation. Third, innovative educational tools and case management software have been developed collaboratively by the VDBHDS and UVA with grant funding which offer an arsenal of rich and engaging tools for the effective remediation of most youth aged eight through 18 years.

The success of this intervention model and the outcomes and costs associated with it have been carefully monitored by the VDBHDS with its documented success prompting the development of an state-wide outpatient adult restoration program that is now being duplicated in other states throughout the US. Together these developments confront the need for an adherence to a solely inpatient approach to competency restoration and suggests that many adults and youth can be restored or remediated in the community in a reasonable period of time through an approach that is efficient, comprehensive and effective.

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