# A Family's Time ()H"I"KIAI

## AD/HD and the Criminal Justice System

BY SOLEIL GREGG, M.A.

y husband and I were visiting my sister out of state when we learned that our 18-year-old son with attention-deficit/hyperactivity disorder (AD/HD) and co-existing conditions had been arrested and taken to jail. The 10-hour drive home was a blur of emotions—shock, denial, disappointment, anger, shame, fear, guilt, and grief. Despite our best efforts, we had failed our son and not helped him enough to prevent this from happening. I'm sure that many others with loved ones in the juvenile and criminal justice systems have experienced similar heartache.

Looking for answers after my son's arrest, I began exploring the research on risk, resiliency, and the possible role of AD/HD in his legal difficulties. Although most people with AD/HD are law-abiding, I learned that research has found AD/HD to be a strong risk factor for contact with the justice system. Studies both following children with AD/HD into young adulthood and surveying adults in the community have shown significantly higher arrest rates for those with AD/HD compared to those without AD/HD. Likewise, assessments of juveniles and adults in correctional facilities have found much higher rates of mental health disorders, AD/HD, and learning disabilities than in the general population. The presence of other disorders-such as conduct, antisocial, and substance abuse disorders-largely accounts for the increased risk of arrest found for AD/HD.

#### Cumulative effects of risk factors

Antisocial and delinquent behavior has been associated with a number of factors related to individuals, families, schools, and communities. The effects of these factors are cumulative—the more factors present, the greater the level of risk, while eliminating these factors lowers





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- risk. Based on my son's experience, I believe that AD/HD has implications for many of these risk factors.
- Individual risk factors identified through research include some of the characteristic behaviors of AD/HD: for example, impulsivity, poor emotional regulation, the inability to delay gratification, acting without regard to future consequences, a need for stimulation and excitement, and early aggressive tendencies. Impulsive, non-thinking, thrill-seeking behaviors could increase the likelihood that vouth with AD/HD would come in contact with law enforcement, especially if aggression is involved. Alcohol and drug abuse adds more risk for arrest, and AD/HD is a risk factor for substance abuse, perhaps from a need to selfmedicate.
- Identified family risk factors include unemployment and economic hardship, low education, family disruption and conflict, mental health problems, substance abuse, and inconsis-

- tent parenting and discipline. These factors could also be related to adult AD/HD. Since AD/HD often runs in families, a stressful home environment resulting from a parent's AD/HD might add to individual risk for the child with AD/HD.
- School risk factors include academic failure and dropout, social rejection and alienation, deviant peers, punishment at school, low aspirations, and assignment to special education. A national study of special education programs found that, in general, students said by their parents to have AD/HD had poorer social skills, lower grades and poorer academic performance, higher retention rates, and more disciplinary referrals than special education students said not to have AD/HD. In addition, nearly 1 in 5 students said to have AD/HD were reported to have been arrested at least once while in high school.
- Known community risk factors include deviant peer groups, social alienation, victimization and exposure to violence, and availability of drugs and alcohol. If ostracized and

shunned by peers, young people with AD/HD might be driven to band with the other outcasts and misfits. Also, victims of abuse and violence have a higher risk of becoming perpetrators. and children with AD/HD and other disabilities are often the targets of bullies, both at school and in the community. My son's head injury, for example, resulted from a severe beating by a group of his peers.

#### Contact with law enforcement and justice system

Besides increasing the risk that an individual will engage in illegal behavior, AD/HD could pose additional challenges once contact with law enforcement has occurred. I saw from my son's experience how the same AD/HD behaviors that caused problems for him in school continued to plague him throughout the legal process. Some studies suggest that individuals with AD/HD and/or learning disabilities may be treated more harshly in the justice system than others who commit similar offenses.

When first confronted by police, the poor

social skills and heightened emotions that often accompany AD/HD could make a difference in whether someone is arrested and taken to jail or given a warning and sent home, according to a police commander who works with juveniles and also has a child with AD/HD. Just as my son was sometimes punished for being the last one in his class to settle down when the teacher's patience wore thin, he was also the last to get quiet when police came to a noisy party. And he was the one the police took into custody.

After arrest, cognitive deficits from AD/HD could impair individuals' ability to fully comprehend the charges against them and understand their legal rights. During questioning, impulsivity related to AD/HD might cause them to volunteer information or make selfincriminating statements that could complicate their defense or be used against them in court. For example, when my son was arrested at 18, he gave a statement to the police before speaking with an attorney, in which he admitted an

Continued on page 25

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# When a Loved One Goes to Jail

■ Encourage mental health treatment.

Treatment and medication for mental health disorders are important for those in correctional facilities, but services can be difficult to access. Psychiatric services were available in my state, on request, but since my son was in an adult facility, he had to be the one to request it. I was able to help the process along by providing the jail's administrator and medical personnel with written information about his mental health history, including his diagnoses, prescribed medications, and contact information for his doctors. I was able to persuade him to request treatment by explaining the benefits of medicine for controlling his impulses and emotions and for staying out of trouble while in jail (he had stopped taking his medicine prior to his arrest, of course). In my state, every day of good behavior in jail counts as two days served, so that provided extra incentive. He was given his medicine for bipolar disorder in jail, but was unable to get stimulant medication for AD/HD.

#### ■ Provide mental health information.

Defense attorneys and probation officers may have little knowledge about AD/HD and other mental health disorders, their effects on behavior, and effective interventions and treatment. Providing a few key publications from credible sources, like the Office of Juvenile Justice and Delinquency Prevention (www.ncjrs.org), the National Institute of Mental Health (www.nimh.nih.gov), and the National Institute on Drug Abuse (www.nida.nih.gov), on topics pertaining to your loved one's issues, can be helpful with his or her defense, at sentencing, and in transition planning. For example, the information I provided to my son's public defender was used to develop a comprehensive treatment plan, which, with restitution and time served, was part of his plea bargain and terms of release.

#### ■ Establish communication channels.

Visits and phone privileges may be restricted at first, and not knowing what is happening to loved ones can be quite upsetting to family members. Since my son was 18, he had to give his attorney permission to speak with us about his case. This allowed his attorney to provide us information and helped us to explain legal proceedings to our son, since we knew what was going on. My son was not permitted to have a cell phone or to receive outside calls while in jail, but once he had phone privileges, he was free to make unlimited calls using available pay phones. These phones were programmed to only make collect calls, even to local numbers. Since cell phones cannot receive collect calls, families that no longer have landlines may need to make arrangements with friends or relatives to receive calls at their homes or to accept calls for them and pass on messages. Computers and e-mail were not available in my son's facility.

■ Stay in touch. Getting mail can be the highlight of the day for those who are separated from friends and family. Frequent cards and letters, with family pictures, can help incarcerated individuals feel connected, remind them that they are loved, and help them cope with the situation. However, families should count on all mail being opened and screened by correctional personnel, so avoid writing or sending anything that you wouldn't want to be made public. Mail that doesn't include the sender's full name and return address will not be delivered and may not be returned, either. Don't be surprised if mail takes two weeks or more to get through processing at the facility. My son had plenty of time to write letters in response, but he had to purchase paper, envelopes, and stamps from the jail's commissary. Since he was considered pretrial, he wasn't eligible for a job, so we deposited a small amount of money each month in an account at the jail so he could buy writing materials and personal hygiene items. The jail accepted only money orders made out to the individual for this purpose and did not take cash, credit cards, or debit cards.

■ Prepare yourself for visits. Visits can be very important for supporting and staying connected to an incarcerated family member. Most inmates at my son's facility never had visitors, so he appreciated our willingness to come see him. However, it can be very distressing to visit a loved one in jail, even a secure juvenile facility, so mentally prepare yourself for this reality

ahead of time. Security procedures for visitors, such as public pat-down searches and removal of some items of clothing, can be uncomfortable and embarrassing. During visits, I was physically separated from my son by thick glass and was observed by an armed guard, and it was disconcerting as a parent to have my child under another's authority and to feel powerless to intervene. It was three weeks before our son became eligible for his first visit and several months before we could have "contact" visits, where we were allowed to hug him. At my son's facility, a limited number of time slots were given out on a first-come, first-served basis. Visitors had to arrive an hour ahead of time, and if you were even a minute late, you forfeited your visit for that day. Visits were scheduled by phone on certain days, and the phone line at the jail stayed constantly busy on those days. I learned to set my phone on automatic redial so I could do other things while waiting to get through. Families should call the particular facility for information about visitation policies and procedures.

■ Expect family stress. Having a loved one in jail can be very stressful for the whole family and can strain relationships with extended-family members and friends. Emotions are raw, and mothers, fathers, and family members may have different feelings about the individual, different ways of dealing with it, and different ideas of what should be done, which can lead to conflict and resentment. A parent's incarceration can cause financial hardship for the family and emotional distress for the spouse and children at home. Friends and family members may be judgmental, disapproving, and full of unwanted advice. While a certain amount of stress is to be expected under the circumstances, it is important to seek counseling and support for yourself and family members if problems become unmanageable and overwhelming. It will also help your incarcerated loved one to know that things are okay at home.



Continued from page 23 enhanced role in the offense out of "fairness" and loyalty to his friend and co-defendant. He was afraid to call us, even though my husband is a lawyer, because he knew we would be upset with him.

#### **Incarceration**

I discovered that incarceration can present another set of problems for those with AD/HD. The same types of behaviors that got my son in trouble at school continued to cause problems for him in the correctional facility, except that instead of being sent to detention hall, he was put in "the hole," or solitary confinement. And the same social difficulties he had in school affected his relationships with guards and other inmates, except that in jail most of the peer group can have untreated mental health disorders and may be actively withdrawing from abused substances, creating a volatile, potentially violent, and frightening situation. For this reason, my son tried to avoid social contact in common areas and rarely left his cell.

Complying with the rules and demands of jail might be difficult for individuals with AD/HD and other disorders, especially if access to medication and mental health treatment is lacking. Confinement and boredom could seem never ending and nearly intolerable to someone with an impaired sense of time, and the constant stress, unpredictability, and loss of freedom and privacy in the prison envi-

### Recommended Reading

- Siegfried, C., Shapiro, S., & Rogers, S. (N.D.). When your child is behind bars: A family guide for surviving the juvenile justice system. Alexandria, VA: National Mental Health Association. http://www1.nmha. org/children/justjuv/ bars.pdf
- Goldstein, S. (1997, June). Attention-deficit/hyperactivity disorder: Implications for the criminal justice system. Law Enforcement Bulletin. http://www.fbi.gov/ publications/leb/1997/ june973.htm
- Gregg, S. (1996). Preventing antisocial behavior in disabled and at-risk students. Policy Briefs. Charleston, WV: Appalachia Educational Laboratory. http://www.eric.ed. gov/ERICWebPortal/ Home.portal
- Hurley, P., and Eme, R. ADHD and the Criminal Justice System: Spinning Out of Control. Cedar Rapids, Iowa, 2004: Book Surge, LLC. www.booksurge.com

#### A FAMILY'S TIME OF TRIAL

ronment could create anxiety and take an emotional toll on vulnerable individuals. My son, for example, seemed hardened and traumatized, rather than reformed and enlightened, by his experience in a correctional institution. He was physically tense, had nightmares and panic attacks, yelled in terror if suddenly awakened, and was afraid to leave the house for months after being released.

#### Release and probation

AD/HD might also interfere with an individual's ability to meet the conditions of release, probation, and parole, and increase the likelihood of re-incarceration. Executive function deficits, impulsivity, and the inability to consider future consequences could affect activities such as planning how to get things done, getting to scheduled appointments on time, resisting the temptation to use alcohol and drugs, and following through on commitments and responsibilities. As with his classes in

school, once the excitement from the novelty and challenge of a new situation wore off, my son was unable to sustain the level of focus and effort necessary to fulfill his obligations without external structure and support.

Because of high caseloads and the diversion of scarce resources to more serious and violent offenders, my son was never provided the level of accommodations, interventions, and strategies he needed to compensate for and overcome his impairments. Thanks to luck, our monitoring, and some slack in the system, he was able to complete probation without a violation. When he was arrested and taken to jail, my husband and I decided not to bail him out, but instead to let him suffer the consequences of his actions, hoping it would teach him a lesson. His experience did teach him that he never wanted to go to jail again-it just didn't teach him how to prevent it. ■

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**FOR MORE INFO** For a list of references from this article, please visit www.chadd. org/attention/references.