

CROSSOVER PREVENTION TIP SHEET FOR CHILDREN'S ATTORNEYS

There is a strong connection between maltreatment, child welfare involvement, and justice system involvement.¹ Studies indicate at least one-third of youth in the child welfare system (and up to 70% in some jurisdictions) will “crossover” to the juvenile legal system or the adult criminal legal system.² This phenomenon is due, in part, to the experience of maltreatment, but it is also due to the youth’s experience of the child welfare system, which can increase the likelihood of and directly cause juvenile legal system involvement.³ The choices child welfare systems and courts make shape a youth’s experience and impact the likelihood of juvenile legal system referral or arrest. Given the complex needs and poor outcomes of youth in foster care who enter juvenile legal systems, children’s attorneys must work proactively in child welfare proceedings to disrupt the foster care to prison pipeline and serve all youth, families, and communities equitably.

HERE ARE **10 WAYS** CHILDREN'S ATTORNEYS CAN DISRUPT CROSSOVER TO JUSTICE SYSTEMS

- 1. Center Equity:** Address racial disproportionality of Black, Indigenous, and Latinx youth in foster care which exacerbates disproportionality in justice systems.⁴ Understand adultification bias⁵ toward Black youth, who are twice as likely to be arrested.⁶
- 2. Elevate Youth Voice:** Prioritize listening to and elevating youth perspectives and their unique needs in all aspects of legal advocacy, and ensure youth lead the case direction.
- 3. Educate on Rights:** Provide youth with clear information on their rights and how to exercise them, using relatable scenarios and workshops. This should include Miranda rights and the importance of asking for an attorney during police questioning.
- 4. Always Humanize Youth:** Prominently showcase and honor youth successes, encouraging stakeholders to follow suit. Challenge biases and misconceptions about youth behavior. Provide trauma-informed legal advocacy.
- 5. Prioritize Family Ties and Placement Stability:** Advocate for placements that preserve connections with family, siblings, kin, and significant others, minimizing institutional settings and frequent placement changes.
- 6. Demand Quality Services:** Push for high-quality services from the child welfare system, and advocate for reasonable efforts to preserve or reunify families. Challenge ineffective services, overmedication, and misconceptions about the purported benefits of the juvenile legal system.
- 7. Challenge Out of Home Placements:** Zealously advocate for alternatives to group homes or institutions—the primary sites of youth arrest in foster care. Learn placement policies regarding police involvement and advocate for 24-hour crisis intervention.
- 8. Oppose Secure Detention:** Actively challenge the use of secure detention and advocate for alternatives focused on therapeutic solutions. Challenge the use of chemical restraints and isolation.
- 9. Regularly Visit Youth in Institutional Settings:** Maintain regular visits to build rapport with your client and staff, routinely assess for safety (physical, psychological, emotional, sexual), and advocate for youth’s ongoing needs.
- 10. Inform Youth of Foster Care Benefits:** Highlight the supports and economic benefits available to youth through the foster care system, dispelling myths about the juvenile legal system offering better support.

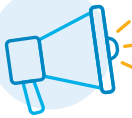
RESOURCES FOR LEGAL ADVOCACY IN CHILD WELFARE PROCEEDINGS

1. Center Equity: Address racial disproportionality of Black, Indigenous, and Latinx youth in child welfare proceedings to mitigate its impact on justice systems. Understand adultification bias affecting Black youth in care, who are twice as likely to be arrested.



- [Counsel for Kids Promote Race Equity](#), CounselforKids.org Toolkit
- [Anti-Racist Lawyering in Practice](#), Family Justice Initiative
- [Leaning into Discomfort and Disruption: A Call to Action for Children's Attorneys](#), Children's Bureau Express, August/September 2020, Vol. 21, No. 6
- [Racial Justice for Youth: A Toolkit for Defenders](#), The Gault Center

2. Elevate Youth Voice: Prioritize listening to and elevating youth perspectives and their unique needs in all aspects of legal advocacy, and ensure youth lead case direction.



- [Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings](#), National Association of Counsel for Children
- [Engaging, empowering and utilizing family and youth voice in all aspects of child welfare to drive case planning and improvement](#), Children's Bureau Information Memorandum ACYF-CB-IM-19-03
- [So You Want to Engage an Adolescent Client in Their Case; Great — they want to be engaged!](#), National Association of Counsel for Children
- [Client-Directed Advocacy FAQs](#), Counsel for Kids Toolkit

3. Educate on Rights: Provide youth with clear information on their rights and how to exercise them, using relatable scenarios and workshops. This should include Miranda rights and the importance of requesting an attorney during police questioning.



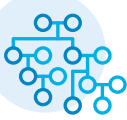
- [Your Case, Your Voice: Your Guide to Exercising Self-Advocacy](#), National Advisory Council on Children's Legal Representation (NACCLR), National Association of Counsel for Children
- [Youth Interrogations and Access to Counsel](#), Juvenile Law Center
- [Empowering Youth at Risk through Legal Rights Education](#), American Bar Association Human Rights Magazine, Vol. 47, No. 1 (October 2021).

4. Always Humanize Youth: Prominently showcase and honor youth successes, encouraging stakeholders to follow suit. Challenge biases and misconceptions about youth behavior. Provide trauma-informed legal advocacy.



- [Decriminalize Being in Foster Care](#), National Foster Care Youth & Alumni Policy Council
- [Empowering Child and Youth Clients: Advocating for Joy in the Legal System](#), Alexandria Ware, American Bar Association (October 2023)
- [Trauma: What Child Welfare Attorneys Should Know](#), National Child Traumatic Stress Network, American Bar Association Center on Children and the Law

5. Prioritize Family Ties and Placement Stability: Advocate for placements that preserve connections with family, siblings, kin, and significant others, minimizing institutional settings and frequent placement changes.



- [*Kinship Promising Practices*](#), American Bar Association Center on Children and the Law and Generations United
- [*How can we improve placement stability for children in foster care?*](#), Casey Family Programs
- [*Family First Act Resources*](#)

6. Demand Quality Services: Push for high-quality services from the child welfare system. Advocate for reasonable efforts to preserve or reunify families. Challenge ineffective services, overmedication, and misconceptions about the purported benefits of the juvenile legal system.



- [*Improving the Well-Being of Youth in Foster Care*](#), National Foster Care Youth & Alumni Policy Council
- [*Reasonable Efforts to Preserve or Reunify Families and Achieve Permanency for Children*](#), Child Welfare Information Gateway
- [*Curbing the High Rates of Psychotropic Medication Prescriptions Among Children and Youth in Foster Care*](#), National Center for Youth Law
- [*Futures in the Balance: Myths and Facts About the Impacts of Juvenile Court*](#), The Gault Center

7. Challenge Out of Home Placements: Zealously advocate for alternatives to group homes or institutions—youth in congregate care are at greater risk of arrest.⁷ Learn policies regarding police involvement and advocate for 24-hour crisis intervention.



- [*Every Kid Needs a Family*](#), National Center for State Courts, [*Attorney Advocacy Guide*](#), National Association of Counsel for Children
- [*Families over Facilities: Ending the Use of Harmful and Unnecessary Institutions and Other Group Facilities in Child Welfare Systems*](#), Children's Rights

8. Oppose Secure Detention: Actively challenge the use of secure detention and advocate for alternatives focused on therapeutic solutions. Challenge the use of chemical restraints and isolation within secure and staff-secure facilities.



- [*Achieving Excellence in Detention Advocacy: Guidelines for Juvenile Defenders to Provide Zealous Advocacy at Initial Detention Hearings*](#), The Gault Center
- [*The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*](#), Justice Policy Institute

9. Regularly Visit Youth in Institutional Settings: Maintain regular visits to build rapport with your client and staff, routinely assess for safety (physical, psychological, emotional, sexual), and advocate for youth's ongoing needs.



- [*Making an Emergency Plan for Youth in Congregate Care in California: A Toolkit for Dependency Attorneys, Youth Providers, and Advocates*](#), Youth Law Center
- [*Overview of Youth Rights in Facilities*](#), The Gault Center
- [*National Standards for the Care of Youth Charged with Status Offenses*](#), Coalition for Juvenile Justice

10. Inform Youth of Foster Care Benefits: Highlight the supports and economic benefits available to youth through the foster care system, dispelling myths about the juvenile legal system offering better support.

- [Extended Foster Care Explained](#), Annie E. Casey Foundation
- [Foster Youth to Independence \(FYI\) Housing Vouchers](#), U.S. Dept of Human Services, Administration for Children and Families Informational Memorandum ACF-ACYF-IM-24-01
- [John H. Chafee Foster Care to Successful Transition to Adulthood Program Resource List](#), Capacity Building Center for the States
- [Support Act Implementation Will Improve Medicaid Coverage for Youth Leaving Foster Care](#), Youth Law Center

ACTIVELY ENGAGE IN COLLABORATION AND SYSTEM REFORM

Children's lawyers should participate in training programs to learn more about adolescent development and crossover prevention. Children's attorneys who develop and execute these practice strategies to disrupt the foster care-to-prison pipeline provide better services to young people and become knowledgeable stakeholders for community collaboratives and systemic reform efforts. On this level, children's lawyers can share their expertise to collaborate on justice reform efforts such as raising the minimum age of juvenile court jurisdiction and partnering with groups dedicated to reducing racial disparities. A children's law office can collect data regarding youth who cross over to justice systems to spot trends and points of intervention. Lastly, children's lawyers should partner with local youth defense counsel organizations, stakeholders, and other advocates to provide youth with comprehensive support, while exploring alternatives to the justice system.

ENDNOTES

- 1 Janet Wiig, Cathy Spatz Widom, and John A. Tuell, "Understanding Child Maltreatment and Delinquency: From Research to Effective Program, Practice, and Systemic Solutions," (Washington: Child Welfare League of America, 2003), https://rfkncrj.org/images/PDFs/Understanding_Child_Maltreatment_and_Juvenile_Delinquency_From_Research_to_Effective_Program_Practice_and_Systemic_Solutions.pdf; Denise C. Herz, Carly B. Dierkhising, Jessica Raithel, Maryanne Schretzman, Shannon Guiltinan, Robert M. George, Youngmin Cho, Claudia Coulton, and Sam Abbott, "Dual System Youth and their Pathways: A Comparison of Incidence, Characteristics and System Experiences Using Linked Administrative Data," *Journal of Youth and Adolescence* 48, no. 4 (2019): 2432-2450, <https://doi.org/10.1007/s10964-019-01090-3>.
- 2 Sarah Vidal, Dana Prince, Christian M. Connell, Colleen M. Caron, Joy S. Kaufman, and Jacob K. Tebes, "Maltreatment, Family Environment, and Social Risk Factors: Determinants of the Child Welfare to Juvenile Justice Transition among Maltreated Children and Adolescents," *Child Abuse and Neglect* 63 (2017): 7-18, <https://doi.org/10.1016/j.chiabu.2016.11.013>.
- 3 Decriminalize Being in Foster Care, The National Foster Care Youth and Alumni Policy Council (September, 2023), https://drive.google.com/file/d/1RRbNHnG26gg5x2_Xlbop_njnVUZfzkZv/view.
- 4 Models for Change, "Knowledge Brief: Is There a Link between Child Welfare and Disproportionate Minority Contact in Juvenile Justice?," (Chicago: John D. and Catherine T. MacArthur Foundation (2011), <http://www.modelsforchange.net/publications/317>.
- 5 Phillip Atiba Goff, Matthew Christian Jackson, Brooke Allison Lewis Di Leone, Carmen Marie Culotta, Natalie Ann DiTomasso, "The Essence of Innocence: Consequences of Dehumanizing Black Children," *Journal of Personality and Social Psychology* 106, no. 4 (2014): 526-545, <https://psycnet.apa.org/doi/10.1037/a0035663>. And, Rebecca Epstein, Jamilia J. Blake, and Thalia Gonzalez, "Girlhood Interrupted: The Erasure of Black Girls' Childhood," (Washington: Georgetown Law Center on Poverty and Inequality, 2017), <https://www.law.georgetown.edu/poverty-inequality-center/wp-content/uploads/sites/14/2017/08/girlhood-interrupted.pdf>.
- 6 Vidal, et al., 2017. And, Center for Juvenile Justice Reform and American Public Human Services Association, "Bridging Two Worlds: Youth Involved in the Child Welfare and Juvenile Justice Systems," (Washington: Georgetown University Center for Juvenile Justice Reform and Arlington: American Public Human Services Association, 2008), https://cjjr.georgetown.edu/wp-content/uploads/2015/03/BridgingTwoWorlds_2008.compressed.pdf.
- 7 Denise C. Herz, Carly B. Dierkhising, Jessica Raithel, Maryanne Schretzman, Shannon Guiltinan, Robert M. George, Youngmin Cho, Claudia Coulton, and Sam Abbott, "Dual System Youth and their Pathways: A Comparison of Incidence, Characteristics and System Experiences Using Linked Administrative Data," *Journal of Youth and Adolescence* 48, no. 4 (2019): 2432-2450, <https://doi.org/10.1007/s10964-019-01090-3>; Hui Huang, Joseph P. Ryan, Antoinette Sappleton, and Yu-Ling Chiu, "Crossover Youth Post Arrest: Placement Status and Recidivism," *Children and Youth Services Review* 57 (2015): 193-200, <https://doi.org/10.1016/j.chidyouth.2015.08.015>; Joseph P. Ryan, Jane Marie Marshall, Denise Herz, and Pedro M. Hernandez, "Juvenile Delinquency in Child Welfare: Investigating Group Home Effects," *Children and Youth Services Review* 30, no. 9 (2008): 1088-1099, <https://doi.org/10.1016/j.chidyouth.2008.02.004>.

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