

Collateral Consequences of Juvenile Court Involvement

An Opportunity for Partnership

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Malcolm, 19, was struggling to find stable housing and employment.¹ He felt trapped because he did not have money to rent an apartment or even a room; he could not afford to go to community college to pursue a career beyond flipping burgers; and he could not get a job to pay for any of it because of his juvenile record.

Malcolm contacted his juvenile defender to figure out what he could do about his juvenile record. He had heard something about expungement but was not sure what it was or if it would benefit him. His juvenile defender was able to help expunge his record and then connected Malcolm with a civil legal aid attorney who helped Malcolm address related problems such as securing housing and safety-net benefits.

As a result of the zealous representation Malcolm received from his juvenile defender and civil legal aid attorney, Malcolm was enrolled in extended foster care, found stable housing, obtained benefits, and got into college to begin pursuing a career in the medical field.

Juvenile court was established as an alternative to the punitive criminal system to support young people's individual strengths and help them on a path to success.² However, the collateral consequences of a juvenile adjudication doubly punish youth by limiting their ability to move forward after they have complied with court-ordered requirements.³ Collateral consequences are the by-products of juvenile court involvement and affect practically every aspect of a young person's life, including employment, housing, and education. These consequences disproportionately harm youth who are already most at risk—youth of color, youth who are LGBTQIA-GNC (lesbian, gay, bisexual, transgender, queer, intersex, asexual, and gender nonconforming), youth involved in both dependency and delinquency systems, youth who are homeless, and youth with physical or mental differences.⁴

Partnerships between civil legal aid attorneys and juvenile defenders can be a dynamic and powerful way to help such youth tackle barriers to success.

The Crisis

Juvenile courts handle approximately one million cases per year.⁵ In many of these cases and in violation of their constitutional right to counsel, young people are not represented by an attorney. This means youth may have a record simply because they did not have an attorney to represent their interests and advocate for them in court. In all but 11 states, children lack meaningful access to a lawyer postdisposition to help them navigate appeals, probation, reentry, and collateral consequences.⁶

Youth in every state face collateral consequences because of involvement with the juvenile court system. These consequences are unique from those in the criminal justice system primarily because they defy and prevent the rehabilitative purpose of juvenile court. Few juvenile court stakeholders—not to mention young people—understand the breadth of harm that youth face as a result of their court

involvement; this lack of understanding underscores the need for knowledgeable and passionate advocates.

That juvenile justice records remain secret is a myth; very few states hold all juvenile records confidential. The vast majority of states make at least some juvenile law enforcement and court records available to the public. This access creates significant impediments for young people pursuing higher education, employment, and housing.⁷ Once a record is public, the damage is far-reaching because anyone can access the record and use it as a reason to deny opportunities to youth. While a juvenile disposition is not synonymous with a criminal conviction, that distinction is lost when the record appears on a background check or is disclosed on an application.⁸ Simply because the records can be publicly accessed, youth in almost every state face harsher and more long-lasting punishment than what was ordered by a judge in the juvenile court case.

Even when the records are not public, youth still face collateral consequences. Sometimes schools or housing authorities are notified of a youth's juvenile court involvement, or young people must disclose their records on an application or in an interview. The school or college, landlord or housing provider, state licensing entity, or employer can then use that information to deny the youth education, employment, or housing.

Education

Makayla was released from a juvenile out-of-home placement in January, but when she tried to return to her home school to finish 11th grade, the school administrators told her to come back in August. She was devastated, feeling like she was being punished even more. The judge had ordered her to reenroll immediately and not have any unexcused absences. How could Makayla pursue her educational goals and comply with the judge's order to attend school when the school would not let her return for seven more months?

Juvenile court involvement can derail a young person's education. In some states, youth can face suspension or expulsion following an arrest or adjudication.⁹ Young people sent to an out-of-home placement can face extensive delays and problems with reenrollment, credit transfer, and special education accommodations when they try to return to their local district. They may even be denied the opportunity to return to their local school altogether. A delinquency adjudication can also be considered by institutions of higher education in deciding whether to admit an applicant.¹⁰

Employment

Robbie was adjudicated nine years ago, and since then he has completed high school and earned his associate's degree in information technology; he now works in construction. To support his ailing mother and young daughter, he continues to apply for jobs related to his degree, but, despite his impeccable employment history and references, potential employers continue to deny his application after running background checks that reveal his juvenile record for disorderly conduct. How can Robbie pursue his career when his juvenile record repeatedly blocks opportunities for employment in his chosen field?

Employment options for a young person with a juvenile record can be severely limited. Potential employers may find out about an applicant's juvenile record through information listed on the application or on a background check. Additionally states may require occupational licenses for many professionals, including barbers, electricians, child care workers, and nurses; some state licensing agencies can access juvenile record information or request information about juvenile court involvement on occupational licensing applications, meaning that youth may be denied the license because of their juvenile court involvement.¹¹ Moreover, a young person who has a suspended or revoked driver's license may be practically barred from certain jobs either because the job requires the person to drive or because the young person has no other feasible mode of transportation to and from work.

Housing

Jimena was a week away from being released from a juvenile detention facility when she learned that she could not return home. Her parents live in public housing, and the housing authority learned of her adjudication. If she were to return home, her parents and younger siblings could be evicted from their apartment. Without anywhere else to go, Jimena had to stay an extra week in the juvenile detention facility until her probation officer was able to find another place for her to stay. Eventually she was released into a temporary homeless shelter. How can Jimena, 16, find a stable home if her adjudication prevents her from living with her family?

Young people can be denied housing or evicted from public housing because of their juvenile record.¹² Families can be forced to choose between relocating the entire family—disrupting schooling and work for everyone—and finding alternative housing for their child who was juvenile court-involved. Sometimes youth become homeless when they have no stable alternative housing or when they return home without adequate community supports to help them and their family.¹³

Other Collateral Consequences

Beyond education, employment, and housing, additional collateral consequences stem from juvenile court involvement. TANF (Temporary Assistance for Needy Families),

Medicaid, and SSI (Supplemental Security Income) benefits may be suspended for a child held in an out-of-home placement, and families may need help restoring these benefits when the youth returns home.¹⁴ Otherwise the family may be trying to subsist on benefits intended for a one-person-smaller family. In many states an adjudication for a sex offense requires registration, which can severely limit the youth's housing, employment, and education options. Registration can last for decades or even for life and is often public, increasing stigmatization and barriers.¹⁵ Moreover, because young people can struggle to grasp the technical requirements related to registration, youth are likely to make mistakes that can later lead to a felony conviction for failure to register.¹⁶ Certain delinquency adjudications can trigger immigration consequences, including deportation, for any young person who is not a U.S. citizen.¹⁷ Oftentimes court involvement can trigger fees, fines, and restitution, which, if left unpaid, can lead to civil liens and other consequences.¹⁸ Juvenile court involvement can also affect young persons' right to possess firearms, their credit, and their ability to serve in the military.¹⁹ Each of these collateral consequences drastically alters the future for young people and impedes their safety and well-being.



Opportunity Through Partnership

Partnership between civil legal aid attorneys and juvenile defenders can be a dynamic and powerful way to help youth overcome the immensity of problems they face following their juvenile court involvement. Defenders have expertise in representing youth and in the juvenile court system but are often statutorily barred from, or ill-equipped to offer, representation in civil legal issues. Civil legal aid attorneys are experts in handling civil issues but may not have extensive experience

representing youth or an understanding of the interconnection between civil legal problems and collateral consequences of juvenile court involvement. Collaboration allows each to tap into their strengths and expertise and work together to strengthen the future opportunities available to youth.

Record Clearing

Young people could benefit significantly from a coordinated effort to clear records. Juvenile defenders can often handle record clearance (a process that, depending on the state, can also be referred to as sealing, expungement, expunction, deletion, or erasure) when that process can be initiated soon after the juvenile court case is complete and in routine cases. However, in some jurisdictions, juvenile defenders are prohibited—because of statute, contract, or internal procedures—from representing clients on record clearance.

Legal aid attorneys and defenders can conduct joint record clearance events or clinics. In many cases the legal aid attorney is not able to access confidential records independently to determine eligibility for expungement, but the juvenile defender can help access this information and expand opportunities for record clearance. Legal aid attorneys can screen existing clients with a history of juvenile court involvement for record-clearing eligibility; this screening is helpful in cases where a young person is not eligible for record clearing until years after the case closes and is no longer in contact with the juvenile defender. Legal aid attorneys can also help with record clearance in less conventional cases. For example, where legislation makes new offenses retroactively eligible for clearance, civil legal aid and juvenile defender offices could collaborate to review old files, identify eligible clients, and strategize how to initiate record clearance. The Clean Slate Clearinghouse website is a valuable tool, especially for those who are interested in starting new projects or expanding their current practice to include juvenile record clearance.²⁰ It lists up-to-date information on the juvenile record clearance process, eligibility requirements, waiting periods, fees, and effect.

Education

Educational assistance is another area ripe for coordination, especially when a juvenile defender office does not have a dedicated education advocate. Legal aid offices could represent clients in suspension or expulsion hearings stemming from juvenile court involvement, in coordination with the case's juvenile defender who can ensure that the education advocacy is consistent with the issues presented in the delinquency case. Also, legal aid attorneys could work with defenders to ensure that youth returning from out-of-home placements are immediately placed back in their

local school upon release, receive full credit for courses taken during placement, and receive special education accommodations mandated by law.

Employment

Civil legal aid attorneys and defenders can partner to help a youth overcome barriers to employment. If records are public or the youth divulges juvenile court involvement, an employer could decide not to hire the youth because of the juvenile record. Civil legal aid attorneys and juvenile defenders may see positive results in preventing this collateral consequence through affirmative outreach and education to young people with juvenile records to let them know their rights and how to answer questions about their record in job interviews.

Housing

Coordination could also help system-involved youth navigate housing issues. Civil legal aid attorneys could represent youth (and their families) who are barred from public housing or face eviction because of a delinquency adjudication. As for youth who are unable to return home following an arrest or an out-of-home placement, civil legal aid attorneys can help them find stable housing and avoid homelessness. For example, a civil legal aid attorney could help an alternate caregiver update public housing vouchers to allow the young person to stay in the home. Coordination between the civil legal aid attorney and the juvenile defender is crucial because changes in housing can affect a youth's probation. In particular, because a probation order may require a youth to reside with a certain person and obey that person's house rules, the juvenile defender must keep the court and probation officer apprised of any change in housing to avoid a probation violation.

In each of these categories of civil legal issues, juvenile defenders bring to this partnership expertise in working with youth and working within the juvenile court system. They know how to navigate the complexities of the delinquency system and can share this knowledge with legal aid attorneys who are providing crucial representation on civil legal issues. Young people are not just small adults; they are developmentally different, and working with them requires a specialized approach.²¹ Juvenile defenders can share expertise on interacting and communicating with young clients in ways that take into consideration their developmental capacities and capabilities. They can help the civil legal aid attorney build a positive rapport with the young person by creating a safe, trusting environment and listening to the client's interests and objectives to ensure that the client feels respected and heard.²² Juvenile defenders can also share their knowledge of juvenile court-specific consequences and can help access the young person's full juvenile court records and

information with an understanding of how the civil legal issues may affect the youth's probation or delinquency case.

Successful Partnerships

Depending on objectives and resources, partnership between civil legal aid and juvenile defender offices can take many forms. For example, an ongoing partnership could be built directly between the two offices, where juvenile defenders refer clients with civil legal issues directly to legal aid attorneys, and then legal aid attorneys represent the young person in close consultation with the juvenile defender to ensure that the youth receives consistent legal advice and representation in all matters. A legal aid office could serve as an independent technical assistance provider to the defender office or could come into defender offices to offer limited "drop-in" hours. Both offices could offer pro bono opportunities, conduct joint training on collateral consequences, or hold joint record clearance or outreach and education events. Either could serve as a host organization for an externally funded fellowship, such as those through Skadden or Equal Justice Works, which could supply resources to pilot a new program.²³

The following examples demonstrate how civil legal aid offices and juvenile defender offices have successfully partnered and collaborated to meet youth's needs that span the juvenile and civil systems.

Youth Justice Project at Bay Area Legal Aid

The Youth Justice Project at Bay Area Legal Aid in California started as a Skadden Fellowship to meet the civil legal needs of young people and is now a nine-attorney unit that offers ongoing direct civil legal aid assistance to all young people, including youth involved in the juvenile justice system, as well as technical assistance to public defender offices across the region.²⁴ The project focuses on protecting and restoring young people's public benefits, advocating students' access to appropriate educational placement and services, and working with youth to prevent housing instability and homelessness. The project has established eligibility for extended foster care, secured expedited enrollment in neighborhood schools after an out-of-home placement, and recovered over \$1 million for clients in legal benefits, entitlements, and services over the past two years.

The EdLaw Project

The EdLaw Project was created to serve an unmet need for expertise in educational advocacy for youth currently involved or at risk of becoming involved in the juvenile

justice system. The project is housed under the Youth Advocacy Foundation in Massachusetts and works to fight the school-to-prison pipeline for court-involved youth by training juvenile defenders, representing youth directly, and offering technical assistance to youth, parents, and community organizations.²⁵ The project offers, among other initiatives, training and case-by-case advice to juvenile defenders representing clients facing suspension or exclusion (also known as expulsion) from school, difficulties accessing appropriate education while in an out-of-home placement, and problems with credit transfer from out-of-home placements.

National Juvenile Defender Center and Richland County Public Defender's Office

The National Juvenile Defender Center's Juvenile Post-Disposition Reentry Fellowship Program started after the National Juvenile Defender Center identified that youth needed legal representation upon reentry, and the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention awarded a grant to fund the project. The program included, throughout the country, several fellows who provided civil legal services to young people reentering their communities following juvenile court involvement.²⁶ The fellow placed at the Richland County Public Defender's Office regularly collaborated with South Carolina Legal Services and the clinics at the University of South Carolina School of Law. When the fellow was unable to represent a youth in certain matters, the fellow would partner with South Carolina Legal Services or the law school clinics to find an attorney to represent the youth. The partners shared their expertise and strategized how to overcome obstacles. Over the course of the two-year project, with zealous representation from the fellow, the tremendous work of the Richland County Public Defender's Office social worker, and these strong partnerships with civil legal aid, the number of youth facing education-related consequences in Richland County decreased dramatically.

Civil legal aid attorneys who have partnered with juvenile defenders to curb collateral consequences identified a number of key factors for building successful partnerships between legal aid and juvenile defender offices. Both offices must have clearly defined roles and a system for coordination to avoid duplication of work or mixed messages to a client. When possible, offices should affirmatively combine and share resources related to common clients. Offices should consult with each other, and if one organization has the opportunity to be at the table for a stakeholder meeting, it should consult with the other organization and represent their interests if their interests do not conflict.



Whether young people can have their records cleared after juvenile court involvement, the specter of such involvement hangs over their lives and hampers their success long after they have formally completed any court-ordered requirements. Juvenile defenders must do what they can to mitigate such collateral consequences, but often they do not have the expertise or the prolonged contact with clients to fight these consequences alone. Civil legal aid attorneys can play a crucial role in this fight by partnering with juvenile defenders. We hope our article serves as a catalyst for conversation in your offices and jurisdictions about ways to support young people entangled in both juvenile and civil legal systems.

Please contact the National Juvenile Defender Center if you have other examples of or ideas for effective partnerships, if you would like to be connected to juvenile defender offices in your area, or if we can help coordinate training sessions or supply resources.²⁷

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Notes

1 Clients' names have been changed.

2 *In re Gault*, 387 U.S. 1, 15–16 (1967).

3 A juvenile adjudication is a decision by the juvenile court that a youth committed an offense; it is similar to a conviction in adult court. Each state defines a juvenile adjudication or its equivalent differently, but most contrast a juvenile adjudication with a criminal conviction (see, e.g., [Md. Code, Cts. & Jud. Proc. § 3-8A-23 \(PDF\)](#) (a)(1) (2018); [Neb. Rev. Stat. § 43-280](#) (2018); [Wash. Rev. Code § 13.04.011\(1\)](#) (2017)).

4 See Brian Goldstein, *“Crossover Youth”: The Intersection of Child Welfare and Juvenile Justice*, Juvenile Justice Information Exchange (Nov. 15, 2012); M.H. Morton et al., [\(PDF\)](#) Chapin Hall at the University of Chicago, *Missed Opportunities: Youth Homelessness in America* [\(PDF\)](#) (2017); National Center on Criminal Justice and Disability, *Justice-Involved Youth with Intellectual and Developmental Disabilities: A Call to Action for the Juvenile Justice Community* [\(PDF\)](#) (2015); Sentencing Project, *Black Disparities in Youth Incarceration* (Sept. 12, 2017); Sentencing Project, *Latino Disparities in Youth Incarceration* (Oct. 12, 2017); Sentencing Project, *Native Disparities in Youth Incarceration* (Oct. 12, 2017); Bianca Wilson et al., *Disproportionality and Disparities Among Sexual Minority Youth in Custody*, 46 *Journal of Youth and Adolescence* 1547 (2017).

5 Sarah Hockenberry & Charles Puzzanchera, National Center for Juvenile Justice, *Juvenile Court Statistics 2013* (PDF) , at 6 (July 2015).

6 *In re Gault*, 387 U.S. at 36; National Juvenile Defender Center, *Access Denied: A National Snapshot of States' Failure to Protect Children's Right to Counsel* (PDF) 7, 31 (May 2017) (few states have adequate access to counsel for young people because of burdensome financial eligibility determinations, late appointment of counsel, assessment of costs and fees, inadequate protections against waiver, and early termination of counsel).

7 See, e.g., National Juvenile Justice Network, *Safeguarding the Confidentiality of Youth in the Justice System: Recommendations and Resources* (PDF) (Aug. 2016); Riya Saha Shah & Lauren Fine, Juvenile Law Center, *Juvenile Records: A National Review of State Laws on Confidentiality, Sealing and Expungement* (PDF) (2014).

8 See Md. Code, Cts. & Jud. Proc. § 3-8A-23 (PDF) (a)(1); Neb. Rev. Stat. § 43-280; Wash. Rev. Code § 13.04.011(1).

9 Compare Cal. Educ. Code § 48900(s) (2018) (student can be suspended or expelled only if related to school activity or attendance), with Mo. Rev. Stat. §§ 167.161, 167.171(3)–(4) (2018) (implying that student can be suspended or expelled for any act of violence or drug-related activity even if behavior did not take place at school).

10 The Common Application, accepted by more than 600 colleges and universities, asks whether the applicant has “ever been adjudicated guilty or convicted of a misdemeanor or felony,” and the explanatory material specifies that “‘adjudicated delinquent’ is the juvenile equivalent of ‘adjudicated guilty’” (*Common Application, What Is “Adjudicated Delinquency?”* (2017) (in our files)).

11 See, e.g., Neb. Rev. Stat. § 43-2,108.05(3)(d). While some state statutes technically prevent a juvenile adjudication from barring professional licensure, anecdotes persist about youth being denied licenses (see, e.g., Wash. Rev. Code § 9.96A.020).

12 See, e.g., 42 U.S.C. § 1437n (PDF) (f) (2016) (requiring public housing agencies to prohibit occupancy for individuals convicted of manufacturing methamphetamine on federally assisted housing property); *id.* § 13663 (PDF) (a) (requiring owner of federally assisted housing to “prohibit admission” to individuals subject to lifetime sex offender registration); 24 C.F.R. § 982.553(a)(2)(ii), (b)(1)(i) (2018) (allowing public housing agency to prohibit admission if any member of household is or has engaged in “[d]rug-related criminal activity,” “[v]iolent criminal activity,” or “[o]ther criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises”).

13 Morton et al., *supra* note 4.

14 See, e.g., Wash. Rev. Code § 74.09.670; S.C. Code Regs. § 114-1130 (PDF) (H)–(I) (2017).

15 See Nicole Pittman & Alison Parker, Human Rights Watch, Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the U.S. (PDF) (2013).

16 *Id.*

17 See National Juvenile Defender Center, Juvenile Defender’s Guide to Immigration Issues in Juvenile Proceedings (PDF) [2017]. See also Immigrant Legal Resource Center, Immigration Consequences of Juvenile Delinquency (PDF) (Jan. 2018); Kids in Need of Defense, Immigration Consequences of Delinquency and Crimes (PDF) [2015].

18 See Jessica Feierman, Juvenile Law Center, Debtors’ Prison for Kids? The High Cost of Fines and Fees in the Juvenile Justice System (PDF) (2016); National Juvenile Defender Center, The Cost of Juvenile Probation: A Critical Look into Juvenile Supervision Fees (PDF) [2017].

19 See, e.g., S.C. Code § 16-23-30(B) (2017); Wash. Rev. Code § 9.41.040. Generally the U.S. military does not treat juvenile records differently from adult records, and youth may be required to disclose juvenile court involvement even if their record was cleared (see 32 C.F.R. §§ 66.3, 66.6(b)(8)(ii)–(iii) (2018) (definitions and military’s basic enlistment rules); U.S. Department of the Army, Reg. 601-210, Regular Army and Reserve Components Enlistment Program 2-11(a), 4-30 (Aug. 31, 2016) (examples of how military views sealed or expunged cases)).

20 Council of State Governments Justice Center, Clean Slate Clearinghouse (n.d.) (information on juvenile record clearance in every state).

21 Reforming Juvenile Justice: A Developmental Approach (Richard J. Bonnie et al. eds., 2013); Thomas Grisso et al., *Juveniles’ Competence to Stand Trial: A Comparison of Adolescents’ and Adults’ Capacities as Trial Defendants*, 27 Law and Human Behavior 333 (2003) (youth younger than 15 are cognitively impaired in terms of competence to stand trial and particularly vulnerable to poorly reasoned decisions in legal contexts); Lia O’Brien et al., (PDF) *Adolescents Prefer More Immediate Rewards When in the Presence of Their Peers* (PDF) , 21 Journal of Research on Adolescence 747 (2011); Laurence Steinberg et al., (PDF) *Age Differences in Future Orientation and Delay*

[Discounting](#) (PDF) , 80 Child Development 28 (2009) (young people prefer immediate versus delayed rewards, and this preference may be linked to their ability to think about future and anticipate consequences). Attorneys have an ethical and legal obligation to represent their young client’s expressed—not best—interests, and this makes relationship building particularly crucial (see [Lisa Thureau & Samuel Goldberg, National Juvenile Defender Center, National Juvenile Defense Standards](#) (PDF) 19–21 (2012) (Standard 1.2: Elicit and Represent Client’s Stated Interests)).

22 [Ranee J. Waldman, Emory University School of Law, Representing the Whole Child: A Georgia Juvenile Defender Training Manual](#) (PDF) 11–21 (2d ed. 2015) (how to build rapport with, explain confidentiality to, prepare for court appearance of, and communicate with young client).

23 See [Equal Justice Works, Equal Justice Works Fellowships](#) (2017); [Skadden Foundation](#) (2018).

24 See [Bay Area Legal Aid, Youth Justice Project](#) (2018).

25 See [Youth Advocacy Foundation, EdLaw Project: Equitable Access to Quality Education](#) (n.d.).

26 See [National Juvenile Defender Center, NJDC Post-Disposition Reentry Fellows](#) [2015].

27 E.g., the National Juvenile Defender Center website offers state-specific resources and tools for attorneys, youth, and communities on collateral consequences of juvenile court involvement ([National Juvenile Defender Center, Collateral Consequences](#) (n.d.)).

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