ACCESS TO JUSTICE FOR YOUTH EXPERIENCING HOMELESSNESS

Meeting the Legal Needs of Youth to Prevent or End Youth Homelessness

Authors: Linda Britton, Director, ABA Commission on Youth at Risk
Amy Horton-Newell, Director, ABA Commission on Homelessness and Poverty
Lisa Pilnik, Consultant, ABA Homeless Youth Legal Network

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Estimates indicate that nearly 1.7 million youth are kicked out of or run away from their homes each year. Although the majority of these young people return home quickly, an estimated 550,000 youth (minors) and young adults experience homelessness for longer than one week. Youth of color and lesbian, gay, bisexual, transgender and queer/questioning youth are at increased risk of experiencing homelessness, as well as being over-represented in the child welfare and juvenile justice systems. A recent survey of youth experiencing homelessness in 11 U.S. cities found that 41% identified as Black or African-American, and almost 26% identified as Hispanic or Latino/Latina. (See box below on LGBTQ youth.) The survey respondents also reported extremely high rates of past child welfare and/or juvenile justice system involvement, as well as high levels of victimization before and while experiencing homelessness.

Disconnection from adult support, traumatic experiences, and challenges meeting basic needs are often exacerbated by legal issues such as outstanding warrants, unpaid fines and fees, and involvement with the child protective system. Addressing these legal issues, as well as preserving young people’s rights to education, access to public benefits and other entitlements, can prevent or end their homelessness.

Common legal needs experienced by young people at risk of, or experiencing, homelessness include the following:

**Identification**

Accessing housing, employment, education, or public benefits can be virtually impossible for young people who do not have access to their birth certificate, social security card and/or a state-issued photo ID. Obtaining these documents can be a complicated process for young people.

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2 Note that these categories were not mutually exclusive. Family and Youth Services Bureau; Administration for Children and Families; U.S. Department of Health and Human Services. Street Outreach Program Data Collection Study Final Report (April 2016).
people who are no longer living with their parents, and/or who do not have a stable address or money to pay required fees. Most states do not allow minors to request their own birth certificate, so youth must have an immediate family member or legal representative make the request. Individuals requesting birth certificates usually also must provide photo ID, creating a catch-22 for young adults who lack identification.

→ Texas Rio Grande Legal Aid, like many legal services organizations, reports that one of their most frequent services for this population is helping youth obtain identification cards, original birth certificates and/or Social Security cards. The group’s Texas Foster Youth Justice Project can help youth who are or have been in foster care with the legal requirements for obtaining these documents, as they may no longer be connected to the relatives who originally had access to them.

→ Wyoming’s legislature, with support from the Wyoming Children’s Law Center, passed a law in 2017 allowing unaccompanied homeless minors to obtain their own birth certificates.

Family Law

Family conflict is the most common cause of homelessness among youth and seventy percent of all homeless youth report experiencing some form of abuse before leaving home. Many youth are able to identify adults other than their parents—including relatives and nonrelatives—with whom they could safely reside, but may need assistance making these arrangements legal. Youth who are parents themselves may also need help with parenting plans, child support agreements, and with defending their own parental rights.

→ Educating youth on their rights and options is often a big component of legal advocacy for young people experiencing homelessness. For example, Mid-Minnesota Legal Aid’s Youth Law Project provides full legal representation, including court appearances as necessary, but finds that many times their clients simply need assistance such as counsel on what the law says about parents’ rights to make decisions for their children, or help negotiating an agreement to live safely with a responsible adult who is not a parent.

Child Protection (Child Welfare) System Involvement

Some youth may leave home because they were kicked out, or were not safe, and may want to access services through their local child welfare (protective) system but need
assistance doing so. Others may be under the jurisdiction of the child welfare system but find their placements unsafe or unsuitable. Young people run away from placements or their placements fail, including with relative guardians or adoptive parents. Even youth who technically are under the care of the child welfare system may actually be completely out of touch with that system—or simply not receiving necessary support—and need additional advocacy. Additionally, young parents who do not have stable housing may need assistance preserving their parental rights if they come to the attention of their local child protective services agency.

**Juvenile or Criminal Justice Involvement**

Many jurisdictions make it illegal to sleep, sit, or eat in public spaces, effectively criminalizing homelessness. Young people may also seek shelter in private buildings and be charged with trespassing, or steal money, goods, or sell controlled substances so they can purchase food or a safe place to sleep. These actions may lead to arrests, or to tickets or fines that youth cannot pay, and ultimately to outstanding warrants. Even after youth finish their justice involvement, juvenile or criminal records may follow them and interfere with employment or housing.

Youth who are undocumented may also be at a major disadvantage for obtaining legal immigration

“\When I was houseless I was ticketed many times for just trying to survive (illegal camping, illegal trespassing, panhandling and so on). These tickets manifested themselves in the form of warrants when I was unable to pay them. All of these infractions could have been avoided if I had a stable place to call "home". I was criminalized for being houseless. Warrants made getting a job in those cities and states impossible. Later I was denied housing because unbeknownst to me, some of my tickets had gone to collections. When I was 24, an organization called Lawyers Fostering Independence helped support me in quashing some my transgressions, although it took almost a year."-Silas Follendorf, National Network for Youth

**LGBTQ Youth**

Up to 40% of youth experiencing homelessness are lesbian, gay, bisexual, transgender or queer/questioning (LGBTQ). LGBTQ youth often experience discrimination at home, in school, and even in foster care or homelessness programs. They are often denied services outright because of their sexual orientation, gender identity, and/or gender expression—or services aren’t accessible simply because programs aren’t equipped to provide appropriate housing and supports.

LGBTQ youth need culturally competent services across the continuum of care, including safe shelters where their sexual orientation, gender identity, or gender expression are respected, referrals to LGBTQ-affirming physical and mental health providers, and mentors who can provide long-term sources of support in their lives with regards to independent life skills and other transitional services that take into account the specific challenges faced by the LGBTQ community. Unfortunately, LGBTQ youth may not be able to access these things without dedicated legal and systemic advocacy.

Youth who are undocumented may also be at a major disadvantage for obtaining legal immigration
status if they have a juvenile justice adjudication or criminal conviction, making advocacy for these youth even more critical.

→ Through the Juvenile and Capital Advocacy Project at University of Houston Law Center, law students have helped over 150 individuals seal their juvenile records in two years. Clients are referred by community partners including the Salvation Army’s homelessness program and Houston ReVision. The program is expanding to include holistic representation for youth involved with both the juvenile justice and child welfare systems, undertaken by teams of law students and social work students, with oversight by school faculty.

Status Offenses

Status offenses are acts that are only illegal for minors, such as running away, repeatedly skipping school, being “ungovernable” or “unruly,” or violating a municipal curfew. These behaviors are frequently triggered by family conflict or a youth’s lack of safety and stability at school or home. These acts may lead youth to become involved with the juvenile justice or child welfare system (depending on state law), or to become homeless. Research shows that community-based approaches are most effective for addressing status offenses, yet many states continue to place youth in secure confinement instead, making legal and policy advocacy on behalf of these youth critical.

Education

Research has linked each school move to an estimated six month loss of educational achievement. Although federal law provides youth experiencing homelessness with many protections, including the right to stay in their home school, youth often do not know about their rights, or are unable to enforce them. Youth with disabilities, and youth who are pregnant or parenting may also need assistance.

Lifelong impact of child welfare and juvenile justice involvement

Up to 50 percent of youth aging out of the child welfare system may ultimately experience homelessness. Within four years of aging out of foster care, 42 percent of youth still do not have a high school diploma, and 46 percent have become parents. Less than half of these foster youth are employed 2-4 years after leaving foster care, and only 38% of former foster youth have maintained employment for at least 1 year.

Many states now extend child welfare benefits up to age 21 or provide other aftercare resources, but frequently youth don’t utilize those benefits, because they are unaware of them, or prefer to be free of the child welfare system after years of unhappiness and instability.

Interviews with youth experiencing homelessness in 11 cities across the county revealed that 62% had been arrested, and 44% had been in a juvenile detention center, jail or prison. Juvenile justice involvement has been linked to poorer educational and employment outcomes. Incarceration at or before age 16 has been linked to a 26% lower chance of high school graduation by age 19. Another study found that individuals incarcerated as youth worked 10% fewer hours per year 15 years after release.

Comprehensive planning and services before, during and after involvement with the child welfare and juvenile justice systems—including high quality legal representation—can help mitigate these risks and better position youth to become successful and self-supporting adults. In turn, systemic improvements can decrease the risk that youth will experience homelessness.
accessing relevant services and protections. Overly harsh school discipline, such as “zero tolerance” policies, or overuse of suspension and expulsion, can keep young people, particularly youth of color and girls, out of school, and lead to juvenile or criminal justice involvement. When youth exit the juvenile justice system, they often face challenges re-enrolling in school or receiving services needed to catch up on what they missed.

**Housing/Shelter and Employment**

In many states, minors cannot enter into contracts such as rental agreements, cannot open bank accounts, and are not able to enter or remain in shelters without parental consent. Even after they reach age 18, young adults may have trouble obtaining housing because of unresolved credit issues or juvenile or criminal records (see below). These issues, as well as poor educational attainment caused by lack of stability, can also keep youth from obtaining the employment needed to pay for housing. Once housed, youth may also need assistance fighting eviction or enforcing their rights against landlords who fail to meet basic safety standards.

**Public Benefits**

There is no specific federal or state public benefits safety net designed specifically for unaccompanied youth. While some programs may contain provisions that anticipate young applicants, public assistance systems are generally designed for adults, and obtaining benefits can be a confusing and complicated process. Yet with assistance, many young people are able to successfully secure benefits to meet their basic needs through programs such as Supplemental Security Income (SSI), Temporary Assistance to Needy Families (TANF), and Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps).

> **Philadelphia’s Homeless Advocacy Project** partnered with the city's Department of Human Services (DHS) to develop DHS SOAR, an initiative that provides rapid access to SSI benefits for disabled youth who are aging out of the state’s DHS care. With advanced medical approval, eligible youth can be granted benefits immediately, instead of waiting the 52 day average processing time, which can lower their risk of homelessness.

**Immigration**

Unaccompanied youth without legal immigration status may require help obtaining legal status and/or advocacy in removal (deportation) proceedings, in addition to all of the needs outlined above. Unfortunately, youth who are undocumented are barred from receiving certain services through the federal government and in certain states. For example, an undocumented youth may attend school through grade 12, but cannot receive federal financial aid for higher education. They may also be barred from accessing food assistance, healthcare, housing, and other services that are essential for youth and young adults experiencing homelessness. These youth may be able to obtain a Special Immigrant Juvenile Status Visa (if under 18 and placed in the child welfare system) or Deferred Action for Childhood Arrivals. Youth with lawful immigration status may also experience homelessness and need strong advocacy, particularly if their parents are deported, creating a lack of adult connections and support. Young people who were brought to this country as part of sex or labor trafficking (as well as domestic victims) will need additional legal and social support.

**Health**

Youth frequently report that substance use and mental health issues (their own and those of their caregivers) lead or contribute to homelessness. Irregular access to medical care, malnutrition, sleeping
in unsafe spaces and other circumstances experienced by homeless youth can lead to or aggravate physical health issues as well. Like older individuals experiencing homelessness, young people’s lack of financial resources and social disconnectedness create barriers to accessing health care. Youth under age 18 experience significant additional barriers due to their status as minors and lack of an adult caregiver equipped to provide consent. Youth exiting the juvenile justice system or transitioning from foster care may be eligible for Medicaid, but need help applying, as well as assistance obtaining their own—often widely scattered—medical records. Youth who did not receive this advocacy early enough may also need assistance addressing medical debt incurred during emergency and other medical care.

**Credit/debt**

Young people may find that they are unable to obtain housing due to credit issues. These may be due to identity theft, such as when a parent, guardian or stranger uses the young person’s information for a credit card, utilities or their own housing. It may also be due to the young person taking on a car or other loan—sometimes with unfair terms—and being unable to pay. Attorneys can help young people discharge debt that was not theirs in the first place, or negotiate payments plans or better terms for legitimate amounts owed.

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**Meeting the Full Spectrum of Youth Legal Needs**

Although this guide gives examples of legal services programs’ work on specific issues most of these programs—like other homeless youth legal providers across the country—provide advocacy on a wide range of issues. For example, **Bay Area Legal Aid** in California uses multi-disciplinary teams of attorneys and social workers to offer services including:

- **Public Benefits** – General Assistance, CalWORKs (TANF), CalFresh (SNAP), SSI, and Refugee Assistance.
- **Foster Care Benefits and Access** including assistance entering the child welfare system.
- **Extended Foster Care Services** – access, reentry, and benefits advocacy for transitioning youth.
- **Housing** – fair housing enforcement, unlawful detainers (evictions), discrimination claims, and transitional housing matters.
- **Domestic Violence & Family Law** – restraining orders, custody, and child support for survivors of domestic violence, trafficking and sexual exploitation.
- **Education** – school enrollment, credit calculation issues, special education access and services, and financial aid.
- **Health and Healthcare Access** – Medi-Cal benefits, coverage or service denials, medical debt, and matters related to confidentiality or consent.
- **Consumer Law Issues** – debtor’s rights, fair credit reporting, identity theft, medical debt, higher education loans, and preventative training.
- **Clean Slate** – record sealing, expungement, and vacatur.
- **Immigration** – Assistance obtaining Special Immigrant Juvenile Status and visas.
- **Other Services** – juvenile and probate court guardianships, emancipation, and name changes.

Where programs do not have the capacity to meet all of the legal needs a young person experiencing homelessness may have, good partnerships are essential so that attorneys can make “warm handoffs” to other legal providers that build upon the relationships they’ve developed with their clients.