Using the Law to Protect, Not Punish, At-Risk and Homeless Youth

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Presentation Overview

- Overview of youth homelessness
- Range of legal issues & role of lawyers
- ABA/Network Model State Statute Project
- Examples of model statutes
- Range of legal approaches
- Role for attorneys and law firms
Basics on Homeless Youth in U.S.

- Unaccompanied youth (ages 12 to 24) without adequate nighttime residence
- Difference between youth & adults:
  - Adult - economic crisis or domestic violence
  - Youth – family breakdown (conflict, abuse, neglect)
- No gender disparity – but 1/3 of girls experience sexual abuse and 1/2 boys experience physical abuse
- Amplification of risk on streets – sexual exploitation by adults
- Mostly in school – not addicted
HOMELESS YOUTH DATA

- 1.6 million youth under 17 – one night/year
- 760,000 street contacts annually
- 43,000 youth in shelter
- 3,700 youth in transitional housing
- 40,000 Point-in-time surveys (HUD)
- Cluster research 15-20% long-term homeless

- Tens of thousands of homeless youth survive day to day in shelters or on the streets.
Categories of Homeless Youth

- Early Runners
- Street
- Couch Surfers
- Shelter Users
Subpopulations/Clusters

- Sexually exploited youth
- Youth with disabilities (mental health)
- Former juvenile justice and foster care youth
- Pregnant and parenting youth
- LGBTQ youth
- Immigrant youth
- Youth of color
- Forced out youth
- Victims of abuse
INEQUITY OF FEDERAL FUNDING
Youth Housing

- Fed. spending on **affordable housing**? $42 billion
- Fed spending on **youth housing**? $1.8 billion (4%) (Job Corp $1.7 b)

- Fed. spending on **homeless services**? $4 billion
- Fed. spending on **youth homeless services**? $115 mil.

- **RUNAWAY & HOMELESS YOUTH ACT** - Slight increases $104 FY2004 to $115 m. in FY2008.
Four general service model configurations:

- **Outreach** (500,000 approx.)
- **Prevention and family preservation services**,
- **crisis emergency shelters** with case managers seeking family reunification (45,000), and
- **youth housing** with positive youth development services (4,000)

Basic framework for development in each region – Spectrum to meet diverse needs.

- From *Running in the Shadows: Recession Drives Surge in Youth Runaways*, Ian Urbina, 10/25/09

LOTS OF ISSUES!
Legal Needs of Homeless Youth

- Dependency
- Paternity
- Custody
- Education
- Disability
- Homelessness
- Immigration
- Emancipation
- Foster Care

- Status Offender
- Truancy
- Access to Benefits
- Guardianship
- Employment
- Runaway
- Civil Rights
- Criminal Law
Complications
Special Legal Status of Youth

- **Quasi Standing** Under Constitutional Rights
- **Legal and Physical Custody** rights of parents - Under care, custody, and control by Parents
- **Wards** of States under Parens Patriae Doctrine
- **Emancipation** – more theory than practice – common law definition
Scenarios – How lawyers have helped homeless youth:

- Youth displaced from parents home finds representation to file an independent petition to receive services as a child in need of protection and services (CHIPS or CHINS);
- Youth denied shelter bed (on former expulsion list) given appeal and mediation
- Transgender youth denied services due to licensure of sex-assigned bed spaces as a youth shelter is offered legal representation to log a discrimination complaint under state Human Rights Act;
- Homeless youth offered assistance in finding new guardian through a written delegation by parent.
Scenarios – How lawyers have helped homeless youth:

- Youth threatened with eviction from transitional housing program without due process (no written notice or grievance procedure) is offered direct representation against nonprofit organization;
- Youth thrown out by mother (who is in receipt of child support payment for the minor) is offered representation to change child support payments to a third party guardian;
- Youth thrown out by parents (who receive SSI disability benefits for minor) is offered advocacy to receive a new representative payee;
- A homeless youth is denied food stamps because the County assumes she has access to her parent’s household income is offered an appeal and reinstatement of benefits.
Purpose for ABA/NN4Youth Model State Statutes Project

- Statutory Reforms – *focus on State Law*
- New laws to benefit youth
- Easy access to best thoughts and theories by leading legal experts and agencies in the field
- Peer reviewed
- Encourage legislative advocacy and law reforms
What did we do? ABA/Network Model State Statutes

- Collected a list of experts from around the country – lawyers, professors, and program directors
- Met for two days to discuss, debate, and revise model state statutes
- Drafted model statutes and received peer reviews
- Published manual
- Ongoing training to bar and technical assistance to advocacy coalitions
Example – Reforms to Educational Law

- The Equitable Education Act (model law)
  - Offers supportive services homeless youth to ensure academic progress (mental health, vocational, case management, and tutoring)
  - Broadens definition to ‘youth experiencing housing instability’
  - Right to continuous educational services – suspension, expulsion
  - Immediate enrollment
  - Staff training – each school has assigned worker
  - All YEHS get an ‘educational advocate’ and special education plans must address subsistence needs and housing options
  - Right to civil action to enforce rights
Example – Model Laws in Family Law

(1) Delegation of Parental Authority
- Parental consent to transfer custody to 3rd party for up to 12 months
- No court involvement – full or partial rights

(2) Guardianship
- Minor or adult may petition – Court orders new guardian with parental consent, parental rights terminated, or parents unable to exercise parental rights (breakdown of relationship)
- Court can appoint temporary (6 months) with notice or emergency (30 days) without notice
- Due process – hearing and notice
- Compensation to guardians (room & board, clothing)
- No liability to third parties for conduct by youth
(3) Child Support

- Court may order the parents of each minor parent to pay an amount reasonable or necessary for the support and education of the grandchild.
- Factors: financial resources of child, parent, and grandparent; special needs of child/infant; medical coverage available, etc.
- Grants authority to minor aged fathers to acknowledge paternity without an attorney – valid.
- Given minor parents authority to relinquish rights and consent to adoption without allowing revocation – but when to specific 3rd party or adoption agency the parent must get legal counsel.
- Creates safe havens for new born children (7 days or less) to be left without criminal liability.
Other Examples

(4) Health Care
- Mature minors may provide consent to care

(5) Contract
- Youth may contract if homeless or self-supporting
PROTECTING YOUTH LEGAL RIGHTS
Approaches to providing legal services

- Traditional legal services model
- Program of service provider (Covenant House)
- Co-located with service provider (SYLAW)
- School-based legal clinic (Hartford)
- Pro-bono program (LFI)
- Systemic Advocacy Campaign
Traditional Legal Services Model

- Legal Aid or Legal Services programs – federal funded to offer low-income, poverty populations free legal representation
- Often have priorities for children & youth issues
- Often have little expertise with homeless youth services or unique issues
- Legal Aid attorney could rotate ‘outreach time’ to local homeless youth agencies (shelters, drop-in centers, or transitional housing programs)
- Agencies could seek on-going training curriculum (lawyer question and answer period)
- Lawyer holds information confidential from agency and may represent the youth in complaints against the agency
Program of Service Provider

- Covenant House New York
- Direct civil legal services to residents of the homeless shelters
  - represents and youth between the ages of 15 and 21
- Issue areas
  - Family & Juvenile, Housing, Immigration & Naturalization, Public Benefit
Co-Located with Service Provider

- SYLAW – Street Youth Legal Advocates of Washington.
- Developed out of law school and legal services to do outreach and representation for youth 12-24 on civil issues.
- Developed around theory that legal services MUST reach out to youth.
- Now located at YouthCare but with drop-ins at other locations. SYLAW
School-based legal clinic

- Teen Legal Advocacy Clinic (TLAC) (Hartford & Bridgeport, Conn)
  - Center for Children's Advocacy, Inc. (non-profit organization affiliated with the University of Connecticut School of Law)

- Holmes Elementary School (Liberty City, Florida)
  - Legal Services of Greater Miami, Inc. (LSGMI) and the Legal Aid Society of the Dade County Bar Association
Law schools (whether at a public university or private college) often have ‘clinic’ programs to offer ‘real case experience’ to law students.

Clinics can specialize in a Youth Legal Rights seminar, initiative, or center.

Student lawyers supervised by licensed attorneys/professors.
Pro-bono program (LFI)

- LFI – Lawyers Fostering Independence (King County, WA)
- Originally grew out of an ABA initiative to help youth aging out of foster care.
- Assists youth aging out of foster care/aged out of foster care on civil issues outside of their dependency cases.
- Focused on using *pro bono* attorneys in their areas of expertise.
SYSTEMIC ADVOCACY
More than direct representation

- Enact laws or local policies
- Create changes to ease Access to Benefits
- Reform Child Welfare System
- Improve Quality of Existing Services
- Create Statewide Advocacy Systems
Systemic Changes

- **Enact laws or local policies**
  - State Runaway and Homeless Youth Act
    - Define population
    - Create spectrum of services to support
    - Outline dedicated local funding stream
  - Foster care services up to age 21 – States opt in
  - Local right to shelter (cold weather rule)

- **Create changes to Ease Access to Benefits**
  - Is there ease of access to health care
  - Ease of access to food stamps, medicaid, and income support (bundle in application process)
Systemic Changes – Lawyers Involved

- **Reform Child Welfare System**
  - Ease of access to family preservation services
  - Discharge planning from foster care & juvenile justice
  - Chafee program allows access to housing
  - Juvenile Justice system has re-entry program

- **Improve Quality of Existing Services**
  - Local collaborative setting code of ethics, standards, coordinating services, and evaluating outcomes
  - Training of staff to be culturally competent
  - Identify gaps in local spectrum of services – target toward typology
  - Coordinated outreach – focus on schools
  - Data Collection – HMIS – common outcome measures
Systemic Change – Lawyers Involved

- **Create Statewide Advocacy Systems**
  - 10 year plan that includes youth goals
  - State Coalition focused on legislation and administrative agencies
  - Local HUD Continuum of Care process funds youth housing
Recommendations to Law Firms

- **Form State Law Reform Committee** to benefit unaccompanied homeless youth that can assess systems of care and need for statutory modifications and regulatory reforms;

- **Create individual pro bono assistance teams** to couple with existing network of youth services (RHY Act Grantees) in each state – couple existing agencies with legal assistance for youth;

- Offer pro bono legal advocacy and **lobbying assistance to enact RHY statutes** focused on expanding resources for crisis services and establishing a dedicated funding stream;

- Lend cooperation and sign off as **partners to federal advocacy** efforts by the National Alliance to End Homelessness and the National Network for Youth to expand youth housing opportunities, shelter, and supportive services by HUD and HHS.
ABA POLICY RECOMMENDATION

- Adequately fund programs that are necessary to keep youth off of the street.
- More identification and coordination among federal agencies so that services can be both timely and effective.
- Treat these youth not as criminals, but as the victims that they are:
  - Use our resources to divert them from prostitution, substance abuse or involvement with the juvenile justice system.
  - These children belong in our schools and deserve our protection instead of punishment for the dysfunctionality of their families.
Resources

- ABA Center on Children and the Law
  www.abanet.org/child
- ABA Commission on Homelessness and Poverty
  www.abanet.org/homeless
- ABA Commission on Youth at Risk
  www.abanet.org/youthatrisk
- National Runaway Switchboard
  http://www.1800runaway.org
- National Alliance to End Homelessness
  www.endhomelessness.org
- National Coalition for the Homeless
  www.nationalhomeless.org
- National Law Center for Homelessness and Poverty
  www.nlchp.org
- National Association of the Education of Homeless Children and Youth
  www.naehcy.org
- National Network for Youth
  www.NN4Youth.org
Other Resources

Contact

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