



CHAPTER SEVEN

**How Status
Offenses
Intersect with
Other Civil
and Criminal
Proceedings**

By Jana Heyd and Casey Trupin

How Status Offenses Intersect with Other Civil and Criminal Proceedings

Choose the type of proceeding that best advances your client's interest.

- Avoid proceedings that will result in your client receiving a criminal record or requiring him to register as a sex offender.
- Examine the causes of the youth's behavior.
- Look for signs of abuse or neglect or coordinate with a professional who can recognize those signs.
- Involve the youth in the decision-making process.
- Coordinate with the youth's counsel in other proceedings to address the consequences of each proceeding and avoid duplicating services.

If the youth has been abused or neglected, weigh the pros and cons of child welfare system involvement.

- The youth may have access to more agency placements in the child welfare system.
- The youth may be able to access more informal placement arrangements through the status offense system.
- The youth may have access to greater public benefits through the child welfare system.
- The youth may have greater access to legal assistance in one system over another.

Avoid delinquency proceedings.

- If the youth is already involved in the status offense system, urge the delinquency court to set aside proceedings in favor of treatment or services already being offered through the status offense (and/or child welfare) system.

Weigh the pros and cons of a family law proceeding versus a status offense case.

- If the youth is subject to both status offense and custody proceedings, there may be an opportunity to dismiss one case over the other or obtain concurrent jurisdiction. Consider:
 - The family court may be better suited to respond to abuse or neglect issues.
 - The youth will be party to a status offense proceeding, but not likely to a custody case.
 - The different financial and educational benefits that each proceeding offers.
 - The youth's opinion.



Status offenders may face issues that bring them into the delinquency, child protective, and/or status offense court system. Overlapping judicial systems can cause serious consequences for youth. Often these systems do not effectively address youth's issues and overpenalize their behavior, resulting in confusion and frustration for youth and their families. If the youth is also involved in delinquency proceedings, both systems may attempt to serve the youth. If the systems coordinate, the youth's needs are more likely to be met. If they are divided, the response is likely to be punitive, which can deepen the youth's underlying issues.

This chapter:

- examines proceedings that overlap with the status offense system, including child protection, family law actions, juvenile delinquency proceedings, and civil legal proceedings that affect placement or control of the child;
- discusses potential consequences or outcomes when a child is the subject of two or more proceedings;
- provides recommendations for working with youth who are involved in multiple proceedings.

Evaluating Crossover Status Offense Cases

As an attorney representing youth in possible “crossover” status offense cases, it is important you assess the factual and legal effects of pursuing (or opposing) another legal proceeding. Choosing or defending against one juvenile legal proceeding over another could have immediate and/or long-term consequences. A number of general rules apply to possible crossover situations.

- **Will the youth have a criminal record?** If a proceeding will result in the youth receiving a criminal record (or require registering as a sex offender), make every effort to avoid it, especially if services could be provided for the youth through an alternative proceeding.
- **What is causing the youth's behavior?** If a civil status offense proceeding is being pursued, examine whether the behavior is solely the youth's responsibility, or whether it is due to other circumstances, such as an unsafe foster care placement.
- **Watch out for abuse or neglect.** Abuse and neglect allegations may arise either as the primary reason the case came to the authorities or as a secondary issue revealed later. Be aware that the youth may

not reveal her history until she has a comfortable working relationship with the attorney. Lawyers who represent youth should ensure they have appropriate training or access to social workers who recognize signs of abuse and neglect. Abuse and neglect issues may be masked as running-away behavior, thus you should thoroughly examine the reason the child is running away.¹ If the proceeding for which you are providing representation allows the youth to address placement, then finding a safe place may address the running-away behavior.

- **Involve the youth in the decision-making process.** If you can choose or advocate for one proceeding over another, involve the youth when deciding which proceeding to pursue or which defense(s) to present. This is especially true when there are possible collateral consequences as a result of the proceeding. If services or benefits are offered in one proceeding as opposed to another, inform the youth and discuss which proceeding would best fit the youth's situation.
- **Consult with other counsel.** In many jurisdictions, the youth may have different counsel appointed for each proceeding, which may be a disadvantage if the strategy calls for dismissal or transfer of your case to another docket and you have established a rapport and good working relationship with your client. If the youth has more than one attorney, consult the other attorney while including the youth. Consultations address the consequences of each proceeding and coordination to avoid duplicating services for the youth and/or family. In a jurisdiction with a unified family court system, the court may consolidate the proceedings, providing you the opportunity to request a dismissal of the proceeding with the more severe consequences. (See *Benefits of Unified Family Courts* box.)
- **Ensure you understand the various legal proceedings.** A thorough knowledge of the proceedings is important to fully advocate for your client—especially if the most advantageous route for the youth is to avoid the proceedings altogether. If services are available without court involvement, especially for status offenders, identify alternatives to the court process. Despite the best intentions, involving court and legal interventions may only worsen the family's issues.²

The Benefits of Unified Family Courts

In a unified family court system (UFC), one judge hears all cases relating to one family. Generally any party can refer a case to a UFC. A party could also write a letter opposing the referral. A youth may prefer to have one judge handling the family's cases, rather than appearing in multiple courtrooms for similar issues. One benefit of a UFC is to ensure there aren't conflicting court orders in a case, or to ensure comprehensive court orders are entered that impact the family.

Moving from Status Offense to Child Protective Proceedings

For many families who find themselves in status offense proceedings, abuse, neglect, or abandonment may not be an issue. Status offense proceedings often include nonabusive parents of adolescents with substance abuse or mental health issues, or adolescents who are truant or runaways.

However, abuse and neglect and status offense proceedings can involve the same families. Why one family ends up in a status offense proceeding versus a child protection proceeding varies. Some state statutes specifically limit status offense proceedings to families in conflict (as opposed to families where abuse, neglect or abandonment has taken place). Despite those statutory prohibitions, status offense proceedings still often involve adolescents who have been abused or neglected. The court and/or child welfare agency may provide services to the youth and family within the context of the status offense proceeding, unless very serious abuse is involved. However, the courts and child welfare system are often criticized for overlooking abuse in older children, especially adolescents.

Abused adolescents end up in the status offense system instead of the child protection system for various reasons:

- Adolescents are at less risk for serious injury and thus their cases do not meet the criteria for protective intervention.
- There are few foster placements for adolescents.
- There is a belief that:
 - adolescents can protect themselves by running away or fighting back;
 - a status offense proceeding will give the family more control; or
 - adolescents are solely or largely responsible for the family dysfunction.

These policies and attitudes may push abusive families inappropriately towards status offense proceedings. Be sure to thoroughly investigate the youth's living circumstances so you can adequately understand the situation, advocate for the best solution, and ensure appropriate services are provided. Assess whether the case involves abuse or neglect, and, if so, advocate for appropriate interventions. If the youth is being abused, ensure he is not further victimized by being held responsible for the parents' actions. For example, an abused youth who gets into a fight with a parent should not necessarily be referred for anger management or perpetrator's counseling.

Some youth resist admitting abuse or neglect because of shame, guilt, distrust of adults or the system, or even concern about immigration consequences for the parents. Be vigilant about inconsistent versions of what is happening with the youth, the youth's unwillingness to answer questions about what is occurring, signs of depression or hopelessness, missing school when the youth usually attends, or the youth blaming himself for what has occurred with his family. Develop a good rapport and have consistent contact to get an accurate picture of what is occurring in the youth's life.

Choosing One System over Another

When a child can access either a status offense or child protection proceeding, there may be significant advantages to choosing one system over the other.

Access to Placement Options

Child protection proceedings, while harder to access, get higher priority over and access to open child welfare beds, foster homes, and group homes. A youth in a status offense proceeding who needs to be placed out-of-home may have to come up with her own placement. However, it is more likely the placement may only need to be with a "suitable person." This allows the youth to be placed with a teacher, family friend, or neighbor instead of a relative or licensed foster care provider—generally required in a dependency case. This significantly expands scarce placement options. When choosing between status offender proceedings and abuse/neglect proceedings, attorneys should take into account any possible effect of a child being labeled a status offender. However, when a status offense proceeding is the only way to secure a safe placement for a child, the decision is more straightforward. In addition, in some jurisdictions and with some proceedings, the status offender "label" is nonexistent or minimal.

Public Benefits

Certain public benefits for adolescents in foster care can exceed those offered through status offense cases. For example, status offenders cannot access federal foster care payments or post-majority care (such as Medicaid coverage until age 21) that may be available through the state. An exception is Supplemental Security Income (SSI), which states generally take from foster youth to use for foster care maintenance purposes. A status offender who is disabled and eligible for SSI would be able to access those funds for direct support.

Circumstantial Benefits

Some benefits and disadvantages may appear only under certain circumstances or at specific junctures. For example, status offenders pursuing higher education are not automatically exempt from reporting parents' income on financial aid applications, as are foster youth who age out of care.³ For undocumented youth seeking adjustment of status (lawful permanent residency) through a Special Immigrant Juvenile Status (SIJS) petition, in some jurisdictions placement or eligibility for long-term foster care and a dependency finding are required for this proceeding. However, in other jurisdictions, placement through a status offense proceeding may suffice.

Access to Counsel

Depending on the state, an attorney may not be appointed (or appointed late) for the youth in a status offense proceeding. In other jurisdictions, counsel may always be offered to status offenders but not always for foster youth or vice versa. Access to counsel in either situation is an integral step in protecting the legal rights of children. At least one court has recognized that even a status offense adjudication may have long-term legal consequences if competent counsel is not provided for the youth.⁴ Like status offense orders, child protection dispositional orders generally require children to attend school, remain in and follow the rules of their placement, and attend counseling. In some states, these orders are under penalty of contempt, carrying the possibility of detention if violated.⁵ Thus, as the youth's attorney, it is important that you attend all stages of the proceeding and advise your client on ways to avoid contempt. (See Chapter 5, *Postadjudication Strategies for Defending Juveniles in Status Offense Proceedings.*)

- ***Questions to consider when navigating between child protection and status offense systems:***
 - What is the client's preference between systems?
 - Has the client fully explained her background (including abuse/neglect) so that you have a good understanding of the client's circumstances?
 - If either the youth or parent has mental health or substance abuse issues, which proceeding is more likely to address them? What kind of extended family or community support does the client have or need?
 - What are the client's educational strengths and needs?
 - If the client is likely to run from home or placement, which proceeding will be less punitive?
 - How long might the client need services or oversight from the court? (Will the proceeding remain in effect throughout the youth's minority, if needed?)
 - Is the youth's behavior a manifestation of other issues in the home?
 - Has the youth had a previous positive or negative out-of-home placement?
 - Which system provides more public benefits and services?
 - Does the youth have the capacity to know the behavior would result in her being declared a status offender or dependent youth?
 - If the child protection system is not involved, does your state have a protocol for requesting voluntary services from that system?
 - Does the youth or parent know how to access the child protection system, if requesting to do so voluntarily?
 - As an attorney, do you know how to weigh the benefits versus consequences of one system over another?

- ***Legal issues to address when moving between abuse/neglect and status offense systems:***
 - Does the client have immigration issues and does either proceeding offer an opportunity to resolve (or place at risk) the child's immigration status?
 - Who has custody of the youth? Does the petitioning parent have standing to bring the case? Can another parent take custody away?
 - What are the legal and/or collateral consequences of being a status offender versus being in the child protection system?
 - Will the client lose his attorney if the case is transferred to another type of proceeding?

Moving Between Status Offense and Delinquency Proceedings

The line between status offenses and juvenile offenses is often blurred. In some states youth can find themselves in detention under both proceedings (for status offenses through contempt, and for delinquency through adjudication or conviction). To further complicate the issue, the term “status offense” includes not only proceedings involving family issues but also infractions such as alcohol possession or curfew violations. Probation departments often handle both dockets.

Choosing One System over Another

Despite the overlap, the differences between delinquent and status offenses are greater than the similarities—and there is rarely (if ever) a good reason to advocate for your client’s status offense case to be handled as a criminal offense.

Collateral Consequences of a Juvenile Offense Record

Abusive and nonabusive parents often attempt to deal with family conflicts or adolescent mental illness or substance abuse by urging that their child be charged with a crime.⁶ With abusive parents, assaults by them against their adolescent children sometimes result in an assault charge against the child. A nonabusive parent who is struggling to find services for a youth with serious mental health or substance abuse issues may be told the only way to access those services is through the delinquency system. That parent may have been told, sometimes correctly, that status offense proceedings lack substantial service options for youth and that these proceedings sometimes rely solely on the power (or fear) of the gavel to bring results. While juvenile justice agencies are not known for providing quality mental health or substance abuse services, parents may feel it is better than doing nothing.

The problem with using the delinquency system to address mental health issues is the collateral consequences of a juvenile offense often outlast any positive effects of treatment received while in custody.⁷ While some states seal juvenile offense records at age 18, some states make these records public long into the youth’s adult years. This means the young adult, who has addressed her mental health or substance abuse issues, will face the debilitating effects of a criminal record.

If a youth is facing any offense (but especially a sex offense or one that involves chemical dependency or mental illness) in a delinquency proceeding, the parents, service providers, and legal authorities may be convinced to pursue treatment and placement for the youth through the status offense system or through

a child protection action, rather than a criminal prosecution. Involving the delinquency system may result in a criminal record and sex offender registration that follows the youth for life. If the authorities and/or the court can be convinced that the youth (especially for young offenders or offenders who are themselves victims) would receive more therapeutic services and support in the child protection or status offense system, it would be critical for the youth to avoid the delinquency system. Mediating or negotiating a case from the delinquency system to another proceeding generally involves exceptional circumstances. There are legal hurdles to overcome, especially if the prosecutor or state child welfare attorney believes the youth is attempting to avoid incarceration or responsibility for his actions.⁸

- ***Questions to ask to help your client navigate between status offense and juvenile delinquency proceedings:***
 - What is the youth's preference in how the case(s) should be handled? What services and resources does the court system offer that would benefit the youth?
 - Is the status offense the least restrictive proceeding to address the youth's behavior?
 - Does the youth have mental health or substance abuse issues or other special needs?
 - What is the youth's home situation like?
 - Does the youth have a prior criminal history? Immigration issues?
 - Is the family supportive or does the youth have community support?
 - Can the youth's behavior be addressed outside of the court system?
 - Is the youth motivated to change his behavior?
 - Which proceeding has collateral consequences and what are they?
- ***Legal issues to address when moving between delinquency and status offense systems:***
 - Did the youth have the capacity to commit an offense?
 - Can the youth assist counsel in his defense?
 - Is there a defense to the offense?
 - Does the court have jurisdiction over the youth?
 - Can the offense be handled through a diversion program, rather than a status offense or delinquency court system?
 - Is this case more appropriately handled as a child protection proceeding rather than a delinquency matter?

Moving Between Family Law and Status Offense Proceedings

Youth who commit status offenses also may end up in family law (custody) proceedings. A family law proceeding may be the best way to resolve the underlying issues in the case. For example, a youth who enters the status offense system, despite being abused or neglected, may have already identified an appropriate alternative caregiver who could petition for custody. In that case, the status offense may be dismissed (or concurrent jurisdiction may be sought) while the custody action is pursued.

Occasionally, a parent will agree to give primary custody either to a noncustodial parent or to a third party in a status offense proceeding. Or, the noncustodial parent may file an action to remove primary custody from the custodial parent. This may convert the status offense proceeding into a custody proceeding. Again, depending on state law and practice, either concurrent jurisdiction will result or the status offense proceeding may be dismissed to allow the custody action to proceed.

Choosing One System over Another

Judicial Authority to Make Placement Decisions

One advantage of family law proceedings is that many judicial officers are more comfortable dealing with placement decisions in family court instead of status offense proceedings. The law and procedure around custody is more complete in family law proceedings (thus, custody decisions are more common) as opposed to status offense proceedings. On the other hand, a family law court's ability to place the youth is generally limited to choosing between the two parties before it, whereas a status offense court may place the child in another out-of-home setting. (A family law judge could, however, request a guardian ad litem to be appointed to investigate the youth's circumstances that could lead to an out-of-home placement through the child protection authorities.)

Ability to Deal with Abuse and Neglect

Unlike family law proceedings, status offense proceedings may be legislatively designed to ignore abuse or neglect (with the intention of ensuring that such cases are handled in more appropriate proceedings). Family law proceedings are specifically designed to address abuse and neglect issues, even if there was never any finding by the child welfare agency. Family courts may restrict the amount of time the child spends with a parent depending on the impact and severity of the

abuse or neglect. The court can also use findings of abuse or neglect that are made during a child protective services investigation, or make its own abuse or neglect findings to require services for the child and/or parent, or to structure the parent's contact with the child.

Child's Legal Standing

A disadvantage of proceeding under a family law action is that a youth rarely has standing to initiate a custody proceeding and instead must rely on a parent or third party to bring the action (often without benefit of counsel). If the parent/caregiver's interests are consistent with the youth's, the youth's attorney (in the status offense matter) may be able to assist the parent or caregiver file and prosecute the action, assuming appropriate waivers are executed. Additionally, in converting from a status offense proceeding to a family law proceeding, the youth may lose the right to counsel, status as a party in the proceeding, and access to the court. Declarations or testimony by a youth in a family law proceeding are often disfavored. Thus, the opinions of the youth and the chance to directly protect the youth's legal rights may be lost.

Access to Financial and Educational Benefits

Another disadvantage of converting to a family law proceeding is access to benefits provided through the status offense proceeding may be lost. The proceeding itself may provide some direct benefits (a caseworker, access to beds, mental health or substance abuse services). A status offender may also have an easier time qualifying as a homeless student under federal homeless education law,⁹ providing continued education stability. On the other hand, a family law proceeding may provide the opportunity to access (or modify) child support payments, whether or not the new custodian is a parent. Additionally, child support payments can, unlike most state or federal benefits, continue into the child's 20s.

- ***Questions to ask your client to help navigate between status offense and family law proceedings:***
 - What is the youth's preference between proceedings? Will the youth's wishes be represented best in family court or in the status offender proceeding?
 - Is the youth living with the parent who offers the most support to the youth?
 - How will the youth's health, education, and welfare be impacted by changing placements?

- Could a unified family court provide better court oversight and handling of the two cases, rather than have each case handled by two distinct courts?
 - Can the youth's counsel request to move the cases to unified family court? (In some states, any party to a case may request transfer of cases to unified family court.)
 - Does the youth have mental health or substance abuse needs (or other special needs) that need to be addressed?
 - Is there a risk that the youth will lose contact with siblings in one proceeding versus another?
- *Legal issues to address when moving between family law and status offense systems:*
- Who has custody of the youth?
 - Is the status offense issue being raised by a noncustodial parent who may not have the authority to raise it?
 - Is there a change of circumstance and is it in the youth's best interest to raise the status offense issue in family court?
 - Is there a unified family court that can take jurisdiction of the case, and should the youth's counsel submit a referral for unified family court jurisdiction after consulting with the youth?
 - Does the youth have different behavior expectations from each parent?

Moving Between Status Offense and Civil Emancipation Proceedings

Unlike most actions that rely on someone other than the child to bring the proceeding, youth who persevere despite family conflict, and have reached a certain age, may be able to resolve underlying issues through a full or limited emancipation. A full emancipation is a legal process by which minors can attain legal adulthood at an earlier age than the age of majority. A partial emancipation gives minors only some of the rights provided to adults under state law, such as the right to consent to health care but not the right to contract. Emancipation is available in only about half the states.¹⁰ Once emancipation is granted, the youth should not be subject to any noncriminal status offense proceeding, though emancipation would not allow the youth to avoid a criminal status offense proceeding, such as a minor-in-possession of alcohol. The fact that a minor was emancipated might be used as evidence of the minor's capacity or to determine whether he should be tried as an adult.

Adolescent Victims of Maltreatment

While infant victims account for most homicides, a study in the *Journal of the American Medical Association* reported, “Adolescents experience maltreatment at rates equal to or exceeding those of younger children.” The study noted, “Recent increases in reported cases of maltreatment have occurred disproportionately among older children and adolescents. However, adolescents are ... more likely to be perceived as responsible for their maltreatment.”¹ The report also noted that the consequences of ignoring this maltreatment are high:

A wide range of serious adolescent risk behaviors is associated with maltreatment. These include increased risk of premature sexual activity, unintended pregnancy, emotional disorders, suicide attempts, eating disorders, alcohol and other drug abuse, and delinquent behavior. Incarcerated youth, homeless or runaway youth, and youth who victimize siblings or assault parents are known to have high rates of prior maltreatment.

Source:

1. Council on Scientific Affairs, American Medical Association. “Adolescents as Victims of Family Violence.” *Journal of the American Medical Association* 270(15), 1993, 1850-1856.

Choosing One System over Another

Minor’s Access

One benefit of emancipation is that minors can initiate the proceeding in many states. Thus, an older youth may be able to avoid (or seek dismissal of) a status offense proceeding (for behavior such as running away or being beyond the parents’ control) by pursuing emancipation.

Access to Benefits

Emancipation may cut off access to some benefits that would be available if the youth was still under the parents’ legal control. Most federal benefits, such as SSI or Social Security Survivor’s benefits, will be unaffected. Full emancipation automatically allows a minor to become his own representative payee, which can be a significant advantage to a youth when another adult has received social security payments on the child’s behalf. However, emancipation is not necessarily required for a child to become her own payee, as youth 15 and older (unless the child has a court-appointed legal guardian) are generally presumed able to be

their own payees.¹¹ Food stamps and medical coverage will likely be unaffected as well, though a parent will often drop the child from private insurance coverage. For teen parents, TANF (cash assistance) rules may change, as the teen parent may no longer have to live in an “approved placement” such as with a potentially abusive parent or other relative. Whether a family that continues to care for an emancipated minor continues receiving child-only TANF may depend on state law. Child support payments before and after age 18 may be cut off, depending on state law.

- *Questions to ask to help your client navigate between status offense and emancipation proceedings:*
 - What are the youth’s preferences regarding each proceeding?
 - Can the youth live on his own and support himself?
 - What long-term services or supports does the youth need?
 - Who in the family or community can best meet the youth’s needs?
 - If the local Department of Health and Social Services is involved, is it providing appropriate services to the youth?
 - Does the youth have the documents, identification, etc. that he will need as he becomes an adult?
 - Will the youth’s cultural and emotional needs be met by each potential proceeding?
 - Is there a cost and who will pay?
 - How flexible are each of the proceedings and how easily could each be modified if the youth’s or other circumstances change?
- *Legal issues to address when moving between emancipation and status offense systems:*
 - Which proceeding will result in the best and most appropriate long-term services or supports for the youth?
 - Did the court consider the youth’s wishes regarding each proceeding?

Moving Between Status Offense and Civil Commitment Proceedings

Another proceeding which could overlap with a status offense proceeding is a mental health or substance abuse commitment proceeding. Often parents or the state initiate status offense proceedings for youth with substance abuse or mental health issues. Parents may have been pushed in this direction because they’ve

been told the child doesn't meet criteria for inpatient commitment, no hospital beds are available, or the child's mental health/substance abuse issue is mistakenly seen only as a behavioral issue.

Choosing One System over Another

Due Process Protections

State laws vary regarding the process offered in a commitment proceeding. In some states, juveniles are afforded the same due process as adults facing involuntary commitment. In others, due process is only provided when the state seeks to commit the child, but not when a parent seeks the commitment. If commitment is a possibility, be aware of the due process protections available in these proceedings. Because these proceedings result in arguably the greatest threat to a juvenile's liberty, carefully advise your clients about the pros and cons in consenting to such a proceeding. Status offense proceedings may have more regular reviews, may be shorter in duration, and may preclude, except through contempt, placement in a locked facility.

Capacity Issues

If your client has significant mental health or substance abuse issues, assess your client's ability to follow court orders, especially in status offense proceedings. Also be aware of your duty under the rules of professional conduct if your client's issue is severe enough to interfere with his ability to make decisions about his representation.

If the youth appears to lack the ability to effectively assist you, or does not appear to understand the proceeding or its consequences, invest time and care to fully assess the client's level of comprehension. You may need to seek the appointment of a guardian ad litem for the youth. Always ensure the proceedings and consequences are explained in a developmentally appropriate manner. If the proceeding could result in placement outside of the youth's home, ensure the youth understands this placement may limit contact with his family, school, and friends. Be familiar with your state's ethics rules as they relate to the representation of clients whose capacity to make "adequately considered decisions in connection with a representation is diminished."¹² (See *Youth Clients with Diminished Capacity* box.)

- ***Questions to ask to help your client navigate between status offense and civil commitment proceedings:***
 - Is the youth's mental health or substance abuse issue better addressed in the community?

Youth Clients with Diminished Capacity

Under Model Rule of Professional Conduct 1.14, a lawyer for a youth should maintain a normal client-lawyer relationship as much as reasonably possible. The lawyer can take reasonably necessary protective action if the client has diminished capacity and can't adequately act in her own interest (because of mental impairment or any other reason) to protect the client and her interests. This action can include consulting with individuals or entities, or obtaining an evaluation to determine the client's ability to understand and assist in the representation. It may also include seeking the appointment of a guardian ad litem.

- Is the youth capable of following the court's orders in a status offense proceeding?
- Is the youth willing to participate in community-based mental health or substance abuse services?
- Will the youth have an attorney if facing civil commitment?
- ***Legal issues to address when moving between commitment and status offense systems:***
 - Does the client meet the criteria for involuntary commitment?
 - Is there a community-based alternative that would better serve the youth?

Conclusion

Representing status offenders can involve several legal proceedings. To help your client navigate these proceedings, you will need to understand the legal and social effects of pursuing or defending against one proceeding over another. To advocate for a youth and ensure appropriate services are provided, invest enough time and ask the right questions to gather information and establish a good working relationship with your client. Representing youth in these "crossover" proceedings is a case-specific endeavor, especially when the youth's issues are complex. You can smooth your client's transition to adulthood by helping the youth avoid legal or social consequences that will be difficult or impossible to remedy. Protecting your clients' liberty, protecting against long-term collateral consequences, and ensuring your client has a voice in the proceedings are essential to effective representation.

Endnotes

1. Dedel, Kelly. *Juvenile Runaways*. Washington, DC: U.S. Department of Justice, Office of Community Oriented Policing Services, February 2006, available at www.popcenter.org/Problems/PDFs/JuvenileRunaways.pdf; Finkelstein, Marni et al. *Youth Who Chronically AWOL From Foster Care: Why They Run, Where They Go, and What Can Be Done*. New York, NY: Vera Institute of Justice, August 2004, available at www.vera.org/download?file=261/Foster%2BAWOLs.pdf; Ryan, Kevin M. "Stemming the Tide of Foster Care Runaways: A Due Process Perspective." *Catholic University Law Review* 42, 1993, 271, 279; Kaplan, Caren. *Children Missing from Care: An Issue Brief*. Washington, DC: Child Welfare League of America, 2004. April 27, 2009, available at www.cwla.org/programs/fostercare/childmiss.htm.
2. Mogulescu, Sara and Gaspar Caro. *Making Court the Last Resort: A New Focus for Supporting Families in Crisis*. New York, NY: Vera Institute of Justice, December, 2008, available at www.vera.org/download?file=1796/status_offender_finalPDF.pdf.
3. Through the College Cost Reduction and Access Act of 2007 (Pub. L. No. 110-84), status offenders may be eligible if they are designated as homeless students in the year in which they apply for college. The determination of homelessness can be made by a high school or school district homeless liaison, a director of an accredited HUD homeless shelter, or a director of a runaway/transitional living program or homeless youth basic shelter. They may also be eligible if they can show exceptional circumstances leading to a finding of "independent student status." 20 U.S.C. § 1087vv(d).
4. In January 2009, a Washington State Court of Appeals determined that youth have a right to appointed counsel at the initial fact finding in a truancy action, given the nature of the truancy proceedings, the extreme consequences that a contempt action could impose, and the potential impact to the youth's right to an education. *Bellevue School Dist. v. E.S.*, 199 P.3d 1010 (Wash. App. Ct. 2009).
5. Wash. Rev. Code § 13.34.165 (maximum term of confinement that may be imposed as a remedial sanction for contempt of court for status offender is confinement for up to seven days) and Fla. Stat. § 984.09(2)(a) (2004) (a child who has been held in direct or indirect contempt may be placed in a secure detention facility for five days for a first offense or 15 days for a second offense.) *But see also*, *W.C. v. Smith*, 898 So. 2d 1137 (Fla. Dist. Ct. App. 2005) (dependent youth who has run away from a foster care placement is not properly placed in secure detention for 21 days as a sanction for indirect contempt because, in addition to being unrepresented throughout the proceedings, the child was given none of the other procedural protections required by rule and five days in secure detention was the maximum sentence for a first-time contempt); *In re Dependency of A.K.*, 174 P.3d 11 (Wash. 2007) (before a juvenile court may exercise its inherent authority to hold a dependent juvenile in contempt and impose a punitive sanction, it first must find that the statutory remedies for criminal contempt are not adequate).
6. The same is true with parents placing children in foster care because of unmet mental health needs.
7. Holman, Barry and Jason Ziedenberg. *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*. Washington, DC: The Justice Policy Institute, 2006, available at www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf; Hughes, Theresa. "Juvenile Delinquent Rehabilitation: Placement of Juveniles Beyond Their Communities as a Detriment to Inner City Youths." *New England Law Review* 36, 2001, 153, 157-58.

8. *In re T.E.M.*, 92 P.3d 259 (Wash. App. Ct. 2004).
9. The Federal Education for Homeless Children and Youths Program (Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11431 et seq.)) provides for significant educational stability for students who are “homeless”—a term which does not specifically include status offenders. However, the authors’ experience is that a child in a status offense proceeding (such as a runaway) may be more likely to be seen as homeless under the federal definition than a child who is being shuffled between a custodial and noncustodial parent, even if the child is on the run from the custodial parent.
10. State laws on emancipation can be found at www.jlc.org/factsheets/4/ or http://topics.law.cornell.edu/wex/table_emancipation.
11. Social Security Administration Program Operations Manual System (POMS) sections GN 00502.060 B.1 and GN 00502.020 A.1. A child aged 15 to 17 is generally considered capable of managing his or her own benefits unless he/she has a court-appointed legal guardian or is entitled to disability benefits and a substance abuse condition exists, which indicates the child may need assistance. GN 00502.070 A.1. In addition, if the child is emancipated under state law, SSA policy indicates that an assumption should be made that the child is capable unless some other indicator suggests otherwise. GN 00502.070 A.1. Children under 15 and individuals declared legally incompetent under state law are prohibited from receiving payments directly. GN 00502.005.
12. Washington Rules of Professional Conduct (RPC) 1.14. and the ABA Model Rules of Professional Conduct 1.14 require the lawyer to maintain a normal client-lawyer relationship as far as reasonably possible.