

INSTRUCTOR'S GUIDE

Training Curriculum

Improving Responses to Youth Charged with Status Offenses

Based on the Coalition for Juvenile Justice's
National Standards for the Care of Youth Charged with Status Offenses

Module 3: Efforts to Limit Court Involvement

In This Lesson

- 1 Trainer Notes
- 2 Judicial Officers
- 3 Lawyers for Alleged and Adjudicated Status Offenders
- 4 Judicial Officers and Entities Providing Case Management Services

Module 3: Efforts to Limit Court Involvement

Duration of Instruction: 145 Minutes – 185 minutes

Trainer Notes

Module 3 of this training curriculum, which corresponds to Section 3 of the *National Standards* focuses on what efforts court system stakeholders should make to limit court involvement when pre-court diversion efforts have not produced desired outcomes. This module offers guidance to judicial, legal, and other professionals working within the court system on how they can use the court's powers to ensure the proper services are implemented while avoiding deeper court involvement. It also provides specific guidance at various stages of the case to ensure best outcomes for youth and families, highlighting the key principles and practices court system stakeholders should utilize along the way.

Module 3 is divided into three parts, based on the systems or type of professionals addressed:

1. Judicial officers
2. Lawyers for Alleged and Adjudicated Status Offenders
3. Judicial Officers and Entities Providing Case Management Services

Instructors should target their training to the audience, focusing more or less on each of these sections depending on whether the targeted professionals are represented. No matter who is in the audience, all of these recommendations should be touched on at least briefly, since all of these professionals must work together to serve status offenders.

Part 1: Judicial Officers

Principle 1: Dismiss or Stay Proceedings

Begin by sharing the Standard in full:

Judicial officers should dismiss or, alternatively, stay proceedings when community-based services or other formal or informal systems approaches would circumvent the need for continued court jurisdiction.

Share the following background information:

Remind participants that, as was discussed in Module 2, research shows that formal court system processing, in and of itself, can



10 minutes



Slide 1-7

Instructor Cues

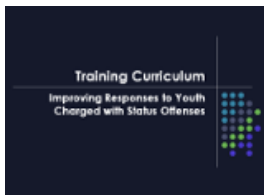
have a negative impact on youth, increasing the likelihood of future justice system involvement.

Key discussion points to include:

- *Diversion programs have a more positive effect for low-level delinquency offenders and youth charged with status offenses than formal court involvement. They are also more cost-effective. The best outcomes for public safety occur when the least restrictive interventions are offered.*
- *At the beginning of a status offense case the judge should critically assess whether court involvement will help the child and family resolve the issues that brought them before the court. To do so, the judge must ensure first responders, pre-court service providers, and petitioning parties have made reasonable efforts to provide services and supports to children and families before petitioning a case.*
- *Judicial officers may need to educate petitioners from the bench, and through guides or brochures, about what the court process is and what it can, and cannot, offer the child and family. This is particularly important in jurisdictions where parents can file status offense petitions directly, but may have little or no knowledge about the negative consequences if court involvement is pursued.*
- *Determining whether to dismiss or stay proceedings will require a case-by-case assessment of the facts that brought the case to the court, the level of effort made by pre-court service providers to engage the family in services, and the extent of the child's and family's needs and willingness to engage in voluntary services.*



Action Steps



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Action Steps for Change:

- *In each status offense case, the judge should make a "reasonable efforts" determination to decide whether it is appropriate to continue jurisdiction, dismiss the case, or stay proceedings pending the implementation of community-based assistance that may help the child and family resolve their problems outside of court involvement.*
- *A judge should not accept jurisdiction over an alleged status offender when the cause of the child's alleged behavior is rooted in abuse, neglect, victimization, or disability.*
- *A judge should also not accept jurisdiction when pre-court diversion efforts were insufficient or inappropriate to the family's needs, when state statutory criteria for assuming*

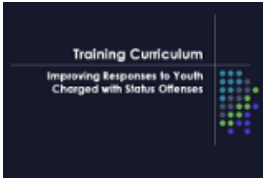
Instructor Cues

jurisdiction are not met, or when state or federal entitlements preclude status offense jurisdiction.

- *Judges should ask the following questions (at a minimum) to ensure that reasonable efforts were made in each case:*
 - *What efforts were made prior to a court petition being filed to determine the cause of the alleged status behavior?*
 - *What assistance was offered to the child and family to avoid formal court processing?*
 - *Were statutory pre-requisites met to assume jurisdiction over the case?*
 - *Was the child entitled to certain protections under state or federal law that would circumvent the need for formal court processing?*



Resources



Slide 10

Resources/References/Handouts:

National Juvenile Justice Network. (nd). "The Truth about Consequences—Studies Point towards Sparing Use of Formal Juvenile Justice System Processing and Incarceration." (2012). Available at: <http://www.njjn.org/our-work/juvenile-justice-system-incarceration-the-truth-about-consequences>

Anthony Petrosino, et al./Campbell Systematic Reviews. (2010). "Formal System Processing of Juveniles: Effects on Delinquency." Available at: <http://www.campbellcollaboration.org/lib/project/81/>.

Uberto Gatti, et al. (2009). "Iatrogenic Effects of Juvenile Justice." Available at: <http://onlinelibrary.wiley.com/doi/10.1111/j.1469-7610.2008.02057.x/full>.

Status Offense Reform Center. (2014). "Notes from the Field: Clark County, Washington." Available at: http://www.statusoffensereform.org/wp-content/uploads/2013/10/Clark_Final.pdf.

Clark County, Washington. (2013). "Clark County Truancy Manual." Available at: <http://www.statusoffensereform.org/wp-content/uploads/2014/01/Clark-County-Truancy-Manual-2013.pdf>.

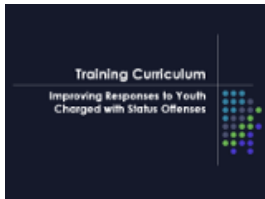
Principle 2: The Indian Child Welfare Act (ICWA)

Begin by sharing the Standard in full:

Judicial officers should assess early whether the Indian Child Welfare Act (ICWA) applies.



10 minutes

Instructor Cues

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Share the following background information:

The Indian Child Welfare Act (ICWA) is a federal law that established minimum standards relating to the treatment and placement of Indian children. Congress passed ICWA after finding “that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies, and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions” (25 U.S.C. § 1901). ICWA protects Indian children's interests by, among other things, ensuring that when an out-of-home placement is deemed necessary, the setting chosen reflects Indian values and culture.

Key discussion points to include:

- *Although ICWA does not cover most juvenile delinquency proceedings, ICWA does apply to status offense cases.*
- *There are several critical junctures during a status offense case when courts should consider ICWA and its provisions, such as at the beginning of the case, when the child is placed out of the home, and when the child and family are offered services.*
- *Many of ICWA's most relevant provisions for status offense cases relate to placing a youth out of his or her home. ICWA gives tribes exclusive jurisdiction over custody proceedings involving Indian children living within their reservation or who are wards of the tribal court.*
- *ICWA requires that any Indian child placed in foster care must be placed in “the least restrictive setting which most approximates a family and in which his special needs, if any, may be met.”*
- *ICWA says that children should be placed reasonably close to their homes and enumerates a series of placement preferences that must be followed unless the child's tribe establishes a different order of preference.*
- *Prior to a foster care placement, ICWA requires the placing agency to prove that efforts were made to provide “remedial services and rehabilitative programs designed to prevent the breakup of the Indian family” and that those efforts were unsuccessful.*
- *ICWA does not apply if the contempt order for a probation violation results in an out-of-home placement, as ICWA does*

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not consider contempt to be part of the original status offense case. (Courts should still refrain from placing Indian youth, and all youth, in secure confinement for a status offense.)



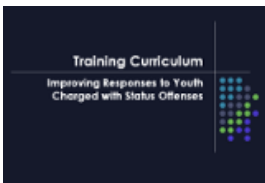
Action Steps



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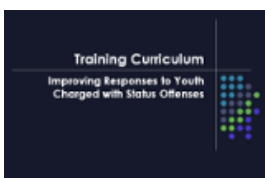
Resource Spotlight



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Resources



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Action Steps for Change:

If an Indian child is petitioned to court as an alleged status offender, the judicial officer should take the following steps:

- *Notify the tribe of the proceedings. This will allow the tribe to help identify culturally appropriate services and assistance for the child and family.*
- *If the child is detained, apply ICWA's placement preference standards (unless the placement qualifies as an "emergency removal," in which case the placement must end as soon as the emergency subsides).*
- *For all other covered proceedings, the state should transfer jurisdiction to the tribe at the request of a parent, the tribe, or the child's custodian, absent good cause or objection by a parent or child of a certain age.*

Resource Spotlight: Coalition for Juvenile Justice: *American Indian/Alaska Native Youth & Status Offense Disparities: A Call for Tribal Initiatives, Coordination, and Federal Funding* (full citation below).

American Indian and Alaska Native (AI/AN) young people are almost twice as likely to be petitioned to state court for status offenses. Once involved with the state court system, they are less likely to be placed on probation and experience higher rates of detention and residential placements. This brief looks at the disparities faced in the state system by AI/AN youth who are charged with status offenses, the ability of both state and tribal systems to respond to status offenses, and federal funding levels to support efforts to better serve these youth.

Resources/References/Handouts:

American Bar Association Center on Children and the Law. (2010). "The Indian Child Welfare Act and Advocacy for Status Offenders." Available at: http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/ICWA_factsheet.authcheckdam.pdf.

Bureau of Indian Affairs. (1979). "Guidelines for State Courts; Indian Child Custody Proceedings." Available at: http://www.nicwa.org/policy/regulations/icwa/ICWA_guidelines.pdf.

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Coalition for Juvenile Justice. (2014). "American Indian/Alaska Native Youth & Status Offense Disparities: A Call for Tribal Initiatives, Coordination, and Federal Funding." Available at: http://juvjustice.org/sites/default/files/resource-files/SOS%20Tribal%20Brief%20FINAL_0.pdf.

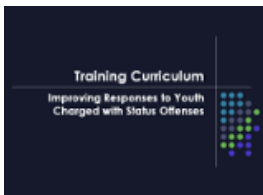
ICWA Special Committee, Michigan Court Administrative Office. (2012). "Indian Child Welfare Act of 1978: A Court Resource Guide." Available at: <http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Manuals/cws/ICWACResourceGuide.pdf>.

U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. (2014). "Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence: Ending Violence so Children Can Thrive." Available at: <http://www.justice.gov/sites/default/files/defendingchildhood/pages/attachments/2014/11/18/finalaiainreport.pdf>.

Principle 3: Independent, Qualified, and Effective Representation



10-15 minutes



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Begin by sharing the Standard in full:

Judicial officers should ensure youth charged with status offenses have independent, qualified, and effective representation throughout status offense proceedings.

Share the following background information:

Status offense cases can have significant consequences for youth. An attorney can help ensure they are not unnecessarily removed from their homes or held in secure detention, deprived of entitlements and services, or pushed deeper into the juvenile justice system.

Key discussion points to include:

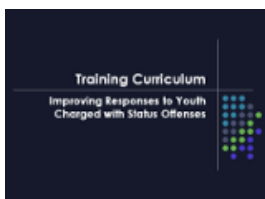
- A qualified attorney can:
 - *Protect a child's rights and help them avoid secure detention and/or deeper justice system involvement.*
 - *Help the child present evidence in his/her defense and challenge the petitioner's case.*
 - *Help ensure that the youth's disposition plan is fair and appropriate.*

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- *Help the child understand the court process, what is expected of him or her, and what the consequences are for failing to comply with court mandates.*
- *The child's legal representative must be independent and qualified to ensure the child receives effective assistance of counsel. To be independent, the attorney must only represent the child's expressed interests, since in some status offense cases, especially "incurability" or runaway cases, the parents' interests may conflict with the child's.*
- *It is also important that the child have his or her own legal representative separate from his or her parent(s) because abuse, neglect, or high family conflict may be significant contributing factors to the status offense charges.*
- *Representing children in status offense cases also requires specialized training. All professionals working with, and on behalf of, alleged status offenders, including attorneys, should receive ongoing training on a variety of issues to understand the causes of status offense behaviors and the best ways to resolve status offense cases.*
- *The child must have legal representation at all stages of the status offense process, including prior to the initial hearing so counsel has time to meet and prepare with his or her client.*
- *The lawyer must also have the resources to conduct a proper investigation and prepare for evidentiary and disposition hearings.*
- *Effective representation also requires that compensation for appointed counsel is fair and that caseloads are not excessively high.*



Q&A



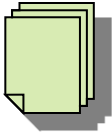
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Q&A: Lead a discussion on how your jurisdiction does or does not meet this principle. Questions to ask could include:

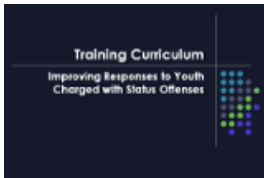
- *At what point in a status offense case is a child entitled to legal representation?*
- *Do attorneys who represent status offenders typically have specialized training as discussed above or in earlier training modules?*
- *What are some examples of effective representation helping youth charged with status offenses avoid prolonged court involvement?*

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- Are there instances where youth became more deeply involved in the justice system that may have been avoided if they had access to effective counsel?



Resources



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10 minutes



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Resources/References/Handouts:

American Bar Association Center on Children and the Law (2002). "A Call For Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings." Available at: <http://www.njdc.info/pdf/cfjfull.pdf>.

Coalition for Juvenile Justice. (2013). "Juvenile Defense in Status Offense Cases." Available at: <http://www.juvjustice.org/sites/default/files/ckfinder/files/SOS%20Project%20Guidance%20For%20Juvenile%20Defenders%20Final.pdf>.

Principle 4: Waiver of Counsel

Begin by sharing the Standard in full:

Judicial officers should not allow children in status offense cases to waive counsel or, alternatively, only allow waiver if: (1) the waiver is on the record, (2) the court has fully inquired into the child's understanding and capacity, and (3) the waiver occurs in the presence of, and in consultation with, an attorney.

Share the following background information:

If a child waives his or her right to counsel, he or she loses the benefit of an important advocate throughout the court process.

Key discussion points to include:

- Attorneys serve many critical functions when representing youth who have been accused of status offenses:
 - Help ensure that children's rights are protected and that they are treated fairly, which includes giving them an opportunity to be heard.
 - Work to limit children's exposure to the formal court system and avoid detention, ensuring children are not adjudicated for offenses they did not commit.
 - Make certain children are in safe placements and that services and treatments provided meet children's specific needs.
- Despite the benefits associated with having counsel during status offense proceedings, many youth waive this right, whether at the beginning of the case or later. They often do so without having consulted an attorney, without colloquy

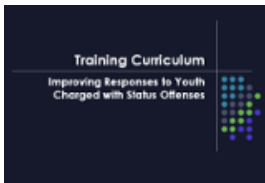
Instructor Cues

with the court, and with no assessment of their capacity to understand the rights they are waiving

- Although the U.S. Supreme Court case, *In re Gault*, mandated a right to counsel for children in delinquency proceeding, this does not necessarily include status offense cases. So, while many states appoint counsel for all (or most) stages of a status offense case, others do not do so until the child faces the threat of incarceration.
- Research on adolescent development has found that a youth's capacity to understand consequences changes and matures as he or she ages. Youth are less likely to make informed decisions or consider future consequences in relation to present actions. Hence, the National Standards recommend that a child's waiver of counsel should not be accepted by the court, or only done so if it is done knowingly and with the fair and unbiased assistance of an attorney.



Resource Spotlight



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Resource Spotlight: National Juvenile Defender Center and Center for Policy Alternatives: *Child Waiver of Counsel Prohibition Act* (full citation below).

The National Juvenile Defender Center (NJDC) proposes model waiver legislation that includes numerous safeguards for children to ensure that any waiver of counsel is made knowingly and intelligently. NJDC advocates for laws that do not permit children to waive counsel unless the waiver is executed (1) in the presence of, and after consultation, with a lawyer, (2) on the record in open court and in writing, (3) in a language regularly spoken by the child, and (4) after the court fully inquires into the youth's comprehension and capacity. Model legislation also advocates that standby counsel be appointed if the child waives counsel and that the court renews the offer of counsel at later court proceedings.



Multimedia



Resources

Multimedia: Show video of Robert Schwartz, founder of the Juvenile Law Center, discussing waiver of counsel:

<https://youtu.be/wGIPGuCs0tA>.

Resources/References/Handouts:

National Juvenile Defender Center/Center for Policy Alternatives. (2006). "Child Waiver of Counsel Prohibition Act." Available at: http://www.njdc.info/pdf/waiver_model_legislation.pdf.

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Interbranch Commission on Juvenile Justice. (2010). "Testimony of Robert Schwartz, Executive Director, Juvenile Law Center." Available at: <https://youtu.be/wGIPGuCs0tA>.

Ohio Office of the Public Defender. (nd). "Protecting a Juvenile's Right to be Represented by Counsel" (website). Available at: http://www.opd.ohio.gov/Juvenile/Jv_Right_to_Counsel.htm.

American Bar Association Center on Children and the Law. (2010). "Fact Sheet: The Right to Counsel in Status Offense Cases." Available at: http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/right_to_counsel_factsheet.authcheckdam.pdf.

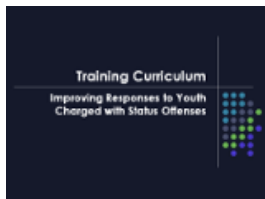
Principle 5: Pre-Court Diversion

Begin by sharing the Standard in full:

Judicial officers should exercise their statutory and inherent authorities to determine, prior to adjudication, whether youth and families received, in a timely manner, appropriate interventions that could have limited their court involvement.



5 minutes



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Share the following background information:

Although all efforts should be made to avoid court involvement for status offense behaviors, in some cases youth alleged to have committed a status offense will end up in court.

Key discussion points to include:

- *Prior to adjudication, judicial officers should take deliberate steps to determine whether pre-court diversion efforts were made and, if so, why they failed to produce the desired outcome.*
- *If the court determines that pre-court diversion efforts were inadequate, judicial officers should, whenever possible, dismiss the case or stay proceedings until such interventions are pursued.*

Distribute handout: Ensuring "reasonable efforts" in status offense cases

Principle 6: Court Oversight of Service Delivery Systems

Begin by sharing the Standard in full:

Judicial officers should exercise their statutory and inherent authorities throughout the child and family's court involvement to ensure that service delivery systems are providing the appropriate



10-15 minutes

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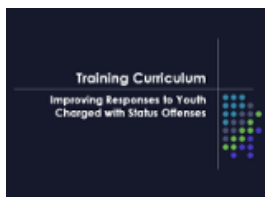
assessments, treatments, and services to children and families in status offense cases.Share the following background information:

Once a status offense case enters the disposition phase, the probability of the youth and his/her family being drawn deeper into the juvenile justice system increases and accelerates. To avoid this, it is imperative that courts take on an oversight role. Judicial officers are uniquely positioned to ensure that children and families receive timely and appropriate services and assistance that meet the family's needs and limit their involvement. The court's role is not to evaluate the quality of any given service, but to ensure that the service-delivery system is functioning in the youth and family's best interest.

Key discussion points to include:

Explain that there are many ways courts can provide oversight and help ensure service providers are adequately responding to status offense cases. Keeping in mind that states may have different ethical, confidentiality, and other jurisdictional policy or law requirements/limitations, courts can consider:

- *Contacting providers to request a report or ongoing reports on what the providers' objectives are and how they plan to achieve them, focusing on the timeliness and appropriateness of services.*
- *Subpoenaing entities responsible for providing the child or family assessments, treatments, or other services either by requiring their presence in court or requiring that they submit documentation that shows their efforts to support the child or family.*
- *Joining entities responsible for providing the child or family services, assessments, treatments, or other services as parties to the status offense case.*

**Action Steps**

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Action Steps for Change:

Whenever services are offered through, or supervised by, the court, judicial officers should ensure that they:

- *Can be started immediately and without long waitlists or time-consuming prerequisites.*
- *Are community-based and offered at locations and times that make it easy for youth (and their families, when appropriate) to attend.*
- *Are offered in the least restrictive setting possible (e.g.,*

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outpatient, in a comfortable, non-punitive setting), and incarceration is avoided.



Policy Point



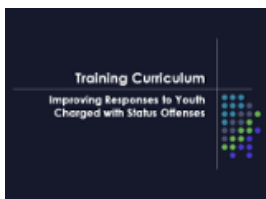
Q&A



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20-25 minutes



Slide 44-50

Policy Point and Q&A: Explain that many state laws allow courts to oversee aspects of the service delivery system used in child welfare and juvenile justice systems. For example, California law allows “the court, at any time after a petition has been filed, to join[as a party to the case] in a juvenile court proceeding any governmental agency, private service provider, or individual...that the court determines has failed to meet a legal obligation to provide services to a child who is the subject of a dependency proceeding...[or] delinquency proceeding.” (CA SB 1048 (2012)). In Idaho, a judge of any court can order the Department of Health to submit mental health assessment and treatment plans for the court's approval at any stage during court proceedings (ID. Stat.§ 20-511A).

Ask participants whether this is allowed by law, and done in practice, in their jurisdictions. Ask for volunteers to share the benefits of this practice (or potential benefits if it is not currently practiced). If this is currently not the policy or practice in participants' jurisdictions, ask participants to brainstorm how this change could be made.

Principle 7: Alternatives to Confinement

Begin by sharing the Standard in full:

Judicial officers should assess alternatives to out-of-home placement or secure confinement.

Share the following background information:

Research has shown that secure confinement leads to poorer outcomes and future delinquent and criminal behavior. Similarly, out-of-home placements deprive youth of the opportunity to resolve their issues in a familiar and supportive environment.

Key discussion points to include:

- *When considering a request or recommendation for out-of-home placement, judicial officers must ensure that service providers have made reasonable efforts to avoid out-of-home placements or secure confinement.*
- *To determine if reasonable efforts have been made, the court should ask:*
 - *If the child is Indian, and if so, if the Indian Child Welfare Act's guidance regarding placements has been complied with (e.g., placement in the least restrictive setting possible and in Indian homes).*

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- *If the agency or service provider understands and is working to overcome the cause of the status offense referral.*
- *Whether systemic issues or other failures to provide appropriate services have kept the case in court unnecessarily.*
- *If all appropriate systems that should be involved have been (e.g., child welfare, mental health, education).*
- *If all community-based alternatives have been explored and attempted, if appropriate, and whether the child has received individualized treatment/service plans before contemplating out-of-home placement.*
- *If all non-residential options have been exhausted and the court is considering out-of-home placement, the judge should assess whether respite care or simply approving certain locations (e.g., the home of a relative or friend agreed to by the youth and his or her parents) as respite care options would provide the family and child resolution to the issues they face. .*
- *In rare cases, youth may require temporary, specialized residential treatment programs to address complex trauma, severe mental health needs, or substance use disorders. When they are needed, residential treatment programs should be short-term placements that provide gender specific, trauma-informed services. When possible, they should invite the youth's family and other caregivers to participate in his/her treatment, recovery, and prompt re-integration into an appropriate family-like setting.*
- *A young person should never be placed in a residential treatment facility as a default when more appropriate placement options are not readily available. Prior to any approval of a residential placement, there should be a multi-disciplinary team meeting to consult with the young person, their family and other caregivers, case workers, and any other relevant mental health or treatment specialists. Once approved, the continuing need for residential treatment should be re-evaluated frequently and appropriate supports should be provided to ensure the youth's successful re-integration into family and community settings.*
- *When a longer term out-of-home placement is required, a*

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young person should be able to stay in home-like settings that ensure safety and provide appropriate services and supports to address their unique needs.

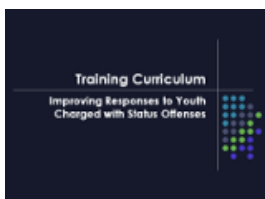
- Child welfare systems use many types of alternatives to congregate and group care settings that may be appropriate for youth charged with status offenses, including kinship care (placement with relatives), family foster care provided by non-relatives, treatment foster care (by families with special training on youth's medical or mental health needs), or shared family care (a placement where both parent and child live with a supportive family who can provide mentoring and support).
- Even when all of the above options have been exhausted, there are still many proven alternatives to confinement for youth charged with low level or status offenses. These include:
 - Reporting Centers: nonresidential treatment facilities that youth report to at set frequencies, either at night or during the day
 - Intensive Supervision Programs: regular in-person check-ins that offer youth necessary services, but have stricter monitoring



Multimedia



Case Study



Slide 51-52

Multimedia: Show video of Kentucky Judge Joan Byer discussing alternatives to incarceration: https://youtu.be/Z_hmLskgV4s.

Case Study: Jamal's Story

Jamal is sixteen years old and attends Southern High School. He has an almost perfect attendance rate and is on the honor roll each semester. He is also a disruptive student with a tendency to be disrespectful towards teachers and administrators. In his freshman year at Southern, Jamal got into an altercation with a teacher who was consequently fired. Teachers dread having Jamal in their classroom and often send him to the library to do work instead of keeping him in the classroom.

Jamal got into a physical altercation with his science teacher who, after years of disrespect, snapped at Jamal. The altercation resulted in both parties being injured. Southern High School put the teacher on leave and suspended Jamal indefinitely. The teacher initially pressed charges against Jamal, but later had them dropped.

While on suspension, Jamal was wreaking havoc at home. Neither of

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his parents were able to get him to focus and control his temper. After an argument with his father that turned physical, Jamal ran away from home. His father reported him missing the next day, but Jamal was never found. Two weeks later, Jamal appeared on his parent's doorstep. While asleep, his parents called the police, stating "their son was out of control and they needed the court to help him get services."

Jamal appears in front of a judge and is ordered to "listen to his parents," attend school regularly, and "stay out of trouble." The next month, Jamal is home sick for three days and gets into a loud argument with his mother. The neighbors call the police and Jamal runs away again. He is quickly picked up by the police and appears in front of a judge on ungovernability and runaway charges. The judge decides to place Jamal in detention. While there, Jamal befriends John, who has been charged with aggravated assault.

After returning home, Jamal spends more and more time with John's friends and stops attending school regularly. His grades fall and he is often away from home for days at a time.

Questions for Discussion:

- What are the underlying issues that led to Jamal's court involvement?
- What services, policies, or trainings available in your jurisdiction could have helped Jamal and his family?
- What services, policies, or trainings not currently available in your jurisdiction could have helped Jamal and his family?



Trainer Prep

Trainer Prep: As part of your preparation for this training, develop a list of alternatives to detention available in your jurisdiction, along with any relevant state statutes or agency policy. Incorporate this information into the PowerPoint slides for this section or create a handout to distribute and discuss.

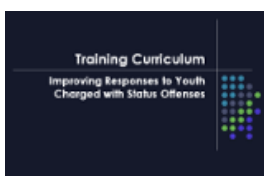


Resources

Resources/References/Handouts:

Tobie Smith/American Bar Association Center on Children and the Law. (2010). "Post-Adjudication Strategies for Defending Juveniles in Status Offense Proceedings" ([Representing Juvenile Status Offenders](#), chapter 5). Available at: http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/RJSO_FINAL.athcheckdam.pdf.

Sara Mogulescu, Gaspar Caro/Vera Institute of Justice. (2008).



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Instructor Cues

"Making Court the Last Resort: A New Focus for Supporting Families in Crisis." Available at:

http://www.vera.org/sites/default/files/resources/downloads/status_offender_finalPDF.pdf.

Child Welfare Information Gateway. (nd). "Types of Out-of-Home Care." Available at: <https://www.childwelfare.gov/outofhome/>.

Development Services Group, Inc. "Alternatives to Secure Detention and Incarceration." Available at:

<http://www.ojdp.gov/mpg/litreviews/AlternativesToDetentionandConfinement.pdf>

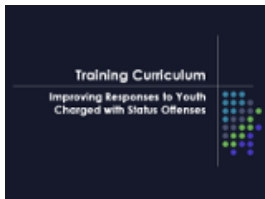
Principle 8: Secure Confinement

Begin by sharing the Standard in full:

Judicial officers should not securely detain or confine youth at any point in the status offense process.



20-30 minutes



Slide 55-59

Share the following background information:

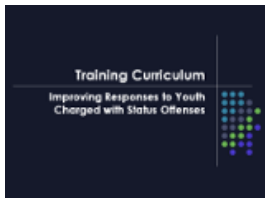
Research has shown the damaging effects detention or secure confinement can have on children, whether as a pre-court detention method or as a form of punishment after adjudication. Children who are securely detained are more likely to have increased involvement in the juvenile or criminal justice system. They are more likely to re-enter the criminal justice system than children who participate in community-based programs. Detention also has a negative and significant impact on many facets of the child's life.

Key discussion points to include:

- A child who has been securely detained has a higher likelihood of suffering from physical or mental health problems, struggling in or not completing school, and having difficulty in the labor market later in life.
- Placing a child charged with a status offense in secure confinement with children who have been accused of serious criminal offenses may expose the child to negative influences and behaviors that could lead to re-entry into the status offense system or entry into the delinquency system.
- Research on adolescent development shows that young people's brains continue to mature well into their twenties. As a result, adolescents are more likely to be influenced by peers, engage in risky and impulsive behaviors, experience mood swings, or have reactions that are stronger or weaker than situations warrant.

Instructor Cues

Action Steps



Slide 60

- *Using detention or secure confinement as a way to curb these behaviors not only fails to recognize what research shows about adolescent development, but carries more risks than benefits for the child, his or her family, and community.*

Action Steps for Change:

Explain that there are many things judges can do to better assist children and families in need by utilizing alternative services and approaches to detention or secure confinement. For example, judges can:

- *In cases where the child has violated an order of the court, critically assess the cause of the child's court order violation and determine whether community-based services or treatments may best help the child and family. Be mindful of the roles trauma and past victimization, adolescent development, mental health disorders, and under-diagnosed or under-treated disabilities can play.*
- *Determine whether other laws or entitlements may offer viable alternatives to detention or place restrictions on the use of detention. (Note, this will be discussed in greater detail later in the module).*
- *Explain to the parties involved, as well as their families, the dangers of incarceration and the benefits of community-based service alternatives. This will help empower families to help identify the best ways to support the child and avoid deeper justice system involvement.*
- *Seek out respite or kinship care alternatives to detention, particularly when there is high conflict in the home that raises safety concerns or if the child is running away repeatedly.*
- *Utilize available community-based service alternatives, such as those that take a "system of care" or "wraparound" approach. These programs individualize service plans to families' needs, promote family participation, and coordinate services.*
- *Create stakeholder work groups or advisory boards to assess how and when detention is used in status offense cases. Develop strategies to identify and implement alternatives to detention and secure confinement.*



Multimedia

Multimedia: Show video of Robert Schwartz, founder of the Juvenile Law Center, discussing alternatives to secure confinement:

Instructor Cues

<https://youtu.be/uvMIS8qikmw>.

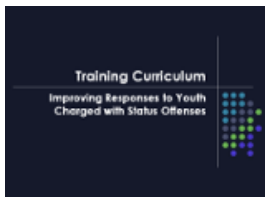
Show images of the juvenile justice detention system available through the *Juvenile In Justice* initiative: <http://www.juvenile-in-justice.com/>.



Group Activity



Q&A



Slide 61

Q&A/Group Activity: Juvenile Detention Facilities

Note: Depending on group size and time available, this activity can be completed as a large group or by breaking out into smaller discussion groups. If time does not allow for the full activity, ask participants, by a show of hands, how many have been inside a juvenile detention facility. Then ask for volunteers to share descriptions of those facilities.

Questions to Ask:

What words would you use to describe the short-term holding facilities **used for juveniles** in your jurisdiction? Longer-term facilities? What does the physical facility look like? What is the atmosphere like (e.g., how do you feel when you enter the facility)? What resources are available? How do youth spend their time?

Think of your own child, mentee, family member, or other adolescent you know. What is his/her home like? His/her bedroom? How does he/she spend her time? What activities does he/she participate in during a typical week (e.g., school, church, sports)?

Compare the answers to the two sets of questions and ask participants to comment on the differences. Remind participants that when youth are securely confined, not only are they exposed to negative peer influences, but they are missing out on all of the positive activities and connections in their communities, such as school, mentors and faith communities. Hand out the article, "What if it were your child?" (full citation below) and ask participants to consider this question in the context of secure confinement.



Trainer Prep

Trainer Prep: As part of your preparation for this training, obtain information on the frequency that status offenders are securely confined in your jurisdiction, along with any relevant state statutes or agency policy. Incorporate this information into the PowerPoint slides for this section or create a handout to distribute and discuss.



Resources

Resources/References/Handouts:

Mark Hassakis, Lisa Jacobs. (2011). "What if it were your child?" Available at: <http://www.isba.org/ibj/2011/01/whatifitwereyourchild>.

Instructor Cues

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Barry Holman, Jason Ziedenberg/Justice Policy Institute. (2007). "The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities." Available at:

http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf.

Deinstitutionalization of Status Offenders Best Practices Database. (nd). "Community-Based Alternatives to Secure Detention and Incarceration." Available at:

<http://www2.dsgonline.com/dso2/Default.aspx>.

Coalition for Juvenile Justice. (2006). "Applying Research to Practice Brief: What Are the Implications of Adolescent Brain Development for Juvenile Justice?" Available at:

http://juvjustice.org/sites/default/files/resource-files/resource_138_0.pdf.

Coalition for Juvenile Justice. (2015). "Use of the Valid Court Order Exception in the States." Available at:

<http://www.juvjustice.org/sites/default/files/resource-files/State%20VCO%20usage%202.18.15.pdf>.

Sara Mogulescu, Gaspar Caro/Vera Institute of Justice. (2008). "Making Court the Last Resort: A New Focus for Supporting Families in Crisis." Available at:

http://www.vera.org/sites/default/files/resources/downloads/status_offender_finalPDF.pdf.

Coalition for Juvenile Justice. (2012). "Positive Power: Exercising Judicial Leadership to Prevent Court Involvement and Incarceration of Non-Delinquent Youth." Available at:

http://juvjustice.org/sites/default/files/resource-files/resource_787_0.pdf.

Part 2: Lawyers for Alleged and Adjudicated Status Offenders

Principle 9: Community-Based Assistance

Begin by sharing the Standard in full:

Lawyers for alleged and adjudicated status offenders should advocate for voluntary and community-based assistance to limit and/or avoid continued court involvement and secure confinement.



15-25 minutes



Slide 63-67

Share the following background information:

A key part of the attorney's role is to limit court involvement and

Instructor Cues

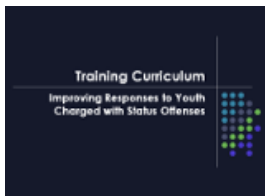
avoid secure confinement. This includes educating parents and children about the process and how to advocate for themselves.

Key discussion points to include:

- *Parents and youth can help the attorney make the case that court intervention and/or secure confinement is unnecessary because the child's needs can be met through resources available in the community and family support.*
- *Some parents may mistakenly believe that court involvement will benefit their child. By specifically addressing this misconception, attorneys can encourage parents to better assist in efforts to avoid deeper system involvement.*
- *Limited resources, geographic factors, and long wait lists are often barriers to accessing community-based and diversion services. Professionals should be aware of ways to overcome these barriers, such as by understanding when the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) provisions of Medicaid apply. Federal law requires statewide EPSDT services and may be a basis for challenging a lack of services due to geographic location.*



Action Steps



Slide 68

Action Steps for Change:

Explain that the book *Representing Juvenile Status Offenders*, published by the American Bar Association (full citation below), includes many strategies attorneys representing youth can use to promote voluntary service alternatives to avoid deeper justice system involvement and secure confinement, including:

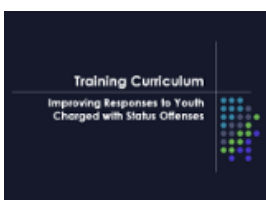
- *Move to dismiss the case because of a disability or unmet mental health needs, or if protections or entitlements under federal law (such as the Individuals with Disabilities Education Act accommodations that might have prevented truancy) were not observed.*
- *Assess whether the agency was required by statute to connect the youth to services before filing a petition and asserting that the court lacks jurisdiction if it failed to do so.*
- *Ask that the court stay the case or give a continuance pending assessment results and/or service delivery.*
- *Participate in mediation, family group conferencing, or other forms of alternative dispute resolution.*
- *Challenge an attempt to lock up a youth based on a valid court order violation when the order violated is vague, unclear, or unreasonable.*

Instructor Cues

- *Require the state to prove every element of each statutory section potentially violated, challenging whether the alleged behavior violated bright line rules or truly met the subjective standards of the statute.*
- *Educate the court and parents about the dangerous effects of detention and court involvement.*



Group Activity



Slide 69

Group Activity: Using legislative language to defend against status offense charges.

Explain to participants that the plain language of state status offense statutes may provide a defense against such charges. The lack of specificity in these statutes can also lead to a status offense charge being inappropriate. For example, if a statute defines truancy as a number of unexcused absences in a school year, charges might be inappropriate if one or more of the absences took place in the calendar year (and therefore the previous school year) or was actually an excused absence. Subjective terms such as “habitual” or “reasonable” are often used in ungovernability and other status offense statutes. This can be the basis for a challenge. For example, if only two examples of unruly behavior were given, an attorney can argue that two occasions do not constitute “habitual” behavior.

Share a statute from your jurisdiction and ask participants to describe all of the elements that would need to be proven or disproven if a youth were alleged to have committed a status offense. (Status offense statutes for all U.S. states are available in *Status Offenses: A National Survey*, full citation below.)

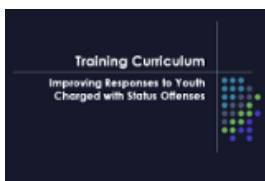
Ask participants to suggest what justice system professionals, other than attorneys, can do to ensure that youth are not unnecessarily charged with status offenses. For example, court administrators could create forms or checklists identifying each element of a status offense charge that would need to be alleged before accepting status offense petitions.



Resources

Resources/References/Handouts:

Martha Stone. (2010). “Accessing Intervention Services for Status Offenders and Avoiding Deeper Involvement in the Court System” in *Representing Juvenile Status Offenders*. American Bar Association Center on Children and the Law.



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Martha Stone, Hannah Benton/American Bar Association Center on Children and the Law. (2010). “Accessing Intervention Services for Status Offenders and Avoiding Deeper Involvement in the Court

Instructor Cues

System" (Representing Juvenile Status Offenders, chapter 3). Available at: http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/RJSO_FINAL.authcheckdam.pdf.

Coalition for Juvenile Justice. (2015). "Status Offenses: A National Survey." Available at: <http://juvjustice.org/sites/default/files/resource-files/Status%20Offenses%20-%20A%20National%20Survey%20-FINAL%20-%20WEB.pdf>.

Coalition for Juvenile Justice. (2015). "Model Policy Guide: Status Offense Laws." Available at: <http://juvjustice.org/sites/default/files/resource-files/Model%20Policy%20Guide.pdf>.

Principle 10: Due Process Rights



10-15 minutes



Slide 71-75

Begin by sharing the Standard in full:

Lawyers for alleged and adjudicated status offenders should advocate for child clients to be treated fairly throughout the court process and for their due process rights to be protected.

Share the following background information:

To effectively represent a child client in a status offense case, the lawyer must not only advocate for what the child wants, but ensure the child is treated fairly throughout the court process and that his or her rights are protected.

Key discussion points to include:

- *Lawyers must ensure that children's due process rights are protected throughout court proceedings. These rights include:

 - *Receiving notice of the charges against him or her.*
 - *Receiving proper notice of court hearings and meetings.*
 - *The ability to invoke his or her Fifth Amendment right against self-incrimination.*
 - *The opportunity to confront and cross-examine witnesses.**

- *To the extent the court threatens to incarcerate the child for violating a valid order of the court, additional due process protections must be afforded. These include the right to:

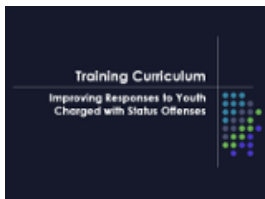
 - *Receive adequate and fair warning of the consequences of violating the court order at the time it was issued. The warning must be provided to the**

Instructor Cues

- *child, his or her lawyer, and his or her legal guardian.*
- *Have the charges against him or her in writing, served in a reasonable amount of time before the hearing.*
- *A hearing before a court.*
- *An explanation of the nature and consequences of the proceeding.*
- *Confront witnesses and present witnesses.*
- *Receive a transcript or record of the proceedings after they take place.*
- *Appeal to an appropriate court.*
- *Have the judge determine whether all dispositions, other than secure confinement, have been exhausted or are clearly inappropriate.*



Action Steps



Slide 76

Action Steps for Change:

Explain that there are many ways a lawyer can ensure fair treatment, such as:

- *Ensuring the child is present at every court hearing. If the child does not want to participate in court proceedings, counseling the child on the importance of his or her participation and, if appropriate, discussing alternative means of participation (such as video-conferencing or phone).*
- *Ensuring that a child who is not fluent in English is provided an interpreter when the lawyer meets with him or her and during all court proceedings (if the lawyer does not speak the child's native language).*
- *Ensuring that information the court and attorneys convey, whether written or oral, is understood by the child. If he or she has low or no literacy skills, or a disability that makes reading and/or comprehension difficult, carefully explaining key documents, reports, and court orders may be required.*
- *Advocating for court ordered services that are appropriate for the child's needs and that he or she can realistically comply with them (which may include ensuring that the service is offered at a time and location that is convenient for the child).*
- *Ensuring screening, assessment, and services are provided in such a way that privacy is protected and results are used to help youth, rather than incriminate them or cause them to*

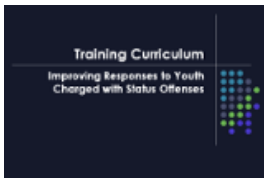
Instructor Cues

become more deeply involved in the juvenile justice system.

- Taking into consideration gender differences, disabilities, or culture barriers when agreeing to court-ordered assessments, treatments, or services.
- Meeting with the child regularly to get updates on case progress, counseling the child on how to proceed, and getting instructions on what the child wants the lawyer to advocate for in and out of court.



Resources



Slide77

Resources/References/Handouts:

"United State Code 28 CFR § 31.303(f)(2)" (Federal regulations regarding status offenses and valid court orders). (2014). Available at: <https://www.law.cornell.edu/cfr/text/28/31.303>.

National Juvenile Defender Center. (2012). "National Juvenile Defense Standards." Available at: <http://njdc.info/wp-content/uploads/2013/09/NationalJuvenileDefenseStandards2013.pdf>.

Hannah Benton, et al./American Bar Association Center on Children and the Law. (2010). "Representing Juvenile Status Offenders." Available at: http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/RJSO_FINAL.authcheckdam.pdf.

North Carolina Office of Indigent Defense Services. (2008). "Rights and Protections Afforded to Juveniles" (Juvenile Defender Manual, Chapter 2). Available at: http://defendermanuals.sog.unc.edu/sites/defendermanuals.sog.unc.edu/files/pdf/JuvenileDefBook_02.pdf

Principle 11: Federal and State Laws and Entitlements

Begin by sharing the Standard in full:

Lawyers for alleged and adjudicated status offenders should ensure that child clients' rights and entitlements under relevant federal and state laws are protected.



15 minutes



Slide 78-86

Share the following background information:

Various federal and state laws give youth rights that can help them avoid justice system involvement or secure confinement. In some cases, attorneys can argue for a case to be dismissed or stayed if social service, juvenile justice, or education systems fail to comply with certain protections or entitlements. A case may also be transferred to another system if child protection, domestic relations, or other laws are implicated.

Instructor CuesKey discussion points to include:

Attorneys representing alleged status offenders must be familiar with federal and state laws and entitlements to ensure youth's rights are protected and that they achieve the best possible outcomes. Remind participants that many of these laws, such as ASFA and ICWA, were discussed in greater detail earlier in this training curriculum. They are being highlighted again because of their potential for defending against status offense charges and avoiding deeper system involvement and secure confinement.

Examples of laws and entitlements that may be applicable in status offense cases include:

- *The Juvenile Justice and Delinquency Prevention Act sets out certain core requirements that states must comply with to receive federal grants, including prohibiting secure confinement for status offenders (with certain exceptions, such as violation of a valid court order, for a limited time early in the case, or for out-of-state runaway youth).*
- *The federal constitution and state laws grant youth certain due process rights. Attorneys should be particularly aware of youth's constitutional and other rights to avoid self-incrimination, both in the courtroom and while receiving assessments and services.*
- *State constitutional rights and state statutes, such as those relating to education or defining when youth are entitled to counsel in status offense cases, may provide additional rights and entitlements to youth in status offense cases.*

Health:

- *Medicaid and its Early and Periodic Screening, Diagnosis, and Treatment provisions offer various physical and mental health services, including case-management and preventative and rehabilitative care, to eligible youth.*
- *The Health Insurance Portability and Accountability Act (HIPAA), federal drug and alcohol regulations, and state confidentiality laws also provide some privacy protections which may be applicable to status offenders.*

Education, Special Education, and Disability:

- *The Individuals with Disabilities Education Act entitles youth with qualifying disabilities to a "Free and Appropriate Education," which generally includes an "Individualized Education Program," which specifies the instruction and other services the child will receive, tailored to his or her needs.*

Instructor Cues

- *The Americans with Disabilities Act and Section 504 of the Rehabilitation Act also protect youth from discrimination on the basis of their disabilities.*
- *The Bilingual Education Act can provide some services to youth who are non-native English speakers.*
- *The McKinney-Vento Homeless Assistance Act provides protections to homeless youth, such as the right to stay in their local or most recent school.*

Child Welfare:

- *The Adoption and Safe Families Act (ASFA) and other child welfare laws provide many service entitlements and other protections for youth in a qualified placement through their local child welfare agency. Under ASFA, the child welfare agency must make reasonable efforts to avoid removing children from their home and, after removal, provide a case plan, both of which involve providing numerous resources and services to meet the child's needs and reunify the family.*
- *The Indian Child Welfare Act (ICWA) applies to status offense cases and includes provisions for the treatment and placement of Indian children. For example, it requires that out-of-home placements reflect Indian values and culture, are reasonably near home, and represent "the least restrictive setting which most approximates a family and in which his special needs, if any, may be met." ICWA also requires that services be provided to avoid breaking up Indian families.*

Emancipation:

- *Emancipation laws, available in some jurisdictions, allows youth to petition under state law to be considered adults in the eyes of the law or family court proceedings. They can also give custody of a young person to a non-custodial parent and may help avoid deeper juvenile court involvement, particularly where conflict with, or abuse/neglect by, a parent underlies the status offense case.*

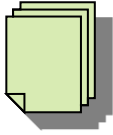
Immigration:

- *Relevant federal immigration laws and regulations, such as those regarding Special Immigrant Juvenile Status may also provide immigrant youth some protections.*

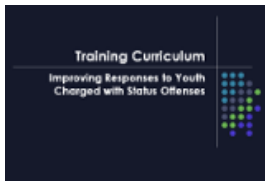
Instructor Cues



Trainer Prep



Resources



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Trainer Prep: As part of your preparation for this training, obtain information on any state or local policies that provide protections or entitlements beyond the ones discussed above. Incorporate this information into the PowerPoint slides for this section or create a handout to distribute and discuss.

Resources/References/Handouts:

Hannah Benton, et al./American Bar Association Center on Children and the Law. (2010). "Representing Juvenile Status Offenders." Available at: http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/RJSO_FINAL.authcheckdam.pdf. (Note that several of the chapters of this resource discuss state and federal law and entitlements, including "What the JJDPa Means for Lawyers Representing Juvenile Status Offenders," "Accessing Intervention Services for Status Offenders and Avoiding Deeper Involvement in the Court System," "Using Special Education Advocacy to Avoid or Resolve Status Offense Charges," and "How Status Offenses Intersect with Other Civil and Criminal Proceedings.")

Lourdes Rosado, Riya Shah/Juvenile Law Center. (2007). "Protecting Youth from Self-Incrimination when Undergoing Screening, Assessment and Treatment within the Juvenile Justice System." Available at: http://www.jlc.org/sites/default/files/publication_pdfs/protectingyouth.pdf.

American Bar Association Center on Children and the Law. (2010). "The Indian Child Welfare Act and Advocacy for Status Offenders." Available at: http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/ICWA_factsheet.authcheckdam.pdf.

U.S. Citizenship and Immigration Service. (nd). "Special Immigrant Juveniles (SIJ) Status." Available at: <http://www.uscis.gov/green-card/special-immigrant-juveniles/special-immigrant-juveniles-sij-status>.

Part 3: Judicial Officers and Entities Providing Case Management Services

Principle 12: Managing Cases in a Timely Manner

Begin by sharing the Standard in full:

Judicial officers and entities providing case management services should effectively manage and close court and agency cases in a timely manner.



10 minutes

Instructor Cues

Slide 88-93

Share the following background information:

Judges and agencies providing direct services to children and families in status offense cases must strike a balance between over-evaluating case progress and letting cases languish without any oversight. Over-evaluating case progress can take a toll on the child and family, adding an extra layer of burden and scrutiny. Too frequent court reviews or agency meetings may disengage families who are often struggling with a myriad of other issues at home, school, and work; making it difficult for them to participate in too many meetings and court appearances.

Key discussion points to include:

- The added pressure of court reviews or agency meetings may ultimately work contrary to case goals, making it difficult for the family to help identify and implement solutions that will successfully resolve the case. Overly frequent reviews may also prevent corrective measures from taking hold or allow the child to develop new connections to their school or home that require time to stabilize and develop.
- Courts and service agencies must also be cognizant of not letting cases languish with little or no oversight. Failing to assess how the child and family are being served and what progress they, as well as the service providers, are making increases the likelihood that the cause behind the court referral will not be adequately addressed.
- Courts and direct service providers must manage and close each status offense case based on the individual needs of the child and family.
- Conducting early screening and assessments can help the agency and court understand the child's and family's needs. They can better develop a case management plan, which includes timeframes and the provision of appropriate services and interventions.
- In implementing an effective case management plan, professionals should be realistic about the family's capacity and needs. They must be flexible when those needs change or new information comes to light. How frequently case progress is assessed and, ultimately, when a case should close should be determined based on what the child (and possibly family) want/need to successfully transition out of the status offense system.
- To better prepare children and families for successful case closure, courts and service providers should link families to

Instructor Cues

community-based, educational, or other transitional support services, such as special education services through the child's school, mental health services through community mental health programs, or employment/career support services.

- *Service providers should also meet with the family several times leading up to case closure to develop a transitional case plan that is realistic and provides the family and child needed support as they leave the status offense system.*

Conclusion

Instructor's Note: This marks the end of the *Improving Responses to Youth Charged with Status Offenses* training curriculum.

Take a few moments to answer any remaining questions from participants. Remind them that as they apply the information they learned in this training to their practice, they can always consult the resources shared, particularly the *National Standards*, for additional information and detail.

The Coalition for Juvenile Justice's SOS Project website (www.juvjustice.org/sos) and the Vera Institute of Justice's Status Offense Reform Center (www.statusoffensereform.org) are also frequently updated with new and valuable status offense resources.

Thank attendees for their time and attention. Provide your contact information in the event they have follow-up questions after the training ends.

ENSURING “REASONABLE EFFORTS” IN STATUS OFFENSE CASES

In determining whether all parties have done as much as possible to avoid or limit justice system involvement, consider asking the following questions from the Coalition for Juvenile Justice’s National Standards for the Care of Youth Charged with Status Offenses:

- What efforts were made prior to a court petition being filed to determine the cause of the alleged status behavior?
- What assistance was offered to the child and family to avoid formal court processing?
- Were statutory pre-requisites met to assume jurisdiction over the case?
- Was the child entitled to certain protections under state or federal law that would circumvent the need for formal court processing?

Factors to consider in answering these questions may include:

- The extent to which service providers interviewed the family and child to understand the reason behind the referral.
- The extent to which the child was screened or assessed, depending on the facts that brought the case to the court.
- A determination of whether some systemic failure, as opposed to the child’s behavior, brought the case before the court.
- Whether the child and/or family were offered services, whether a treatment or service plan was developed, and how often service providers met with the child or family to assess progress and overcome barriers.
- A determination of whether the services offered met the child and family’s needs and whether assistance not offered or available may have been more suitable.
- A review of the facts in the petition and any other available documents to assess whether the behaviors alleged in fact meet the statutory definition of the status offense charged.
- An inquiry into whether statutory pre-requisites to court involvement were followed, such as whether education or justice system responders engaged in statutorily required processes before petitioning cases to court.
- Whether the child is eligible for certain services, assistance, and protections under Medicaid, the Indian Child Welfare Act, federal right to education laws, or the state constitution in lieu of court involvement.