

## *Examining Ways to Improve the Juvenile Justice System and Support America's Young People*

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### **Broad Overview of the Juvenile Justice System**

Children and youth who are suspected of or accused of engaging in delinquent or criminal behavior are usually processed through the juvenile justice system. There are many aspects of the juvenile justice system that are like its counterpart, the adult criminal justice system. However, there are also fundamental differences. The juvenile court was founded on the recognition that children and youth are developmentally distinct from adults (Grossberg, 2002), and because they are still developing, are more amenable to intervention. Early reformers envisioned a system that would remove young people from the potential harms of the adult system and focus on their needs rather than offenses committed (Grossberg, 2002).

Since the main goals are rehabilitation and treatment, while balancing public safety, the juvenile system takes a more youth-centered approach to understanding their circumstances to address them so they can go on to lead productive lives (“Juvenile Justice,” n.d.).

### **Crossover Youth: Intersections of Maltreatment and Delinquency**

For children and youth who have personal and family histories related to abuse, neglect, and trauma, the purpose of the child welfare system is to provide for their needs relating to their safety, permanency, and well-being (Child Welfare Information Gateway, 2020). However, if

those needs are not met, such as through inconsistent or inadequate services, multiple placement moves, or being placed in abusive settings, youth may act out and engage in delinquent behavior that comes to the attention of the juvenile justice system. The term “crossover youth” refers to a young person who has experienced maltreatment and engaged in delinquency (Herz, Ryan, & Bilchik, 2010). Given their dual role as both a victim of trauma and as a person exhibiting delinquent behavior, crossover youth comprise a distinct group of young people with unique needs. Among youth who have had formal involvement with the juvenile justice system, about half have had some contact with the child welfare system (Herz & Dierkhising, 2019). For most crossover youth, the most common pathway is first coming into contact with the child welfare system followed by the juvenile justice system (Herz & Fontaine, 2013).

Crossover youth are more likely to experience adverse outcomes across a range of life domains. Compared to youth without systems contact, they demonstrate greater mental health, educational, and employment needs (Herz, Ryan & Bilchik, 2010, Dworsky & Courtney, 2010; Goerge et al., 2002; Myers, 2011). They are also more susceptible to becoming involved in the adult criminal justice system (Widom & Maxfield, 2001). In terms of demographics, when compared to youth in the juvenile justice system only, among dual system youth there is even greater overrepresentation of youth of color (Cho et al., 2019), especially Black youth, and a higher proportion of girls (Herz & Dierkhising, 2019). Thus, Black girls may face unique challenges that lead to their becoming crossover youth (Kolivoski, 2020), as well as youth of color who identify as LGBTQ or gender non-conforming (Irvine & Canfield, 2016). Youth of color are overrepresented in the child welfare and juvenile justice systems respectively and this disparity is even more pronounced among crossover youth.

Research shows that what works for youth is to focus on prevention and early intervention, including preventing many youth from having deep-end involvement in either child welfare or juvenile justice. We need to make sure youth receive quality, supportive services to meet their needs. These include mental health and substance abuse services as well as education, extracurricular activities to have a sense of normalcy, and structured, prosocial relationships with adults and mentors. Research also supports that keeping a youth at home as much as possible has a positive effect on their trajectories, and being placed in family-like settings when the home of origin is not an option (Kolivoski, Shook, Goodkind, & Kim, 2014). Only when these have been exhausted, should out-of-home placements be used for vulnerable youth. In these instances, youth should have frequent and regular contact with their family of origin, including extended kin, to retain those lifelong connections all humans need.

### **Out-of-Home Placements**

Out-of-home placement refers to the removal of a youth from their home of origin and placing them in a different environment, whether a family-like or more group-care type of setting (Kolivoski, Barnett, & Abbott, 2015). Removing a child from their home is itself a traumatic and major life event. Research has identified several risk factors that lead to out-of-home placement in the juvenile justice system. One is related to the maltreatment itself. For example, a study showed that experiencing chronic maltreatment was associated with a 10% increase in risk for placement in a detention center and 15% increase in risk to be placed in a juvenile justice facility (Yampolskaya, Armstrong, & McNeish, 2011). Another risk factor is simply being a crossover youth. Crossover youth are less likely to be referred for home-based probation versus out-of-home placement in the juvenile justice system (Herz & Ryan, 2008).

Other risk factors relate to child welfare system experiences. For example, children and youth who experience placement outside the home during their time in the child welfare system are more likely to have juvenile justice contact. Research suggests that the types of placement experiences youth have matter (Kolivoski, Shook, Kim, & Goodkind, 2017), and do not affect all youth the same in regard to their depths of involvement in the juvenile justice system (Kolivoski, et al., 2014). When family-like placements are compared to group care settings, evidence tends to support a beneficial impact for most youth for family-like settings, and those placed in group settings are at higher risk for justice system contact (Goodkind, Shook, Kim, Pohlig, & Herring, 2013; Kolivoski et al., 2014; Shook, Goodkind, Pohlig, Schelbe, Herring, & Kim, 2011). One study found that youth with out-of-home placement within child welfare were on average 47% more likely to exhibit delinquency than youth kept at home (Ryan & Testa, 2005). The goal should be to use placements only as needed, for as short an amount of time as needed, and to place youth in the least restrictive setting possible.

As part of the mission of these systems to help young people, we do not want to make things harder for them, but often we do not acknowledge the harmful role that systems do have. Many youth experience abuse when placed in residential settings and their needs are often not met (Annie E. Casey Foundation, 2015). Further, research supports that secure confinement of youth is related to worse outcomes in terms of delinquent and criminal behavior (Coalition for Juvenile Justice [CJJ], n.d.). Arrest rates for youth who have been in confinement can be as high as 75% within 3 years; additionally, confinement is expensive, and disproportionately affects youth of color the most (Seigle, Walsh, & Weber, 2014). When a youth is placed outside the home, they no longer have the chance to rehabilitate themselves within their own home environment and with the connections and support that are in their community of origin (CJJ,

n.d.). We are asking them to change while also adjusting to an unfamiliar environment and often still dealing with their own trauma (Simmons-Horton, 2020).

### **What Works and Recommendations**

One of the programs that has been shown to help systems better understand and mitigate their weaknesses, among other issues, is the Crossover Youth Practice Model (CYPM). The CYPM seeks broad practice and policy changes through increasing the communication and collaboration across human and legal service agencies and community partners. Since its founding in 2010, the Model has been implemented in 120 counties in 24 states. Its main goals include reductions in the number of crossover youth, reducing youth placed in out-of-home placement, reducing the use of congregate care, and reducing the overrepresentation of youth of color in the child welfare and juvenile justice systems as well as in the crossover youth population.

More broadly are efforts that can be made at the federal level to provide funding to jurisdictions focused on prevention, early intervention, and diversion related to juvenile justice system contact and especially for helping crossover youth outcomes. A strong social safety net can prevent many issues further downstream, such as preventing child maltreatment in the first place. Providing front-end, well-funded supportive services such as mental health services and substance abuse treatment as well as additional services offered within the child welfare system can provide key benefits, as can connecting youth to meaningful adults and in many ways treating them like a typical teenager who wants to date and play sports. Amplifying youth voices is also important to understanding their perspective and what helps them. Increasing emphasis on family and family-like settings and community-based supports can help most youth while not sacrificing public safety. The use of out-of-home placements needs to come after careful

consideration and not without exhausting other options, particularly if a setting is a nontherapeutic group home or if there is going to be a long stay in a residential treatment facility (Miller & Pilnik, 2021).

Finally, increasing research funds to further study pathways of crossover youth to identify clogs in the system and gaps in services as well as efforts that support cross-systems collaboration and data sharing can help ensure that we are best meeting the needs of this vulnerable population.

Thank you for your consideration.

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