



STRENGTHENING THE VOICES OF CASA STATEWIDE



# **CASA Advocacy for** **DUAL-STATUS YOUTH**

*Understanding the Juvenile Justice System*

# WELCOME

## **Letter from Vicki Spriggs**

Dual-status youth are children who are involved in the child welfare system and then end up with a referral to the juvenile justice system. We talk about the foster care-to-prison pipeline between Child Protective Services (CPS) and juvenile justice. Why? Because so many of these youth who have experienced removal from their home, have experienced a trauma that led to their removal and involvement with CPS, and that trauma may manifest as behavior that can be problematic. That behavior may be aggression, it may be bullying, it may be stealing or it may be something that is deemed an anti-social behavior that puts them on the radar of the juvenile court.



We know that once a child starts down that trajectory, there is often no communication between the child welfare and the juvenile court system, resulting in a family involved in two systems that are frequently working in totally different directions: one is focused on the safety and well-being of the child and family, and the other is focused on juvenile justice and rehabilitation, which might lead to two separate case plans, a multitude of different requirements on the family and more court time. Imagine your child or family is involved in two separate judicial systems that are not communicating, the role of the parent in the context of all that is required and the role of the child will be different—it can be overwhelming for everyone involved.

So, where does CASA advocacy come into this? The CASA volunteer, as the person who is involved with best-interest advocacy for the child no matter the system, can be the one that bridges those systems and that might be the linchpin in facilitating the two systems working together in a way that supports healing and positive outcomes.

At the end of the day, when we are talking about dual-system youth and dual-system involvement, CASA advocacy can be critical. It can be critical in bringing the two systems together to create a case plan for that child and family that best meets the individual child's needs and stops the CPS to juvenile probation pipeline for that family.

We are deeply grateful for your commitment to the children who need your advocacy. Thank you for all you do for the children and families of Texas.

With gratitude,

A handwritten signature in black ink that reads "Vicki Spriggs".

Vicki Spriggs  
Texas CASA CEO

# UNDERSTANDING

## Dual-Status Youth



Youth are considered dual-status if they are involved with both the child welfare system and juvenile justice system (JJS) at the same time. When youth ages 10 to 16 are accused of engaging in delinquent conduct or Conduct Indicating a Need for Supervision (CINS) or committing a status offense, they can be referred to juvenile court. Similar to the child welfare system, referrals are requests asking for an investigation into events or conduct. Over 80% of referrals to the juvenile court come from law enforcement; additional referrals come from schools, probation departments and municipal courts. Once referred to juvenile court or a juvenile probation department, a youth can be involved in the JJS in several ways. The youth may be involved with the JJS informally where they will voluntarily participate in a program which, if completed, will not result in prosecution of a crime. Under different circumstances, the youth may be formally involved with the JJS, charged with delinquent conduct, and afforded the same constitutional rights in the juvenile court as an adult who is accused of committing a crime, including having a criminal defense attorney represent them. Formally charged youth may be required to complete probation and/or spend time in a juvenile detention center, often a traumatic experience for youth. Under rare circumstances, the court can certify a youth as an adult and transfer the youth to the criminal justice system. This guide does not apply to youth certified as adults for criminal purposes; **this guide applies to dual-status youth involved in both the child welfare system and JJS.**

Study after study shows that youth in foster care are disproportionately represented in the juvenile and criminal justice systems. *The foster care-to-prison pipeline refers to the funneling of children in foster care into juvenile detention or adult incarceration.*<sup>1</sup> The data shows that children and youth who experience abuse or neglect have a significantly greater risk of arrest and referral to the juvenile justice system than the general population, putting these youth at an even greater risk for mental health, education and vocation challenges as well as having higher rates of recidivism, suicide, drug use and homelessness. Youth in congregate care settings, such as group homes and residential treatment centers (RTC) and youth without placement are at significantly higher risk.

It is common for dual-status youth to have experienced trauma. Their trauma is most often severe trauma experienced through abandonment, neglect or abuse, addiction, poverty or a combination of some or all of these things. These vulnerable youth tend to be older youth with complex needs and little hope for a better life. These youth need CASA advocacy dedicated to changing the life course for which the studies and data suggest they are heading. Strong CASA advocacy can act as a bridge between the child welfare system and JJS to support the kind of coordinated, trauma-informed, rehabilitating and healing approach that every child deserves. Youth involved in both systems need a strong advocate who can elevate their voice and speak up for their best interest both in and out of the courthouse. Dual-status youth often feel that their parents, teachers and everyone important to them have given up on them which can leave them feeling even more isolated and alone. These vulnerable youth need help navigating the juvenile justice system and identifying and building positive supportive relationships to help them find hope in their situation. Strong CASA advocacy can truly make a difference for dual-status youth outcomes.

<sup>1</sup><https://www.crimlawpractitioner.org>

# UNDERSTANDING

## *the Juvenile Justice System (JJS)*

The JJS is a confidential, rehabilitation system for youth ages 10 to 16 who have been accused of engaging in delinquent conduct or CINS, which includes status offenses. Generally, if committed by an adult, a charge of “delinquent conduct” could result in imprisonment or confinement in jail or prison whereas CINS may only result in a fine or community service or would not be considered a violation of the law. Delinquent conduct may include drug offenses, sex offenses, felony crimes such as assault, robbery, burglary and theft, and misdemeanors such as assault/theft/drug offenses, contempt of court and conduct indicating a need for supervision (CINS). A status offense refers specifically to conduct that would not legally be a crime if committed by an adult and covers a wide range of conduct, including running away from home if age 16 or younger, purchasing alcohol, or conduct that leads to expulsion from school.

The JJS includes both juvenile probation departments, which are locally operated, and state-run detention facilities, serving youth who cannot be served by their county. Depending on the type of conduct a youth is accused of, they could interact with the county or state system, and the case may look different depending on the particular JJS practices in your community.

While public safety and accountability are considerations, **the JJS policies emphasize treatment and rehabilitation** and the system is designed to be protective, not punitive, with the goal to educate youth about discipline, values and work ethic. However, some of the JJS county and state facility practices, which may be viewed as punitive, may further harm and traumatize youth.

In most cases, juvenile records can be sealed to eliminate the stigma of having been in trouble with the law and to limit collateral consequences of having a juvenile history. Some situations that would make a youth ineligible for sealing their juvenile records include youth who are required to register as sex offenders, have completed their sentences in the adult system, or have been convicted of a felony as an adult.

Since 2021, CASA volunteers appointed guardian ad litem (GAL) in a Child Protective Services (CPS) court can also be appointed as GAL by a juvenile court if the youth has an open case in both systems. In other words, CASA volunteers can be appointed by both courts to represent the best interest of the youth in both systems. The juvenile court appointment may be made after the youth is adjudicated for their alleged conduct, meaning the court has made a decision regarding the alleged conduct and is moving forward with a probation plan.



# UNDERSTANDING

## ***Informal Involvement in the JJS***

- Informal involvement in the JJS is highly focused on rehabilitative and community-based interventions rather than formal court processes.
- Informal involvement may include a community program that offers counseling and educational opportunities to divert youth away from the JJS, instead of the more formal approach involving the court system and receiving a probationary sentence or placement in a juvenile detention facility.
- Law enforcement may refer a youth who has never been referred to juvenile court to a first offender program which also does not result in a referral to juvenile court.
- When law enforcement decides not to refer a youth to juvenile court, as an alternative, the youth may be offered a program, which, when voluntarily completed successfully, results in no referral to juvenile court. This may also be called informal disposition and is only available for Class C misdemeanors.

## ***Understanding Probation***

- When a youth is found to have engaged in delinquent conduct and/or CINS, they can formally be placed on probation under the supervision of the juvenile court for any length of time, but not past their 18th birthday.
- County juvenile probation departments manage juvenile cases involving dual-status youth.
- Youth serving probation may be living at home or in a kinship placement, a foster home, a residential treatment center or a secure correctional facility other than one run by the Texas Juvenile Justice Department (TJJD). Youth may be removed from their living situation at the time of adjudication if a higher level or quality of care and level of support and supervision is needed for the youth to complete their probation requirements. An example of an alternative placement may be a residential treatment center providing specialized services.
- Probation officers closely collaborate with dual-status youth to identify their individual needs and develop personalized plans for rehabilitation and behavioral change. Probation officers are also responsible for closely supervising and monitoring compliance and progress with supervision plans and/or probation plans.
- Potential probation requirements may include making restitution, attending school, abiding by a curfew, attending counseling or participating in other specified programs or services. Community service is a mandatory condition of probation with limited exception.

In Texas, juvenile records are not automatically sealed when a youth turns 18 and not all juvenile records are eligible for sealing. The youth may need to file an Application for Sealing of Files and Records in the juvenile court in the same county where the original proceeding took place. Encourage youth to speak with their criminal defense attorney or the Texas Foster Youth Justice Project to help guide them through this process.



# UNDERSTANDING

## Detention



- County detention facilities provide secure detention for dual-status youth awaiting court hearings, serving short-term sentences or pending transfer to another county or a TJJD detention facility.
- Detention facility policies prioritize safety and security as well as educational and rehabilitative programs. They are generally operated by the State of Texas with some services being provided by private contracted providers.
- Youth serving detention are placed in a TJJD secure correctional institution, private contracted facility, medium security facility or a halfway house depending on the individual treatment needs and proximity to the youth or family's home.
- Detention centers use a level system to promote cooperation and compliance with rules and policies. Each youth begins their detention placement at the Freshman level. Detained youth can then earn points to move to Junior, Senior and Honors levels and access increased privileges such as telephone calls and longer showers.
- During their detention, youth should receive academic instruction, participate in counseling and support services, have opportunities to earn work-release privileges and participate in skill-building activities and vocational training.
- Dual-status youth in detention are given a handbook outlining the rules and program in detail.
- A youth can only remain in TJJD custody until their 19th birthday.
- Detention is often a traumatic and isolating experience for youth.

Youth have certain rights while in a TJJD detention facility. <https://www.tjtd.texas.gov/wp-content/uploads/2024/02/youth-rights-english.pdf>

If the TJJD grievance process does not resolve a problem, youth can call the Independent Ombudsman for TJJD. [https://www.tjtd.texas.gov/wp-content/uploads/2024/02/ombudsman\\_brochure.pdf](https://www.tjtd.texas.gov/wp-content/uploads/2024/02/ombudsman_brochure.pdf)

## ***Recommendations for Understanding More about Your Local JJS***

- Learn more about your county's juvenile justice policies and procedures.
- Find out where youth are detained during the intake process and while they are awaiting court.
- Find out what the placement process is for TJJD in your county.
- Find out when, where, and how hearings will be held, and as needed, whether you can attend by Zoom if you are unable to attend in person.
- Find out whether your county has a cross-over court system for dual-status youth where the child welfare and juvenile cases are tried in one court with one judge.
- Explore community-based and/or diversion programs and alternatives to detention that may be available for rehabilitation of dual-status youth in your county.
- Review the rules and policies for the individual detention center to find out if there are any visitation rules such as not being able to bring items to the youth in detention or not being able to let them use your cell phone.

## Similarities & differences between the Child Welfare System and the Juvenile Justice System

	<b>Child Welfare System</b>	<b>Juvenile Justice System</b>
How does the case begin?	A <b>referral</b> is made to CPS regarding the welfare of a child.	A <b>referral</b> is made to the Juvenile Probation Department regarding a youth's alleged delinquent behavior.
What is the role of the youth?	The youth is the victim (may also be the alleged perpetrator).	The youth is the alleged perpetrator.
Who investigates the referral?	CPS investigates the referral and determines whether further action is needed for the safety of the child.	An intake officer investigates the referral to determine if it is probable that the youth engaged in delinquent conduct and if further action is needed.
Are there informal alternatives to a court case?	Depending on the specifics of a case, <b>Family Based Safety Services (FBSS)</b> may be offered to provide a family the opportunity to voluntarily participate in a service plan while the children remain in their home. If the parents do not voluntarily participate in services, CPS may take further steps to request that the court remove the children from their home.	Depending on the specifics of a case, <b>deferred prosecution</b> may serve as an <b>informal alternative</b> to formal adjudication. Deferred prosecution involves a voluntary agreement between the juvenile probation department and the child which lists the conditions for release and rules the youth must follow. If the youth violates the agreement, the juvenile department may take further steps towards formal adjudication.
Who manages the case and service plan/probation plan/agreement?	If the child is removed from their home and the court orders the child to the temporary managing conservatorship of DFPS, a <b>CPS/SSCC caseworker</b> is assigned to the child and develops a <b>service plan</b> for the parents to complete.	If additional action is needed, a <b>probation officer</b> is assigned to the case to work with the youth and family to create a personalized <b>rehabilitation or probation plan</b> with conditions for release of the youth from probation.
What is the Goal?	<b>Family reunification.</b>	<b>Successful completion of probation and/or detention.</b>
Who prosecutes the case?	The assistant county or district attorney represents DFPS to prosecute the Suit Affecting the Parent Child Relationship (SAPCR) against the parents. In some regions, a DFPS attorney acts.	The assistant county or district attorney for the Juvenile Division prosecutes the case against the youth.
Who represents the youth?	An attorney ad litem represents the youth in court.	A criminal defense attorney represents the youth in court.
Is a Guardian ad Litem appointed?	A GAL is appointed in all cases, which may or may not be a CASA volunteer.	A GAL may be appointed in select cases. For dual-status youth, the GAL may be the CASA volunteer appointed in the CPS case.

# UNDERSTANDING

## Your Legal Role



- The Texas Family Code expressly forbids the guardian ad litem from investigating charges that are pending with the juvenile court or to offer any testimony concerning the guilt or innocence of the youth, including, but not limited to, requesting police reports and discussing the underlying charges with the youth.
- CASA volunteers do not share the attorney-client privilege that attorney ad litem and defense attorneys have with the youth, therefore anything the CASA volunteer discusses with the youth, family members or others related to the case may be discoverable and shared in both the child welfare and juvenile courts.

## Understanding Collaboration and Confidentiality

Collaboration and the exchange of information support a deeper understanding of the youth's circumstances and individual needs, enabling all of the parties and the judge to most effectively advocate for the youth's best interests.

CASA volunteers are entrusted to safeguard confidential information and must not disclose information to anyone not directly related to the legal case. CASA volunteers are primarily information gatherers and not information sharers except in limited circumstances and in the best interest of the youth. CASA volunteers should refrain from discussing information related to the juvenile allegations with parties in the CPS case as it may end up in a court report, or before the court, and detrimentally affect the youth.

CASA volunteers should also refrain from discussing anything related to the youth's juvenile case, the alleged delinquent behavior, CINS or status offense to avoid the youth misunderstanding the CASA volunteer's role. The focus should be on the requirements of the probation plan, challenges to completing the probation plan, connections and placement. CASA volunteers may encourage the youth to share juvenile case and conduct related information with their defense attorney or attorney ad litem on their CPS case.

That said, **to support best interest advocacy**, CASA volunteers may disclose specific information to the parties in both the child welfare and juvenile cases when permitted by law or court order.

To support best interest advocacy, CASA volunteers may disclose to the parties in both cases:

- General background information related to instances of abuse and neglect
- The youth's history of trauma
- An overview of the CPS case plan and services the youth is receiving and an overview of the probation plan and the services the youth is receiving
- Placement details and options
- Observations regarding family dynamics and relationships

**CASA volunteers can share all information with their CASA supervisors and are always encouraged to confer with their CASA supervisor regarding the sharing of information for dual-status youth.**



# UNDERSTANDING

## ***the CASA Volunteer's Minimum Expectations of Service on Dual-Status Cases***

Minimum expectations when advocating for dual-status youth are the same as advocating for youth involved in the child welfare system with additional contacts with the juvenile justice parties. Minimum expectations advocating for dual-status youth include:

### **MONTHLY**

- Youth Visit
- Contact with placement provider/caregiver
- Contact with parents and family
- Contact with the CPS case worker
- Contact with the probation officer
- Contact between volunteer and supervisor

### **QUARTERLY**

- Medical/health advocacy
- Education advocacy
- Contact with attorney ad litem on CPS case
- Contact with defense attorney on juvenile case
- 16+ advocacy

### **OTHER REQUIREMENTS INCLUDE:**

- Preparing court reports and attending CPS and juvenile court hearings
- Attending case-related meetings
- Maintaining your volunteer documentation in OPTIMA
- 12 hours of continuing education annually

### **COURT REPORTING:**

CASA volunteers must avoid putting unnecessary details in their court reports that could potentially impact the youth's juvenile case and should never include information related to the youth's conduct that led to the involvement in the JJS.

#### ***CASA volunteers may include in court reports:***

- Upcoming court dates for both the child welfare and juvenile case
- Progress of each case
- The youth's positive and supportive connections and with the youth's permission the results of any Collaborative Family Engagement tools
- Services provided and participated in for each case, including compliance with conditions for release from probation
- An update on the youth's educational achievements, challenges and goals
- Any specific concerns that need addressing and any unmet needs of the youth or family
- Placement options if the youth is in need of permanency planning
- Whether the youth's juvenile case records have been sealed
- CASA recommendations for the court's consideration

# UNDERSTANDING

## *the CASA Volunteer's Impact*

### ***Building Trust and Engagement with a Trauma-Informed Approach***



#### **CASA volunteers can build trust by:**

- Amplifying youth voice in case meetings, planning, and in all CASA advocacy.
- Amplifying youth voice in court reporting and testifying.
- Working to build and strengthen supportive connections around the youth and being mindful that the youth's situation may be overwhelming and feel out of their control.
- Advocating for supportive services ensuring that there are no duplicative service requirements for the youth or family that may hinder completion of the youth's probation plan or the CPS service plan.
- Reviewing the Rights of Children in Foster Care with the youth.
- Reviewing the TJJJ Youth Complaint & Grievance Guide with the youth.
- Ensuring that a detained youth has reviewed and understood the detention handbook and advocating for support as needed, including ensuring that the youth maintains a sense of connection to their support network while placed in detention.
- Engaging the youth and advocating for what the youth feels is missing from their support services and activities.
- Using a strength-based approach and checking personal biases and projections in all aspects of CASA advocacy.

#### **CASA volunteers can engage family members and a support network for the youth by:**

- Helping the family members identify supports that they may need to better support their child.
- Participating in early and continuing placement and permanency planning when youth are placed in detention, and ensuring short-term recommendations are based on long-term permanency goals.
- Bridging the gap between systems, stakeholders and the family.
- Encouraging supportive and connected adults to participate in and attend court, family meetings and other meetings related to the youth's needs, for example school meetings and counseling.
- Being inclusive of the youth and family's culture, beliefs, values, origin and community practices.

Best interest advocacy for dual-status youth should also enable the youth to successfully navigate and complete their probation and/or detention requirements and participate in their own permanency planning going forward after their juvenile justice case is over. Goals for the dual-status youth will include i) positive behavior changes to reduce the likelihood of future delinquent behavior, ii) improved education engagement and achievement and iii) increased positive connections in the youth's life to support their well-being and safety.

## **CASA volunteers can bring a trauma-informed approach by:**

- Supporting youth connections with family and other supportive people to help heal the ongoing trauma the youth is experiencing.
- Presenting the youth and family's history to show how it relates to the circumstances at hand while maintaining confidentiality.
- Keeping the judge in the juvenile case up to date on the CPS case and keeping the CPS team and judge apprised of what is happening on the juvenile side so that everyone working with the young person understands all that they are experiencing.
- Identifying and addressing obstacles that may hinder the youth from completing their probation plan such as transportation challenges, service duplications, scheduling conflicts and access to mental health support.
- Advocating for improved education participation and support services including participation in tutoring, mentoring programs and extracurricular activities as well as advocating for Individualized Education Programs and 504 plans when needed.
- Advocating for improved mental health care, medication monitoring by requesting a psychotropic medication utilization review (PMUR) and behavioral support services as needed on an individual basis.
- Advocating for the least restrictive placement and outcome that can safely meet the youth's needs by providing information to the court and probation officer as support for your recommendations.
- Helping the youth navigate and transition from detention and TJJD schools back to traditional schooling.

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## UNDERSTANDING

### ***the Collateral Consequences of JJS Involvement***

While juvenile records in Texas are confidential and may only be disclosed to a short and specific list of individuals and entities, youth in the JJS may still face consequences, especially if their records are not sealed. If the records are not sealed, a youth's JJS involvement will still be visible to DFPS, which may limit their placement opportunities and ability to remain or return to extended foster care. When juvenile records are sealed, there are some rare circumstances under which the records can be unsealed, such as for use in a capital prosecution, for the enhancement of punishment of a repeat felony, or to determine a level of risk in a sex offense case.

Even when juvenile records are sealed by a court order in Texas, federal entities continue to be entitled to all information about the underlying juvenile case. Non-citizen youth will still be required to disclose arrest, offense, and punishment information to immigration agencies and those planning to enlist in the U.S. armed forces or to apply for any federal employment will be required to disclose all juvenile and criminal history, even for offenses that have been sealed or expunged.



# RESOURCES

Please visit the **Texas CASA Program Portal Dual-Status page** for additional information and resources.

## **Anti-Child Trafficking**

<https://texascasa.org/program-portal/casa-anti-child-trafficking>

## **Advocating For Older Youth**

<https://texascasa.org/resources/advocating-for-older-youth-in-foster-care>

## **Texas Attorney General - Juvenile Justice**

[https://www.texasattorneygeneral.gov/files/cj/juvenile\\_justice.pdf](https://www.texasattorneygeneral.gov/files/cj/juvenile_justice.pdf)

## **Texas Juvenile Justice Department**

<https://www.tjjd.texas.gov>

## **Texas Foster Youth Justice Project**

<https://texasfosteryouth.org>



## **Texas Homeless Youth**

<https://www.homelessyouth.org/en/us/texas>

## **Disability Rights / Educational Advocacy**

<https://disabilityrightstx.org/en/2022/10/27/education-advocacy-as-a-best-practice-for-justice-involved-youth>

## **Independent Ombudsman**

<https://www.tjjd.texas.gov/index.php/independent-ombudsman>

If you believe the health, safety, welfare or rights of a youth in TJJD have been negatively affected, there is a grievance process provided by TJJD that you can participate in. If the problem remains unsolved, contact the Independent Ombudsman for assistance.

