

Recommendations for Anti-Racist Legal Representation



ABOUT THE RECOMMENDATIONS:

After hearing from important voices of people with lived experience, as well as attorneys who were interviewed on the experiences centering around their clients, the Family Justice Initiative identified six recommendations that are central to an attorney who strives for anti-racist legal representation. Consider what you can do to continually ensure you are using these recommendations to reflect your legal practice.

RECOMMENDATIONS FOR ANTI-RACIST LEGAL REPRESENTATION

<p>Respond to Parent, Youth and Family Needs as They Define Them</p> 	<p>Model Patience and Kindness</p> 	<p>Ensure Client Communication Meets Client Needs</p> 
<p>Recognize My Voice and Identity and Don't Take My Power</p> 	<p>Seek and Respond to Youth and Parent Input on Home Preferences and Family Connection</p> 	<p>Hold Government Agencies Accountable</p> 

RECOMMENDATION 1: RESPOND TO PARENT, YOUTH, AND FAMILY NEEDS AS DEFINED BY THEM.

- When responding to the case as an attorney or interdisciplinary team member, focus less on what happened and more on the *reason* for what happened. That will help you understand the best ways to support the child, parents, and family by understanding what they really want and need.
- Be honest and tell parents the truth especially if it could have an eventual impact on the parents and their family. Sometimes social workers and others tell parents things because they are afraid of the parents getting angry but they need to understand the situation with transparency.
- Help parents understand the law. Translate legal jargon and describe the legal process to parents throughout various points of engagement.
- Advocate zealously and commit to providing legal representation centered around parent, youth, and family needs. This includes operating under a mindset that poverty is not neglect, and “fighting” for families even at times going against the recommendation of the agency when appropriate.
- Be holistically mindful of the evolving capacities and opinions of parents, youth, and families and that their needs may shift over time.
- Be mindful of identity (and intersectionality) and experiences of oppression that a client may express facing throughout engagement with the system.

PERSPECTIVES AND QUOTES FROM LIVED EXPERIENCE:

- “Be more mindful of people’s financial situations. For example, rent. The foster care system doesn’t determine rent, it doesn’t determine where you live, it doesn’t determine wages. But those are all factors that we use to examine people. There are lots of threats to reunification such as housing, transportation and a lack of resources that all stem from access to money.”
- “People can’t comply with the laws if they don’t know them. We have to find a way to teach people about the consequences of certain behaviors which are often steeped in how they were raised.”
- “Be more sensitive about [parents’] financial situation and what the criteria we require for a parent to be considered ready for reunification. I had a case where the GAL said that the mother should take her kid to Disney World. Going to Disney World is a privilege, it is not a necessity. To live, I don’t need to go to Disney. I want to go, but as a system, that’s not a criteria we should use to judge parents or to say when they are ready for reunification. Most of the time these people [who make these recommendations] don’t look like me. That case ended in TPR.”
- “Don’t be too quick to just put a mental health diagnosis on kids requiring them to go on medications. Some children may just be missing their parents, siblings and families and that is why they are acting out.”
- “I was a victim of domestic violence so leaving that relationship and finding a job while having to complete a case plan was extremely overwhelming to me. I didn’t have any support from a mentor or advocate. The timeline was unworkable. By the time I was ready to start doing something, I was out of time and my kids were already on their way to adoption. We need to give parents the time to get their lives together. Parents have so much to overcome that they can’t do it in six months.”



RECOMMENDATION 2: MODEL PATIENCE AND KINDNESS.

- Make sure you are showing patience and kindness to all families, regardless of race, culture or ethnicity. Youth, parents, and families of color can be treated poorly and harmed disparately throughout interacting with the system.
- Don't judge the parents or the child before you get to know them or solely by what you read or hear about them.
- Listen to kids when they tell you their needs and wants while in care and show them that you are taking note.
- Understand that parents and children are watching how you interact with others.
- Model your legal practice with cultural humility (including lifelong commitment to self-evaluation and self-critique), as well as striving for inclusion and belonging of all identities (with recognition of intersectionality).

PERSPECTIVES AND QUOTES FROM LIVED EXPERIENCE:

- "Be patient with kids because some of our behaviors stem from being in foster care."
- "Judges need to be caring and respectful. You are making decisions and recommendations about people's lives, people you have never met before and you are placing children in group homes you have never been to."
- "Be mindful of how our interactions are perceived. I've seen everyone act like they hate each other in the courtroom only to share an edible arrangement after court is over."
- "You see the difference in treatment so clearly when it comes to drug use. With white parents, you see the patience from case managers offering safety plans and doctors offering to help them stop their drug use. On the other hand, Black moms who smoke marijuana end up having their children removed and placed in foster care."
- "Resources given to parents in my neighborhood are going to be really different from those given in the white neighborhoods, depending on those zip codes."

RECOMMENDATION 3: ENSURE CLIENT COMMUNICATION MEETS CLIENT NEEDS.

- Give more time to parent clients.
- Make sure to talk with your client in between court hearings, not just when you need information for the case. Even if you can't get everything you want to happen in a case, it makes a big difference to have lawyers talk with their clients and demonstrate respect for their wishes.
- Lawyers need to communicate with clients in a way that is tailored to their needs, including making agreements around how clients can reach out and responsiveness, as well as being upfront of communications limitations.
- Have space for those conversations to happen in safe places. For example, children should not be interviewed in their schools in ways that embarrass them and result in them being labeled by other students and teachers as a "foster care kid."
- Take time to build rapport with clients. Trust building is important and understanding what a youth or parent has been through takes time before they will open up and talk with you.
- Listen. Listen. Listen! Instead of focusing on just being heard or asking certain questions, make sure to listen to your client. It is so clear when an attorney is in a rush and not really listening to what their client is saying. Make sure to have compassion for your client and make space to build a genuine connection, and be authentic with your client.
- Do not cast judgment on clients for their communication styles or how they communicate. Strive for understanding their needs.

PERSPECTIVES AND QUOTES FROM LIVED EXPERIENCE:

- "If a social worker pulls a child out of their class, then the case is no longer confidential."
- "I really didn't speak to my attorney much. We didn't have conversations, it was just court hearings and that's it. Now that I work on an interdisciplinary team, I really advocate for my parents to have good, positive relationships with their attorneys because I didn't know how important that was when I went through it. I thought attorneys were just there to work for the system too."
- "A lot of clients just hear from their lawyers near the court date and the clients don't feel like they can reach out to them in between."
- "I have seen attorneys in the courtroom who forget their client's face and name. If we are trying to do better as a system then high quality legal representation needs to be at the top of the list."
- "My second attorney was so different. She was so informative and always let me know what was going on with my case and advocated for me when things needed to be addressed or changed."
- "When you have an attorney who is really advocating for you and listening to you, it makes a huge difference."
- "I have seen attorneys here go to shelters and home visits to meet with their clients when the clients don't answer phones. They really communicate and get back to clients."
- "How can someone fight for you if they don't know you?"



RECOMMENDATION 4: RECOGNIZE THE IMPORTANCE OF YOUR CLIENT’S VOICE AND THEIR POWER.

- Even if a client is not “polished” don’t get in the way of them using their voice to say what they need to say, to feel heard.
- Acknowledge on the record all the ways that parents are trying and ensure to ask the right questions to clients to elicit the most accurate and full amount of information.
- “Ask me about my identity and what defines me and is important to me.”
- Recognize that being in foster care has its own identity implications and can be used as a label by others in unfair ways.
- “Understand my identity is that I am a mother.”
- Do not ever let your clients be talked about in racist ways by others. This includes microaggressions such as microassaults (overt microaggressions such as use of derogatory terms), microinsults (less overt but harmful to marginalized people such as making racist inferences), and microinvalidations (denying/playing down the experiences).
- Do not let your clients be labeled in harmful ways by others. Recognize that language matters and correct people who use judgmental or biased language to describe your client.
- Help to empower your client to navigate the system to exercise their rights including citing rights documents, filing motions, speaking up in court, and other available mechanisms (for example, an agency ombudsman office).

PERSPECTIVES AND QUOTES FROM LIVED EXPERIENCE:

- “After I was removed from my mother the teachers and kids identified me ‘a foster child’ and teachers remarked, ‘of course, we should have known.’”
- “I believe I was treated like I was ghetto and like I had a bad attitude, which at times I did have. I had a therapist who said, ‘As a Black girl from Richmond, I know you are angry and have anger management problems.’ How likely do you think I was to share, confide and work with this therapist?”
- “If you want to learn about my culture, ask me a question about my culture. Why don’t you believe what I believe in my brain or what I know in my brain about my own culture?”
- “Lawyers who aren’t Black need to educate themselves on their own bias and microaggressions to be able to identify them and challenge them when they are being implemented.”
- “It’s the removal that did not take my identity into account at all. The majority of my identity was being a mother [...] going through that traumatic process without your identity being recognized and without it being recognized as a positive or as proof of connection to your children, but instead it’s recognized as a deficit, it’s demonized. The grief, loss, and trauma of losing that part of your identity is not recognized either.”



- “The first attorney I had didn’t call until the day right before a court hearing. He used to tell me not to say anything in court...It shows when the attorneys are there for the client versus when they are just there to get to the next job. With my [next] attorney, I always felt heard and listened to.”
- “There are lots of ways to help connect us more to those traditions we were brought up with, such as Chinese New Years for those of us who are Chinese.”

RECOMMENDATION 5: SEEK OUT AND RESPOND TO YOUTH AND PARENT INPUT ON HOME PREFERENCES AND HOPES FOR FAMILY CONNECTION.

- If a removal has occurred, ask youth clients who they feel most comfortable at home with and why (without presenting any preconceived notions or biases).
- Keep an open door for youth clients to voice at any time who they feel most comfortable to live with, with respect to the fact their circumstances and opinions can change.
- Don’t be afraid to ask them questions about how it would feel to live in a home with strangers who have a different ethnicity, cultural background, or religious preference. That is important information to understand because it is a part of meeting a child’s needs in care.
- You can acknowledge that there is a shortage of foster homes available and there is no guarantee about placements, but it is still important to show each child that everyone is making an effort to ask about their preferences and try to find a home where they feel most comfortable.
- Respect meaningful placement preferences in a way that prioritizes parents for custody as possible, then kin if possible, and foster homes over group homes whenever possible.
- Try to see the good in parents and their potential.
- Always make an effort to look for relative placements and encourage family finding and family connection efforts ongoing, including fictive kin.

PERSPECTIVES AND QUOTES FROM LIVED EXPERIENCE:

- “It was so important to have some form of relationship with my family, even if it was just through visits. Otherwise you get lost and lose your connection to your roots.
- “Taking my opinion into account makes me feel validated, that my opinion is valued.”
- “I am eternally grateful that my own family stepped up for me. It made a huge difference that those caring for my children never made me feel bad and they had faith that I would get my children back.”
- “After my case closed, I was introduced to various family members and realized that one of my foster homes was on the same block as a relative.”
- “Everyone has some kind of village or support surrounding them. It may not look like your village or what you think a village ought to look like, but I have the support systems in place.”



RECOMMENDATION 6: HOLD GOVERNMENT AGENCIES ACCOUNTABLE.

- Note on the record if professionals from the agency don't do their job, are being harmful within their job, or even don't show up to court on time.
- Make sure services like therapists and treatment centers provide actual support to clients and vary based on the individual's tailored needs including financial limitations, cultural considerations, and accessibility needs.
- Identify and challenge the ways structural issues of poverty, cultural customs, and racism play out in individual cases.
- Address racism and white supremacy behaviors regardless of who causes it. Courageous conversations are not always comfortable but are necessary.
- Make recognition of the fact that government agencies are filled with policies, practices, and procedures that are institutionally or systemically racist. Consider the impact this may have.
- Hold agencies accountable to a mission of prevention and calling out when poverty is confused as neglect by government agencies.

PERSPECTIVES AND QUOTES FROM LIVED EXPERIENCE:

- "If a mother is late, she is penalized but if the agency is late it's acceptable."
- "Time is so limited at treatment centers. It feels like they just want to get people in and out and not hear their stories and understand them. Service providers often don't show the compassion that parents need."
- "If the government needs to pay for services to help a family they should be ordered to pay. It isn't fair to keep children and parents separated when the answer is financial, not neglect or abuse."
- "I didn't get the right treatment throughout my case. I was undocumented at that time and being undocumented made it harder for me to get services. Very few resources were available for undocumented people."
- "The system is removing our children due to issues that should be rights for every person. Those same dollars we take and use for foster care – paying the foster parent, paying for free child care, free transportation – if we could just flip that on its head and pay to keep that child home – pay for child care, help the mother with her rent – these real and tangible solutions recognize the humanity of the people involved in the system."
- "I love to see motions to show cause. Ask yourself what is supposed to happen that is not happening. Holding people accountable on every level and being able to challenge it is key."
- "I see it all the time that Black and Brown parents don't get visits for one reason or another and no one makes a fuss."
- "If there is a housing shortage, a job shortage, all these different things, why are we still holding individuals accountable for systemic failures? I grew up in deep, deep poverty, in one of the worst



projects in the city. How is it my mother's fault that there is zero generational wealth in our family? How is it her fault that I will be one of the first in my family to go to college? Is that not the system's failure?"

- "In the future, the system will be looked at as completely racist. Regardless of whether you have Black people at the helm and Black professionals in the system, you're still perpetuating this racism."

PHILOSOPHICAL STATEMENT ON PRACTICING IN AN ANTI-RACIST WAY:

If the child welfare system is supposed to be for families, to preserve family at any cost unless it is extremely contrary to the safety of the child, we have to stop. It is unfair that parents and families are held to a higher standard than the very people who work within the system, and a reflection of bias around poverty, cultural customs, and racism. In your practice, consider your behaviors with clients and the system you interact with and think about how white supremacy shows up in those spaces. Then, once you begin and continue to realize how white supremacy behaviors show up, work to dismantle this racism on all levels (realizing internalized racist behaviors, calling out interpersonal racist behaviors among peers, challenging white supremacy within institutional policy, and fighting for systemic change).

How We Created This Document

FJI conducted interviews directly with the lived experts and attorneys over the past two years. All interviewees have final choice and say over what is being published and being shared. For any questions, you can reach out by using the inquiry form on FJI's website.

We hope this document was helpful for thinking about how to practice in an anti-racist way. For more information and resources on anti-racist lawyering, please visit [FJI's webpage for Anti-Racist Lawyering in Practice](#).

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