

Michigan Supreme Court

MICHIGAN JUDICIAL INSTITUTE

JUVENILE PROBATION OFFICER
AND
CASEWORKER

SELF-INSTRUCTIONAL
MANUAL



Michigan Judicial Institute
Michigan Hall of Justice
925 W. Ottawa St.
P.O. Box 30205
Lansing, Michigan 48909
(517) 373-7171
courts.michigan.gov/mji

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SELF-INSTRUCTIONAL MANUAL

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Introduction

Introduction

Michigan Supreme Court Administrative Order 1985-5 requires a Juvenile [Court] Probation Officer/Caseworker to complete the Michigan Judicial Institute (MJl) Certification Training within two years of employment.

The MJl, in conjunction with juvenile [court] judges, administrators, probation officers and caseworkers has developed this self-instructional manual to address core competencies. The manual is provided, without cost, to new juvenile probation officers and caseworkers upon hiring – and notification to MJl by the hiring court.

The information presented in the following chapters, along with the review questions at the end of each chapter, will prepare you for the mandatory certification examination.

MJl's development of the original manual (2003), was overseen by the Juvenile Probation Officer/Caseworker Certification Committee:

Mr. William Bartlam

Oakland County Probate Court
Pontiac

Mr. David Batdorf-Barnes

Oakland County Family Court
Pontiac

Mr. David Buck

30th Circuit Court-Family Division
Lansing

Mr. Felix Brooks

Kalamazoo County Juvenile Division
Kalamazoo

Ms. Carla Grezeszak

23rd Circuit Court-Family Division
Tawas City

Ms. Mary Hickman

Charlevoix/Emmet Probate District 7
Charlevoix

Hon. Mabel Mayfield

Berrien County Probate Court
St. Joseph

Ms. Sandra Metcalf

Ottawa County Family Court
West Olive

Hon. Frederick Mulhauser

Emmet/Charlevoix Probate District 7
Petoskey

Mr. William Newhouse

State Court Administrative Office
Lansing

Mr. Robert Nida

Barry County Trial Court
Hastings

Ms. Jill Bade

Genesee County-Family Division
Flint

**History and Philosophy
of the Juvenile Division**

HISTORY AND PHILOSOPHY OF JUVENILE COURT

History

Sixteenth and Seventeenth Century Europe

In sixteenth century Europe, children were recognized only when they could contribute to the economic good of the family or village. There was no justice system distinction between a child and an adult, so youths who committed crimes were treated as harshly as adults were.

Reform movements changed the public perception that children's developmental capacities were not yet fully developed. However, severe penalties were still given for even minor offenses. For example, in seventeenth century England, capital punishment was the penalty for over 200 crimes. Lesser crimes were punished by cutting out the tongue or cutting off a hand or leg.

Eighteenth and Nineteenth Century

In eighteenth century America, little distinction was made in the criminal culpability of children versus adults. Juveniles as young as age seven could be tried and sentenced in criminal courts. As psychologists and sociologists began to recognize the emerging idea of adolescence as a developmentally distinct period of life, reformers argued that children should be removed from adult prisons.

In 1825, the Society for the Prevention of Juvenile Delinquency founded the New York House of Refuge, the first institution designed to accommodate juvenile delinquents. Many cities and states soon followed this example and set up similar institutions. Progressive era reformers wanted to attack what they believed were the roots of juvenile delinquency, a lack of moral education and standards, and advocated that juvenile institutions include a significant educational and rehabilitative component. For their efforts, the earliest juvenile justice reformers were known as "child savers."

Early Twentieth Century

The child savers' advocacy resulted in the establishment of the first juvenile court in Cook County (Chicago) Illinois. Founded in 1899, and formally recognized in 1909, the Juvenile Court was formed for the purpose of presiding over neglected, dependent, and delinquent children. Michigan established a juvenile court by statute in 1907(1907 PA 323), but it was not implemented until 1919, when Michigan adopted a new Constitution and established juvenile court as a division of the probate court. The juvenile court was empowered to intervene for a wide variety of transgressions, from adult crimes to juvenile status offenses. However, the need for legal representation and other rights was not recognized.

Throughout the first third of the twentieth century, biological and psychological theories became the main approaches to juvenile delinquency. Parents were viewed as crucial factors in personality formation, and the inability of a child to successfully complete each psychological stage resulted in some form of personality disorder. Conduct disorders and neuroses were regarded as the effects of inadequate parenting, and delinquent behavior was simply a manifestation of an underlying personality disorder. Once the "illness" was discovered, it could be "treated" and the person could then be made

“healthy”. These schools of thought gave rise to an array of treatment interventions, many of which are still used today.

Mid Twentieth Century

From the early 1930s to the 1960s, theorists insisted that delinquency could only be understood by examining both individual and external factors; that delinquency is an understandable response to conditions of poverty, discrimination, inequality, and social demoralization. Peer groups and youth subcultures (gangs) encouraged delinquency because they made sense, either as a means of gaining status or pursuing success.

Much of the early sociological research on delinquency focused on the environmental issues—low income, poor housing, high population density, widely diverse population areas creating cultural conflicts, urbanization, unemployment, poverty, and divorce—and how youth behavior adapts to the environment.

The appropriate response to delinquency under this model was to address social (external) causes as well as personal (internal) causes. The result was increased emphasis on education and recreation programs, housing, family counseling, and economic development.

Late Twentieth Century

Throughout the 1960s, 1970s, and 1980s, a series of dramatic changes occurred which altered the juvenile probation officer/caseworker’s job dramatically.

In the 1960s, the juvenile court came under attack for failing to meet public expectations. It was argued that the juvenile court offered youth offenders the worst of both worlds: procedural inequalities and harsh treatment. It was also during this time that procedural due process, formerly granted only to adult criminal defendants, was applied to juveniles.

Several seminal cases that directly impact juvenile justice in Michigan were decided by the U.S. Supreme Court during this period, including:

- 1) *Kent v United States*, 383 US 541 (1966) which held that, since juveniles charged with criminal offenses potentially suffered the same loss of liberty as their adult counterparts, they should not be denied the constitutional safeguards afforded adults.
- 2) *In re Gault*, 387 US 1 (1967) which held that the following rights were constitutionally required:
 - adequate written notice of the charges
 - representation by a lawyer
 - right to remain silent
 - right to confront and cross-examine adverse witnesses
- 3) The right to an acquittal unless [there is proof] beyond a reasonable doubt as to the juvenile’s guilt/delinquency. *In re Winship*, 397 US 385 (1970).
- 4) A trial by jury is not constitutionally required in the adjudicative phase of a state juvenile court delinquency proceeding. *McKeiver v Pennsylvania*, 403 US 528 (1971).

- 5) Protection from being tried twice for the same offense (double jeopardy). *Breed v Jones*, 421 US 519 (1975).
- 6) A probation officer's presence during a police interrogation is not the same as a lawyer's, so questioning can continue. *Fare v. Michael C.* 442 U.S. 707(1979).
- 7) Preventive detention serves a legitimate state objective, and procedural protections afforded pretrial detainees satisfy the requirements of the Due Process Clause of the Fourteenth Amendment to the United States Constitution. *Schall v Martin*, 467 US 253 (1984).

In 1970, Congress created the Juvenile Justice and Delinquency Prevention Act, which included deinstitutionalizing of status offenders and nonoffenders, separation of incarcerated juveniles from adults, delinquency prevention, and development of community based alternatives.

By the 1980s however, criticism that the juvenile justice system was soft on crime, and a growing perception that serious juvenile crime was on the rise, led to a movement for harsher penalties. Even in Michigan, statutory reforms permitted waiver and/or transfer of juvenile cases to criminal courts.

During the 1990s, there appeared to be more interest in a "balanced approach" to juvenile justice that focused on community protection, individual accountability, and competency development/treatment in the context of individualized assessment classification. This movement is known as *Balanced and Restorative Justice*.

The Twenty-First Century

The last two decades has seen more changes, including:

- graduated sanctions
- evidence-based practices
- restitution or community service
- increasing victim satisfaction
- services to address substance use, mental health, improved school achievement, strengthened family supports, and community inclusiveness
- services to address the needs of youth dually involved in the juvenile justice and child welfare system, including creation of the family division of the circuit court
- assistance with workforce preparation and development of independent living skills
- the need for youth to have positive and stable connections to responsible adults;
- addressing factors leading to handgun-related violence
- encouraging the participation of citizens
- offering viable education, mental health services, and work-related opportunities for those youth returning to their communities (as well as those aging out of foster care), to prevent youth recidivism

JUVENILE JUSTICE PHILOSOPHY

A Word About Philosophy and Questions For You

By Honorable Frederick Mulhauser (excerpted)

The juvenile court system was established in response to social and developmental differences between adults and children. As this new philosophy progressed, the treatment of delinquent youth developed three important prongs or pillars.

- 1) The concept of punishment is preserved as a primary pillar, but is often presented as a “consequence” of behavior.
- 2) Restitution where damage to a victim is involved. This may be emotional damage as well as property damage. Restitution and community service may also be learning tools when creatively used.
- 3) Rehabilitation. The most important pillar, rehabilitation, aims at long-lasting behavior change. Elements of the first two pillars are often an integral part of rehabilitation.

Each of us has an opportunity that is given to very few people in our society: The opportunity to help create change. We can make life better and safer for ourselves and those around us, change that may have a positive effect on future generations. So, if you have decided that this job will be your work, then you are to be commended for all the good you will do. You are to be recognized on behalf of those future generations who will benefit from your efforts. Good luck.

Questions for Review:

How has the treatment of juveniles changed over the last few hundred years?

What were the holdings in *Kent v United States*?

What Constitutional rights did *In re Gault* establish?

What were the holdings in *In re Winship*?

What were the holdings in *McKeiver v Pennsylvania*?

What were the holdings in *Schall v Martin*?

What were the holdings in *Fare v Michael C*?

How is your personal philosophy similar to /contrast with that of the Juvenile [Court]?

**The Michigan
Judicial System and Role
of the Probation Officer**

The Michigan Judicial System and Role of the Juvenile Probation Officer

Michigan's concept of "One Court of Justice" was introduced in 1963 by Article VI, Section 1 of the Michigan Constitution. Under this principle, the judicial system functions as an integrated unit, consisting of one Supreme Court, one court of appeals, one trial court (known as the circuit court) and trial courts of limited jurisdiction. Each court performs a certain role with the judicial system, according to the jurisdiction given to it by the Michigan Constitution or Legislature. This jurisdiction is briefly described on the following pages.

APPELLATE COURTS

The Michigan Supreme Court

The Michigan Supreme Court is the highest court in the state hearing cases appealed to it from the Court of Appeals. The Supreme Court determines what cases it will hear.

The Supreme Court has three primary duties:

- 1) Judicial (hearing/denying appeals)
- 2) General administrative supervision of all courts in the state
- 3) Establishing rules for practice and procedure in all courts of the state (Michigan Court Rules and Administrative Orders)

The Court of Appeals

The Court of Appeals was established by the 1963 Michigan Constitution as an "intermediate" appellate court between the Supreme Court and the Circuit Court. State law establishes the jurisdiction of the Court of Appeals, but its practice and procedure are governed by Supreme Court rule. The decision of the Court of Appeals is final, except for those that the Supreme Court reviews.

TRIAL COURTS

Circuit Court

The circuit court is referred to as the trial court of general jurisdiction in Michigan because of its very broad powers. Circuit court has jurisdiction over all actions except those given by state law to another court. Generally, circuit court has original jurisdiction in all civil cases involving more than \$25,000; in all criminal cases where the offense involves a felony or certain serious misdemeanors; and family cases.

The circuit court also hears cases appealed from lower courts and from some administrative agencies of state government. In addition, the circuit court has superintending control over other courts within the circuit, subject to final superintending powers of the Supreme Court.

Family Division

The family division is part of the circuit court and has exclusive jurisdiction over all family matters such as divorce, custody, parenting time, support, paternity, adoptions, name changes, juvenile cases, emancipation of minors, parental consent, and personal protection cases. The family division also has ancillary jurisdiction over cases involving guardianships and conservatorships and cases involving the mentally ill or developmentally disabled.

Court of Claims

Part of the 30th Judicial (Ingham County) Circuit Court. The Court of Claims jurisdiction is limited to hearing claims against the State of Michigan.

Probate Court

The probate court handles wills, administers estates and trusts, appoints guardians and conservators for adults, and orders treatment for mentally ill and developmentally disabled persons.

District Court

The district court has exclusive jurisdiction of all civil litigation up to \$25,000 and also handles garnishments, eviction cases, land contract forfeitures, small claims, and other cases. For criminal cases, the district court conducts preliminary examinations in felony cases and handles all misdemeanors where punishment does not exceed one year in jail including arraignment, sentence, and setting and acceptance of bail. Civil infractions are also handled in district court.

Municipal Court

Municipal court civil jurisdiction is limited to \$1,500. Its criminal jurisdiction is similar to district court.

State Court Administrator

The position of State Court Administrator was created by the Michigan Constitution of 1963, Article VI, § 3 who is charged with administering the state's trial courts, under the policies created by the Michigan Supreme Court.

In 1977, the Michigan Supreme Court created the Michigan Judicial Institute (MJJI). MJJI is the education and training arm of the Court.

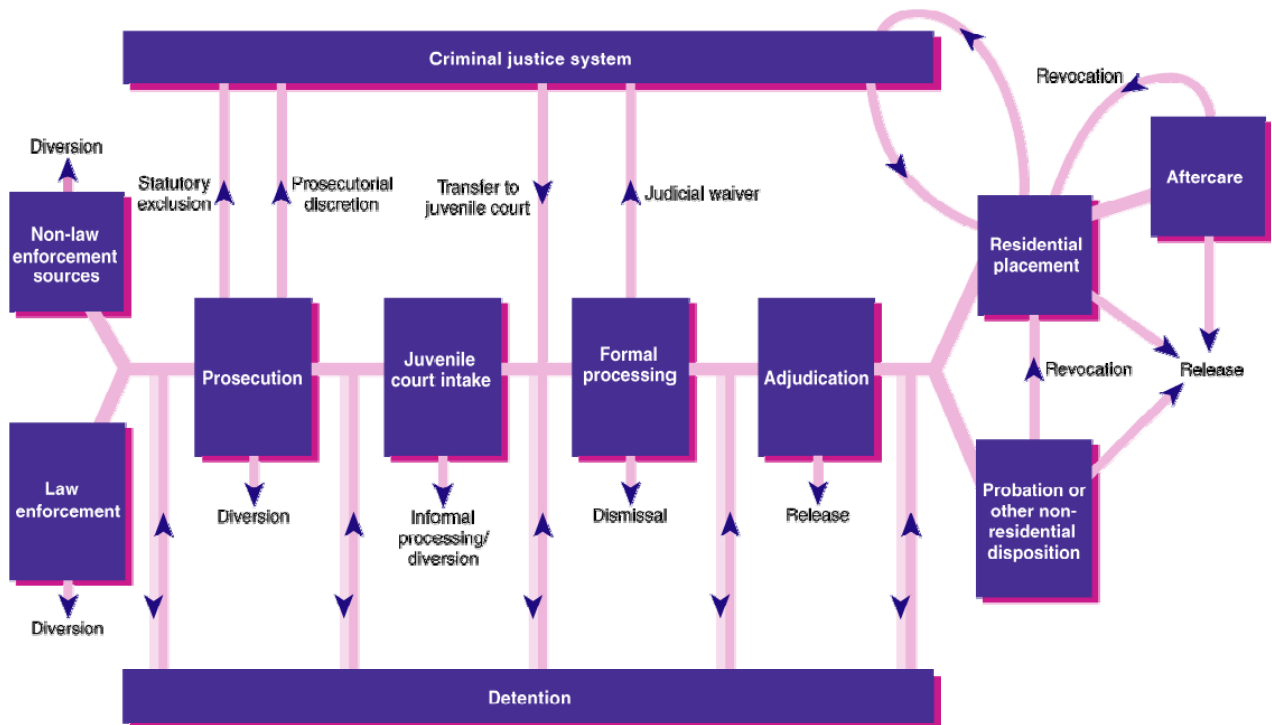
Important Notes:

- 1) Throughout this manual, references to "juvenile court" mean the juvenile division, section, or unit of the family division of the circuit court.
- 2) The focus of this manual is on delinquency/status offenses. It does not address abuse/neglect proceedings.

Overview of the Juvenile Justice System

As previously discussed, the juvenile court was established over 100 years ago. This manual we will discuss, in detail, the specifics of juvenile court processes and procedures relevant to the juvenile probation officer/caseworker. However, prior to an in-depth discussion, it is necessary to provide a brief overview. Literature review identifies many commonalities of each state's juvenile justice system.

This diagram on the following page shows how a case may flow through the juvenile justice system:



Law enforcement diverts many juvenile offenders out of the justice system

At apprehension, a decision is made either to send the matter further into the justice system or to divert the case, often into alternative programs. Usually, law enforcement makes this decision, after talking to the victim, the juvenile, and the parents, and after reviewing the juvenile's prior contacts with the juvenile justice system. Nineteen percent of all juveniles arrested are handled within the police department and then released. Seventy percent of arrested juveniles were referred to juvenile court.¹

Intake

At intake, the decision must be made to dismiss the case, handle the matter informally, or request formal intervention by the juvenile court.

During the processing of a case, a juvenile may be held in a secure detention facility

Juvenile courts may hold delinquents in a secure detention facility if the court believes it is in the best interest of the community or the child. A detention hearing must be held immediately. Juveniles are detained in 1 in 5 (21 percent) of the delinquency cases processed by juvenile courts.

Prosecutors file delinquency cases

A delinquency petition states the allegations, and requests the juvenile court take jurisdiction of the youth and to *adjudicate* (or judge) the youth a delinquent. This language differs from that used in the criminal court system (where an offender is *convicted* and sentenced).

¹ Statistics are from "Juvenile Offenders and Victims: A National Report" publication, NCJ 153569. See <http://www.ojjdp.gov/ojstatbb/default.asp>

Adjudication

In response to the delinquency petition, an adjudication hearing is scheduled. At the adjudication hearing (trial), witnesses may be called and the facts of the case are presented. Juveniles are adjudicated delinquent in 66 percent of cases petitioned into the juvenile court for criminal law violations.

Between the adjudication decision and the disposition hearing, an investigation report is often prepared by probation staff

Once a juvenile is adjudicated as being delinquent (coming within the jurisdiction of the juvenile [court]), a disposition or case services plan is developed. To prepare this plan, probation officers develop a detailed understanding of the youth and assess available support systems and programs. To assist in preparation of disposition recommendations, the court may order psychological evaluations or diagnostic tests.

The dispositional phase

At the disposition hearing, dispositional recommendations are presented to the judge. The prosecutor and the youth may also present dispositional recommendations. After considering options presented, the judge orders a disposition in the case.

Most cases placed on probation also receive other dispositions

Most juvenile dispositions are multifaceted. A probation order may include additional requirements such as drug counseling, weekend confinement in the local detention center, and community or victim restitution. The term of probation may be for a specified period of time or open-ended. Review hearings are held to monitor the juvenile's progress and to hear reports from probation staff. After conditions of the probation have been successfully met, the judge terminates the case. Sixty percent of adjudicated delinquents are placed on formal probation.

The judge may order the juvenile committed to a residential placement

Residential commitment may be for a specific or indeterminate ordered time period. Twenty-two percent of adjudicated delinquents are placed in residential facilities. In these situations, review hearings are held to assess the progress of the juvenile.

The processing of status offense cases differs from that of delinquency cases

A delinquent offense is an act committed by a juvenile for which an adult could be prosecuted in criminal court. There are, however, behaviors that are law violations only for youth of juvenile status. These "status offenses" may include such behaviors as running away from home, truancy, incorrigibility, and curfew violations. In many ways, the processing of status offense cases parallels that of delinquency. Nearly half (47 percent) of all status offense cases referred to juvenile are from law enforcement.

REQUIREMENTS AND FUNCTIONS OF A JUVENILE PROBATION OFFICER/CASEWORKER

Minimum Michigan Requirements

Minimum requirements for juvenile probation officers/caseworkers were established by the Michigan Supreme Court in Administrative Order (AO) 1985-5. The AO has been amended over the years. Section I.C.1.b.(1.) presently reads, in part:

A probation officer/caseworker, at the time of appointment, shall possess the following qualifications:

1) Education and Experience

b. Minimum Standards

(1) Bachelor's degree in social sciences, education, a related human service field, or a related field that qualifies the person to manage or supervise the delivery of juvenile services, and must complete the Michigan Judicial Institute certification training for juvenile court staff within two years after date of employment.

c. Knowledge, Skills, and Abilities

(1) Knowledge of the principles and methods concerned with personal and social problem solving.

(2) Knowledge of factors concerned in delinquency, neglect, and abuse of children.

(3) Knowledge of family dynamics and the effects of social conditions on family functioning.

(4) Knowledge of the juvenile justice system and children's services programs.

(5) Knowledge of the principles, procedures, and techniques of child welfare work.

(6) Ability to apply social casework methods to child welfare services.

(7) Ability to develop child welfare programs with community organizations.

(8) Ability to relate effectively to the public and individuals on their caseload.

(9) Ability to speak and write effectively.

Individual Functions

While individual trial court job descriptions vary, analysis reveals similar functions are performed by every probation officer/caseworker:

Administrative

- Duties relating to cases scheduled for appearance in court.
- Office activities, conferences, and field visits in connection with investigation and supervision functions.
- Maintaining accurate and up-to-date case records in a neat and legible form
- Preparing and submitting reports on the status of individual caseload.
- Gathering and evaluating data pertinent to individual cases in connection with both investigation and supervision. Such data may include information about the offender's home, school, church, neighborhood, and about relevant social agencies.
- Following court policy, and responsibility for monitoring payment orders of the court, e.g., restitution, fines, orders, etc.

Casework and Interviewing

- Conducting interviews with assigned cases to determine and clarify probationer problems; suggesting constructive methods for addressing such problems and consulting with supervisor when necessary.
- Contacting public and private community agencies to secure their aid in attempting to solve probationer's problems. Continuing ongoing relationships with agencies.
- Following a complete evaluation; referring probationers to community agencies that offer specialized services that are required for a particular individual's needs.

- Contacting collateral sources for information to evaluate or verify current information on probationer's adjustment.
- Establishing an ongoing relationship with probationers in order to carry out the orders of the court.
- Using special skills and techniques that may be necessary in the performance of his/her duties.

Enforcement

- Enforcing all orders handed down by the court.
- Documenting facts and testifying in court with respect to the probationer's activities, behavior and quality of adjustment while under supervision.
- Bringing alleged violations by the probationer to the attention of the court and/or bringing a probationer before the court as required.
- Determining when circumstances warrant modification of court orders and initiates the necessary action to procure a decision by the court on such modification.

Investigations

- Conducting investigations, preparing appropriate reports focused on the "why" of the individual's behavior, and making recommendations based on these investigations.

Public Relations

- Representing the judges, chief probation officer, and other court officials in many phases of meeting the public.
- Performing various public relations activities, such as addressing community groups, participating in conferences, panels, etc., of other agencies.
- Playing an important part as consultant in the social planning of the community.

Additional Assignments

- Performing such other duties as may be directed by the chief judge, court administrator, or chief probation officer in accordance with the needs of the court.

Questions for Review:

What does "One Court of Justice" mean?

What are the three primary functions of the Michigan Supreme Court?

What is the role of the Court of Appeals?

What is the jurisdiction of the circuit court?

What is the jurisdiction of the family division of the circuit court?

What are the similarities between all juvenile court systems?

What are the requirements to become a juvenile probation officer/caseworker?

What are the primary functions of a juvenile probation officer/caseworker?

Chapter 1: Overview of Manual

MANUAL CONTENTS

Chapters 1-11 of this manual describe the laws, court rules, and procedures used in juvenile delinquency cases and personal protection order cases involving a minor, and address the cases in which a juvenile may be tried and sentenced as an adult. Chapters 12-20 focus on practical issues related to day-to-day functions.

IMPORTANT DEFINITIONS—In Alphabetical Order (See MCR 3.903 *et seq.*)

Adjudication: The determination by the court that the juvenile has committed the offense. It is similar to a finding of guilt in an adult proceeding.

Case: Means an action initiated in the family division of circuit court by:

- (a) submission of an original complaint, petition, or citation;
- (b) acceptance of transfer of an original action from another court or tribunal; or
- (c) filing or registration of a foreign judgment or order.

Confidential File means: That part of a file made confidential by statute or court rule, and includes:

- (i) diversion records. MCL 722.821 *et seq.*,
- (ii) the separate statement about known victims of juvenile offenses as required by the Crime Victim's Rights Act. MCL 780.751 *et seq.*,
- (iii) the testimony taken during a closed proceeding. MCR 3.925(A)(2); MCL 712A.17(7),
- (iv) dispositional reports made pursuant to MCR 3.943(C)(3) and 3.973(E)(4),
- (v) fingerprinting material required to be maintained. MCL 28.243,
- (vi) reports of sexually motivated crimes. MCL 28.247,
- (vii) test results of those charged with certain sexual offenses or substance abuse offenses. MCL 333.5129; and
- (viii) The "Social File".*

Petitions that the court has not authorized for filing do not fall within the definition of "records" in MCR 3.903(A)(24)* and are therefore "confidential files."

*Contents of the **Social File**: Includes materials such as:

- (i) youth and family record fact sheet
- (ii) social study
- (iii) reports (such as dispositional, investigative, laboratory, medical, observation, psychological, psychiatric, progress, treatment, school and police reports)
- (iv) Department of Human Services (DHS) records
- (v) correspondence
- (vi) victim statements

No provision of the Juvenile Code makes a juvenile probation file confidential. A juvenile probation file may contain case notes and copies of records whose confidentiality is protected by other law. MCL 791.229 addresses a "probation officer's privilege," but only applies to Department of Corrections probation officers.

Consent Calendar

If the court receives notice, and it appears “that protective and supportive action by the court will serve the best interest of the juvenile and the public,” the court may proceed on the consent calendar without authorizing a petition to be filed. No case may be placed on the consent calendar unless the juvenile and their parent, guardian, or legal custodian, agree to have the case placed on the consent calendar. The court may transfer a case from the formal calendar to the consent calendar at any time before disposition. MCR 3.932(C).

The court is required to enter a plea in a consent calendar case when the case involves an alleged violation of the Michigan Vehicle Code. MCL 712A.2b(d); MCR 3.932(C).

County juvenile agency: Applies only to Wayne County and is defined in the “County Juvenile Act.” The act allows a “county juvenile agency” to provide services to juveniles “within or likely to come within” the family division’s jurisdiction of criminal offenses by juveniles and the criminal division’s jurisdiction over those “automatically waived.” MCL 45.621 *et seq.*; MCL 803.302(a).

Disposition: Means the judgment of the court following adjudication. It is similar to “sentencing” in an adult proceeding.

The disposition of a juvenile who has committed an offense that would be a criminal offense if committed by an adult, is governed by the Juvenile Code. MCL 712A.18.

After adjudication, the court may enter one or more dispositions concerning a juvenile, including:

- 1) a warning and dismissal
- 2) probation
- 3) commitment to, or placement in, a public or private institution
- 4) placement in a juvenile boot camp
- 5) a civil fine
- 6) ordering a parent to participate in treatment (MCL 712A.18(1))

MCR 3.902(B)(1)-(2) state as follows:

“The court shall ensure that each minor coming within the jurisdiction of the court shall:

- (1) receive the care, guidance, and control, preferably in the minor’s own home, that is conducive to the minor’s welfare and the best interests of the public; and
- (2) when removed from parental control, be placed in care as nearly as possible equivalent to the care that the minor’s parents should have given the minor.”

Diversión: Means the placement that occurs when a formally recorded apprehension is made by a law enforcement agency for an act by a minor which, if a petition were filed with the court, would bring the minor within the formal jurisdiction of the court under MCL 712A.2(a).

Instead of a petition being filed or authorized, however, either of the following occurs:

- (i) the minor is released into the custody of his or her parent, guardian, or custodian and the investigation is discontinued, or

- (ii) the minor and the minor's parent, guardian, or custodian agree to work with a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation. MCL 722.822(c)(i)–(ii); MCL 722.823(1)(a)–(b).

Firearm: Means any weapon from which a dangerous projectile may be propelled using explosives, gas, or air as a means of propulsion, except BB's less than .177 caliber. MCL 712A.18g(3); MCR 3.943(E)(7)(c).

Formal Calendar: Means judicial proceedings other than a delinquency proceeding on the consent calendar, a preliminary inquiry, or a preliminary hearing. MCR 3.903(A)(10). If the case is placed on the formal calendar, the court will conduct a formal adjudicative hearing, and, if the juvenile is found responsible for the offense, a dispositional hearing. A court may "take a plea of admission or no contest under advisement" and later dismiss the case if the juvenile complies with the court's directives.

Guardian: Means a person appointed as guardian of a child by a court (in Michigan or another state). MCR 3.903(A)(11).

Juvenile: Means a minor alleged or found to be within the jurisdiction of the court for having committed an offense.

Juvenile Code: Means Public Act 54 of 1944, MCL 721A.1 *et seq.*, as amended.

Legal Custodian: Means an adult who has been given legal custody of a minor by order of a circuit court in Michigan or a comparable court of another state. MCR 3.903(A)(13). It also includes the term **Indian custodian**, which means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law, or to whom temporary physical care, custody, and control has been transferred by the parent of such child. MCR 3.002(7).

Minor: Means a person under the age of 18, and may include a person of age 18 or older concerning whom cases are commenced in the juvenile court and over whom the juvenile court has continuing jurisdiction pursuant to MCL 712A.2.

Offense by a Juvenile: Is an act that violates a criminal statute or ordinance or a status offense.

Officer: Means a government official with the power to arrest or any other person designated by the court to apprehend, detain, or place a minor. MCR 3.903(A)(16).

Parent: Means the mother, the father, or both. MCR 3.903(A)(17). It also means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include an unwed father whose paternity has not been acknowledged or established. MCR 3.002(10).

Party: In a delinquency proceeding, means the petitioner and the juvenile.

Petition Authorized to be Filed: Refers to written permission by the court to file a petition containing allegations against the juvenile. MCR 3.903(A)(20).

Preliminary Hearing: If, after a preliminary inquiry, the juvenile is not released, the juvenile and his or her parents, guardian, or custodian must immediately be brought before the court for a preliminary hearing. At the conclusion of the preliminary hearing, the court will either authorize the petition to be filed or will dismiss the petition and release the juvenile.

Preliminary Inquiry: Means an informal review by the court to determine appropriate action on a petition. MCR 3.903(A)(22).

Public ward: A youth at least 12 years of age when committed by the family division for care by a youth agency. MCL 803.302(d).

Status offender: Refers to juveniles who are alleged to fall within the exclusive jurisdiction of the family division. MCL 712A.2(a)(2)-(4). Status offenders are juveniles under 17 years of age who are found within the county and who meet any of the following requirements:

Runaways: The juvenile has deserted his or her home without sufficient cause and the court finds on the record that the juvenile has been placed or refused alternative placement or the juvenile and the juvenile's parent, guardian, or custodian have exhausted or refused family counseling.

Incorrigibles: The juvenile is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian and the court finds on the record by clear and convincing evidence that court-accessed services are necessary.

Truants: One who is willfully and repeatedly absent from school or other learning program, repeatedly violates rules/regulations of the school or other learning program, and the court finds that the juvenile, the juvenile's parent, guardian, or custodian, and school officials or learning program personnel have met on the juvenile's educational problems and counseling and alternative agency help has been sought.

THE TWO TYPES OF NONCRIMINAL CASES INVOLVING JUVENILES

1. Delinquency and Status Offense Cases

Delinquency cases: Involve juveniles under age 17 charged with a violation of a criminal law or ordinance, or with a status offense. If the juvenile is found responsible for the offense, the court may order a juvenile disposition.

Procedural Options in Delinquency Cases

The family division has several options when a petition is filed in a delinquency proceeding. The court may:

- deny or dismiss the petition

- direct that the parent, guardian, or legal custodian and juvenile appear so that the matter can be handled through further informal inquiry
- refer the matter to a public or private agency without authorizing a petition to be filed pursuant to the Juvenile Diversion Act
- proceed on the consent calendar without authorizing a petition to be filed, or
- authorizing a petition and proceeding on the formal calendar

Status Offense cases: Are acts that are violations of law only when committed by a minor (running away from home without sufficient cause, incorrigibility, and truancy). Status offenses are governed wholly by the Juvenile Code. Michigan Court Rules include status offenders within the definition of “delinquency proceeding,” however there are important differences between the two. For example, a status offender may only be placed in a secure (locked) facility in limited circumstances.

2. Minor Personal Protection Order Cases

Personal Protection Orders (PPOs): Forbid abusive conduct and stalking, including cyber-stalking by minors ten years old or older. A PPO may not be issued if the people involved have a parent-child relationship and the child is an unemancipated minor. In such cases, a delinquency or child protective proceeding may be instituted. For more in-depth information on minor Personal Protection Orders, see Chapter 10.

THE THREE ADDITIONAL TYPES OF CASES INVOLVING JUVENILES CHARGED WITH CRIMINAL OFFENSES: DESIGNATED, “AUTOMATIC” WAIVER, AND “TRADITIONAL” WAIVER CASES

Additional types of cases less likely to be encountered by juvenile probation officers/caseworkers are:

1) Designated Cases

In a “specified juvenile violation,” the prosecuting attorney may designate the case for criminal trial. In a “nonspecified juvenile violation,” the judge must decide whether to designate the case for criminal trial. After conviction, the court may impose an adult sentence, delay imposition of an adult sentence, or order a juvenile disposition.

2) “Automatic” Waiver Cases

An “automatic” waiver allows the prosecutor to file in the criminal division rather than in the family division. The trial is a criminal case. Following conviction, the juvenile may be sentenced as an adult or placed on probation and committed to public wardship. For some “specified juvenile violations,” an adult sentence is mandatory.

3) “Traditional” Waiver Cases

When a juvenile is charged with a felony, the prosecutor may file a motion asking the family division to allow the juvenile to be tried as an adult in the criminal division. If the family division waives its delinquency jurisdiction over the juvenile, a criminal trial takes place. Following conviction, the juvenile must be sentenced as an adult.

Questions for Review:

What do the following terms mean?

Adjudication

Case

Confidential File

Consent Calendar

County juvenile agency

Disposition

Diversion

Firearm

Formal Calendar

Guardian

Juvenile

Juvenile Code

Legal Custodian

Minor

Offense by a Juvenile

Officer

Parent

Party

Petition Authorized to be Filed

Preliminary Hearing

Preliminary Inquiry

Public ward

Social File

What is a status offense?

What are some types of status offenses?

What is a PPO?

What is a Designated Case?

What is an Automatic Waiver?

What is a Traditional Waiver?

Chapter 2: Jurisdiction, Transfer, and Venue

JURISDICTION

Two Types of Jurisdiction

Subject Matter Jurisdiction:

Is a court's authority to exercise judicial power over a particular class of cases, for example delinquency cases.

Personal Jurisdiction:

Is the court's authority to exercise judicial power over a particular individual.

Jurisdiction of Juvenile Delinquency Cases

The family division of the circuit court has "exclusive original jurisdiction" over juveniles. MCL 712A.2(a)(1).

If a juvenile reaches the age of 17 after the filing of the petition, the court's jurisdiction shall continue beyond the juvenile's seventeenth birthday and the court may hear and dispose of the petition under the Juvenile Code. MCL 712A.11(4).

Juveniles *do not* have a constitutional right to be treated differently than adult offenders when they are charged with committing a criminal offense. However, case law has established various rights for juveniles. See *People v Hana*, 443 Mich 202, 220 (1993); *People v Abraham* 256 Mich App 265 (2003); *People v Conat*, 238 Mich App 134, 159 (1999); and *People v Parrish*, 216 Mich App 178, 182 (1996).

Jurisdiction over Juveniles Charged With Criminal Violations of the Michigan Vehicle Code

The family division has "exclusive original jurisdiction . . . in cases concerning a juvenile less than 17 years of age" who is charged with violating any municipal ordinance or state or federal law. MCL 712A.2(a)(1). Under MCR 3.903(B)(3), an "offense by a juvenile" includes an act that violates a criminal statute or a criminal ordinance.

Jurisdiction of Contempt Cases

The family division has the power to punish for contempt of court, any person who willfully violates, neglects, or refuses to obey an order of the court, and to enforce reimbursement orders, and orders assessing attorney costs, through its contempt powers. MCL 600.1701 *et seq.*; MCL 712A.26; MCL 712A.18(2) and (3); MCL 712A.17c(8); MCL 712A.18(5); MCR 3.915(E).

TRANSFER OF JURISDICTION

Transfer to County of Residence

Under MCR 3.926(B)(1)-(3), when a minor is brought before the family division in a court in a county where they do not reside, the court may, before trial, transfer the case to the court in the county where the child does reside:

- (1) If both parents reside in the same county, or the person with whom the child legally resides lives in the county, it is presumed to be the child's county of residence.

- (2) Other than those factors listed in (1), above, the court shall consider the following factors in determining the child's residence:
- (a) The county of residence of the child's parent(s), guardian, or legal custodian.
 - (b) Whether the child has ever lived in the county, and if so, for how long.
 - (c) Whether either parent has moved to another county since the case started.
 - (d) Whether the child is subject to prior continuing jurisdiction of another court. (See below)
 - (e) Whether the court has entered an order placing the child in the county for purpose of adoption.
 - (f) Whether the child has expressed an intention to reside in the county.
 - (g) Any other factor the court considers relevant.
- (3) If the child has been placed in a county, that county shall not be considered their county of residence, unless they have been placed there for the purpose of adoption.

Costs

When a court, other than the court in a county in which the minor resides, enters a disposition, they are responsible for any costs, unless the court of the child's residence agrees to pay those costs, or the child is made a state ward. MCR 3.926(C).

Bifurcated Proceeding

If the judges in each county agree, adjudication may occur in the county where the offense occurred, and disposition may occur in the county where the case is being transferred. MCR 3.926(E).

Transfer of Records

The transferring court is responsible for sending the receiving court all case records. MCR 3.926(F).

Handling Cases When Juvenile Is Subject to Prior or Continuing Jurisdiction of Another Court in Michigan

Where a child is subject to a prior or continuing order of any other court of this state, notice must be filed with the appropriate official of any prior court. MCR 3.205.

Courtesy Supervision

When a case is transferred to another jurisdiction after disposition, the transferring county must request courtesy supervision from the receiving county. It is important to include as much information as possible in the request for courtesy supervision. If the request is granted, copies of all pertinent information should be forwarded to the receiving court. This should include court orders, court reports, investigation materials, school records, and psychological evaluations. Further, telephone contact should be made with the caseworker in the receiving court to provide background information about the juvenile/juvenile's family history. In addition, the victim should be notified of the minor's supervision in another county and the supervising county should have the victim's information in order to forward letters of apology or restitution monies.

Cases Involving Indian Children

Tribes set their own eligibility requirements, and there is no specific degree of Indian ancestry that qualifies a child for tribal membership.

If the juvenile is an Indian child charged with a status offense in violation of MCL 712A.2(a)(2)-(4) or (d), notice shall be provided to:

- 1) The juvenile's tribe and, if the tribe is unknown, the Secretary of the Interior, and
- 2) The juvenile's parents or Indian custodian, and if unknown, the Secretary of the Interior.
- 3) The Indian custodian of the child and the Indian child's tribe have a right to intervene at any point in the proceeding pursuant to 25 USC 1911(c).

Handling Cases Under the Interstate Compact on Juveniles

All 50 states are parties to the Interstate Compact on Juveniles (ICOJ), MCL 3.692 *et seq.* The ICOJ allows for interstate placement and probation and parole supervision of juveniles; the return of runaways, absconders, and escapees to Michigan and other states; and the "extradition" of juveniles to and from Michigan to face criminal charges.

For complete ICOJ rules, effective March 1, 2011 see:

<http://www.juvenilecompact.org/LinkClick.aspx?fileticket=hP5YtZN5GWU%3d>

Specific sections of interest to probation officers and caseworkers are:

- Section 400 Transfer of Supervision
- Section 500 Supervision in Receiving State
- Section 600 Return of Juveniles

Michigan Interstate Compact on Juveniles

In Michigan, all requests for services in cases involving other states must be made to the DHS, Office of Children's Services, and Interstate Services Unit. See

http://www.michigan.gov/documents/FIA-CompactChildren_10014_7.pdf

Jurisdiction and Authority Over Adults

The court has jurisdiction over adults and may make orders affecting adults as necessary for the physical, mental, or moral well-being of a particular juvenile or juveniles under its jurisdiction. MCL 712A.6 states as follows: However, those orders shall be incidental to the jurisdiction of the court over the juvenile. Therefore, after trial, or plea by the juvenile, the court may enter orders affecting adults.

Questions for Review:

What is "subject matter" jurisdiction? "Personal" jurisdiction?

Over what offenses does the family division have jurisdiction?

What procedures must the court follow if it has information that a juvenile may be an "Indian child"?

What is the ICOJ?

Does the court have jurisdiction over adults?

3: Custody and Detention

Chapter 3: Custody and Detention

OBTAINING CUSTODY OF A JUVENILE WITHOUT A FAMILY DIVISION ORDER

Obligations of Officer or Agent Immediately After a Juvenile Is Taken Into Custody

A police officer, sheriff, deputy sheriff, county agent, or probation officer may, without a court order, take into custody any juvenile:

- 1) violating any law or ordinance
- 2) whose surroundings endanger the juvenile's health, morals, or welfare
- 3) violating or has violated a PPO or valid foreign protection order

After apprehending the juvenile, the officer or agent must immediately attempt to notify the juvenile's parent or parents, guardian, or legal custodian (including Indian custodian). MCL 712A.14(1).

While awaiting arrival of the parent or parents, guardian, or custodian, the juvenile must not be held in a detention facility unless the juvenile can be isolated to prevent any verbal, visual, or physical contact with any adult prisoner. MCR 3.933(D).

When a juvenile is apprehended without a court order, the officer may

- 1) warn and release the juvenile
- 2) refer the juvenile to a diversion program
- 3) seek authorization from the prosecuting attorney to file a complaint and warrant charging the juvenile with an offense as an adult (see MCL 764.1f)

If the prosecutor does not choose allow a complaint to be filed, the officer may:

- 1) issue a citation or appearance ticket and release the juvenile;
- 2) accept a written promise of the parent, guardian, or legal custodian to bring the juvenile to court; or
- 3) take the juvenile into custody and submit a petition.

DETENTION

Factors to Consider When Deciding Whether Juvenile Should Be Released From Custody

The officer should take the juvenile into custody and submit a petition if:

- 1) due to the nature of the offense, it is in the best interest of the juvenile
- 2) the interest of the public would not be protected by release of the juvenile
- 3) a parent, guardian, or legal custodian cannot be located or has refused to take custody of the child (MCR 3.933(A)(3); MCL 712A.14(2)).

The juvenile and his or her parents, guardian, or custodian must immediately be brought before the court for a preliminary hearing. At the conclusion of the preliminary hearing, the court should either authorize filing of the petition or will dismiss the petition and release the juvenile.

Obligation To Notify Family Division If Juvenile Is Not Released From Custody

MCR 3.933(C)(1)-(3) requires the officer taking custody of the juvenile to immediately contact the court if:

- 1) the officer detains the juvenile,
- 2) the officer is unable to reach a parent, guardian, or legal custodian who will appear promptly to accept custody of the juvenile, or
- 3) the parent guardian, or legal custodian will not agree to sign a written promise to bring the juvenile to court.

Additional Obligations of Officer if Juvenile is Not Released

MCR 3.934(A)(1)-(4) set forth four obligations of an officer or agent:

- 1) take the juvenile before the court for a preliminary hearing
- 2) ensure that the petition [or a complaint] is prepared and presented to the court;
- 3) notify the parent, guardian, or legal custodian of the detaining of the juvenile, and of the need for them to be present at the preliminary hearing;
- 4) prepare a custody statement for submission to the court including:
 - (a) the grounds for and the time and location of detention, and
 - (b) the names of persons notified and the times of notification, or the reason for failure to notify.

Obligations of Officer if Family Division is Not Open

The juvenile may be detained if no parent, guardian, or legal custodian can be located, or if:

- (a) release would endanger the public safety;
 - (b) the juvenile charged with a felony offense will likely commit another offense pending trial, if released;
 - (c) there is a substantial likelihood that if the juvenile is released they will fail to appear at the next court proceeding;
 - (d) the home conditions of the juvenile make detention necessary;
 - (e) the juvenile has run away from home;
 - (f) the juvenile has failed to remain in a detention facility or nonsecure facility or placement in violation of a court order; or
 - (g) pretrial detention is otherwise specifically authorized by law.
- MCR 3.935(D)(1).

Court Contacts

“The court must designate a judge, referee, or other person who may be contacted by the officer taking a juvenile into custody when the court is not open. . .” MCR 3.934(B)(2)

Note: Court intake workers or detention personnel often make the initial detention determination. *You should consult your court administrator and/or chief judge regarding the procedure your court uses.*

Places of Detention for Alleged Juvenile Delinquents

A juvenile must be detained in the *least restrictive* environment that will meet the needs of the juvenile and the public. This definition allows for placement in a non-secure facility or foster home.

“A juvenile under the age of 17 shall not be confined transported with, or compelled or permitted to associate or mingle with, criminal or dissolute persons.” MCL 712A.16(1).

Except for status offenders, a juvenile 15 years or older may be placed in a jail or other place of detention for adults, but in a room or ward separate from adults and out of sight and sound of adults. MCL 764.27a(2).

A youth under 16 years of age while under arrest, confinement, or conviction for any crime must not be:

- placed in any apartment or cell of any prison, or place of confinement with any adult;
- permitted any court room during the trial of adults; or
- be transported with adults. MCL 750.139(1).

Any person who violates these provisions shall be guilty of a misdemeanor. MCL 750.139(3).

Places of Detention for Alleged Status Offenders

A youth in custody for being an alleged status offender must not be detained in any secure detention facility for juvenile offenders *unless* the court finds that youth willfully violated a court order and that there is no less restrictive alternative. MCL 712A.15(3).

Requirements of the Crime Victim’s Rights Act

The law enforcement agency investigating a juvenile offense must provide a victim with an opportunity to request notice of the juvenile’s arrest and subsequent release, or both. The victim must be provided with notice of the availability of pretrial release for the juvenile and the telephone number of the appropriate detention facility so that the victim may call to find out if the juvenile has been released. MCL 780.782.

If a juvenile is placed in a juvenile facility following the preliminary hearing in a juvenile delinquency case, the prosecuting attorney or court must provide the victim with the telephone number of the juvenile facility. The victim may contact the facility to determine whether the juvenile has been released. Upon the victim’s request, the law enforcement agency must notify them of the juvenile’s arrest, pretrial release, or both.

Note: In juvenile delinquency cases, MCL 780.798a authorizes the prosecuting attorney to enter a written agreement that the court will perform many of the prosecutor’s notification duties if the court performed those functions before May 1, 1994.

Questions for Review

What are the procedures for taking a juvenile into custody?

What factors are to be considered in determining to detain or release a juvenile?

Where can a juvenile who has allegedly committed a delinquent act be detained?

What are the special requirements for an Indian child?

Where can a juvenile who has allegedly committed a status offense be detained?

What rights do victims have regarding notice of a juvenile's arrest and/or detention?

**4: Preliminary Inquiries,
Diversion, Consent Calendar,
and Formal Calendar**

Chapter 4: Preliminary Inquiries, Diversion, Consent Calendar, and Formal Calendar

Preliminary Inquiries

At a preliminary inquiry, the court conducts an informal review to determine action on a petition. Preliminary inquiries may be based on complaints signed and submitted by parents of a juvenile, school officials, or police officers, rather than a petition signed and filed by the prosecuting attorney. MCR 3.903(A)(22).

The court may assign a referee to conduct a preliminary inquiry. Referees who conduct preliminary inquiries are not required to be licensed attorneys. MCR 3.913(A)(1); MCR 3.913(A)(2); MCL 712A.10.

A preliminary inquiry is not a proceeding on the formal calendar

- no record of a preliminary inquiry is required to be made*
- there is no requirement that the judge/referee take testimony or examine evidence
- the judge or referee is merely required to examine the petition and make his or her determination in accordance with MCR 3.932(A).

*A preliminary inquiry must be conducted on the record if an offense enumerated in MCL 780.786b(1) of the Crime Victim's Rights Act is alleged. MCR 3.932(A).

DIVERSION

Diversion is the placement that occurs when a formally recorded apprehension is made by a law enforcement agency for an act by a minor, which, if a petition were filed with the court, would bring the minor within the formal jurisdiction of the court under MCL 712A.2(a).

Instead of a petition being filed or authorized, however, either of the following occurs:

- (i) the minor is released into the custody of his or her parent, guardian, or custodian and the investigation is discontinued, or
- (ii) the minor and the minor's parent, guardian, or custodian agree to work with a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation. MCL 722.822(c)(i)–(ii); MCL 722.823(1)(a)–(b).

The Juvenile Diversion Act may be used prior to the filing of a petition or before the court authorizes a petition. MCL 722.823(1); MCR 3.932(A)(2); MCR 3.935(B)(3). However, once a petition is authorized, diversion may no longer be used.

Offenses Precluding the Use of Diversion

Juveniles accused of or charged with "assaultive offenses" shall not be diverted. See MCL 750.82 - 84; MCL 750.86 - 89; MCL 750.316-317; MCL 750.321; MCL 750.349; MCL 750.349a; MCL 750.350; MCL 750.397; MCL 750.520b - 520e; MCL 750.520g; MCL 750.529; MCL 750.529a; and MCL 750.530; MCL 722.823(3); MCL 722.822(a).

Factors to Determine Whether to Divert a Juvenile

Before a minor is diverted, all of the following factors must be evaluated:

- (a) nature of alleged offense
- (b) minor's age
- (c) nature of the problem that led to the alleged offense
- (d) minor's character and conduct
- (e) minor's behavior in school, family, and group settings
- (f) Any prior diversion decisions made concerning the minor and the nature of the minor's compliance with the diversion agreement.

MCL 722.824(a)–(f)

Diversion Conference

If the decision is made to divert the minor, a conference must first be held with the minor and their parent, guardian, or custodian to consider alternatives to authorization of a petition. MCL 722.825(1).

The law enforcement official or court intake worker—depending upon who is holding the conference—must notify the minor and the minor's parent, guardian, or custodian of the time and place of the proposed conference and that:

- (a) participation in the conference or resulting referral plan is voluntary
- (b) an attorney may accompany them at the conference
- (c) alternative referral programs available and the criteria utilized to determine whether to file a petition with the court or to dispose of the petition with a referral
- (d) if diversion is agreed to and the minor complies with the terms of the diversion agreement and the referral plan, a petition cannot be filed with the court, or if a petition has been filed, the petition cannot be authorized

See MCL 722.825(1)(a)–(d).

The diversion conference may not be held until after any questioning has been completed or after an investigation has been made. Mention of, or promises concerning, diversion shall not be made by a law enforcement official or court intake worker during any questioning of the minor. Information divulged by the minor during the conference or after the diversion is agreed to, but before a petition is filed with or authorized by the court, cannot be used against the minor. MCL 722.825(2).

Diversion Agreement

Any agreement that imposes conditions on the minor, must be set forth in writing, dated, and signed by the law enforcement official or court intake worker, the minor, and the minor's parent, guardian, or custodian. MCL 722.825(3).

If a conference is held but an agreement is not reached, a petition may be filed within 30 days, and a petition may be authorized. MCL 722.825(4).

Required Information

Whenever diversion occurs, the following information must be filed with the family division in the county in which the minor resides or is found:

- (a) The minor's name, address, and date of birth.
- (b) The act or offense for which the minor was apprehended.
- (c) The date and place of the act or offense for which the minor was apprehended.

- (d) The diversion decision made, whether referred or released.
 - (e) The nature of the minor's compliance with the diversion agreement.
- See MCL 722.826(1)(a)–(e).

Compliance with Diversion Agreement

If the minor complies with the terms of the diversion agreement and the referral plan, a petition cannot be filed, or if a petition has been filed, the petition cannot be authorized by the court. MCL 722.825(1)(d).

Revocation of Diversion Agreement

If the minor fails to comply with the terms of the diversion agreement and the referral plan, the agreement may be revoked. If the agreement is revoked, a petition may be filed with the court and a petition may be authorized by the court. MCL 722.825(5).

CONSENT CALENDAR

Consent Calendar

The "consent calendar" allows for informal handling of cases. If the court, juvenile, and the juvenile's parent, guardian, or legal custodian agrees to place the case on the consent calendar, the juvenile waives certain rights, including:

- formal notice of charges
- appointment of an attorney at public expense
- a jury trial
- a trial before a judge
- the presumption of innocence
- the presentation of proof beyond a reasonable doubt
- testifying on their own behalf
- the privilege against self-incrimination (and the right to remain silent)
- presenting witnesses
- to confront and cross-examine the juvenile's accusers
- use of the subpoena power of the court to compel attendance of witnesses

Under the consent calendar:

- 1) No formal notice is required, except that required by the CVRA.
- 2) No formal plea may be entered and the court must not adjudicate the minor.
(However, the court is required to enter a plea when the case involves an alleged violation of the Michigan Vehicle Code. MCR 3.932(C)).
- 3) The court must conduct a consent calendar conference with the juvenile, parent, guardian, or legal custodian to discuss the allegations. The victim may or may not be present.
- 4) The court may issue a case plan.
- 5) The case plan may *not* include removing the juvenile from the custody of their parent, guardian, or legal custodian.
- 6) No order of disposition may be entered.
- 7) Upon successful completion of the case plan, the court shall close the case and may destroy all records.
- 8) If it appears to the court at any time that the proceeding on the consent calendar is not in the best interest of either the juvenile or the public, the court may, without hearing, transfer the case from the consent calendar to the formal calendar on the charges contained in the original petition, citation, or appearance

ticket. Statements made by the juvenile during the time on the consent calendar may not be used against the juvenile at trial on the formal calendar on the same charge. MCR 3.932(C).

FORMAL CALENDAR

Proceedings on the Formal Calendar are the judicial phases other than a delinquency proceeding on the consent calendar, a preliminary inquiry, or a preliminary hearing of a delinquency proceeding. MCR 3.903(A)(10).

The court may authorize a petition to be filed if it appears to the court that formal court action is in the best interest of the juvenile and the public. At any time before disposition, the court may transfer a matter to the consent calendar. MCR 3.932(C).

Drug Treatment Courts

Family divisions are authorized to institute or adopt a drug treatment court for juveniles. MCL 600.1062(2).

A drug treatment court must permit a victim to submit a written statement to the court regarding whether a juvenile should be admitted into a drug treatment court.

Questions for Review:

What is a preliminary inquiry?

When may a preliminary inquiry be conducted?

Who can conduct a preliminary inquiry?

Why must the victim be considered?

What factors determine whether a juvenile should be diverted?

What is a diversion conference?

Are drug offenders eligible for diversion?

What is the consent calendar?

What is the formal calendar?

5: Petitions and Preliminary Hearings

Chapter 5: Petitions and Preliminary Hearings

PETITIONS

Petitions to Commence Cases in the Family Division

A petition is a complaint or other written accusation that a juvenile has committed an offense. MCR 3.903(A)(19).

Only the prosecuting attorney may file a petition requesting the court take jurisdiction of a juvenile for having committed a criminal offense. MCL 712A.11(2); MCR 3.914(B)(1). Any person may provide information to the court indicating that a juvenile has committed a status offense. MCL 712A.11(1).

Required Contents of Petitions

A petition must set forth the facts. It must also include identifying information about the juvenile (name, address, and date of birth, if known), his/her parents, guardian, legal custodian, the alleged offense, membership or eligibility for membership in an Indian tribe, any prior court with jurisdiction, and the court action requested. MCL 712A.11(3).

The petition has two principal functions:

- 1) to allow a court to determine if a statutory basis for jurisdiction exists, and
- 2) to provide the juvenile notice of the charges against him or her.

Preliminary Hearings

A preliminary hearing is the formal review of the petition when the judge or referee considers authorizing the petition and placing the case on the formal calendar. *In re Hatcher*, 443 Mich 426 (1993).

The court must hold a preliminary hearing if a juvenile is in custody or the petition requests detention. MCL 712A.14(2); MCR 3.932(A).

Authorizing a Petition to be Filed

Before the court may acquire formal jurisdiction of a case, the court must authorize a petition to be filed. MCL 712A.11(1) - (2). A "petition authorized to be filed" refers to written permission by the court to file a petition containing allegations against the juvenile. MCR 3.903(A)(20). This is the point where the juvenile's court record begins.

Constitutional and Statutory Rights to Counsel

In *In re Gault*, 387 US 1, 41 (1967), the United States Supreme Court established a juvenile's right to counsel in delinquency cases:

The court must appoint an attorney for a juvenile if one or more of the following circumstances is present:

- (a) The child's parent refuses or fails to appear and participate in the cases.
- (b) The child's parent is the complainant or victim.
- (c) The child and those responsible for his or her support are financially unable to employ an attorney and the child does not waive his or her right to an attorney. MCL 712A.17c(2)(a)-(e).

- (d) Those responsible for the child's support refuse or neglect to employ an attorney for the child and the child does not waive his or her right to an attorney.
- (e) The court determines that the best interests of the child or the public require appointment.

Appointment of a Guardian Ad Litem (GAL)

In addition to appointment of an attorney, the court may appoint a guardian ad litem (a "trusted advisor" who does not need to be an attorney) to promote and protect the interests the youth.

Time Requirements for Preliminary Hearings

A preliminary hearing must commence no later than 24 hours after the juvenile has been taken into court custody, excluding Sundays and holidays or the juvenile must be released. MCR 3.935(A)(1).

RELEASING OR DETAINING A JUVENILE PENDING FURTHER ORDER, OR TRIAL

Determining Whether to Release or Detain

Factors the court must consider when deciding whether to release a juvenile:

- (a) family ties and relationships
- (b) prior delinquency record
- (c) record of appearance, or nonappearance, at court proceedings
- (d) the violent nature of the alleged offense
- (e) prior history of committing acts that result in bodily injury to others
- (f) character and mental ability
- (g) the courts ability to supervise the juvenile if placed with a parent or relative
- (h) any other factors indicating the juvenile's ties to the community, the risk of nonappearance, and the danger to the juvenile or the public if the juvenile is released

Criteria for Detention

A juvenile may be ordered detained, or continued in detention, if the court finds probable cause to believe the juvenile committed the offense, and one of more of the following exists:

- (a) release would endanger the public safety;
- (b) the juvenile will likely commit another offense pending trial, and
 - (i) another petition is pending,
 - (ii) the juvenile is on probation,
 - (iii) the juvenile was previously under the court's jurisdiction;
- (c) there is substantial likelihood, that if released, they will not appear at the next court proceeding;
- (d) the home conditions of the juvenile make detention necessary;
- (e) the juvenile has run away from home (there are certain limitations for status offenders);
- (f) the juvenile has failed to remain in placement, in violation of a court order; or
- (g) pretrial detention is specifically authorized by law.

Conditions for Release

The court may release a juvenile to a parent with or without conditions. MCR 3.935(E)(1).

Conditions include:

- (a) not commit any offense
- (b) not use alcohol, any controlled substance or tobacco product
- (c) participate in a substance abuse assessment, testing, or treatment program
- (d) participate in a treatment program for a physical or mental condition
- (e) comply with restrictions on personal associations or place or residence
- (f) comply with a curfew
- (g) maintain appropriate behavior and attendance at an educational program
- (h) surrender a driver's license or passport. MCR 3.935(E)(1)(a)-(h).

Violations of Conditions of Release

If a juvenile allegedly violates a condition of release, the court may order their apprehension. MCR 3.935(E)(2). After an opportunity to be heard regarding the alleged violation, the court may modify the conditions of release or revoke the juvenile's release.

Bail

The court may require a parent, guardian, or legal custodian to post bail. Juveniles may not post their own bail.

Bonds

Bonds allow the release of the juvenile by means of having someone on his or her behalf deposit money with the court or agree to pay a certain amount (post security) to insure his or her appearance at later proceedings, or, if the court determines, allows the juvenile to be released on their own word.

Types of Bonds

- **Cash or Surety:** The court may require a parent, guardian, or legal custodian to post a surety bond or cash in the full amount of the bail.
- **Personal Recognizance:** An obligation entered into before the court containing an individual's promise to appear and answer to an alleged offense.
- **Ten Percent:** A procedure that allows persons to pay to the court ten percent of the bond otherwise required of them to obtain their release.

Forfeiture of Bond

If the conditions of bail are not met, the court may issue a writ of apprehension of the juvenile and order forfeiture of the bail money. MCR 3.935(F).

Questions for Review:

What is a petition?

What is the purpose of a petition?

What is the purpose of preliminary hearing?

What factors must the court consider when deciding to release a juvenile?

What factors must the court consider when deciding to detain a juvenile?

What action can the court take if a juvenile violates release conditions?

What is bail/bond?

**6: Adjudication,
Dispositional Hearings, and
Dispositional Options/Orders**

Chapter 6: Adjudication, Dispositional Hearings, and Dispositional Options/Orders

ADJUDICATION

Definition of Adjudication

Adjudication is the determination that the minor comes within the jurisdiction of the court; meaning that the fact-finder must determine that the juvenile has violated a criminal law or committed a civil infraction or status offense. MCL 712A.2(a)(1)–(4).

Right to Counsel

The court must advise a juvenile charged with a criminal or status offense that they are entitled to be represented by counsel at each stage of the proceeding. MCL 712A.17c.

Rules of Evidence and Standard of Proof

Application of the “beyond a reasonable doubt” standard applies to both criminal and status offenses. See *In re Winship*, 397 US 358, 366-68 (1970); *In re Weiss*, 224 Mich App 37, 42 (1997); MCR 3.942(C).

Teacher-Student Privilege

Public school employees are prohibited from disclosing records or confidences without the consent of a parent or legal guardian if the child is less than 18 years of age. MCL 600.2165.

Findings of Fact by Judge or Referee

A referee must “make a written signed report to the judge containing a summary of the testimony taken and a recommendation. MCL 712A.10(1)(c).

Record of Proceedings

A record of all hearings must be made. MCR 3.925(B).

Pleas

A court may take a plea of admission or no contest.

Drug Treatment Courts

In drug treatment courts, if the juvenile is denied admission to the drug treatment court after (s)he has admitted responsibility, (s)he is allowed to withdraw the admission of responsibility. MCL 600.1085(5).

Bifurcated Proceeding

If the judges in each county agree, adjudication may occur in the original county where the offense occurred, and disposition may occur in the county to where the case is being transferred. MCR 3.926(E).

DISPOSITIONAL HEARINGS

Definition and Purpose of Dispositional Hearings

Dispositional hearings are conducted after a finding that a juvenile has committed an offense. Similar to sentencing in an adult case, the purpose of a disposition hearing is to determine what measures the court will take. MCR 3.943(A).

Time Requirements for Dispositional Hearings

The time between the plea of admission or trial and disposition, if any, is within the court's discretion. When the juvenile is detained, the interval may not be more than 35 days, except for good cause. MCR 3.943(B).

Right to Have Judge Preside at Dispositional Hearing

Parties have a right to a judge at a hearing on the formal calendar. MCR 3.912(B). Unless a party has demanded a trial by judge or jury, a referee may conduct the trial and further proceedings through the dispositional phase. MCR 3.913(B).

PERSONS ENTITLED OR REQUIRED TO BE PRESENT AT DISPOSITIONAL HEARINGS

Juvenile. The juvenile may be excused from part of the dispositional hearing for good cause shown, but must be present when the disposition is announced. MCR 3.943(D)(1).

Parent or guardian. The parent or guardian of a juvenile who is within the court's jurisdiction under MCL 712A.2(a)(1) (criminal offenses) is required to attend all hearings unless excused for good cause. MCL 712A.6 It also means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom.

Prosecuting attorney. If a status offense is alleged, the prosecuting attorney must appear if the court requests. If a criminal offense is alleged, the prosecuting attorney must appear and participate in the dispositional hearing. MCR 3.914(A); MCL 712A.17(4).

Victim. MCR 3.943(D)(2) states that "[t]he victim has the right to be present at the dispositional hearing and to make an impact statement as provided [in the Crime Victim's Rights Act]."

Use of Probation Officer Reports at Dispositional Hearings

- (1) All information, including written and oral reports made by the probation officer or caseworker, may be considered by the court, even if such information would not be admissible at trial.
- (2) The juvenile, their attorney, and the petitioner are to be given an opportunity to review and contest reports and, at the court's discretion, cross-examine probation officers and caseworkers. MCR 3.943(C).

Victim Impact Statements

A crime victim has the right to submit an impact statement.

A drug treatment court must permit a victim and others to submit a written statement to the court regarding whether a juvenile should be admitted into the drug treatment court. MCL 600.1068(4)

Required Evaluation of Juveniles Adjudicated of Cruelty to Animals or Arson

Juveniles found responsible for an offense that if committed by an adult would constitute cruelty to animals or arson, must be evaluated to determine the need for psychiatric or psychological treatment. MCL 712A.18I.

DNA Profiling Requirements

Collection of blood, saliva, or tissue samples from selected criminal and juvenile offenders, along with the retention of the resultant "DNA identification profiles" is required. MCL 28.171.

DISPOSITIONAL OPTIONS

The Juvenile Code and the applicable court rules state a preference for leaving the juvenile in his or her home. See MCL 712A.1(3); MCR 3.902(B)(1).

However, the court has many dispositional options available, including:

1) Warning Juvenile and Dismissing Petition:

The court may warn the juvenile and dismiss the petition. MCL 712A.18(1)(a).

However, if there are any financial damages to any victim, the court must order the juvenile (and may order his/her parent) to pay restitution. MCL 712A.30-712A.31; MCL 712A.18(7).

2) Appointing a Guardian:

The court may appoint a guardian. MCL 700.424; MCL 700.700. If the court appoints a guardian, it may enter an order dismissing the petition. MCL 712A.18(1)(h).

3) In-Home Probation:

The court may place the juvenile under supervision in their own home or in the home of an individual who is at least 18 years of age and related to the juvenile, meaning a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, and others. MCL 712A.18(1)(b).

The court is required to order terms and conditions of probation, including rules governing the conduct of parents, guardians, or custodians. MCL 712A.18(1)(b).

Required probation conditions include that the probationer not violate any criminal law, not leave the state without the court's consent, and report to the probation officer in person or in writing as often as required. MCL 771.3(1).

4) Participation in a Juvenile Drug Treatment Court:

The court may order a juvenile to participate in a juvenile drug treatment court. MCL 712A.18(1)(b). A juvenile drug treatment court may also accept participants from other jurisdictions subject to the agreement of specific individuals. MCL 600.1062(4).

The prosecutor must approve an individual's admission into a drug treatment court when the individual will be eligible for discharge and dismissal of an offense, delayed sentence, or deviation from the sentencing guidelines. MCL 600.1068(2).

5) Community Service:

The court may order the juvenile to engage in community service. MCL 712A.18(1)(i).

6) Foster Care:

The court may place the juvenile in a suitable foster care home. MCL 712A.18(1)(c).

7) Juvenile Boot Camp:

The court may place the juvenile in a juvenile boot camp. See MCL 400.1301, MCL 712A.18(1)(m).

A juvenile boot camp program shall provide a program of physically strenuous work and exercise, patterned after military basic training, and other programming including at a minimum educational and substance abuse programs, and counseling. MCL 400.1304.

8) Placement in or Commitment to a Private Institution or Agency:

The court may place the juvenile in or commit the juvenile to a private institution or agency. MCL 712A.18(1)(d).

Special Requirements When a Juvenile is Placed Outside of Michigan

Before a juvenile may be placed in an institution outside of Michigan, the court must find that:

- (a) institutional care is in the best interest of the juvenile,
- (b) equivalent facilities are not available within Michigan, and
- (c) the placement will not cause undue hardship. MCL 712A.18a, MCR 3.943(E)(3).

9) Commitment to a Public Institution or Agency:

The court may commit a juvenile to a public institution, county facility or institution. MCL 712A.18(1)(e). (**Note:** If the court designates an initial level of placement, eligibility for funding under Title IV-E of the Social Security Act is affected).

Juveniles may be committed to a county DHS office "for placement and care". MCL 400.55(h). See SCAO Form JC 25.

Juveniles may also be committed as "public wards" to the DHS pursuant to the Youth Rehabilitation Services Act, MCL 803.301 *et seq.*

10) Mandatory Commitment to Detention Facility for Use of a Firearm:

A juvenile must be committed to a detention facility if the juvenile used a firearm. The period of time in detention shall not exceed the length of the sentence that could have been imposed if the juvenile had been sentenced as an adult for the offense. MCL 712A.18(1)(e); MCL 712A.18g(1)(c); MCR 3.943(E)(7)(a).

11) Civil Fines:

The court may order the juvenile to pay a fine. MCL 712A.18(1)(j). The maximum amount of a fine is usually found in the statute that defines the offense. If the statute is

silent, then the maximum amount of the fine shall be \$5000 for a felony and \$500 for a misdemeanor. MCL 750.503 and 750.504.

12) Minimum State Costs:

If a juvenile is ordered to pay any combination of fines, costs, restitution, assessments, or payments, the court shall order costs of at least:

- \$68 for a felony
- \$50 for a misdemeanor

Fines, costs, and other financial obligations imposed by the court must be paid at the time of assessment. MCR 1.110.

For a complete list of crime victim assessments, see:

<http://courts.michigan.gov/scao/resources/other/CrimeVictimAssessment.pdf>

13) Restitution:

Crime victims have a constitutional right to restitution. Const 1963, Art 1, § 24.

Restitution is intended to compensate the victim rather than punish the defendant or juvenile. *People v Grant*, 445 Mich 221, 230 n 10 (1997).

An in-depth discussion of restitution is covered in Chapter 8 of this manual.

Hearings on Amount or Ability to Pay Costs

A court is *not required* to hold a hearing to determine a juvenile's ability to pay before ordering costs.

However, if a juvenile requests a hearing:

- (a) The court must determine the probationer is or will be able to pay costs during the term of probation. The court must take into account the probationer's financial resources and the burden that payment of costs will impose.
- (b) A probationer who is required to pay costs and who is not in willful default of the payment of the costs may petition for a forgiveness (remission) of the payment of any unpaid portion of those costs. If the court determines that payment of the amount due will impose a hardship on the probationer or his or her immediate family, the court may forgive all or part of the amount due in costs or modify the method of payment. MCL 771.3(7)(a)-(b); MCL 712A.18(19).

No Probation Revocation for Indigent's Failure to Pay Costs

Probation may not be revoked for failure to pay fines, costs, or restitution if the reason for nonpayment was the defendant's indigence.

Use of Bail Money to Pay Costs

MCR 3.935(F)(4)(a) permits the application of bail money paid by a parent to costs and reimbursement of the costs of care and service. MCR 6.106(I)(3); MCL 765.15(2).

Supplemental Orders of Disposition

At any time while a juvenile is under the family division's jurisdiction, the court may terminate jurisdiction, or amend or add to a disposition order. MCL 712A.18; MCL 712A.19(1).

MCR 3.943(E)(2) requires the court to consider imposing “graduated sanctions” upon a juvenile when making second and subsequent dispositions in delinquency cases.

That court rule states: In making second and subsequent dispositions in delinquency cases, the court must consider imposing increasingly severe sanctions, which may include:

- imposing additional conditions of probation
- extending the term of probation
- imposing additional costs
- ordering a juvenile who has been residing at home into an out-of-home placement
- ordering a more restrictive placement
- ordering state wardship for a child who has not previously been a state ward
- any other conditions deemed appropriate by the court

ORDERS DIRECTED TO PARENTS AND OTHER ADULTS

Refrain from Conduct Harmful to the Juvenile

The court may order the parents, guardian, custodian, or any other person to:

- 1) refrain from undesirable conduct (MCL 712A.18(1)(g))
- 2) participate in treatment (MCL 712A.18(1)(l))
- 3) assist in ensuring the juvenile’s continued participation in, and successful completion of, the drug treatment court (MCL 600.1072(2))

Order for Health Care, Clothing, and Incidentals

The court may provide the juvenile with medical, dental, surgical, or other health care, and with clothing and other incidental items as the court considers necessary.

MCL 712A.18(1)(f).

Contempt of Court for Parent/Guardian/Other Adult OR Juvenile at Least 17 years of Age

If a parent, guardian or other adult, or a juvenile who has attained the age of 17, fails to comply with the court’s order, contempt proceedings may be initiated by a probation officer. SCAO Form JC 40 may be used. This form should not be used for probation violations. It may be used in contempt proceedings in two situations:

- (1) When the probationer has already attained the age of 17 and you are seeking a sanction that may result in jailing the offender for up to 93 days; or
- (2) You are pursuing contempt charges against a parent, guardian, or other adult for their failure to comply with the court’s order. MCR 3.928.

Extension of Family Division Jurisdiction Beyond a Juvenile's Seventeenth Birthday

The family division has jurisdiction over juveniles less than 17 years of age who violate a law or ordinance or commit a status offense. MCL 712A.2(a)(1)B(4).

If the court has jurisdiction under MCL 712A.2(a), the court shall extend jurisdiction until the juvenile reaches age 19, unless the court terminates jurisdiction sooner by order. MCL 712A.2a-2a(1). However, if the court has exercised jurisdiction over a juvenile for an enumerated serious offense and committed the juvenile to a public institution or agency, jurisdiction may be extended, following a hearing, until the juvenile is 21. MCL 712A.2a(2).

Questions for Review:

What is the purpose of adjudication?

When does a dispositional hearing occur, and what is its purpose?

What are the time requirements within which the court must hold a dispositional hearing?

May a probation officer submit a report and recommendation at a dispositional hearing?

Are juveniles subject to DNA profiling? If so, under what circumstances?

What dispositional options are available to the court?

Are there any special considerations regarding juveniles' participation in drug treatment court?

Can the court enter and enforce orders against parents and other adults?

Can the court modify its dispositional order?

Can the court extend its jurisdiction beyond the age of 17? If so, to what age(s) and under what circumstances?

Chapter 7: Review of Juvenile Dispositions

Periodic Dispositional Review Hearings

The court is required to hold hearings to review dispositional orders in delinquency cases, and may include the probation officer or community service worker. The victim has a right to make an oral and/or written statement. At a review hearing, the court may modify or amend the dispositional order or treatment plan. MCR 3.945(A)(1).

Review Hearing Before Moving a Juvenile to a More Physically Restrictive Placement

The court is required to conduct a review hearing before moving a juvenile to a more physically restrictive placement *unless* the juvenile and his or her parent consent in writing filed with the court. MCR 3.945(A)(2).

Dispositional Review Hearings for Juveniles Placed in Out-of-Home Care

If a child is placed in out-of-home care, the court must hold review hearings at least once every 182 days.

Information That Must Be Reviewed

At a review hearing, the court must review compliance with the case service plan and likely harm to the child if the child continues to be separated from, or returned to, their parent, guardian, or custodian. MCL 712A.19(6)(a)-(e).

The court may modify any part of the case service plan. MCL 712A.19(7)(a)-(b.)

Required Decisions

The court shall:

- (1) return of the child to the custody of the parent
- (2) continue the dispositional order, modify the dispositional order
- (3) enter a new dispositional order MCL 712A.19(8).

Progress Reports

When a placement is made to a private institution or agency the court must require that a progress report be made at least every six months. MCL 712A.24.

Commitment Review Hearings

If the family division has exercised jurisdiction over the juvenile for a criminal offense or status offense, the court shall retain jurisdiction over the juvenile until age 19, unless the juvenile is released earlier by court order, or unless the court has extended jurisdiction until age 21 for certain serious offenses. MCL 712A.2a(1) and (2); MCL 712A.18c(4).

Factors to Consider at Hearings

The purpose of the review hearing is to determine whether the juvenile has been rehabilitated or still presents a serious risk to public safety. If the court determines the juvenile has not been rehabilitated or that the juvenile presents a serious risk to public safety, jurisdiction shall be continued until the juvenile reaches age 21. MCL 712A.18d(1).

Burden of Proof at Hearings

The juvenile has the burden of proving, by a preponderance of the evidence, that he or she has been rehabilitated. MCR 3.945(B)(4); MCL 712A.18d(2).

Reports at Hearings

The institution shall prepare commitment reports. MCL 803.225; MCL 712A.18d(5).

Subsequent Review Hearings

If the court extends jurisdiction over the juvenile until the juvenile turns age 21, and the juvenile is placed outside the home, the court must hold a dispositional review hearing every 182 days. MCR 3.945(C)(1).

If the institution, agency, or facility believes that the juvenile has been rehabilitated, they may petition the court to conduct a review hearing at any time before the juvenile becomes 21 years of age. MCR 3.945(C)(2).

Release of Juvenile at Age 21

If the court continues jurisdiction over the juvenile, the juvenile shall be automatically discharged upon reaching the age of 21. MCL 712A.18d(1); MCL 803.307(1)(a) and (2).

REQUIREMENTS OF THE CRIME VICTIM'S RIGHTS ACT

A crime victim has the right to:

- 1) Notice of juvenile's transfer from one facility to another
- 2) Notice of review hearings and the right to make a statement
- 3) Notice of juvenile's dismissal from court jurisdiction or discharge from commitment to juvenile agency
- 4) Early termination of probation

Questions for Review:

Can a probation officer request a periodic review?

Can the court place a juvenile in a more physically restrictive environment without a hearing? If so, under what circumstances?

If a child is placed in foster care, how often must a rehearing occur?

What information must be reviewed at a dispositional review hearing?

If a juvenile is committed to a private institution, how often must progress reports be made?

What is the purpose of the required commitment review hearing?

Who has the "burden of proof" at a review hearing?

If the court extends jurisdiction to age 21, how often must a dispositional review hearing be held?

What offenses allow the court to extend jurisdiction to age 21?

What rights do crime victims have?

8: Restitution

Chapter 8: Restitution

Purpose of Restitution

The Michigan Constitution gives crime victims the right to receive restitution. The purpose of restitution is to compensate the victim rather than punish the juvenile. Const 1963, Art 1 § 24; *People v Grant*, 445 Mich 221; 230 NW 10 (1997).

“Victim” Defined

“Victim” is defined as an individual who suffers direct or threatened physical, financial, or emotional harm as a result of an offense, or a sole proprietorship, partnership, corporation, association, governmental entity, or any other legal entity that suffers direct physical or financial harm as a result of an offense. MCL 780.794(1)(b).

Offenses for Which Restitution Must Be Ordered

The Crime Victim’s Right Act (CVRA) requires restitution for any criminal offense.

Victim’s Right to Submit Information

The CVRA requires the person preparing a disposition report to notify victims of their right to submit information to the court regarding restitution. MCL 780.791(3)(c).

When Must Restitution Must Be Ordered

The court is to order restitution at the disposition or sentencing hearing. MCL 780.794(2).

Claims for Restitution That Arise After Disposition or Sentencing

The court may amend a restitution order based upon new information. MCL 780.766(22); MCL 780.794(22).

Required Restitution When Ordering an Informal Disposition in a Juvenile Delinquency Case

For an offense that does not result in a dispositional hearing, by assignment to youthful trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, the court shall order restitution. MCL 780.794(2).

Persons or Entities Entitled to Restitution

All victims and individuals or entities that have provided services to the victims are entitled to restitution. The court must order restitution to be paid to the victim or the victim’s estate first. *People v Bell*, 276 Mich App 342 (2007).

If the victim is deceased, the court shall order restitution to the victim’s estate. MCL 780.794(7).

The offender may be ordered to pay restitution to victims of offenses for which the offender was not convicted or adjudicated. *People v Gahan*, 456 Mich 264 (1997).

The court may order restitution to a governmental agency for the loss of “buy money” resulting from drug offenses. *People v Crigler*, 244 Mich App 420, 427B28 (2001).

Expenses that are not reimbursable under statutes may not be included in a restitution order. *People v Jones*, 168 Mich App 191, 196 (1988).

A school district qualifies as a victim. *In re McEvoy* 267 Mich App 55 (2005).

MCL 780.794(24) states that if the victim is a minor, the defendant may be required to pay to the parent of the victim a reasonable amount for:

- (a) homemaking and child care expenses
- (b) income loss not ordered to be paid under subsection (4)(h)
- (c) mileage
- (d) lodging or housing
- (e) meals
- (f) any other costs incurred

Time Requirements for Making Restitution

Restitution must be made immediately. The court may require the juvenile to make restitution within a specified period or in specified installments. MCL 780.794(10).

Amount of Restitution Required

The court must consider the amount of the loss sustained by any victim. MCL 780.795(1).

Codefendants and coconspirators may be held jointly and severally liable for the entire amount of loss.

Each conspirator is criminally responsible for the acts of his coconspirators committed in furtherance of the conspiracy. Ordering a defendant to pay full restitution is justified. *People v Grant*, 455 Mich 221 (1997).

CALCULATING RESTITUTION

1) Where the Offense Results in Property Damage, Destruction, Loss, or Seizure

If return of the property is impossible, impractical, or inadequate, the court may order the juvenile to pay the value of the property on the day it was damaged, lost, or destroyed or the value of the property at disposition. MCL 780.794(3)(a)-(c).

2) Where the Offense Results in Physical or Psychological Injury, Serious Bodily Impairment, or Death Expenses Related to Physical or Psychological Injury

The court *shall* order restitution for professional services and devices, physical and occupational therapy, lost income, medical and psychological treatment for the victim's family, and homemaking and childcare expenses. MCL 780.794(4)(a)-(e).

3) Expenses Related to the Victim's Death

The court must order the restitution be paid to the victim's estate. MCL 780.794(7).

4) Triple Restitution for Serious Bodily Impairment or Death of a Victim

If an offense causing bodily injury to the victim also results in the serious impairment of a body function or the death of that victim, the court may order up to three times the amount of restitution otherwise allowed under the CVRA.

Reports by Probation Officers

The court may order a probation officer to obtain information pertaining to the amount of loss suffered by a victim, and this information must be included in a disposition report or a separate report, as the court directs. MCL 780.795(1)-(2).

The court must disclose to the juvenile, the juvenile's parent, and the prosecuting attorney all portions of the disposition or other report pertaining to the amount of loss. MCL 780.795(3).

Hearing Requirements and Burden of Proof

When ordering a juvenile to pay restitution, the court is not required to hold a hearing to determine the type or amount of restitution.

Hearings on Restitution Payable by Juvenile's Parent

The court may order the juvenile's parent to pay some or all of the restitution owed. MCL 780.794(15); MCL 780.766(15)(a):

- 1) The juvenile's parent must be given an opportunity to be heard on the issue.
- 2) The court must consider "the parent's financial resources and the burden that the payment of restitution will impose, with regard to any other financial obligations the parent may have." MCL 780.766(16); MCL 780.794(16).

The court must cancel all or part of the parent's obligation if the court determines that payment of the amount will impose a hardship on the parent *and* also determines that modifying the method of payment will not impose a hardship on the victim. MCL 780.766(17); MCL 780.794(17).

The Juvenile Code does not limit the amount of restitution for which a parent may be held liable. See *In re McEvoy*, 267 Mich App 55 (2005.).

Orders for Services by Juvenile in Lieu of Money

"If the victim or victim's estate consents, the order of restitution may require that the juvenile make restitution in services in lieu of money." MCL 780.794(6).

RESTITUTION ORDERED AS A CONDITION OF PROBATION

If a juvenile is placed on probation, any restitution ordered by the court must be a condition of that probation. MCL 780.794(11).

1) Community Service or Employment

Where restitution is imposed as a condition of probation, the court must also order either community service or employment as a condition of probation. MCL 712A.18(8)(a)-(b).

The court may revoke probation if the juvenile intentionally refuses to perform required community service. MCL 712A.18(9).

2) Wage Assignment by Employed Defendant or Juvenile as a Condition of Probation

If a juvenile is employed, they are to make regularly scheduled payments. If they miss two or more such payments, the court shall execute a wage assignment. MCL 780.794(18).

3) Review of Restitution as a Condition of Probation

The probation officer or caseworker shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. If the restitution was ordered to be paid within a specified period of time, review of the case must occur at the end of the specified period. A final review of restitution payment must be conducted not less than 60 days before the expiration of the probationary period. MCL 780.794(18).

4) Revocation of Probation for Failure to Comply with Restitution Order

If restitution is not being paid as ordered, the worker must file a written report of the violation with the court, including a statement of the amount of the arrearage and any reasons for the arrearage that are known by the probation officer or caseworker.

A court may revoke probation if the juvenile fails to comply with the restitution order and has not made a good-faith effort to comply with the order. MCL 780.794(11).

A juvenile cannot be detained for a violation of probation for failure to pay restitution unless the court determines that the juvenile has the resources to pay and has not made a good-faith effort to do so. MCL 780.794(14).

Modification of Method of Payment of Restitution

Upon petition, the court may modify the method of payment of restitution imposed, so long as it does not create a hardship for the juvenile or the victim. MCL 780.794(12).

Enforcing a Restitution Order

A restitution order is enforced in the same manner as a civil judgment, not by filing a new civil action. The court cannot impose a fee on a victim, victim's estate, or prosecuting attorney for enforcing a restitution order. MCL 780.794(20).

Payment of Restitution When Juvenile is Placed in a Juvenile Facility

Being placed in a facility does not relieve the juvenile of their obligation to pay restitution. If the juvenile receives more than \$50 in a month, 50 percent of the amount over \$50 received by the juvenile is to be deducted for payment of restitution. MCL 780.796b(3). When the amount deducted exceeds \$100, or when the juvenile is released, the money must promptly send the money to the victim. MCL 769.1k(2).

Dischargeability

Restitution order is not dischargeable in bankruptcy cases. MCL 780.794(23).

No Forgiveness (Remission) of Restitution When Conviction or Adjudication Is Set Aside

If a juvenile successfully moves to set aside his or her adjudication, the juvenile "is not entitled to the remission (forgiveness) of any fine, costs, or other sums of money paid as a consequence of an adjudication [or conviction] that is set aside," including restitution. MCL 712A.18e(11)(a); MCL 780.622(2).

Unclaimed Restitution

If restitution paid by the juvenile is unclaimed or refused by the victim for a period of two years, those funds are to be deposited in the Crime Victim's Rights Fund. MCL 780.794(21).

CRIME VICTIM'S RIGHTS FUND ASSESSMENT

Assessments of Adjudicated Delinquents

The court must order a "crime victim's rights fund assessment" against an adjudicated juvenile offender as follows:

- Felony: \$25. MCL 780.905(1);
- Misdemeanor: \$25. MCL 780.905(1).MCL 780.905(3)

The court may only order one "crime victim's rights fund assessment" per dispositional order based upon the most serious offense regardless of the number of offenses. MCL 780.905(1) and (2).

Fines, Costs, Restitution, Fees, Assessments, and Other Payments

Court costs, penal fines, probation supervision fees, and other payments or assessments must be paid at the time of assessment, except when the court allows otherwise. MCR 1.110.

Discharge from Probation While Restitution is Owning

An order of restitution remains effective until it is satisfied. MCL 780.794(13). Probation officers and caseworkers should not recommend discharge unless all efforts to collect restitution have been made. You should advise the recipient of restitution to seek a "money judgment" in district court and provide any necessary assistance by supplying documentation. Upon entry of a judgment in the district court, a recommendation for discharge from probation may occur. Also, see: <http://iosco.m33access.com/prosecutor/restitution-brochure.pdf>

Questions for Review:

What is the purpose of restitution?

What does the CVRA require with respect to restitution?

Can the court order/modify restitution after the dispositional order is entered?

Who is entitled to restitution?

What are the time requirements for making restitution?

Can codefendants and/or coconspirators each be held liable for the entire amount of restitution?

How is restitution calculated?

What reports are probation officers likely to be required to provide?

Can parents be ordered to pay restitution for their child's act?

Can the court order services and/or community service work in lieu of money?

How often is a probation officer required to review restitution payments?

How is restitution enforced?

Can probation be revoked for failure to pay restitution? If so, under what circumstances?

Can a juvenile be discharged from probation if he or she still owes restitution?

9: Probation Violations

Chapter 9: Probation Violations

DUE PROCESS REQUIREMENTS

Probationers are entitled to certain due process protections because of the potential loss of liberty. *People v Pillar*, 233 Mich App 267, 269 (1998). Specific due process protections were set forth in *Gagnon v Scarpelli*, 411 US 778 (1973):

- (a) written notice of the claimed violations of probation,
- (b) disclosure to the probationer of evidence against him,
- (c) opportunity to be heard in person and to present witnesses and documentary evidence,
- (d) the right to confront and cross-examine witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation),
- (e) a 'neutral and detached' hearing body . . . , and
- (f) a written statement by the fact finder as to the evidence relied on and reasons for revoking probation.

INITIATING PROBATION VIOLATION PROCEEDINGS

MCR 3.944(A) sets forth the procedure for initiating probation violation proceedings. The following options are available to initiate such proceedings:

Petition; Temporary Custody

Submit a supplemental petition alleging that the juvenile has violated a condition of probation. Upon receipt, the court may:

- (a) direct that the juvenile be notified, pursuant to MCR 3.920, to appear for a hearing; or
- (b) order that the juvenile be apprehended and brought to the court for a detention hearing, as defined in MCR 8.110(D)(2).

Issuance of Summons or Notice of Hearing

A summons may be used to direct the juvenile to appear for a hearing on the alleged probation violation. If the juvenile is not in custody, at least 7 days notice must be given. A copy of the probation violation petition and notice of juvenile's rights must be provided. MCR 3.944(A)(1)(a); MCR 3.920(C)(1); MCR 3.921(A)(1).

Issuing an Order to Apprehend a Juvenile and Conducting a Detention Hearing

Instead of issuing a summons, the court may issue an order to apprehend a juvenile and bring him or her in for a detention hearing. The order may only be issued upon probable cause and must specify the juvenile and the place where the juvenile may be found.

MCL 712A.2c states as follows: "The court may issue an order authorizing a peace officer or other person designated by the court to apprehend a juvenile who . . . has violated probation."

When a juvenile is apprehended per a court order, the officer must:

- “(a) . . . take the juvenile:
- (i) to the court for a detention hearing; or
 - (ii) to the place designated by the court pending the scheduling of a detention hearing; and

“(b) notify the custodial parent, guardian, or legal custodian that the juvenile has been taken into custody, of the time and place of the detention hearing, if known, and of the need for the presence of the parent, guardian, or legal custodian at the detention hearing.”

Detention Hearings

MCR 3.944(B) states, in part, that at a detention hearing the court must:

- (1) Determine whether a parent, guardian, or legal custodian has been notified and is present. If they have been notified, but fail to appear, the detention hearing may be conducted without a parent, guardian, or legal custodian *if* a guardian ad litem or attorney appears with the juvenile;
- (2) Provide the juvenile with a copy of the petition alleging a probation violation,
- (3) Read the petition to the juvenile, unless the attorney or the juvenile waives the reading,
- (4) Advise the juvenile of his or her rights, and of the possible dispositions, and
- (5) Allow the juvenile an opportunity to deny or otherwise plead to the probation violation.

A juvenile may be detained without bond pending a probation violation hearing if the court finds probable cause to believe that the juvenile violated a condition of probation. MCR 3.944(B)(5)(b).

Advice of Rights in the Summons or at a Detention Hearing

In a notice to appear for a probation violation hearing or at the detention hearing, the juvenile must be provided a copy of the supplemental petition and advised of his or her rights. MCR 3.944(A)(1)(a); MCR 3.944(B)(2); MCR 3.944(B)(4).

A juvenile has the right to:

- (1) be present at the hearing,
- (2) an attorney,
- (3) have the petitioner prove the probation violation by a preponderance of the evidence,
- (4) have the court order any witnesses to appear at the hearing,
- (5) question witnesses against him or her,
- (6) remain silent and not have that silence used against the juvenile, and
- (7) testify at the hearing, if the juvenile wants to testify.

Contempt of Court for Parent/Guardian/Other Adult OR Juvenile at Least 17 years of Age

In the event that a parent, guardian, or other adult or a juvenile who has attained the age of 17 fails to comply with the court's order, contempt proceedings may be initiated by a probation officer utilizing SCAO Form JC 40. This form should not be used for probation violations. Instead, it may be used in contempt proceedings in two situations:

- (1) When the probationer has already attained the age of 17 and you are seeking a sanction that may result in jailing the offender for up to 93 days; or
- (2) In situations where you are pursuing contempt charges against a parent, guardian, or other adult for their failure to comply with the court's order. See MCR 3.928.

PLEA PROCEDURES

Pleas of Admission or No Contest

A juvenile may admit to the probation violation or plead no contest. However, before accepting the plea, the court must:

- (1) tell the juvenile the nature of the alleged probation violation,
 - (2) tell the juvenile the possible dispositions,
 - (3) tell the juvenile that if the plea is accepted the juvenile waives some rights,
 - (4) confirm any plea agreement on the record,
 - (5) ask the juvenile if any promises have been made beyond those in the plea agreement and whether anyone has threatened the juvenile,
 - (6) establish support for a finding that the juvenile violated probation,
 - (7) inquire of the parent, guardian, legal custodian, or guardian ad litem whether there is any reason why the court should not accept the juvenile's plea, and
 - (8) determine that the plea is accurately, voluntarily, and understandingly made.
- MCR 3.944(D).

Moreover, the court must specifically inform a probationer of their right to a hearing and the opportunity to contest the charges.

Procedures at Probation Violation Hearings

A probation violation hearing is a dispositional hearing, not an adjudicative hearing.

“Neutral and Detached Hearing Body,” Probation Officers, and Referees

If a referee tries a case, that same referee may conduct a probation violation hearing even if the juvenile requests that a judge preside at such a hearing. MCR 3.913(B).

Many juvenile probation officers are also hearing referees. MCL 712A.10(1) allows a court to assign a juvenile probation officer or county agent as a referee. However, the juvenile officer who submits a petition alleging a probation violation should not also serve as fact finder at the hearing on the alleged violation.

Appearance of Prosecuting Attorney

If the court requests, the prosecuting attorney must review the petition for legal sufficiency and appear at any delinquency proceeding. MCR 3.914(A); MCL 712A.17(4).

Violation of Probation Based on Finding of Responsibility for an Offense

A juvenile may be found to have violated probation based upon a prior finding of responsibility for an offense at a plea or trial. MCR 3.944(C)(3). A probation revocation hearing may still be held even if proceedings involving the underlying offense against the probationer are pending and for the same conduct for which revocation is sought.

Limitations on Use of Evidence at Probation Revocation Proceedings

A probationer cannot be compelled to testify against him/herself at a probation revocation hearing. Involuntary confessions are inadmissible as well. However, statements made to a probation officer (or caseworker) during an interview are admissible in probation revocation hearings or subsequent criminal proceedings, even absent Miranda warnings.

Additional Witnesses or Additional Evidence

The court has authority to call or examine witnesses and to order production of additional evidence or witnesses. MCR 3.923(A)(1).

Underlying Order of Disposition

The juvenile may not attack the underlying order of disposition at a probation revocation hearing.

DISPOSITIONS FOLLOWING A FINDING OF PROBATION VIOLATION

If the court finds that a probation violation has occurred, the court may modify the existing probation order or order any other disposition under MCL 712A.18 or 712A.18a; MCR 3.944(B)(5)(a); MCR 3.944(E)(1).

Supplemental Orders of Disposition

The court may amend or supplement a disposition. In doing so, the court must consider imposing increasingly severe (graduated) sanctions, which may include ordering:

- additional conditions of probation
- an extended term of probation
- additional costs
- out-of-home placement
- a more restrictive placement
- state wardship for a child who has not previously been a state ward
- any other conditions

Recording Probation Violation Hearings

Detention hearings, plea hearings, and violation hearings must be recorded. MCR 3.925(B).

Recording Probation Violations Based on Underlying Offense

MCR 3.944(E)(2) provides that a finding of probation violation based upon the juvenile's responsibility for an offense must be recorded as a probation violation only, not a finding of responsibility for the underlying offense.

Questions for Review:

Is a juvenile entitled to due process on a probation violation?

How do you initiate a probation violation proceeding?

Can juveniles be detained pending a probation violation hearing?

What rights does a juvenile have at a probation violation hearing?

Should the probation officer assigned to the juvenile's case also act as a referee at a probation violation hearing?

Can statements made by the juvenile to a probation officer or caseworker be used at a probation violation hearing?

Can the court enter a supplemental order of disposition as the result of a probation violation hearing?

**10: Minor Personal
Protection Order (PPO)
Proceedings**

Chapter 10: Minor Personal Protection Order (PPO) Proceedings

JURISDICTION

Jurisdiction of Minor PPO Proceedings

The family division has jurisdiction over minor respondents between the ages of 10 and 18 years old in personal protection order (PPO) proceedings. MCL 712A.2(h).

A 'Minor' for purposes of a PPO means a person under the age of 18, and may include a person age 18 or older over whom the juvenile court has continuing jurisdiction under MCL 712A.2a.; MCR 3.903(A)(15). A PPO may not be issued if the respondent is less than ten years of age. MCL 600.2950(27)(c).

Issuance, Dismissal, Modification, and Termination of a PPO

If the respondent is under age 18, issuance of a PPO is subject to the Juvenile Code. MCL 600.2950(28); MCL 600.2950a(26); MCR 3.701(A); MCR 3.981; MCR 3.703(F)(1) requires a minor petitioner or a legally incapacitated individual to proceed through a next friend.

The respondent may file a motion to modify or terminate an *ex parte* personal protection order and request a hearing within 14 days after being served with, or receiving actual notice of, the order. MCR 3.707(A)(1)(b).

No Parent-Child PPOs

A PPO may not be issued if the petitioner and respondent have a parent-child relationship and the child is an unemancipated minor.

Mutual Orders Prohibited

The court may not issue mutual personal protection orders.

TYPES OF PPOs

(1) Domestic Relationship PPOs (MCL 600.2950)

A Domestic Relationship PPO is used to restrain behavior (including stalking) that interferes with the petitioner's personal liberty, or that causes a reasonable apprehension of violence.

To fall under a domestic relationship PPO, the respondent must be:

- The petitioner's spouse or former spouse
 - A person with whom the petitioner has had a child in common
 - A person who resides or who has resided in the same household as petitioner
 - A person with whom the petitioner has or has had a dating relationship
- MCL 600.2950(1).

"Dating relationship" is defined in the statute as "frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context." MCL 600.2950(30)(a).

(2A) Nondomestic Relationship PPOs (MCL 600.2950a)

Nondomestic Stalking PPOs are used to restrain a person, regardless of that person's relationship with the petitioner, from engaging in:

- stalking (MCL 750.411h)
- aggravated stalking (MCL 750.411i)
- cyberstalking (MCL 750.411s)

Relief is available without the need to establish a prior relationship between the petitioner and respondent.

Available to restrain anyone ten years of age or older who is stalking, including a stranger to the petitioner.

(2B) Nondomestic Sexual Assault PPOs. MCL 600.2950a(2)

Nondomestic Sexual Assault PPOs are used when the respondent:

- (1) has been convicted of sexually assaulting the petitioner
- (2) has been convicted of furnishing obscene material to the petitioner under MCL 750.142
- (3) has placed the petitioner in reasonable apprehension of sexual assault.

Persons Who May Be Restrained

A nondomestic stalking PPO is available to restrain anyone who is stalking, including someone who is a stranger to the petitioner.

Petitioner May Not Be a Prisoner

A court must not enter a nondomestic stalking PPO if the petitioner is a prisoner. MCL 600.2950a(28).

A "prisoner" includes an adjudicated delinquent. MCL 600.2950a(29)(d).

Filing Fee

There is no fee for filing a PPO. MCL 600.2529(1)(a); MCR 3.703(A).

REQUIRED PROVISIONS IN A PPO

If the court grants a PPO petition, statutes require that the resulting order contain the following information:

- A statement that the PPO has been entered. MCL 600.2950(11)(a); MCL 600.2950a(8)(a).
- A statement regarding the penalties for violation of a PPO.
- If the respondent is less than 17 years of age, the PPO must state that a violation will subject the respondent to immediate apprehension or being taken into custody, and the dispositional alternatives listed in MCL 712A.18.
- A statement that the PPO is "effective and immediately enforceable anywhere in Michigan when signed by a judge, and also may be enforced by another state, an Indian tribe, or a territory of the United States." MCL 600.2950(11)(b); MCL 600.2950a(8)(b).

- A statement listing the prohibited conduct. MCL 600.2950(11)(c); MCL 600.2950a(8)(c).
- An expiration date. MCL 600.2950(11)(d); MCL 600.2950a(8)(d); MCR 3.706(A)(4).

Duration of a PPO

Orders must be valid for at least 182 days. Statutes place no maximum limit on the duration of a PPO. MCL 600.2950(13); MCL 600.2950a(10).

Entry of the Order Into the Law Enforcement Information Network (LEIN)

After issuance of a PPO, the clerk of the court has the responsibility to facilitate entry of the PPO and other related documents into then LEIN system.

Service of the Petition and Order

The petitioner is responsible to arrange for service of the PPO. **Note:** A PPO is effective and enforceable upon a judge's signature without written or oral notice. Failure to serve it on the respondent does not affect the PPO's validity or effectiveness. MCR 3.705(A)(4); MCR 3.706(D). However, if it has not been personally served then prior to apprehension, the respondent must be given an opportunity to comply with the terms of the PPO.

DISMISSAL OF A PPO ACTION

Involuntary Dismissal

An involuntary dismissal of a PPO action can only be initiated by the court under the following circumstances:

- The court has determined that the petitioner's claims are without merit.
- The petitioner has failed to attend a hearing scheduled on the petition.

Voluntary Dismissal

MCR 3.704 permits the petitioner to move for dismissal of a PPO action prior to the issuance of an order. There is no fee for filing this motion.

ENFORCING A MINOR PPO

Jurisdiction of Contempt Proceedings

The family division has jurisdiction to conduct contempt proceedings based upon a violation of a PPO. MCL 764.15b(6).

Requests for court action to enforce a PPO may be in writing by way of a supplemental petition containing a specific description of the facts constituting the alleged violation. MCR 3.983(A). A probation officer or a caseworker may file this petition.

Apprehension of the Respondent

A court may issue an order for apprehension of a minor who allegedly violates a PPO. MCL 712A.2c.

Apprehending a PPO Violator Without a Court Order

MCL 712A.14(1) authorizes apprehension of a minor respondent for an alleged violation of a PPO as follows:

“Any local police officer, sheriff or deputy sheriff, state police officer, county agent, or probation officer of any court of record may, without the order of the court, immediately take into custody any child who is found violating any law or ordinance, or whose surroundings are such as to endanger his or her health, morals, or welfare, or for whom there is reasonable cause to believe is violating or has violated a personal protection order issued pursuant to [MCL 712A.2(h)] by the court under [MCL 600.2950 and MCL 600.2950a], or for whom there is reasonable cause to believe is violating or has violated a valid foreign protection order.”

Designated Court Contact

The court must designate a judge, referee, *or other person* who may be contacted by the officer taking a minor under age 17 into custody when the court is not open who may be contacted for permission to detain the minor pending preliminary hearing. MCR 3.984(D).

Transfer of Minor PPO Cases to Issuing Court for Enforcement

When a minor who has allegedly violated a PPO is apprehended in a county other than the county in which the PPO was issued, the case may be transferred to the issuing county for enforcement proceedings. MCR 3.984(E).

Authority of Referees to Conduct Proceedings

The court may not assign a referee to preside at a proceeding on the issuance, modification, or termination of a PPO. MCR 3.912(A)(4). A nonattorney referee may preside at a preliminary hearing for enforcement of a minor personal protection order. Only a referee licensed to practice law in Michigan may preside at any other hearing for the enforcement of a minor personal protection order and make recommended findings and conclusions. MCR 3.913(A)(2)(d).

Enforcing Foreign Protection Orders

The family division has jurisdiction to conduct proceedings to enforce a valid foreign protection order which is an “injunction or other order issued by a court of another state, Indian tribe, or United States territory.” MCL 600.2950h; MCL 712A.1(1)(d).

Preliminary Hearings

A preliminary hearing (as well as a violation hearing) on an alleged PPO violation may take place in either the issuing jurisdiction or the jurisdiction where a minor respondent was apprehended. MCL 764.15b(6).

Time Requirements

If the minor respondent was not taken into custody or jailed for an alleged violation, “the preliminary hearing must commence as soon as practicable after the apprehension or arrest, or submission of a supplemental petition.” MCR 3.985(A)(1).

If the minor respondent was taken into court custody or jailed, “the preliminary hearing must commence no later than 24 hours after the minor was apprehended or arrested, excluding Sundays and holidays . . . or the minor must be released.” MCR 3.985(A)(1).

The court may adjourn the hearing for up to 14 days to secure the attendance of witnesses or the minor’s parent, guardian, or custodian or for other good cause shown. MCR 3.985(A)(2).

REQUIRED PROCEDURES

Presence of parent

The court shall determine whether the parent, guardian, or custodian has been notified and is present. The preliminary hearing may be conducted without a parent, guardian, or custodian *if* a guardian ad litem or attorney appears with the minor. MCR 3.985(B)(1).

Respondent’s Rights

The respondent may:

- (a) contest the allegations at a violation hearing,
- (b) have an attorney at every stage in the proceedings,
- (c) a nonjury trial and that a referee may be assigned to hear the case,
- (d) have witnesses appear at a violation hearing,
- (e) question the witnesses, and
- (f) remain silent. Any statement the respondent makes may be used against him or her.

Authorization of the Supplemental Petition

At the preliminary hearing, the court must decide whether to authorize the filing of the supplemental petition and proceed formally, or to dismiss the supplemental petition. MCR 3.985(B)(4).

Release of Respondent with Conditions Pending Violation Hearing

In setting release conditions, the court must consider available information on the following factors:

- (a) family ties and relationships,
- (b) prior juvenile delinquency or minor PPO record, if any,
- (c) record of appearance or nonappearance at court proceedings,
- (d) violent nature of the alleged violation,
- (e) prior history of committing acts that resulted in bodily injury to others,
- (f) character and mental condition,
- (g) court’s ability to supervise the respondent if placed with a parent or relative,
- (h) likelihood of retaliation or violation of the PPO by the respondent, or
- (i) any other factor. MCR 3.985(E).

Detention Pending Violation Hearing

A minor cannot be removed from his or her parent, guardian, or custodian pending a PPO violation hearing or further court order unless:

- (a) probable cause exists to believe the minor violated the minor PPO, and
- (b) at the preliminary hearing, the court finds one or more of the following circumstances to be present:

- (i) there is a substantial likelihood of retaliation or continued violation;
- (ii) there is a substantial likelihood that if the minor is released they will fail to appear at the next court proceeding; or
- (iii) detention pending violation hearing is otherwise specifically authorized by law. MCR 3.985(F)(1).

A respondent who is detained must be placed in the least restrictive environment available. MCL 712A.15; MCL 712A.16; and MCR 3.985(F)(4).

Possible Sentences or Juvenile Dispositions

An individual less than 17 years of age is subject to the dispositional alternatives listed in the Juvenile Code.

Questions for Review:

What is a Personal Protection Order (PPO)?

What are the types of PPOs?

What is a “minor” for purposes of a PPO?

What conduct may be prohibited by a PPO?

Is there a filing fee for a PPO?

What authority does a probation officer have to enforce a PPO?

Can the court enforce a Foreign Protection Order?

What are the sanctions for violating a PPO?

- If respondent is under age 17?
- If respondent is over age 17?

Chapter 11: Access to Court Records

FAMILY DIVISION RECORDS

Access to juvenile delinquency records is addressed in the Nonpublic and Limited-Access Court Records document located online at:
http://courts.michigan.gov/scao/resources/standards/cf_chart.pdf

Records retention and destruction schedules are addressed in SCAO Schedule 16. Schedule 16 may be found online at:

http://courts.mi.gov/scao/resources/standards/cf_schd.pdf

This schedule outlines the minimum (and in some cases the maximum) periods for the retention of trial court records.

Definition

“Records” include both paper and electronic files, and are defined as pleadings, motions, authorized petitions, notices, memoranda, briefs, exhibits, available transcripts, findings of the court, register of actions (the permanent case history), and court orders. These items are contained in the so-called “legal file”. Confidential information is contained in the so-called “social file”. MCR 3.903(A)(24).

ACCESS TO RECORDS

The general rule is that records of juvenile cases, other than confidential files, must be open to the general public. MCR 3.925(D)(1).

As previously stated, **confidential file** means:

that part of a file made confidential by statute or court rule, and includes

- (i) diversion records. MCL 722.821 *et seq.*;
- (ii) the separate statement about known victims as required by the CVRA. MCL 780.751 *et seq.*;
- (iii) testimony taken during a closed proceeding. MCR 3.925(A)(2); MCL 712A.17(7);
- (iv) dispositional reports. MCR 3.943(C)(3); MCR 3.973.(E)(4);
- (v) fingerprinting material required to be maintained. MCL 28.243;
- (vi) reports of sexually motivated crimes. MCL 28.247;
- (vii) test results of those charged with certain sexual offenses or substance abuse offenses. MCL 333.5129; and the Social File.

Petitions that the court has not authorized for filing do not fall within the definition of “records” in MCR 3.903(A)(24) and are therefore “confidential files.”

The Social File includes materials such as:

- (i) youth and family record fact sheet,
- (ii) social study,
- (iii) reports (such as dispositional, investigative, laboratory, medical, observation, psychological, psychiatric, progress, treatment, school, and police reports),
- (iv) DHS records,
- (v) correspondence,
- (vi) victim statements, and
- (vii) information regarding the identity or location of a foster parent, preadoptive parent, or relative caregiver, or juvenile guardian. MCR 3.903(A)(3)(b).

Note: No provision of the Juvenile Code makes confidential a juvenile probation or court officer's file. A juvenile probation or court officer's file may contain case notes and copies of records whose confidentiality is protected by other law. MCL 791.229 contains a "probation officer's privilege," but is only applicable to Department of Corrections probation officers.

Access to Confidential File

Confidential files are to be made accessible only to persons who have a legitimate interest. MCR 3.925(D)(2). In determining whether a person has a legitimate interest, the court must consider:

- the nature of the proceedings
- the welfare and safety of the public
- the interests of the juvenile
- any restriction imposed by state or federal law

Access to Drug Treatment Court File

If a juvenile successfully completes participation in a drug treatment court and the proceedings are discharged and dismissed, all records are closed to the public. MCL 600.1076(6).

ACCESS TO RECORDS OF CLOSED PROCEEDINGS

Delinquency Cases

If a hearing is closed to the public, the records of the hearing shall only be open by order of the court to persons having a legitimate interest. MCL 712A.28(2).

Juvenile Diversion Cases

Diversion records are "confidential files" open only to law enforcement agencies, court intake workers, and persons having a legitimate interest. MCL 722.827; MCL 722.828(1)-(2) and 722.829(1); MCR 3.903(A)(3)(a)(i).

Permanent Record of Cases Heard on the Formal Calendar

The court is required to preserve several records of cases heard on the formal calendar. The court is required to retain the register of actions, and if the juvenile was represented by an attorney or waived representation. MCR 3.925(E)(2)(d).

Use of Evidence and Records in Subsequent Proceedings

Evidence regarding the disposition of a juvenile and evidence obtained in a dispositional proceeding shall not be used against the juvenile, except in a subsequent case against the juvenile under the Juvenile Code. MCL 712A.23.

DESTRUCTION OF RECORDS

Destruction of a File Does Not Negate, Rescind, or Set Aside the Adjudication

Under MCR 3.925(E)(1), the court may, at any time for good cause, destroy its own files and records, other than an adjudicated offense described in MCL 712A.18e (2).

A judge shall not set aside any of the following:

- (a) An adjudication for a felony that would call for life imprisonment for an adult,
- (b) An adjudication for a traffic offense under the Michigan Vehicle Code (MCL 257.1 to 257.923),
- (c) A conviction for a specified juvenile violation,
- (d) Violations or attempted violations of MCL 750.145c (certain sexually abusive activity) and MCL 750.145d (use of the internet or a computer to make prohibited communications).

DESTRUCTION OF RECORDS

Diversions Records

Diversions records are to be destroyed within 28 days after the juvenile's seventeenth birthday. MCR 3.925(E)(2)(a).

Consent Calendar Records

- 1) Upon successful completion, the court shall close the case and may destroy all records of the proceedings. MCR 3.932(C)(7).
- 2) The court must destroy all files within 28 days after the juvenile becomes 17 years of age or after dismissal from court supervision, whichever is later. MCR 3.925(E)(2)(b).

Other Juvenile Records

Except for diversion and consent calendar records, the court must destroy all the files and records pertaining to a person's juvenile offenses when the person becomes 30 years old. MCR 3.925(E)(2)(c).

Register of Actions

A "register of actions" must not be destroyed. MCR 3.925(E)(2)(b).

Questions for Review:

What does the court rule consider to be a “record” of the family division?

What court records can the general public access?

What is a confidential file?

What is a social file?

Who may access confidential files?

What are the specific provisions related to the records of a juvenile who successfully completes a drug treatment court?

When may and/or shall the court destroy the following records:

- Diversion?
- Consent calendar?
- Formal calendar?

Under what circumstances may an adjudication be set aside?

What offenses may not be set aside?

What records may be destroyed, and at what point?

Chapter 12: Ethics

Ethics

Specific guidelines for juvenile probation officers accompany the Michigan Supreme Court's "Model Code of Conduct for Court Employees". You should check with your court administrator or chief judge to see if your court has adopted a code of conduct.

In addition, the State Court Administrative Office, through the efforts of a Juvenile Probation Officers Ethics Workgroup, developed a series of ethical scenarios. Each scenario is designed to provide a real-life example of an ethical dilemma that a juvenile probation officer may face. Several of the scenarios are cited in this chapter. The "Juvenile Probation Officer Ethics Training" webcast can be linked to at <http://ustools.you-niversity.com/youtools/companies/mji/archivesLayout2.html#family> Scroll down to the program title.

The Model Code of Conduct for Michigan Court Employees

All employees in Michigan's courts hold highly visible positions of public trust. We must conduct our business in an environment and in a manner that favorably reflects the ideals consistent with the fundamental values of the Michigan judicial system, as identified by the Michigan Supreme Court. These values include: fairness, accessibility, accountability, effectiveness, responsiveness, and independence. Our actions at all times should uphold and increase the public trust and confidence in the judicial branch, reflect the highest degree of integrity, and demonstrate commitment to each principle embodied in this model code.

Canon One

IMPROPRIETY OR THE APPEARANCE OF IMPROPRIETY

I will avoid activities that could cause an adverse reflection on my position or the court.

Canon Two

ABUSE OF POSITION

I will not use or attempt to use my position to secure unwarranted privileges for myself or others.

Canon Three

IMPARTIALITY

I will provide impartial treatment to all persons interacting with the court.

Canon Four

PROPER USE OF PUBLIC RESOURCES

I will use the resources, property, and funds of the court judiciously and solely in accordance with prescribed procedures.

Canon Five

DUTY TO DISCLOSE

I will respectfully disclose information required by the court.

Canon Six

CONFIDENTIALITY & DISCRETION

I will not disclose confidential or discretionary information gained through my court employment to any unauthorized person.

Canon Seven

DISCRIMINATION

I will not discriminate on the basis of race, color, religion, national origin, gender, or other protected group.

Canon Eight
**POLITICAL
ACTIVITY**

I am free to participate in political activities during nonworking hours as long as such activity does not use or appear to use my position or court in connection with such activities.

Canon Nine
DUTY TO SERVE

I will carry out my responsibilities to litigants, coworkers, and all others interacting with the court in a timely, diligent, and courteous manner.

Canon Ten
COMPETENCY

I will actively pursue educational opportunities to improve my professional knowledge, skills, and abilities in order to provide quality service to the court and the public.

Guidelines for Juvenile Probation Officers

The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

Canon One
**IMPROPRIETY OR
THE
APPEARANCE OF
IMPROPRIETY**

Probation officers are highly visible and should conduct themselves in a way that instills public trust and confidence. Their actions reflect not only on themselves, but the court as well. Improper behavior or the appearance of improper behavior may compromise the integrity of the court. Activities a probation officer engages in that are improper or may be perceived as improper include:

- Violating federal, state, or local laws and regulations.
Probation officers shall recognize that probationers have legal rights regarding new substantive offenses and apart from the issue of a probation violation.
- Entering into a contract directly or indirectly for services, supplies, equipment, or with a probationer, probationer's family, law enforcement, service provider etc.
- Outside employment that may conflict or appear to conflict with the employee's job duties. Seek approval from the appropriate authority before accepting outside employment.
Note: No form of outside employment shall be performed utilizing the resources of the court and shall not require or induce the employee to disclose information acquired in the course of his or her official duties.
- Probation officers shall not conduct financial or business dealings with probationers or their families.
- Probation officers shall not receive any personal benefit from probationers ordered to perform work to pay off fines and costs or as a consequence for failure to follow rules set up by the court. For example, if a probationer is ordered to complete two hours of community service, that service may not be filled or reduced by washing the probation officer's car.

Canon Two
**ABUSE OF
POSITION**

The use of the real or apparent power of a position as a probation officer to personally benefit the probation officer or someone else is prohibited. Probation officers should never use their position to secure privileges, gifts, special favors, or exemptions. Generally, these would be special considerations given by others to the probation officer specifically because of his or her position as a probation officer. The solicitation or acceptance of a gift, favor, or additional compensation can give the impression that something will be done in return for the donor. This contravenes the core ideals of the judiciary.

A probation officer shall not attempt to take advantage of his or her access to judges and court files to further any personal interest, or engage in *ex parte* discussions.

Canon Three
IMPARTIALITY

The official actions of a probation officer should not be affected or appear to be affected by kinship, rank, position, or influence of any party or person involved in the court system. Many times relationships place temptation upon the employee to provide special service or nonservice. Differential treatment in any of these situations undermines the integrity of the probation officer and the judicial system.

Probation officers should strive for bias-free behavior. They should be aware of different cultures and personal bias. A probation officer should understand and be mindful of both positive and negative bias.

Probation officers should not knowingly become socially, romantically, or sexually involved with probationers or their families. Any such involvement should be immediately reported to a supervisor.

Probation officers need to be able to provide impartial and understandable answers to the public's questions in an efficient manner, without providing legal advice. Only court employees who are attorneys licensed to practice law in the jurisdiction and who have received specific authorization of the chief judge/immediate supervisor may give legal advice.

Canon Four
**PROPER USE OF
PUBLIC
RESOURCES**

Probation officers, like all court employees, are stewards of public resources. A probation officer shall use the resources, property, and funds judiciously and solely in accordance with prescribed procedure. Pitfalls include temptations such as personal phone calls at the court's expense, personal use of government property (such as office supplies, printers, computers, vehicles, etc.). The time a probation officer is paid to work is also a public resources. Probation officers should refrain from conducting personal business on work time, including the time spent traveling to or from home visits in a county vehicle, or when being reimbursed by the county for mileage.

Canon Five
DUTY TO

A probation officer should expect coworkers to abide by the canons set out in this code. A probation officer shall report violations of this code or attempts to compel one to violate this code.

DISCLOSE

Probation officers must inform the appropriate authority if he or she is arrested in any jurisdiction or involved in any pending legal action at the court of employment.

When required, probation officers will dutifully disclose all financial interests and dealings.

Canon Six

CONFIDENTIALITY AND DISCRETION

Although most court records are public, some are nonpublic and cannot be released. Probation officers need to understand the types of cases, and documents that are considered confidential. Confidential information should never be disclosed to any unauthorized person for any purpose.

Sensitive information acquired by probation officers in the course of performing their official duties should never be revealed until it is made a matter of public record. Even when the information becomes public, probation officers should exercise a great deal of discretion.

Probation officers shall maintain the integrity of private information and use reasonable efforts to seek only that personal information that is necessary to perform their responsibilities.

Sometimes breaches of confidentiality do not involve intentional disclosures of official court records. Some are the result of innocent and casual remarks about pending or closed cases, about probationers, or about juries, which could give attorneys, litigants, reporters, and the public confidential information. Such remarks can seriously compromise a case or a person's standing in the community. Probation officers should discuss cases only for legitimate reasons. Probation officers shall treat personal or sensitive information with the same discretion that one would wish others to have if one were involved in a similar case. Examples of confidentiality issues are not limited to cases. Personnel, probation, health records, and information accessed through the Law Enforcement Information Network (LEIN) or the Judicial Data Warehouse (JDW) have confidential limitations.

Probation officers should guard against being overheard when discussing legitimate confidential information.

Probation officers should consult the non-public and limited access chart developed by the SCAO to assist in determining if information is public. The chart is available at the following link:

www.courts.michigan.gov/scao/resources/standards/cf_chart.pdf

Canon Seven

DISCRIMINATION

A probation officer shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin. Essential to the administration of justice is allowing equal access and treatment for all. Every day probation officers are called upon to assist people, and it is their responsibility to provide customers and coworkers with courteous service, regardless of the individual's race, religion, gender, national origin, political activities, etc. Discrimination can come in varying forms

(words and actions), yet probation officers should be aware that no form of discrimination is acceptable and when discovered should be exposed and discouraged. Preferential treatment to a certain class is also discrimination.

Canon Eight

**POLITICAL
ACTIVITY**

A probation officer's ability to participate in the democratic process by working for a political cause, party, or candidate should not be hampered by his or her employment if done outside of working hours. This participation includes, but is not limited to, holding party membership, holding public office¹, making speeches, and making contributions of time and/or money to candidates, political parties or other groups engaged in political activity. This participation in political activity should not transcend into the workplace by the displaying of political material (i.e., literature, badges, signs or other material advertising a political cause, party, or candidate), soliciting signatures for political candidacy, or soliciting or receiving funds for political purposes. In addition, no government equipment or resources of any kind are to be used for promoting political activity in the workplace before, during, or after work hours.

Canon Nine

DUTY TO SERVE

For the court to be an effective institution, probation officers must reflect a high level of professionalism as they faithfully carry out all assigned duties and enforce the rules and orders provided by the court. Probation officers shall maintain relationships with colleagues in such a manner as to promote mutual respect and improve the quality of services provided.

Probation officers shall respect the authority and follow the directives of the court, recognizing that they are an extension of the court. Probation officers shall not engage in second guessing the court or in impugning the decisions and directives of the court. This should not be construed to limit a probation officer from maintaining his/her independence in making recommendations to the court, but reflect that once the court has made a decision the probation officer shall follow the decisions of the court.

Probation officers should respect the importance of all the elements of the criminal justice system and cultivate a professional cooperation with each segment. For juvenile probation officers, this includes, but is not limited to, law enforcement, the Department of Human Services, Community Mental Health, schools, etc.

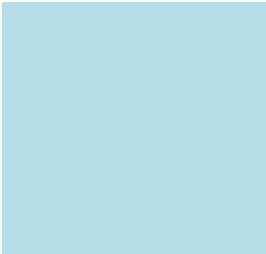
Probation officers are not to destroy, alter, falsify, mutilate, backdate, or fail to make required entries on any court records.

Canon Ten

COMPETENCY

When working within the court system, laws and rules of operation are continually changing due to legislation, court rules, administrative orders, case law, technology, advances in science and behavior

¹Holding public office is acceptable unless a conflict of interest exists with employment at the court, or it is prohibited by law. An example of a conflict includes serving on the county board of commissioners whose oversight of budget and other policy issues impact the court.



change, etc. Therefore, probation officers are encouraged to take advantage of educational opportunities that will enhance their skills, advance their understanding, and allow for better service. This includes understanding the community you serve in, being culturally competent, and networking with other professionals.

SOME ETHICAL DILEMMAS YOU MAY ENCOUNTER

Residential Placement in Out-Of-State Facility

Based upon your recommendation, the court placed a juvenile in a residential treatment facility in Arizona. Once every three months you fly to the facility and stay for a couple of days. You stay in a luxury hotel. While there, the facility tells you to explore the campus and use any of the services they offer, including golf, horseback riding, and boating all at no charge. In the evening, one of the facility managers takes you to a nice restaurant for dinner, pays for the dinner, and then takes you and a group of juveniles to a professional sporting event.

What are the ethical considerations? Is it okay to fly to the facility, stay in a luxury hotel, use the services of the facility, go to dinner, and to the professional sporting event? How would this appear to the public? How would this appear to others (public/private)?

Minimum Accepted Practice:

MCR 3.943(E)(3) states:

“Before a juvenile is placed in an institution outside the state of Michigan as a disposition, the court must find that:

- (a) institutional care is in the best interests of the juvenile,
- (b) equivalent facilities to meet the juvenile's needs are not available within Michigan, and
- (c) the placement will not cause undue hardship.”

Once the court makes the decision to place a youth in a facility (whether in state or out-of-state), periodic visits should be made to allow first-hand observation of contracted services, maintain contact with the youth, and keep the youth connected to the community. Any time you are representing the court you are accountable and must be able to justify your activities to your court administrator and chief judge.

Probation officers should be sure that they are aware of the court’s policy regarding probation officer’s participation in activities while visiting a facility. Probation officers should discuss with their supervisor what activities are appropriate and what are not. You should understand how it appears to others (coworkers, supervisor, the public, and other agencies).

Your court’s residential contracts likely specify that the facility will pay the cost of travel, meals, housing, etc. These costs should be reasonable and consistent, when practicable, with your court’s travel policy. If you have any questions regarding your court’s travel policy, or acceptable activities, you should consult with your supervisor, court administrator, or chief judge prior to the visit.

Best Practice: The best practice is not to accept any gifts, dinners, sporting events, or participate in free extra-curricular activities while at the facility. The focus of the visit should be the welfare of the juvenile and the adequacy of the facilities. You should limit your activities to appropriate business activities.

Job Competency

While observing a fellow probation officer explain court procedures and due process rights guaranteed to all juveniles, you notice several errors and omissions. Afterward, you advise your colleague of your observations, to which he replies: "I didn't know that, and it doesn't really matter anyway." You know it matters to the judge, to you and other probation officers, and especially to the juveniles that come into your court.

What do you do? Do you bring this to anyone else's attention? Should you have interrupted your coworker during their explanation?

Best Practice: It is important for you to bring these issues to the attention of your coworker and supervisor. Your colleague may, perhaps unwittingly, be violating probationer's due process right, contrary to longstanding U.S. Supreme Court decisions. Michigan Supreme Court Administrative Order 1985-5, as amended, requires a juvenile probation officer or caseworker to meet certain educational, experiential, and training thresholds to achieve certification. This includes knowledge of the juvenile justice system and the ability to be effective. In addition to a policy and procedures manual, there are a number of ways to keep abreast of trends and issues in juvenile justice including subscribing to various free internet-based publications, attending training and seminars, as well as, various online tutorials. The most up-to-date statutes may be found on the Michigan Legislature website:

[http://www.legislature.mi.gov/\(S\(ckr5xt4543lv1k55svaf1pz2\)\)/mileg.aspx?page=home](http://www.legislature.mi.gov/(S(ckr5xt4543lv1k55svaf1pz2))/mileg.aspx?page=home) and current (as well as proposed amendments to) court rules and court of appeals and supreme court cases, may be found on the Michigan Supreme Court website (see link below). At a minimum, probation/casework staff should be given administrative time, during regular work hours, to participate in training, and should include the ability (via internet access, streaming video, and sound cards) to access online tutorials. You should also encourage administration to provide opportunities for outside training (which also allows you to interact with professional colleagues) and regular and routine in-service trainings. Link to <http://www.courts.michigan.gov> to start your search.

Judicial Elections

Your judge is up for reelection, and while she is expected to win, this is the first contested judicial election in your court for some time. You like and respect your judge and think she should be reelected. One day, she approaches you and asks you to work on her campaign, and to start that day. In fact, she has a campaign flyer she wants to get distributed at a social function this evening, and asks you to take some time this afternoon and make the flyer look nicer by adding some graphics, and then making 100 copies to distribute. She knows you don't have time to go home and do this, or to make it to the local copy shop.

How do you respond? Would it make any difference if you could go home and do this? Would it matter if you didn't think the judge should be reelected?

Best Practice: You are welcome to work on your judge's reelection campaign, as long as you do it on your own time and with your own resources, or resources provided

somewhere other than by the court. It is not ethical for your judge to ask you do this during work time (see the Code of Judicial Conduct, Canon 7), and it could be construed as illegal (see MCL 15.404 and 405). Of course, it is not as easy to do, as it is to say. Your judge is your boss and it may be difficult to say “no”. If you want to work on her campaign, you may let her know of your willingness to do so, outside court hours and with outside resources. It is likely that she did not even think about the potential inappropriate use of court resources when she asked you to perform the task. The MJJ has a web-based training titled “Making Ethical Decisions” designed for the nonjudge. One module addresses judicial campaigns. Link to:
<http://webcast.you-niversity.com/you-tools/companies/mjietical/makingethicaldecisions.html>.

Accepting Gifts 1

As a probation officer, you invest a lot of time with a juvenile on your caseload. You set up counseling services, community service, and substance abuse treatment for the juvenile. The juvenile has difficulties while on probation, but you are consistent and fair with the juvenile. You have established a respectful relationship between you, the juvenile, and the juvenile’s parents. After a year, you recommend that the court discharge a juvenile from the jurisdiction of the court because he has made great personal progress. The court agrees and discharges the juvenile. The parents are grateful for all of the work you have done and you receive a basket of homemade cookies and a card thanking you for all you have done.

What do you do? What are the ethical implications? Does it matter if the file is open or closed? Does it matter what the gift is? Gift certificate, money, favor, service? How would your answer differ if the juvenile were 18? Would your answer change if the juvenile were still on probation? What if the juvenile has siblings that may have contact with the court?

Minimum Accepted Practice: The provisions of the Code of Judicial Conduct, Canon 5, Section C(4), prohibit judges and their family members from receiving gifts, except in certain limited circumstances. Prudence dictates that judges should require court staff under their direction to observe the same high standards to avoid any appearance that the official actions, decisions, or judgments of any court employee could be influenced by gifts (see Canon 3, Section (B)(2)). While the spirit motivating potential gifts may be appreciated, gifts are not appropriate.

Accepting Gifts 2

You attend a juvenile justice conference with fellow probation officers. Vendors are set up at the conference to market their products, facilities, and programs. When you come back from the conference, a coworker, Joe mentions that he golfed with the one of the vendors who paid for the golf. Your coworker, Jane indicates that she loves conferences because of all the free stuff. She said she went to dinner with some other probation officers and a vendor. At the end of the meal, the vendor picked up the entire bill. All you left with was a pen.

What are the ethical implications? Was it okay for Joe to accept the golf? Was it okay for Jane to accept the dinner? Was it okay for you to take the pen?

Minimum Accepted Practice: If all conference participants have access to a variety of vendors, and these vendors make small marketing items available to anyone, there is generally no problem taking some. However, the probation officer is still cautioned about

displaying these items to clients, parents, and other court users. These items are distinguishable from individual benefits such as golf and dinner, which should not be accepted.

Best Practice: The probation officer should not accept any gifts or free “activities” from a vendor as acceptance of a gift implies an agreement exists between the parties; there will be an expectation of a payback. While the accepting of small items, such as pens embossed with a vendor’s logo may seem innocent, using these items while employed as a probation officer may be perceived by some as a preference toward that vendor. In addition, as each juvenile justice conference participant is representing his or her court, negative behavior reflects poorly on the court and the chief judge: care must be taken to avoid any activity, which will cast doubt on a court’s ability to remain bias free and impartial.

The probation officer has a duty to disclose to his/her supervisor that coworkers have accepted gifts or activities from the vendor.

Duty to Report

You have been a probation officer for five years. One of your coworkers, Mark, has been promoted to a juvenile referee position and a new probation officer, Connie, has been hired to fill the vacancy. Mark suggests that all of the probation officers go out for a drink after work on Friday to celebrate his promotion and welcome Connie to the office. You meet at a local bar and have dinner and drinks. The group is very loud and boisterous. At one point, you are discussing war stories and laughing at the crazy things that you’ve come across in this line of work. Mark is extremely intoxicated. When it is time to go home, you suggest that he call a cab, but he declines. He leaves the bar, hops in his car, and takes off. On Monday, you ask Mark how his weekend was. He tells you that he was arrested for drunk driving, but he’s sure he can convince the prosecutor to dismiss the charge. He also tells you not to tell anyone else because he would lose his job. You are aware that probation officers stick together and this office has always had a “code of silence”.

What do you do? What are the ethical considerations? Is there any issue with probation officers drinking at a local bar? Is it okay to discuss “war stories” in public? What are your ethical obligations in regards to Mark’s behavior? How is Connie impacted by these circumstances?

Minimum Accepted Practice: Inform Mark that he must inform his supervisor and/or the judge of his arrest. Also, inform him that you will be reporting the incident to your supervisor and the judge. You should also report the possible breach of confidentiality that occurred during the loud and boisterous discussion of your experiences. Failure to do so may put your job at risk. The best practice is to never discuss cases and your personal experiences in public. When probation officers meet in a public place that serves alcohol, the potential for improper behavior goes up. This increases the likelihood that their actions are going to reflect poorly on the court. Even though it is legal for probation officers to drink alcohol at a bar, you must remember that the public is watching your behavior and your behavior should not create a negative image of yourself or the court. The best practice is to restrict your celebratory gatherings to private locations.

Probation officers are never to use their position to secure privileges, special favors, or exemptions. The best practice is to avoid any improper behavior that could compromise the integrity of the probation officer and the court.

(Dis)Agreeing with Judge's Order

Jim has been on probation with you for six months. He has a short delinquent history and is under the court's jurisdiction on a retail fraud charge. The day before his review hearing, he calls to tell you that he got into a fight after school. He isn't facing any additional charges and you know the other kid involved in the fight. The other kid is an instigator and you frequently have problems with him. Jim has paid all of his fines, costs, and restitution. You are recommending that the court discharge Jim from probation and before the hearing, you tell Jim that he won't be on probation after the hearing. At the hearing, the judge learns of the fight and orders continued probation as well as anger management class. After the hearing, you meet with Jim and his family. You tell the family that you are displeased with the judge and he is "not being fair and completely over reacted."

What are the ethical implications? How could you have handled this differently? Was it okay to tell Jim that he would not be on probation after the hearing? Was it okay to disagree with the judge?

Minimum Accepted Practice: Be honest and do not keep any information from the judge. It is never acceptable to undermine the judge or speak negatively of the court to a client and his/her family. Although you might not agree with the judge, your primary responsibility is to serve the court. The probation officer's responsibility is to make a recommendation to the court and the court is responsible for making the final determination. This should be communicated to the probationer and his/her family. The probation officer also needed to be upfront with the client/family to explain what was recommended but that you have obligation to inform the court of any violations and that the judge might not see it favorably.

Cultural Competency

Your colleague, Mary, who has been with the court for several years, is extremely bright and competent. Others, including her supervisor, continually commend her work ethic. She adorns her office with religious artifacts and is never seen without a crucifix around her neck. She is often overheard bidding farewell to her probationers with the phrase "God Bless You!"

Are there any concerns with the way Mary decorates her office? Her appearance? Her speech? Should she do anything differently? Should you discuss this situation with anyone?

Minimum Accepted Practice: A probation officer may possess small pieces of commonly worn jewelry, but should remove all other religious symbols from his or her office and should refrain from engaging in religious speech.

Best Practice: The best practice is to avoid religious symbols or speech in the work place as any activity, which might imply favoritism or bias, must be avoided. Even innocent and sincere uses of religious symbols or speech may be misinterpreted by a court user who may perceive a probation officer's religious preference as, at best, uncomfortable or, at worse, invasive. Further, as a representative of the court, the probation officer must

avoid activities that may affect the perceived impartiality of the court and its judge(s). Probation officers represent the court, and must display the appearance of bias free behavior. For a pamphlet describing Michigan Supreme Court Administrative Order 1990-3, see: <http://courts.michigan.gov/scao/resources/publications/pamphlets/bias.pdf>

Ethics impact your daily decision-making. When questioning whether or not a certain course of action is ethical, and until such time as you are completely comfortable with the ethics, you should keep the canons and guidelines close to you for easy reference.

Questions for Review:

What are ethics?

What are the ethical canons?

How do the ethical canons impact your role as a probation officer?

What are some ethical dilemmas you may face, and how should you handle them?

13: Interviewing, Report Writing, and Testifying in Court

Chapter 13: Interviewing, Report Writing, and Testifying in Court

The youth and families coming into court typically have little time with the judge and/or referee. It is the probation officer/caseworker with whom they will have the greatest amount of interaction and who is likely to have the most impact. Establishing, maintaining, and enhancing competent skills are the core function you provide to the court, the individual, and the community.

INTERVIEWING

Be prepared.

It is best to conduct the initial interview with the juvenile and his family in your office if at all possible. The interview that is conducted in the office takes away external distractions of the juvenile's home (television set, siblings, barking dog, etc.). Conducting the initial interview in the office or court setting also presents a formal beginning to the legal process and sets the tone for the juvenile's probation.

Usually the probation officer has an outline or a written list of questions that needs to be answered and needs to be included in the initial report of investigation. Many courts require that face sheets, which list demographic information about the family, be prepared at the time of the investigation.

It is at this initial interview when a great deal of information is exchanged. At the same time, parents and the juvenile will form initial impressions of the juvenile probation officer.

When interviewing a juvenile and his parents, attempt to ask questions which cannot be answered with just one word. Try to ask open-ended questions that will produce responses that the juvenile can then "piggy-back" on and develop into the next question.

As the comfort level between the juvenile, parents, and the probation officer increases, the information that is given and received quite often is greater and more important than information that would be received from very strict and controlled interviewing. If it appears that one parent seems to be dominating the interview and providing most of the information, it may be necessary to interview the parents separate from the juvenile or in some cases the parents separate from each other.

At no time during the interview process should promises be made in regards to the outcome of probation or of orders that might be created by the court. It is important to explain to the juvenile and his/her parents that information gleaned from the interview process will go into a report that the judge will review in making his or her determination in regards to probation. Parents who feel that certain information is confidential should be told that their degree of cooperation will be noted in any report. All information shared should be weighed before it is included in a report of investigation.

Courts also require that the appropriate releases of information be signed at this time. Releases of information allow the probation officer to interview and/or obtain relevant information from agencies that have had dealings with the minor. Some of these agencies include schools, counselors, special education records, and immunization records. Release of information forms should be as specific as possible, especially if

you are seeking medical records. Medical care providers are subject to Health Insurance Portability and Accountability Act (HIPAA) regulations and are hesitant to release health care information not specifically requested. See the sample INFORMATION RELEASE AUTHORIZATION in the “sample forms” section at the end of Chapter 14.

If the initial interview is conducted in the juvenile probation officer’s office, then subsequent interviews prior to the dispositional hearing may occur in the family’s home. Contacts can also be made with the juvenile in his or her school. Even if the family is known to the court via other court contact the information gathered through the interview process should be the judge’s basis for the order of probation.

Assessment

During the interview, the probation officer should be making an assessment of the juvenile and his/her family. In order to do so, a number of factors must be considered:

- 1) offense
- 2) history
- 3) family
- 4) risk to community
- 5) risk to self

The probation officer must be aware of the importance of maintaining a working relationship with the youth and family. Probation officers should expect that the family will be protective of the very information needed to make an accurate assessment. In some cases, families may become hostile. The key is to focus on the issue(s) that has/have brought the youth before the court. The youth and family need to understand that the court needs sufficient information to make an appropriate disposition.

THE SOCIAL HISTORY INVESTIGATION—AND CASE PLANNING

The purpose of the social history investigation is to compile information regarding all areas of the minor’s life including school, family, psychological and psychiatric treatment, and health issues to formulate an appropriate case plan for the minor. In the case plan, the probation officer is trying to establish what he/she believes will work best with the client.

The case plan should list the specifics of the types of interventions the probation officer believes will work best for the client and family. Examples include the following:

- 1) probation
- 2) counseling individual or/and family
- 3) community service
- 4) restitution
- 5) school placement
- 6) employment

The first meeting with a family is an ideal opportunity to explain the court process, answer questions, and gather necessary information. In addition, it is often helpful to ask the family to provide documentation in the form of the minor’s birth certificate, social security card, health insurance card, and last school report card.

I: Family

A list of the minor's siblings and pertinent information regarding parents or guardians such as employment status, military experience, and justice system contact are necessary. In addition, marital information and mother's maiden name can be helpful for future reference.

II: School

Where the minor attends school, grades, grade attending/last completed, disciplinary problems, extracurricular activities, honors or recognition and special education certification are all important.

III: Psychological/Psychiatric Treatment

A list of any therapists the minor has seen, prescribed medications, diagnoses, and mental health hospitalizations. It is important to get a picture of any special needs the minor may have and to insight into any mental health issues.

IV: Health

Medical insurance information, name of their primary care physician, known medical problems, any injuries, and known allergies. These can become significant should the child ever be removed from the home.

V: Substance Abuse

It is important to stress to the minor and their parents that this information will not be used against them but will be used to formulate any future case plan. Questions regarding the age at which the minor first used marijuana/alcohol/other, date of last use of marijuana/alcohol/other, and frequency of use are valuable.

VI: Miscellaneous

Other areas of importance are

- history of fire-setting (arson)
- physical abuse (victim/offender)
- sexual abuse (victim/offender)
- gang involvement
- suicidal ideation/attempts
- runaways

Also, prior court involvement and previous out-of-home placements are pertinent. The probation officer should also get some idea of the family's strengths, and the youth's strengths, as a foundation for building upon.

During the social history investigation, it is important to ask the parent/guardian to sign a release of information so that information can be verified. A sample information release form and an example of a delinquency work sheet appear in the "sample forms" section of Chapter 14.

INTERVIEWING AND NONVERBAL COMMUNICATION

Nonverbal communication is usually understood as the process of communication achieved through sending and receiving wordless messages. Messages can be communicated through gestures and touch, body language or posture, facial expression, and eye contact. Some experts believe that nonverbal communication contributes to over ninety percent of a conversation, and the spoken word less than ten percent. No matter how much someone tries to control it, nonverbal behaviors give clues to true feelings.

Knowing some of the cues can assist you in two important ways:

1. Help you spot someone who is not telling the complete truth; and
2. Help you learn body language cues that establish or undermine someone's credibility.

Possible Nonverbal Deception Indicators

The Long Pause: Deceivers use longer pauses, shorter answers, and longer times between a question and a response than someone who is merely nervous. This makes sense, because it takes longer to create a lie than to recall the truth. If you ask a juvenile whether (s)he has been drug free—assuming it is a condition of probation—and there's a long pause before his/her response, it might be an indication of deceit.

Eye Movement: Watch the interviewee's eyes immediately after you ask a question for "microexpressions". People tend to look up the right to visualize or create a new response, or down to the right to create the sounds of a new response. We recall information that occurred in the past by looking up to the left, or down to the left. Spot a deceiver by listening for pauses and right eye movement.

Excessive Gesturing and Adaptors: When people deceive spontaneously, they tend to spend more time gesturing with hands and using adaptors (such as scratching the body or playing with a pen) than someone who is just nervous. If the interviewee starts playing with a pen/pencil, scratching, etc., (s)he may be subconsciously saying something else. On the other hand, someone who has practiced their deceit ahead of time will try to control gestures. Spot a deceiver by excessive gesturing.

Mouth, Lips, and Tongue Cues: Pursed lips may be a sign of extreme anxiety, withholding information, or aggressions. Tight lips indicate the interviewee may be planning to hold the truth inside them. When someone is nervous, the mouth becomes dry and they may be licking their lips and swallowing hard to find the right words to say. To spot a deceiver, look for unusual movement of the mouth, lips, or tongue.

Lack of Animation: Practiced deceivers usually keep as still as possible. Being overly controlled can work against the interviewee. If you know that the person you are interviewing is normally animated, and their interview with you is stiff or controlled, they might be practicing deception.

Hiding Hands: Deceivers tend to keep their hands hidden and still. They stick them in their pockets, clench them together, or hold them behind their back. Imagine, as you are interviewing, that the other person is holding the truth in the palm of their hands, and see if (s)he shows them to you. One researcher has determined that the single most

important factor in the handshake is palm-to-palm contact, and that if people don't get that contact, they wonder what the other person is hiding, and they are uncomfortable with the rest of the interaction (see: P. Wood, *Understanding Deception and Credibility Cues*, p.3, 2002).

Closed Curtains: There are "windows" at the bottom of the feet, the kneecaps, the bottom of the torso, the middle of the chest, the neck, the mouth, the eyes, and the top of the head. Deceivers tend to close entrances to hide the truth. They cover them with clothes, turn the body away from the person they are talking to, put objects or furniture between themselves and others, and most simply, by folding their arms. For instance, if someone has their face turned toward you, but their body turned away, their windows are closed.

Withdrawn Behavior: Deceivers don't usually feel very comfortable and so they tend to hold back and be less friendly. While it is quite usual for a probationer to be unfriendly toward their probation officer/caseworker, if they are unusually unfriendly, this may be a cue that they are deceiving.

Excessive Confidence: If the interviewee's sound or pitch (their *paralanguage* that includes voice, tone, volume, and speaking rate) seems out of the norm, they may be practicing deception. Spot a deceiver by your "gut reaction". Your instinctual, subconscious read of the situation is usually accurate.

Nonverbal Behavior and Spoken Words Don't Match: Look for the alignment of the circumstances with the demeanor of the person you are talking to. If, for example, someone is saying they are upset or embarrassed, but are extremely calm and become indignant, or if they say nothing is wrong, and their arms are tightly wrapped around their body, they are probably practicing deception.

The Smile: A smile is the most common facial expression for masking emotions. It is often used to hide displeasure or anger. A genuine smile changes the entire face: the eyes light up, the forehead wrinkles, the eyebrows and cheek muscles rise, skin around the eyes and mouth crinkles, and the mouth turns up. In a masking smile, however, nothing moves but the corner of the mouth, and that often turns down.

REPORT WRITING

The purpose of report writing is to provide the court with an accurate record of the interactions that occur between court agents and court clients. It is designed to inform the court of all the relevant information it needs to make a decision regarding what role it will play in the life of a young man or young woman. In short, the system of reports is a narrative that chronicles the time frame between a youth's entry into the system and his/her exit from the system. Every young man/woman who comes into the system has a file. That file may begin with a person as young as eight or nine years old and end with a person as old as 20 or 21. It may be reviewed by numerous hearing officials (i.e. judges and referees), throughout the time in which the court has jurisdiction.

All reports must be well written and done in a professional manner. These reports contain critical information that allows the court to make important decisions. The nature of these reports may vary pending on the jurisdiction; however, there are some basic requirements.

VARIOUS REPORTS

Throughout the course of this section, we will examine various report types.

Social History/Predisposition Report/Report of Investigation

Upon completion of the interview and in preparation for the dispositional hearing, background information is gathered. The report that results is sometimes referred to as a social history, predisposition report, or a report of investigation (ROI).

This report is the first of what may be a sequence of reports, depending on the juvenile's progress while on probation. The written report with recommendations is submitted to the court at the dispositional hearing for the court's consideration. Juvenile probation officers must develop a detailed understanding of the juvenile, determine the impact of the alleged offense on the victim(s), and prepare and assess available options in regards to programs. At the dispositional hearing, the ROI is presented to the judge. Any statements made in the ROI may be repeated by a defense attorney, prosecutor, or the judge in open court. Do not put something in a report that you do not want the parents to hear.

Greatest attention should be given to the closing summary. It is in this section that the probation officer justifies their recommendations. It should be assumed that the various participants in the courtroom workgroup (i.e. judge, probation officer, referees, caseworkers, attorneys) will carefully scrutinize the recommendations. It is important to develop a reasonable set of recommendations or goals. These recommendations or goals must offer the youth a fair opportunity to succeed. Some probation officers will state a specific set of recommendations. Others may choose to list specific goals and objectives. In the latter case, the objectives serve as a road map to attaining the goals.

ROIs should tell a story in a short and concise format. ROIs should be proofread for grammatical errors. As stated earlier, the report becomes part of the court record. It will have your name on it. This requires that professional care be taken. The reports must also be done within the established time lines of a given court.

Quarterly Reports

Quarterly reports are designed to update the court on the youth's progress. This report should include a case update, case goals, case plan, problems identified, and client contacts. Quarterly reports are not usually prepared with a court hearing in mind.

Supplemental Reports

The supplemental report can serve a variety of functions. Most often it is used as an addendum to other reports. The purpose of the supplemental reports is to provide the court with updated information after a quarterly, rehearing, or a review hearing report has been completed. Supplemental reports include the following:

- 1) matter before the court
- 2) case update (additional or new information brought to the court's attention)
- 3) recommendations (changed or left the same)
- 4) support (for changed recommendation)

Dispositional Summaries

If, while on probation, the juvenile commits another offense, then a dispositional summary is prepared (not a second report of investigation). The dispositional summary will bring the court up-to-date as to what has occurred in this case since the previous hearing. After each ensuing violation of probation or additional charges, dispositional summaries would again be completed.

The dispositional summary should contain the following:

- 1) caseworker's evaluation (problem/progress, adherence to probation rules, general case update)
- 2) victim statement (if necessary)
- 3) recommendation and support
- 4) case plan
- 5) updated goals and objectives, and
- 6) additions or modifications to treatment plan

Note: This format may also be used in the event that the minor is brought before the court for subsequent probation violations or a new criminal complaint.

SPECIALIZED REPORTS

Designation Reports

Designation or institutional reports fall into the category of specialized reports. Specific information is needed because the court faces the possibility of sanctioning a minor, which may involve placing in an institution or in extreme cases, placement in an adult facility.

There are two types of designation reports. One is for a court-designated case where a judge has to decide on designation as an option. The second is a designation case involving a specified offense where no designation hearing is needed.

Designation Hearing Report

Juveniles can be designated for any felony and even misdemeanors, but unless they are being designated for a “specified offense”, they are entitled to a designation hearing. The designation hearing is similar to Phase II of a traditional waiver hearing. The court must determine whether or not the juvenile is designated and the report must address the weighted issues set forth MCR 3.952.

- 1) seriousness of the offense
- 2) the culpability of the juvenile in committing the offense
- 3) juveniles record of delinquency
- 4) juveniles programming/placement history
- 5) the adequacy of punishment or programming available in the juvenile system

In the shorter version of the designation report, the following elements should be present:

- 1) matter before the court
- 2) case update
- 3) dispositional options available for the juvenile
- 4) recommendations

Sentencing Hearing Report

The designation case involving a “specified offense” requires a longer format. MCL 712A.2d(2); MCR 3.952.

- A) Matter before the court;
- B) Case update;
- C) Disposition of options available for a juvenile (this section should represent the possible dispositions available for the juvenile in the juvenile system, i.e. probation, day treatment, ACT 150, etc.);
- D) Recommendations: This section should contain the following:
 - 1) Should the minor stay in the juvenile system (specify what services or placement options are available);
 - 2) Should the court delay disposition of the adult sentence (specify the adult sentence the minor is facing if imposed); and
 - 3) Should the court impose the adult sentence (specify the adult sentence based on the presentence report).

The recommendation should be followed with the rationale outlining what has worked or failed in the past based on prior history. Distinction must be made as to whether it was a court-designated case or a prosecutor-designated case.

Institutional Placement Reports

Institutional reports require that the probation officer outline why he/she believes a juvenile should be placed in an institutional placement. The structure of the report should follow the format of the supplemental report with certain modifications. The following information should be included:

- A) matter before the court
- B) case update
- C) prior history
- D) results of previous interventions
- E) screening committee recommendation (if your county requires an administrative screening team examine all cases where out-of-home placement may be recommended)

- F) institutional options available
- G) recommendations
- H) support for recommendations
- I) recommendations for out-of-state facility (out-of-state placement can only be made when there are no equivalent in-state placements for the court or DHS to consider).

Waiver Reports

Waiver involves the court and/or the prosecuting attorney's effort to hold a youth accountable as an adult for their actions. There are two types of waivers that the court may perform.

1. Automatic Waiver

The prosecuting attorney has sole discretion over whether a qualified minor will be tried as an adult. In automatic waiver, a minor has to be 14 years old and have committed a serious offense. In automatic waivers, probation officers do not have a report writing responsibility. Once the prosecutor makes the decision to waive the case, it is immediately transferred to adult court.

2. Traditional Waiver

Consists of two phases:

Phase I: A probable cause hearing; and

Phase II: The court's determination as to whether a minor can be treated in the juvenile system.

Phase I: The court, in this phase, is seeking to establish probable cause for the waiver. If the court does not find probable cause, the proceedings will end. NO report is needed at this time. If the court finds probable cause then a Phase II hearing date will be set.

Phase II: Criteria for Waiver

During Phase 2, the court must make the critical determination as to whether a minor can remain in the juvenile system, or be tried as an adult in the adult system. The probation officer has a major responsibility to provide the court with all of the information it needs to make such a decision. The probation officer, in addition to preparing a report, may also be required to testify about the contents of this report. As with designation reports, the specifics may vary from court to court, however, important elements must be present, including:

- A) prior record and character of child (physical and mental maturity as well as pattern of living)
- B) seriousness of offense
- C) pattern of offenses (if the offense is part of a repetitive pattern of offenses, indicating that family division services have been unsuccessful)
- D) the relative suitability of programs and facilities available to the juvenile and the court for the child in the juvenile system and the adult system
- E) whether the best interest of the public welfare and the protection of the public security generally require the juvenile to stand trial as an adult

Because Phase II represents a critical stage, the probation officer must be thorough in their examination of the criteria. The court usually gives the probation officer wide latitude to conduct their investigation. This may include interviews with all relevant individuals in the child's life: family members, school officials, classmates, codefendants, detention staff, victims, and other agencies.

Closing/Dismissal Summary Report

Perhaps the most looked-forward-to report is the dismissal summary. Usually, dismissal summaries mean the youth has successfully complied with probation terms and is ready to be discharged from probation.

There are two basic forms of dismissal:

- 1) A dismissal for completion of all terms of probation
- 2) A dismissal for maximum benefits

Dismissal for successful completion of probation lets the court know that the juvenile has complied with every demand made on him or her by the court. It is important for the juvenile probation officer to understand that holding onto cases until everything is perfect will more than likely result in a caseload that is so large it becomes unmanageable.

Dismissal for maximum benefits usually implies that all programs have been tried and limited success has been achieved.

If the juvenile completes a period of probation, then a dispositional review is held. In some courts, judges do hold most of their own reviews.

In preparing a dismissal summary, emphasis is on the conditions of probation adhered to and the progress, or lack of progress, made. The standard period of time for conducting reviews is every six months. In a review, much like a dispositional hearing, testimony is usually given by the assigned juvenile probation officer. Testimony is based on a report that is submitted to the court prior to the hearing. As in most court hearings, copies of reports can be given to the parent and the juvenile. It is very important that the juvenile probation officer is honest with the parents and the juvenile as to the recommendations being made and what was said by the juvenile probation officer in the report that is presented to the court.

COMMONALITIES OF ALL REPORTS

Several common points for report preparation:

- A) Set time frames that include months, day, and date when certain requirements or probationary orders are to be completed.
- B) Be specific as to when an event occurs. Don't say "this past summer" or "during the school year". State month, date if possible, even time of day, if possible.
- C) Set realistic goals for the juvenile. Perhaps it is unreasonable to consider that a juvenile can complete 200 hours of community service work. Don't give a 13-year-old six months to pay \$1,000 in restitution.
- D) Try not to impart your values on the youth you work with. For example, a probation officer speaking to a juvenile who is skipping school was overheard to say, "You will never amount to anything if you don't complete high school." That statement was made in front of a parent who did not have a high school diploma.
- E) Be honest with the parents and the juvenile regarding the recommendations being made and as to what was said by the juvenile probation officer in the report presented to the court.
- F) Reports should tell a story in as few words as possible. Stick with the "who, what, when, and where" concept.

- G) Your next report should pick up where your last one left off. Reports will be read by other agencies, psychologists, and workers long after you have left the court. Attorneys don't know any history other than what clients have told them. Your report is very important.
- H) Greatest attention should be given to the closing summary of your report. Justification of your position, in contested matters, will be carefully scrutinized by lawyers.

Conclusion

In this section, we have discussed the importance of report writing. We have examined the various types of reports that courts require. It should be noted that these reports and their criteria might differ from court to court. What is consistent is the emphasis that the probation officer must place on the importance of each report that he/she writes. Reports must be fair and accurate. Information contained in them becomes part of the record. The probation officer must at all times be prepared to testify about statements contained in the report. These reports must be done in a timely and professional manner. In doing so, the probation officer ensures that the record of a youth meets all the criteria that a given court requires. Hopefully, the information provided here is applicable to all courts. It is important to note that report writing is an ongoing process. It will be repeated many times during a probation officer's career. The more comfortable and familiar you become with the process, the better your reports will be. The key is to understand your case and be prepared.

TESTIFYING IN COURT

One of the most uncomfortable parts of being a probation officer is the moment the worker is called to the stand in the presence of the judge, the prosecuting attorney, and perhaps several defense attorneys. The juvenile probation officer will be better prepared for that moment if they follow several basic concepts.

Be Prepared

It is important that you have prepared prior to going to court. It is always important that you have gone over your report and that you are completely confident in your recommendations. Taking several minutes prior to court to speak with the parents and to speak with the juvenile in regards to your recommendations will be well worth it if you are aware of any concerns or objections that they have prior to you getting on the stand.

Tell the Truth

Always, Only, and Forever. Think about being on the stand in front of the judge and being caught in a lie or giving untruthful testimony. Do not hesitate to correct mistakes. If you have said something that you realize is not completely accurate, make sure that you correct that mistake. Do not look to an attorney or the judge for guidance when answering. If you don't know the answer, just say you don't know the answer. Answer questions fully and completely and then stop your response.

Look Professional

Prior to going to court, it is important that the worker be professional. Dress neatly, modestly, even conservatively.

Speak Clearly

Speak clearly, distinctly, and with conviction. Look at the person who is asking you the question. Do not exaggerate. Speak plainly, directly, and with sincerity. It is important that the juvenile probation officer not become argumentative, abrasive, or hostile to any attorneys that may be questioning your recommendations.

Be Calm

Remain calm and composed. Try to relax. A good defense attorney will be able to tell if they are rattling you. Do not avoid questions, know the answer. Do not ramble.

Questions for Review:

What is the purpose of interviewing?

What is an assessment and what factors should be considered?

What is a “social history investigation”?

What are the contents of a social history report?

What are nonverbal deception indicators and why is it important to probation work?

What are the different types of reports you may be expected to prepare?

What are some keys to testifying in court?

(Materials for this chapter were prepared by Mr. Felix Brooks, 9th Circuit Court, Family Division; Mr. David Buck (Ret.), 30th Circuit Court, Family Division; Ms. Mary Hickman, Charlevoix County Family Court; and Ms. Jill Bade, 7th Circuit Court, Family Division).

14: Case Management

Chapter 14: CASE MANAGEMENT

WORKING WITH JUVENILES

In this chapter, the specific work of a juvenile probation officer/caseworker will be examined. For easier reading, from now on caseworker may be used interchangeably with probation officer.

Forest E. Witcraft gave one of the best descriptions for the role of a probation officer. He said, *“One hundred years from now it will not matter what my bank account was, the sort of house I lived in, or the kind of car I drove, but the world may be different because I was important in the life of a child.”* One of the rewards of being a caseworker is the opportunity to make a difference in a juvenile’s life. Throughout your career as a probation officer, you will work with many great youth, some charming ones, and a few very tough ones.

One of the biggest differences between the juvenile division and that of the adult courts is the emphasis on rehabilitation. According to Webster’s Dictionary, rehabilitation is “the process of improving the [individual’s] character so he will become a productive member of society.” The principle role then of any juvenile probation officer/caseworker is that of helping young people improve themselves.

GETTING STARTED

The First Meeting

As mentioned in the prior chapter, first meetings between caseworkers and families usually take place in the office after some type of court hearing. There are times when the first meeting could be held in a detention center, jail, or some type of shelter. During this first meeting, it is important to introduce yourself and your role with the court system. It is not in anyone’s best interest to demonstrate the power you have. Your “power” comes from the court you represent, so always represent your court in the most professional manner.

During this initial meeting, it is also important to explain thoroughly what your role will be in the young person’s/family’s life. If you will only be seeing them in the office, say so. If you will be making home visits, explain your expectation for that. If possible, read all reports before meeting with them so that you may note something of interest with the juvenile. This will assist in building a relationship with the juvenile and his/her family.

Expectations of Good Caseworkers

Probation officers play many roles. Sometimes it is as enforcer, making sure all court orders and probation terms are being fulfilled. Other times, it is that of mentor, guiding youth through the system. As an educator, a caseworker will teach valuable social skills to assist youth in their daily lives. Probation officers are also confidants, cheerleaders, role models, and sometimes parent figures. Whatever the role, there are several expectations that juvenile officers hold. They include:

- 1) **Lead by Example.** The saying “kids don’t listen to what you say, they watch what you do” is very important. You need to be ethical, law abiding, honest, and hard working. These kids need role models they can look up to.

- 2) **Explain All of Your Expectations.** Be very clear on the probation terms and court orders that you expect the youth to follow. If you expect him/her to be home on time for curfew, explain exactly what time curfew is set for. If you expect attendance at school daily, be very clear that you are expecting him to be in class, prepared, with his books and papers at the start of class, and that he needs to remain there for the entire day. Teens often look for an out – do not give it to them.
- 3) **Be Consistent.** Many of the juveniles you will work with have been disappointed by the adults in their life. They have learned that they can't be counted on. If you tell them you will meet with them next Tuesday at 4 p.m., make every attempt to be there. Should the occasional emergency arise and you can't make that appointment, be sure to call them or leave a message with information as to when they can next expect you.
- 4) **Make a Connection.** Youth want to be treated as individuals. The best caseworkers are the ones who will take the time to make a connection. Whether you have a caseload of 20 or 40, the most important thing you can do is to help them feel they matter. One probation officer from northern Michigan loves to run. He developed a program entitled "Run For Your Life" in which he shares his love for running and the self-discipline it takes. He teaches the youth on his caseload how to take charge of their health while also teaching them new social/recreational skills.
- 5) **Be Patient.** This is important for both the caseworker and for the juvenile. It will take time for new probation officers to get into the role. Don't expect perfection out of you or the juveniles. Oftentimes, it may take a year or two for a caseworker to feel comfortable in their knowledge, skills, and abilities. The proof that you made a difference in a young person's life may not show while you work with them. Many experienced probation officers will tell you that they have worked with kids and made no progress, they didn't seem to get through to them. Then, years later, some of those same kids have come back to update their probation officer on how their life has gone and to announce a marriage, birth, college graduation, or some other positive life event.

FORMS AND OTHER TOOLS OF THE TRADE

The following pages are forms that probation officers throughout the state use with different clients and their families. Check with your court to be sure the forms are ones you can also use.

WORKING WITH SUBSTANCE ABUSING JUVENILES/FAMILIES

Alcoholics Anonymous (AA) Meeting Sheet:

This form is given to the juvenile (or a family member if ordered to attend Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings). They fill out the date of the meeting, the location of the meeting, and the time of the meeting. These are easily verified through local newspapers or by calling local substance abuse counseling/treatment centers. **The topic of the meeting is very important.** It will help you determine if they really went to the meeting. Topics should include such things as first step, acceptance, denial, serenity, anger, etc. The good thing about the "topic" area is that it is very hard to make up if they are not attending regular meetings. The signature column is to be signed by the chairperson of the meeting. Most chairpersons

are used to juveniles/adults being court ordered to attend and won't have a problem signing their name and often their phone number.

Daily Inventory Sheet

This form is for those juveniles invested in the recovery process. It helps them look at how they did each day in several key areas. When using this form, have the juvenile or family member who is working on their recovery fill out their name and date. Then they can quickly check the boxes that best describe their behavior/attitude for the day. At the bottom are a couple of quick questions to answer.

Big Book Topics/Pages to Find Them

This sheet is just a reference sheet for the Big Book so a juvenile/family member would know where to look if they are struggling with a specific title. It may be best to use this sheet for **your** reference. This will help you know the "topics" of AA and give a broader idea of some things the Twelve Step programs teach.

ORGANIZATIONAL FORMS

A Monthly Calendar

This can be used to help organize the juvenile who forgets probation, counseling, and other important dates and appointments.

Probation Check List

This form is to be given to the juvenile and family with a copy put in the probation officer's file. It is usually completed after a dispositional and/or supplemental hearing. During each meeting, it can be reviewed to check off those completed or being worked on. This can include community service hours, detention days, etc. This will also help keep you more focused on the youth's compliance with the court order.

Probation Check-In

This sheet can be used when juveniles are going on vacation or may have moved and are just about done with probation. This can also be used with some juveniles at the end of their probation as a way to start transitioning a juvenile out of the court system.

The columns can be changed to include whatever the juvenile needs. Under the notes section, the juvenile can just write a couple of sentences about their day or what they did.

Time Management Form

To be used with those juveniles that say they "don't have time" for the things you are asking of them. This helps them use their time for school, work, community service, counseling, etc.

School Progress Report

This form lets probation officers and parents know how the juvenile is behaving in school and the youth's performance. Letter grades are often not as important as is being prepared for class, completing homework assignments and projects, and positively participating in class discussion. Many schools have their own version of this type of form. Ask around to find one that suits your needs. And, many schools also have electronic "real time" access. If your schools have such access, you should take advantage of it.

Family Communication Sheet

This form is for use by families where the juvenile says one thing and parent says another. This way all of it is in writing and both will sign it. This can help probation officers sort out who is more accurate and is really trying to make things better in the home.

Apology Letter

For use by those who need to/should write apology letters to victims. *It is very important to not send these apology letters to victims of sexual offenses.* If the juvenile has committed a sexual offense, and the court has ordered an apology letter to be written, then mail it to the victim's therapist/victim's services. You need to make sure the victim is willing to receive an apology letter. Either check with the victim yourself, or with the victim services coordinator at your prosecuting attorney's office.

MISCELLANEOUS FORMS/IDEAS

Journal Ideas

At times, it is helpful to have juveniles' journal or write about their lives. Some probation officers even have teens write every day! Benefits to journaling include helping the juvenile take five to ten minutes out of their day to reflect on how they spent their time. Did they complete something for probation? Did they have an argument with a friend or family member? It is amazing how on one day their world seems to fall apart and the next day life is just fine again. This helps fill some space between appointments and can lead into great discussion with them.

Some Journal Ideas:

- First assignment: Write about your court experience today. What do you think about what the judge ordered? Do you think it was fair? Was this offense worth it?
- Whom do you most admire? Why? What qualities do they possess that you respect?
- What will you be like tomorrow, next week, next year, in five years, in ten years, in twenty-five years? What will you be doing for a living? Is the behavior you are doing today getting you closer to, or further from, that goal?
- What are five good qualities about you? What would you most like to change about you? Why?
- If you could be principal of your school, what would you do differently? (You can substitute parent, teacher, probation officer, judge, or anyone else in authority in his or her life).
- If you could meet anyone in the world, past or present who would it be and why?
- If they have a particular goal they are working on, such as getting a job, have them write daily what steps they are doing to reach that goal.
- What was your day like? What good things happened? What would you change?
- Last assignment: What have you learned from probation? How will you avoid future court involvement?

Miscellaneous Ideas

- Art journaling: Let your juvenile draw paint, etc. to express how they are feeling.
- Assign books or video on topics they need help with and have them write a report.
- Allow the juvenile to help create the goals and actions in their treatment plans when possible.
- Behavior contracts: This can be simply having the juvenile and parent write expectations. You can list consequences for not following-through and rewards.

This can be formally typed or informally handwritten. It seems to have more validity if they have to sign their name committing to it. This will also hold up better in court with signatures and dates on it.

- Send notes of encouragement. Also, send birthday cards. Often no one else remembers his or her birthday.
- Get scholarships for teens to do art or dance classes. Encourage juveniles to pursue special interests or new challenges.
- “Debrief” with juveniles after giving any consequences. Review what they did wrong, what they could have done differently, and what they learned from it. Ask them if the offending behavior was worth the consequence.
- At the end of probation, help them make a list of things they have achieved or changed while on probation.
- Seek out mentors! Look for those workers with some success and excitement for their profession. Ask for suggestions and ideas. Remember to buy them a soda, cup of coffee, or an occasional candy bar, then they will always be glad to offer suggestions!

STUDENTS WITH DISABILITIES: INDIVIDUAL EDUCATIONAL PROGRAMS (IEPs) AND 504 PLANS

What is an Individualized Education Program (IEP)?

The Federal Individuals with Disabilities Education Act (IDEA), mandates a Free Appropriate Public Education (FAPE) for all students with disabilities. In Michigan PA 451 mandates a FAPE, designed to meet the maximum potential for all children with special education needs, from birth through age 25.

The IEP is the specific vehicle for a disabled child’s education. You must always keep in mind that parents know their child better than anyone does and the parents’ input during the IEP process is essential and invaluable.

State and federal laws require that a written (IEP) be developed, and reviewed at least annually, to meet a child’s unique special education needs.

The IEP is developed at a special meeting, which includes the parents and the participation of:

- The child’s teacher and another representative from the school who is qualified to provide or supervise the child’s special education program, and knows the general education curriculum;
- The child, where appropriate;
- A member of the multidisciplinary evaluation team (MET), who is knowledgeable about the procedures and results of the evaluation; and
- Other persons, of the school’s or the parents choosing, who have knowledge or special expertise regarding the child. This could be a friend, spouse, an advocate, etc.

What Does an IEP do?

The IEP is the written individualized education program. This plan will guide the child’s education for the year. Important parts of the IEP are as follows:

- A) tells what the child can do at this time
- B) tells how the child’s disability affects the child’s involvement and progress in the general curriculum
- C) eligibility: tells the child’s label (the child’s special education label of impairment)

- D) list of the annual goals and short-term objectives
- E) all special education related services and supplementary aids and services are listed
- F) all time lines are listed
- G) least restrictive environment – written rationale for placement outside general education must be included
- H) a statement of transition needs beginning no later than age 14
- I) a statement of the needed transition services for students beginning no later than age 16 and annually thereafter

What are Annual Goals and Short-Term Instructional Objectives?

Annual Goal

Is a general statement of desired change and progress to work towards throughout the year.

***Example:* ANNUAL GOAL**

Erika will add and subtract three-digit numbers requiring regrouping with at least ninety percent accuracy on timed informal tests by the end of this school year (with nine out of ten correct).

Short Term Objective

Is a specific statement regarding changes and progress to be achieved during the next two to three months.

How is the IEP Used to Help a Child?

The IEP is designed to meet the child's needs. Any supplementary aids and services which are necessary for the child to participate in a regular education program must be described in writing in the child's IEP. The IEP is a road map that is used to guide the child's teacher in helping the child achieve their educational goals.

SAMPLE FORMS

INFORMATION RELEASE AUTHORIZATION

I do hereby give my permission for the following agencies/organizations and their designated representatives to exchange information regarding:

_____	_____	_____
Client Name	Date of Birth	Social Security No.
Name: {Probation Officer/Caseworker}		Name:
Address:		Address:

Specific Information Requested: (Only that authorized to be released)

Medical History/Treatment	Other:
Psychological History/Treatment	
Treatment Summary of	
Social Worker/Psychologist	
Psychological Testing	
Substance Abuse	Exclusions/Limitations:
History of School Performance	

Purpose and/or need for disclosure and how disclosure is pertinent:
(i.e.-to develop an appropriate case plan)

This consent expires in six months, unless conditions that are more specific are set here:
(i.e. until completion of probation and dismissal)

This consent may be revoked by me in writing at any time unless the release is already in process. The recipient of this information may not re-release any of the above information without my written consent and he/she will be informed of this provision.

_____	_____
Signature of Client or Parent/Guardian	Witness

_____	_____
Date	Date

State of Michigan ____Judicial Circuit Court- Family Division _____County	PA 102 SCHOOL DISTRICT NOTIFICATION	CASE NO.
---	---	-----------------

In the matter of _____ DOB _____

G The above named juvenile has been adjudicated a temporary ward of the court. You are hereby notified that _____ is the Probation Officer assigned to his/her case, and may be reached at _____. (telephone number)

G The above named juvenile has been adjudicated a temporary ward of the court. You are hereby notified that he/she has been referred to the Michigan Department of Human Services for supervision. The caseworker may be reached at _____. (telephone number)

School District: _____

Date Mailed: _____

By: _____

(Not an SCAO Approved Form)

_____ COUNTY DELINQUENCY FACE & WORK SHEET				
Name		DOB	Soc Sec #	
Race			Case #	
Attorney Name			Attorney Phone #	
Other Children In the Home	School	DOB	Birthplace	Sex
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
Parents	Mother	Father		Other
Full Name				
Address				
Phone				
DOB				
Birthplace				
Soc Sec #				
Marriage				
Divorce				
Deceased				
Health				
Employer				
Income				
Military Service				
Police Involvement				
Education				

Financial Benefits due Child			
Emergency Contact			
Name			
Address			
Other Agencies Interested			
1.			
2.			
3.			
Health Insurance			
Company			
Subscriber			
ID Numbers			
Dental Insur.			
Family Dr.			
Family DDS			
Child's Information			
Immunization Record			
Is Child Under Dr.'s Care?	State Reason:		
Medications			
Significant Identifying Information			
Major Illnesses/ Accidents			
Allergies			
Hospital Preference	Pregnancy, Delivery, Development:		
Mental Health Hospitalizations			

School Information	Name of School:
Grade	Attendance:
Special/Regular Education	
Disciplinary Problems	
Extracurricular Activities	
Child's Personal Information	
Employment	
Prior Court Involvement	
Previous out of home placements	
Marijuana use	Age at 1st use: Last Use: Frequency of Use
Alcohol use:	Age at 1st use: Last Use: Frequency of Use:
Other Substance use	Type: Age at 1st use: Last Use: Frequency of Use:
History	
Fire-setting	
Physical abuse	Victim: Offender:
Sexual abuse	Victim: Offender:
Gang Involvement	
Runaway	
Tattoo's/Other Identifying Marks	

Comments:	
------------------	--

DAILY INVENTORY OF:

Understanding that I AM NOT PERFECT, I review today _____,

Have I made an effort to live this day, by my will or “Higher Power’s” way?

MY WILL		HIGHER POWER’S WILL	
Selfish & self-seeking			Interest in Others
Dishonesty			Honesty
Frightened			Courage
Inconsiderate			Considerate
Pride			Humility
Greedy			Giving or Sharing
Jealous			Helped others
Anger			Calm
Envy			Grateful
Gluttony			Moderation
Impatient			Patience
Intolerant			Tolerance
Resentment			Forgiveness
Hate			Love (concern for others)
Harmful acts			Good Deeds
Doubt			Faith
Suspicion			Trust

Did I read the Big Book today?

What pages or chapters?

Do I owe anyone an apology? If yes, who and why?

What could I have done better?

BIG BOOK TOPICS/PAGES TO FIND THEM

Acceptance	14, 30, 449, 452
Admission	25, 72-73
Aloneness	17, 89
Ambition	68, 72, 77, 127, 129
Amends	77, 82-83
Anger	60, 61, 64, 66, 67, 111
Arrogance	60, 61
Character Defects	26, 29
Compassion	108
Courage	67, 68
Depression	15, 67-68
Easy Does it	516
Envy	68, 77
Faith	14, 15, 48, 49, 52, 55
Family Relationships	66, 83, 97, 99, 100, 135
Fear	67, 68, 115, 116
Freedom	83, 84, 93, 133, 151, 553
Financial	98, 127
Forgiveness	70, 80
Gratitude	132
Growth	33, 63
Guilt	73
Happiness	17, 128, 129, 132-133, 151
High Power	12, 28, 30, 44-49, 51-53, 55, 62-63, 93, 98, 100, 130, 164
Honesty	58, 64, 67, 70, 72-73, 82-83, 115, 481, 482, 501, 550
Humility	12, 13, 25, 63, 72, 73, 93, 100
Illness	22, 23, 30, 84, 85, 133, 155
Inventory	25, 64-65, 69, 72-73, 86, 99-100, 126
Meditation	86-87, 164
Membership	28
Open Mind	12, 46-49, 51, 55, 62
Perfection	60, 123, 126, 127, 135
Patience	82, 90, 98, 111, 118
Promises	63, 75, 83-84, 100, 551
Rationalization	64-65, 99-100
Resentment	64, 67, 117, 119, 551
Recovery	126, 127
Sanity	22-23, 84-85, 551
Serenity	63-64, 68, 551, 552, 554
Sponsorship	58, 83
Understanding	570
Unity	17, 25
Will	44-45, 48, 52-53, 55, 60-63, 93
Willingness	12-13, 26, 36-37, 41-42, 46-47, 53, 57, 60, 69, 70, 76, 77, 79, 93, 118, 124, 253, 158-159, 162, 218, 229, 503, 550

****Note:** These page numbers correspond to the 1st through 3rd edition of the Big Book.

CALENDAR FOR MONTH OF:

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY

PROBATION CHECKLIST

DESCRIPTION	ORDERED	COMPLETED	YET TO DO
COMMUNITY SERVICE			
BOOK REPORTS			
COUNSELING			
SHOPLIFTERS ANONYMOUS			
INDIVIDUAL/FAMILY ASSESSMENT			
APOLOGY LETTER			
NON-SECURE DETENTION			
SECURE DETENTION			
JAIL			
SCHOOL PROGRESS REPORTS			
ELECTRONIC TETHER			
VIDEOS			
AA/NA MEETINGS			
FAMILIES FIRST			
IN-HOME PARENTING			
ADDITIONAL ORDERS:			

DAY OF WEEK	ATTEND SCHOOL	AA	COUNSELING
SATURDAY			
SUNDAY			
MONDAY			
TUESDAY			
WEDNESDAY			
THURSDAY			
FRIDAY			

PROBATION CHECK IN

NOTES:

SATURDAY

SUNDAY

MONDAY

TUESDAY

WEDNESDAY

THURSDAY

FRIDAY

TIME MANAGEMENT							
	SUN	MON	TUES	WED	THUR	FRI	SATUR
5 a.m.							
6							
7							
8							
9							
10							
11							
12 p.m.							
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12 a.m.							
1							
2							
3							
4							

SCHOOL PROGRESS REPORT			
Class/teacher	Was student prepared for class? Did he have paper, pencil, and books?	Did student have homework completed and turned in?	Did student participate? Did he have positive attitude for learning?
1st HOUR			
2nd HOUR			
3rd HOUR			
4th HOUR			
5th HOUR			
6th HOUR			
7th HOUR			

ADDITIONAL COMMENTS:

PARENT SIGNATURE

STUDENT SIGNATURE

FAMILY COMMUNICATION SHEET

Where am I going?

NAME:

ADDRESS:

PHONE:

What will I be doing?

When will I be going?

When will I be back?

How will I get there?

How will I get back?

Will I need money?

Will I need anything else?

CHILD'S SIGNATURE

PARENT SIGNATURE

Apology Letter Format

Date:

To: Victim's Name
Victim's Address
City, State Zip Code

Dear _____;

First paragraph: Tell the victim that you are sorry for what you did. State exactly what you did and why it was wrong.

Second paragraph: Tell them all the consequences you received for this offense. Include all that you were given at home, and from the court. Include others, such as schools, if applicable.

Third paragraph: Tell the victim what you have learned from this experience. Tell them how you will handle a similar situation differently if the future.

Sincerely,

Your Name

Remember to use your own words. The victim wants to hear from you!

(**do not use this form if the offense is sexual in nature or in some assault type cases. It is important not to revictimize the victim. May send this to victim's counselor if known in those types of cases.)

Weekly Checklist

- General Behaviors:
Did they follow directions & take consequences appropriately?

Child one: _____

Child two: _____
- Homework time – Is it being used wisely?
- Family Meeting Night – Go over checklist and discuss problems and always note one or more good things that happened in the week.
- Family Day - what did you spend time doing?

- Household chores:

Child one: _____

Child two: _____
Any changes that need to be made?
- Help with cooking? Who helped and who needs to do more. (“thanks for helping”, “dinner was great on Wednesday – thanks for helping” “any new suggestions for meals this week?”)
- How many times did you have dinner together this week? _____
- Computer time...discuss how it went last week and if any changes need to be made.
- Attitude in the home... any troubles or concerns?

- Counseling-did they attend? And how did it go?
- Only out time is for pre-approved events. _____
any requests for upcoming events? _____
- School – has anyone missed days and why. Any concerns about school?

WEEKLY CHECKLIST – DUE WEEKLY BY FRIDAY AT 4PM (IF I AM NOT THERE GIVE TO SOMEONE IN THE MAIN OFFICE AND CALL ME)

RECOVERY MEETINGS (MUST HAVE AT LEAST TWO)

PLEASE LIST AND EITHER HAVE SOMEONE SIGN THIS SHEET OR ATTACH THE AA SHEET TO THIS PAPER.

WHERE: WHEN: TOPIC: NAME/SIGNATURE:

30-30-30 PLAN (SCHOOL, WORK, COMMUNITY SERVICE)

PLEASE LIST WHAT TYPE OF ACTIVITY, # OF HOURS AND HAVE PERSON PRINT AND SIGN THEIR NAME

WHAT: WHEN: NAME/SIGNATURE

Questions for Review:

What is the biggest difference between the adult and the juvenile justice system?

Why is case management the most important component of probation?

What expectations should you have of probationers?

What expectations should probationers have of you?

What are some case management ideas that can assist you in better assessing the juvenile's progress while on probation?

(Materials for this chapter were prepared by Mr. Felix Brooks, 9th Circuit Court, Family Division; Mr. David Buck (Ret.), 30th Circuit Court, Family Division; Ms. Mary Hickman, Charlevoix County Family Court (including revision of this chapter in 2010); and Ms. Jill Bade, 7th Circuit Court, Family Division).

15: Continuum of Services and Funding

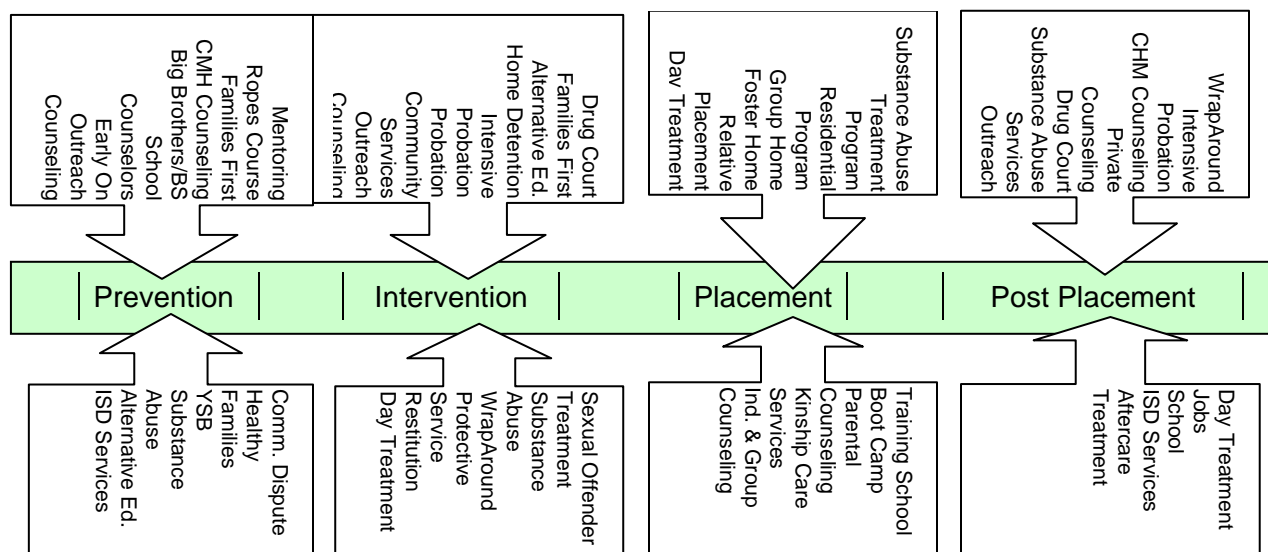
CHAPTER 15: Continuum of Services and Funding

Continuum of Services

The family division of the circuit court has long served the communities of this State by planning toward a full array of services for the youth and families either who come within its jurisdiction or who are eligible to come within its jurisdiction. Although each jurisdiction may be vastly different, the process of providing a continuum of services is similar. The first step is to identify the various services offered for the potential and current court population in the various phases of court involvement – prevention, court intervention, court placement, and aftercare (whether operated by the court or some agency). See sample below.

Example:

Continuum of Care



There should be a review of the programs currently available to determine their effectiveness. The costs of the program should be reviewed in comparison to the benefits and the availability of future funding should be considered. Service gaps should be identified within the organizational goals.

Needs Assessment

A “needs assessment” can be a useful tool to determine the need for expanded, modified or additional services and may also indicate whether the community and other agencies would support a program.

(Material for this chapter was prepared by Mr. Robert Nida, Barry County Trial Court Administrator.)

Tools to be used to gain information about the community or a specific need include:

- **Surveys of the Community** – Assessing large groups of people in a random fashion. Specific groups or specific programs can be targeted.
- **Social Indicators** – Reviewing statistics, records, past research, reports, newsletters, interviews, suggestion boxes, etc.
- **Key Informants** – Survey or interview community leaders or agency representatives who are familiar with the system. This can provide for potential support.
- **Community Forums** – Similar to “town meetings” in which members of a designated community come together to identify and discuss problems.
- **Nominal Group Method** – Provides for a dialogue from a wide range of participants. They respond to specific questions regarding needs, barriers, and a group ranking of priorities through different forms.

Further consideration should be given to a number of issues:

- 1) Does the above process demonstrate what is needed?
- 2) Is there a specific target population?
- 3) Should a service or program be provided contractually or “in-house”?
- 4) Can someone else pay for such a program or service?
- 5) Does such a program have support of management?
- 6) Does such a program have the support of other agencies?
- 7) Is the program “politically correct”?
- 8) Will the community support the program?
- 9) What plans could there be for future funding?
- 10) What “outcomes” will you want to measure?

If the conclusion is that the program should be developed, then the court should perform the following:

- design the facilities or programs, attending to detail
- staff, train, and supervise the organization
- develop the program
- develop measurable “outcomes”
- implement program
- evaluate and modify when necessary
- start the process again

Historically, courts provided unofficial or diversion programs, shelter care, detention, probation, and placement with some aftercare options. Tightened budgets and limited services have forced the courts to look for other options in dealing with delinquent and neglect populations. The State, recognizing the high costs of placements, provided financial incentives for development of alternatives to court intervention and court placements. Such programs as home detention, intensive probation, day treatment, Youth Service Bureau, wraparound, intensive counseling programs, and local group homes have become cooperative programs between the county and the state. This trend will be a permanent one.

PA 150 AND PA 220 YOUTH

State Ward - Delinquent - Act 150: A youth who has been **committed** to the Department of Human Services (DHS) under the Youth Rehabilitation Services Act (1974 PA 150). According to the following requirements:

- The ward is at least 12 years at the time of commitment by the juvenile court; and
- The offense for which the ward is committed occurred prior to the ward's seventeenth birthday.

State Ward – Termination of Parental Rights – Act 220: A child who has been **committed** to DHS following termination of parental rights by the family division of the circuit court. DHS acquires legal authority over the child as a result of (1935 PA 220) termination of parental rights of both parents. The court commits all parental (guardianship) responsibilities to DHS. MCL 400.203. Such a child is considered a ward of the Michigan Children's Institute (MCI) and the superintendent of MCI is the child's legal guardian.

Funding Sources for Delinquent (and Dependant) Youth:

There are a number of sources used to fund various court services and programs. The court must become creative in using various funding sources to continue the development of a strong continuum of care for the population it serves. The following dialogue only represents an example of the most common sources of funds.

There are currently **three common funding sources** for the care of children and youth. The child's legal status and funding eligibility influence which funding sources the child qualifies.

Title IV-E

- A. Cost Share: The cost share is dependent on the type of placement.
1. Approximately fifty percent state, fifty percent federal, for all licensed foster homes and eligible private childcare institutions.
 2. Fifty percent federal; twenty-five percent state; twenty-five percent county, for Arbor Heights Center and DHS operated residential care center placements.
- B. Billing/Payment Procedure:
1. For children in placement eligible for fifty percent federal; fifty percent state funding: State pays cost and claims federal reimbursement, no county costs.
 2. For children in placement eligible for fifty percent federal, twenty-five percent state, twenty-five percent county: County charges back twenty-five percent of costs.
- C. Description: To be eligible for Title IV-E funding, all of the following criteria must be met:
1. The child must meet specific Title IV-E eligibility criteria, including establishment of financial need and deprivation (was or would have been eligible for Title IV-E in his/her own home).
 2. If the child is a court ward (not committed to the State through Public Act 150 or 220), the courts order must place the child under the "care and supervision" of the DHS.

3. The court order must state in the first hearing that it is contrary to the welfare of the child to remain in the home of the parents, and that within sixty (60) days make a determination that reasonable efforts have been made to prevent removal or to return the child to the home.
4. The child must be placed in a Title IV-E fundable placement. Title IV-E fundable placements are licensed family foster homes, private child caring institutions and small treatment facilities (25 residents or less) operated by the DHS.

Fund: State Ward Board and Care – (Non-Title IV-E)

- A. Cost Share: Fifty percent state, fifty percent county.
- B. Billing/Payment: The state either incurs the cost of care if provided by state staff, or pays for the care if provided by a private agency, and then charges the county back fifty percent of the cost.
- C. Description: This is the fund which is used for youth committed to the state and accepted through PA 150 (delinquency) or PA 220 (dependent, abused, neglected) when the youth is not eligible for Title IV-E or is not in a Title IV-E fundable placement.

Fund: Child Care Fund

- A. Cost Share:
Preadoptive Care: State, one-hundred percent.
Basic Grant: State, one-hundred percent up to \$15,000.
In-Home Care: State, fifty percent; county, fifty percent.
Child Care Fund: State, fifty percent; county, fifty percent.
- B. Billing/Payment: In each of the above types of care or service, county funds are used to pay the provider with state reimbursement.
- C. Description: Preadoption care – this is the charge for foster care costs by the placing agency during the release appeal period. Reimbursable charges are for foster care and are not to include administrative costs.
- D. Basic Grant (Juvenile Justice Service): Counties having a population of less than 75,000 are eligible for a basic grant of \$15,000. The basic grant program must be approved annually by DHS. The program must be new or expanded service for youth who are within or likely to come under court jurisdiction.
- E. Child Care Fund: Expenditures that qualify for the state reimbursement of fifty percent are detailed and described in the Child Care Fund Rules (R400.2001 – 400.2048) and Child Care Fund Handbook available through DHS.

Reimbursement always depends on approval of the annual plan and budget and the in-home care and basic grant components.

REIMBURSABLE CHILD CARE FUND EXPENDITURES FALL INTO THREE BROAD CATEGORIES:

1. **County-Operated Child Care Facilities:**
Reimbursement is limited to the operating cost of the facility. There is no reimbursement for capitol expenditure. There are limits to the eligibility of repair expenses.
2. **Out-of-Home Care for Court Wards:**
Cost of the direct services to court wards placed in foster care, institutional care or independent living are generally reimbursable. Judicial or court administrative costs are not reimbursable.
3. **In-Home Care (approval component):**
Most costs, except judicial costs incurred in reducing out-of-home days of care, are reimbursable. These costs are limited to the following:
 - a. Children under the jurisdiction of the court, as an alternative to removal from the child's home, provided that such care is an alternative to detention or other out-of-home care and:
 - a written complaint has been received and accepted by the court
 - the expenditures are not for judicial costs
 - the caseload size or services are intensive, not more than a 1 to 20 caseload and weekly face-to-face contact
 - nonscheduled payments are not made to pay for basic family needs otherwise available through public assistance programs; or
 - the parent(s) and the youth have agreed in writing to receive in-home care services, or a temporary order has been entered placing the child in in-home care pending an adjudication hearing
 - b. The in-home care early return option may be used to accelerate the early return of a youth from family foster care, institutional care, or other out-of-home care when the case plan identifies an early return goal and the services are provided to members of the child's family.
 - c. The court must comply with the administrative rule requiring a county funded probation officer/caseworker for every 6,000 youth population under the age of 19. (*Michigan Supreme Court Administrative Order 1985-5*).

DHS – Family Preservation Account – Child Safety and Permanency Plan (CSPP) and Families First.

- A. Cost Share: State, one-hundred percent.
- B. Billing/Payment: State pays for service either for contract of nonscheduled services.
- C. Description: This fund is for DHS supervised youth, either neglect/abuse or delinquent. Fund is to be used for services that prevent the need for out-of-home placement. Some pilot joint CSPP's have been implemented which allow the courts to access these funds and services for court supervised youth.

Examples of CSPP services in addition to Families First are:

- 1) in-home counseling
- 2) wraparound
- 3) mentors
- 4) multi-systemic therapy (MST)
- 5) parenting classes
- 6) sex abuse counseling

Resources and Funding

When considering the continuum of services, the court must look at all options for resources and funding sources. The list is as long as ingenuity and the imagination can go.

1) Intermediate School District (ISD)

Movement through the Continuum of Care provides an array of funding sources. For example, the Intermediate School District (ISD) has financial responsibilities to provide special education services from birth through the twenty-fifth birthday. Early-On provides programs to “at risk” children from birth to three years old.

2) Community Mental Health (CMH)

CMH is mandated to treat the Medicaid-eligible based on specific diagnoses with a Child & Adolescence Functional Assessment Scale (CAFAS) score of at least 50 degree of disability, duration of illness and prior service utilization. Adults receiving Medicaid are also eligible for treatment for a variety of psychological and psychiatric disorders. In addition, private insurance companies also provide coverage for a variety of possible services.

3) Schools

Provide services through their counseling departments, and many offer alternative education programs. Schools rely on funding through attendance on count days. Probation officers should take great efforts in making sure that supervised youth are in school during these periods of time. The *Michigan Works!* Program, offered through the ISDs, helps young people with employment opportunities.

4) Agencies

Many programs that serve court and DHS supervised youth are offered by agencies that receive funds in part from the United Way, Strong Families/Safe Children, and Child Safety and Permanency Planning (CSPP). Such programs as Big Brothers/Big Sisters, Boys and Girls Club, mentoring, counseling programs, YMCA programs, victims’ services, Healthy Families, sexual assault counseling, kinship care programs, Families First, Wraparound, etc., can provide important services to clients.

Other county and state agencies and organizations provide a multitude of services and programs that benefit the court and DHS clients. Not only are the DHS, Community Mental Health, schools, and ISDs active players, but also such agencies as Public Health, private family and child counseling agencies, substance abuse agencies, MSU Cooperative Extension, 4-H, Friend of the Court, and transportation.

Why Consider Funding When Developing a Case Plan?

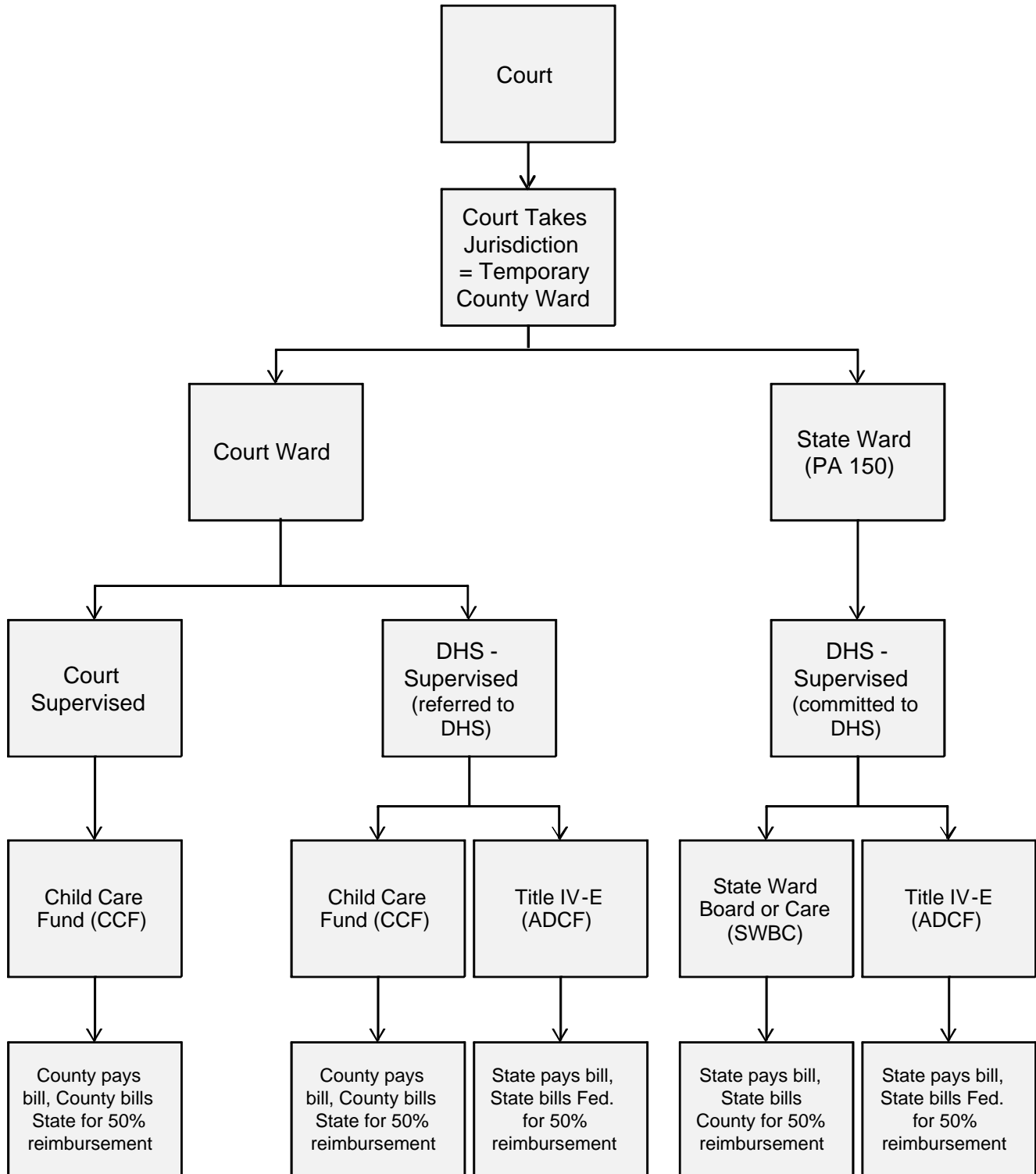
While the needs of the child should determine case planning, tightening budgets require the court to utilize all possible resources to fund programs. Although the Child Care Fund, the General Fund and IV-E funding are key to probation, intensive home

programs and placements, the court must pursue such things as restitution, community service, fines and costs, parental reimbursement, income tax intercepts, social security and SSI benefits, veteran's benefits, and private insurance.

Each staff member of the family division of the circuit court is responsible for the success of the system. The court must be both effective and cost-efficient. This is your challenge!

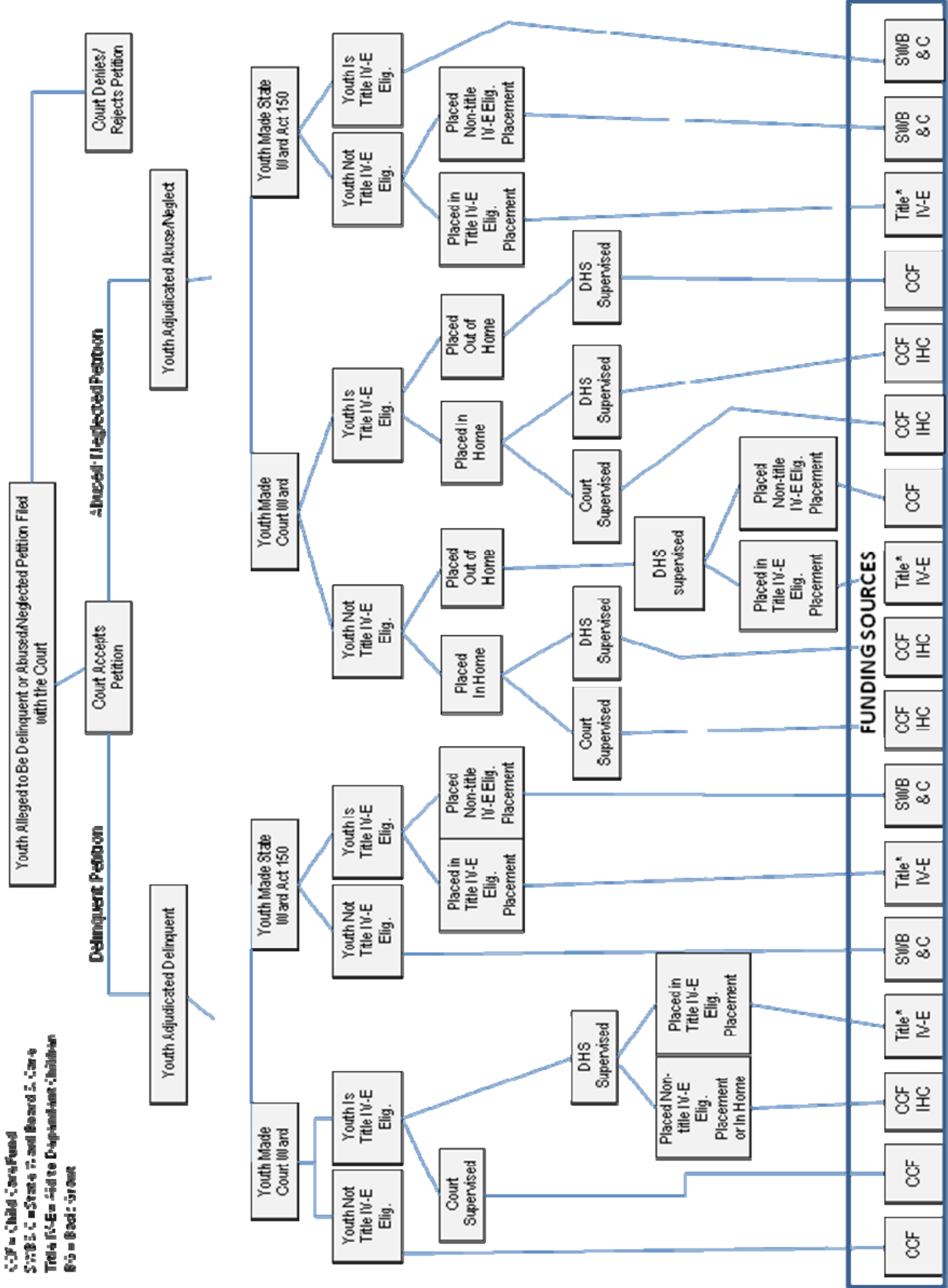
Charts of Services and Funding

The following charts represent the traditional methods of funding special in-home programs and placements:



Funding Source Chart #2

CCF = Child Care Fund
 SIB & C = State Title IV-E and Board S. Care
 Title IV-E = Aid to Dependent Children
 SIB = Board Grant



If the following Title IV-E eligibility requirements are met:
 1. Court needs Title IV-E eligibility in Home from which removed.
 2. Youth's income and property do not exceed established limits.

3. Court finding that reasonable efforts were made to prevent removal or are being made to reunify family.
 4. DHS responsible for out-of-home placement selection.
 NOTE: Funding is available for both state and court, and through foster-parent agreements.

Questions for Review:

What are the major components in the Continuum of Care?

Under what two (primary) Public Acts are children committed to the State for care?

What are the three broad categories of Child Care Fund expenditures?

Why is it important to consider funding when case planning?

Chapter 16: Personal Safety and Security

This chapter is intended to give a brief overview. Talk with your supervisor about your court's policies and procedures. For a more thorough understanding, please review the State Court Administrative Office (SCAO) court security standards that may be found at:
http://courts.michigan.gov/scao/resources/standards/cs_stds.pdf

It is obvious that personal safety is very important for all juvenile probation officers. A survey of Michigan courts identified over 1,000 annual incidents of court related violence and threats of violence, including; altercations, destruction of property, disorderly behavior, use of weapons, theft, fires, bomb threats, and in-custody defendant escapes. These incidents do not include additional disruptions to court operations from medical emergencies or work-place disruptions involving only court staff. Incidents were reported throughout the state, and were not isolated to any singular court type, geographic location, or size of jurisdiction.

NEEDS ASSESSEMENT AND FUNDING

All courts need to regularly assess their security needs. As part of the process of ensuring the safety of all participants in the judicial process, courts and governing units must responsibly make philosophical choices. The public has come to accept the presence of metal detectors and security officers in many court facilities.

Funding must also be considered; effective security involves cost. The court and their funding unit must squarely confront these issues to determine the extent to which security will be provided, or the amount of risk that will be accepted.

RECOMMENDED COURT SECURITY STANDARDS

Security Advisory Committee

Your chief judge should create a permanent security advisory committee to develop and assist with the oversight of a court security program. This committee should prepare or update an overall security procedural manual and instructions. The work of the committee should be viewed as an ongoing process rather than a limited event.

The goal of an effective court security operation is to protect everyone using the building and who are part of the judicial process. This includes litigants, defendants, attorneys, jurors, the general public, judges, and staff. To achieve this goal, it is important to have clear written policies and procedures.

Incident Reporting

Your court should develop an incident reporting form to be used for *all* incidents, no matter how minor they may seem at the time. A policy for reporting all incidents in a uniform manner will document either effectiveness of procedures, or the need for changes to security emergency procedures or policies.

Medical Emergencies

Given day-to-day risks and the additional stress of coming into an adversarial environment, medical emergencies are likely to occur. Comprehensive plans and training of staff on how to deal with medical emergencies are essential.

First aid kits and universal precaution kits (for the handling and cleanup of potentially infectious blood and body fluid spills) should be readily available to staff in each office or on all floors of each building. Kits should be maintained and restocked at least monthly. A specific individual should be designated to check and restock all kits.

Awareness of Your Court's Security Procedures

A new employee should be clearly informed of policies, procedures, and expectations for any assigned duties relating to security.

Communication Equipment

Juvenile probation officers are sometimes required to work out of the office in situations that may require asking for assistance. The court should consider purchasing cellular telephones for use by any court staff while in the field, for use in emergency situations or to call for assistance. This is a relatively inexpensive way of providing a means of requesting assistance, alerting supervisors to emergency situations, and providing a level of comfort for staff.

Training and Equipment for Juvenile Probation Officers who are Required to Take Probationers into Custody

Staff required to check on probationers at home, school, or work, or to take probationers into custody and transport them to court or to jail should receive training preparing them to engage in these tasks while ensuring their own security and safety, and the well-being of the probationer.

First Meeting with the Juvenile and His/Her Parents

Just walking into a courthouse makes most people nervous and anxious. The first meeting is critical to the rest of your relationship with this family and the juvenile.

- Your office or meeting space should be designed so that when meeting youth and families you will sit in a chair that is closest to an exit. In case things get hostile, you want to be able to get out of the room.
- Be sure to use all of your best communication skills. Really listen to their answers to your questions.
- Be sure that all of your intake questionnaires include questions such as:
 - 1) "Do you have any dogs at home?" "How many?" Will they be tied up when making home visits?"
 - 2) Do you have any guns in the home?" and "Does anyone hunt in the home?"
 - 3) "Has anyone in the home ever been charged with an assaultive offense?"
 - 4) "Does anyone in the home have a PPO?" (Either as petitioner or respondent).
 - 5) "Who else lives in the home?"

If You Conduct Home Visits

The more you know before going into their home, the better. It is also important to get to know your local law enforcement. Call and talk with the local city police department, sheriff's department, and even the state police. Ask them what they know about this family and their address before you go there.

If your court requires you to conduct home visits:

- Be sure your office knows where you are going and when you will return.
- It is highly recommended that all probation officers go into homes as a team of two.
- Get to know the neighborhood. If you haven't been there before, drive around the block to assess *what is going on* and *who is around*. Again, it is critical that your coworkers, office staff, or local police know where you are and when you will be back. Some offices even have such a policy that their workers will call in just before going into a house and then call back when they have exited.

It is important to remember that a home or neighborhood is not safe simply because you have been there before. Danger can exist anywhere. You can become a victim at any time. Trust your instincts. If you feel that something is wrong or if it just doesn't feel right, leave the area. You can always call and reschedule for another time.

Be observant of the outside of the home. Mentally prepare an escape route before going in.

- Be sure to lock your car door.
- When going up to the door, listen before knocking.
- Do not stand directly in front of door in case someone inside wants to get out before you come in.
- Refrain from entering the home if the juvenile is there alone.
- Once inside, try to stay close to exits.
- Stay in well-lit areas. Avoid spending much time in hallways, bedrooms, bathrooms, or basements.
- It is important to remember that you are a probation officer **not** a police officer. If something feels wrong, or the youth/their family are uncooperative or hostile, don't try to take them into custody or force a situation. Leave the home and call for advice from your supervisor.
- In an emergency, call law enforcement.

Transporting a Juvenile or Family Member

If you ever need to transport a juvenile, it is strongly recommended that you never transport by yourself. Always transport with another staff member or adult. If the juvenile is a member of the opposite sex, it is best to have the other worker with you of that same sex, this will help protect you from false allegations regarding any inappropriate behavior. Always have the juvenile in the back passenger seat with their seat belt on. If your vehicle doors have child safety locks, use them. Be sure that no potential weapons like an ice scraper, tools, jumper cables, etc., are in the back seat or on the floor.

Some jurisdictions have policies that probation officers should never transport juveniles to detention. If your court requires you to transport a youth to detention, it is strongly recommended, again, that at least two people transport and handcuffs/restraints be used. Anxiety is likely to be high and you don't want to be alone with the youth.

De-Escalating a Situation

If the conversation is getting heated and you can't calm it down or get out, try some "empathic listening". This will require additional training but the key is to listen to them. Ask what you can do to help. Try to change the course of the conversation. Comment on their personal interests, hunting, fishing, whatever. Try to make it sound like you have things in common with them. Your only goal here is to de-escalate the situation enough so that you can escape.

Be sure to talk with your supervisor about procedures and specialized training you should have to be able to physically get out of an attacking situation. Also, remember to listen to your "gut". If you think a meeting has the potential to get hostile, schedule the meeting at your office, and alert other staff of the potential for problems.

Do not get into a power struggle with a youth or family. If they don't want to cooperate with you, or refuse, talk with your supervisor about scheduling a review hearing and let the judge make the decision. Sometimes just offering this option to a family can bring them into compliance.

Be aware of Anger Signs

- clenched fists
- a far off stare
- trembling lip
- wrinkled forehead
- elevated voice level
- change in language usage

Other Safety Tips

- Never document in your car. When you are writing, you are not paying attention to what is going on around you.
- Remember to check your backseat for unwanted passengers.

Questions for Review:

Why is security important?

What are some things your court can do to assist with your security?

What are some things you can do to assist with your own security?

Why is it important for courts to develop an incident reporting system?

What are some key issues to remember when conducting home visits?

What are some key issues to remember when transporting a juvenile and/or their family member?

Chapter 17: Drugs of Choice

This chapter is designed to familiarize you with the types of drugs juveniles are using, to identify effects, and to briefly discuss the risk to adolescents. Even as this chapter is being written, illicit manufacturers are designing new legal and illegal mood-altering substances. The reader is invited to contact MJI with any updated information.

Highlights on Youth: 2010 National Survey on Drug Use and Health¹

This survey was initiated in 1971 and is the primary source of information on the use of illicit drugs, alcohol, and tobacco by the civilian, noninstitutionalized population of the United States aged 12 years old or older. The survey interviews approximately 67,500 persons each year. There seems to be some encouraging trends—illicit drug use is declining or at least not increasing—yet the use of illicit substances by youth remains an important public health issue.

The 2010 NSDUH released September 2011, shows that drug use in the United States remained consistent from 2009 to 2010, reversing downward trends since 2002. These trends are disappointing, but not unexpected. NSDUH data from the past two years showed that young people's negative attitudes about drugs, particularly marijuana, were softening. Historical data show that such softening of attitudes typically signals future increases in use.

For specific information see:

<http://www.samhsa.gov/data/NSDUH/2k10NSDUH/2k10Results.htm#Ch2>

Drug Use by Youths Aged 12 to 17

Prescription Pain Relievers

Ages 12-17: The rate of current nonmedical use was similar to 2009 at 2.7 percent.

Possible Reasons: Most young people who misuse prescription medications report that they obtain the drugs from friends or family. Many of these medications, particularly prescription painkillers, sit unused and unsecured in medicine cabinets, thereby making them readily available.

Marijuana

Ages 12-17: The use of marijuana increased marginally from 7.3 to 7.4 percent.

Possible Reasons: Fueled by discussions of legalization, so-called "medical marijuana", and a proliferation of pro-drug messages in the media and popular culture, young people are misinformed about a drug whose potency has tripled in the past 20 years and sends more youth to treatment than any other drug.

¹ Office of National Drug Control Policy, September 2011.

Marijuana use is consistently linked with lower grades, higher dropout rates, higher rates of illness, and increasing emergency room and treatment admissions.

Methamphetamine

The number of Americans age 12 and older who were current users rose 60 percent from 2008 to 2009, but remained steady from 2009 to 2010 at about 154,000 users.

MDMA (Ecstasy)

The 2009 estimate of 760,000 users was the peak for the 8-year period 2002-2009. The 2010 estimate of 695,000 users represented a statistically insignificant decline.

COMMONLY USED [ILLICIT] DRUGS AND THEIR EFFECTS

Alcohol

Alcohol abuse is one of the most serious substance abuse problems facing populations worldwide. It is the most commonly used and widely abused psychoactive drug in the country. Alcohol is absorbed by the stomach, enters the bloodstream, and goes to all the tissues. The effects of alcohol are dependent on a variety of factors, including a person's size, weight, age, and sex, as well as the amount of food and alcohol consumed. The street names/slang terms for it is booze, canned heat, firewater, hard-stuff, moonshine, red-eye, rotgut, tippie, toddy, scoops, and sauce.

Cocaine and Crack

Cocaine hydrochloride is a central nervous system stimulant derived from the coca plant. Cocaine interferes with the reabsorption process of dopamine, a chemical messenger in the brain responsible for controlling pleasure, alertness, and movement. Many slang terms exist that refer to cocaine. The most common include coke, snow, white lady, nose candy, blow, blizzard, caine, sleet, snow cone, sniff, blanco, cubes, ready rock, moonrocks, freebase, crack, hail, pebbles, boulder, hell, chalk, kibbles n' bits, and casper.

Crack Cocaine is a form of freebase or "smokable" cocaine that has been processed with baking soda so that it can be smoked. Named after the crackling sound heard when heated, crack cocaine looks like white to tan pellets or chunks that resemble rock salt or soap. Crack is usually smoked in a pipe and can also be smoked with marijuana and tobacco products. The preparation of freebase cocaine, which involves the use of volatile solvents, can result in death or injury from fire or explosion.

Chronic use of cocaine can cause heart problems, permanent liver damage, nutritional deficiencies, and long-term changes in the brain, triggering intense craving for cocaine. In addition, research has shown that long-term cocaine use can compromise the immune system. Other effects are related to how cocaine is administered.

HALLUCINOGENS

Hallucinogens or psychedelics are mind-altering drugs that affect the mind's perceptions, causing sensory disturbances that may place users at risk of serious injuries or death. The combination of hallucinogens with other substances can increase the chances of adverse effects and risk of overdose.

Different Types of Hallucinogens

Individuals may use hallucinogens for the mind-altering effects, the visions, and feelings of well-being. They may also seek the approval of their peers, stress reduction, or rebellion against authority. Some may use hallucinogens to achieve so-called states of heightened mental awareness.

LSD

LSD (lysergic acid diethylamid) is a potent hallucinogen derived from lysergic acid. Commonly referred to as “acid,” a “hit” is found in the form of tablets, capsules, clear liquid, thin squares of gelatin, or colorful paper dipped in LSD that is licked. Although colorless and odorless, LSD has a slight bitter taste. “Blotter acid,” which is absorbent paper soaked in LSD and sold as squares. Other slang terms for LSD include microdot, white lightning, blue heaven, windowpane, and sugar cubes.

PCP

Phencyclidine (PCP) is a dissociative anesthetic with hallucinogenic properties, previously used as an anesthetic in humans. The drug was also used as an animal tranquilizer, but discontinued in 1979. PCP can be found as a pure white, crystal-like powder, tablet, capsule, or bitter-tasting, clear liquid that is consumed orally, injected, sniffed, or smoked. PCP is often combined with marijuana and tobacco products. Some slang terms for PCP include angel dust, crystal, jet fuel, and cyclone.

Special K or Ketamine

Ketamine (ketamine hydrochloride) is closely related to PCP and was also used as a surgical anesthetic. Ketamine is used in veterinary medicine, and most supplies are diverted from legitimate sources. On the club scene, Ketamine can be found in liquid form or as a white powder that is snorted or smoked with marijuana or tobacco products. A combination of Ketamine and cocaine is called “CK.” Other slang terms are special K, vitamin K, new ecstasy, psychedelic heroin, ketalar, ketaject, and super-K. Users experience hallucinations and visual distortions similar to the effects of PCP. They call these effects “K-land.” A larger dose can produce a more frightening experience called a “K-hole” or an “out-of-body, near-death experience.” Users may also experience a loss of senses, sense of time, and identity which can last anywhere from 30 minutes to two hours. Ketamine can cause delirium, amnesia, impaired motor function, high blood pressure, depression, flashbacks, and potential fatal respiratory problems.

Psilocybin Mushrooms

Certain types of mushrooms contain hallucinogens: psilocybin and psilocin. These mushrooms have a strong bitter taste and can be eaten or brewed into a tea. Effects last up to six hours. Once ingested, mushrooms cause nausea and other physical symptoms before the desired hallucinogenic effects appear. Mushroom hunters run the danger of selecting poisonous mushrooms that can cause death or permanent liver damage within hours of ingestion. Some dealers sell edible mushrooms found at the grocery store laced with LSD or PCP as “magic mushrooms.” Psilocybin or psilocin mushrooms are Schedule 1 controlled substances with severe penalties for possession and use.

Other Hallucinogens

Mescaline, morning glory seeds, jimson weed, and DMT are hallucinogens that are less common.

Mescaline is a hallucinogen that comes from the peyote cactus. Mescaline is usually smoked or swallowed in pill form.

Morning Glory Seeds are occasionally brewed into a tea or eaten. There have been some reports of teens drinking “gordo juice,” a combination of morning glory seeds and fruit juice to counteract the bitter taste of the seeds. The seeds can cause convulsions, gangrene, and adverse psychological effects.

Jimson Weed (Angel’s Trumpet) is a wild, poisonous weed that produces hallucinations and has caused deaths.

DMT

N, N-DMT is a psychoactive chemical in the tryptamine family, which causes intense visuals and strong psychedelic mental affects when smoked, injected, snorted, or (when taken with an monoamine oxidase inhibitor (MAOI) such as haramaline) when swallowed orally. N, N-DMT is most often called just “DMT”.

Hallucinogens Physical Effects

The effects of hallucinogens are widely unpredictable depending on the potency, dose, the user’s mood, surroundings, and personality. The first effects may be felt within 30-90 minutes, and last 12 hours depending on the type and amount of drug taken. Individuals under the influence may have dilated pupils, increased heart rate and blood pressure, incoherent speech, sweating, loss of appetite, sleeplessness, dry mouth, and tremors. Users that combine drugs or overdose can go into convulsions, coma, or experience heart and lung failure. They may even die.

Hallucinogens Emotional Effects

Hallucinogens have a profound effect on the mind by altering sensations and emotions. Users may feel several different emotions at once or experience dramatic mood swings. These drugs can cause sensory disturbances, such as delusions and hallucinations. They may also allow users to “hear” colors and “see” sounds. Users may even experience flashbacks up to a year thereafter, where they feel the drug’s effects without taking more of the drug.

OPIATES AND NARCOTICS

Heroin

Heroin (diacetylmorphine) is the most abused, most rapidly acting of the opiates or narcotics. A derivative of the opium poppy, heroin was first synthesized as an alternative to morphine in 1874, but was banned in 1924 because of its highly addictive nature. The drug has profound effects on the brain by activating the pleasure centers, interfering with the brain’s ability to feel pain, and depressing the central nervous system.

Pure heroin consists of a white powder with a bitter taste, but pure heroin is not commonly found on the street. Because of the presence of additives and impurities, most heroins consist of a white to dark brown powder. Heroin is often combined or “cut” with sugar, starch, powdered milk, quinine, and, less often, with strychnine, to reduce purity and create more products to sell. Slang terms for heroin include big H, dr. feelgood, smack, horse, antifreeze, dirt, beast, mud, brown sugar, chiva, china white, Mexican brown, junk, black tar, beast, chase the dragon, monkey water, la buena, harry, and cotics.

Heroin is most often injected intravenously, also called “mainlining” for a quick and potent high, but there is a rising segment of young users who sniff, snort, and smoke heroin to avoid the dangers of using needles. Heroin that is smoked is known as “chasing the dragon.” The drug is often used in combination with other illicit drugs, especially cocaine/crack, benzodiazepines (valium), and alcohol. Some users snort alternate lines of heroin and cocaine, known as “crisscrossing,” or inject the two drugs as a “speedball.” There are also reports of users sniffing liquefied heroin intra-nasally by using a nasal spray bottle, a practice known as “shabanging.”

Heroin is Addictive

The onset of addiction is rapid and severe no matter which method is used to consume heroin. Even “recreational users” who limit their use to weekends are not immune from the threat of addiction. Abusers may lose interest in daily activities and report loss of energy and boredom. They may have a hard time limiting their use, may build a tolerance to the drug requiring larger amounts of the drug to get the same effect, and may develop problems with their jobs and personal relationships

OxyContin

OxyContin is a by-prescription-only drug that contains oxycodone, a very strong narcotic pain reliever similar to morphine. OxyContin is designed so that the oxycodone is slowly released over time, allowing it to be used twice daily. OxyContin is only intended for moderate to severe pain that is present on a daily basis and that requires a very strong pain reliever.

STIMULANTS

Methamphetamine

Methamphetamine is an addictive stimulant drug that strongly activates certain systems in the brain. Methamphetamine is closely related to amphetamine, but the central nervous system effects of methamphetamine are greater.

Methamphetamine is made in illegal laboratories and has a high potential for abuse and addiction. It is known as meth, and chalk. Methamphetamine hydrochloride is clear chunky crystals resembling ice, which can be inhaled by smoking, is referred to as ice, crystal, glass, and tina.

Methamphetamine increases wakefulness (“meth” users often stay awake for several days at a time), physical activity and decreases appetite. Those who smoke or inject methamphetamine report a brief, intense sensation, or rush.

Oral ingestion or snorting produces a long-lasting high instead of a rush, which reportedly can continue for as long as half a day. Both the rush and the high are believed to result from the release of very high levels of the neurotransmitter dopamine into areas of the brain that regulate feelings of pleasure.

Long-term methamphetamine abuse results in many damaging effects, including addiction. Addiction is a chronic, relapsing disease, characterized by compulsive drug seeking and drug use that is accompanied by functional and molecular changes in the brain. In addition to being addicted to methamphetamine, chronic methamphetamine abusers exhibit symptoms that can include violent behavior, anxiety, confusion, and insomnia. They also can display a number of psychotic features, including paranoia, auditory hallucinations, mood disturbances, and delusions (for example, the sensation of insects creeping on the skin, which is called “formication”). The paranoia can result in homicidal as well as suicidal thoughts.

ANABOLIC STEROIDS

Steroids

Anabolic androgenic steroids are synthetic derivatives of the male hormone testosterone that are taken to build muscle, enhance performance, and improve appearance. The drug’s anabolic or “muscle-building” effects help the body retain protein, a necessary building block for the growth of muscles, bones, and skin. The androgenic or “masculinizing” effects, cause the development of a deep voice, facial and body hair, muscle mass, and aggressiveness. Unfortunately, steroid abusers risk a variety of unwanted side effects, some of which are irreversible. Another significant danger includes HIV infection if needles are shared.

Some common trade names of anabolic androgenic steroids include: anatrofin, anaxvar, annadrol, bolasterone, decadiabolin, decadurabolin, dehydropiandrosterone (DHEA), delatestryl, dianiabol, dihydrolone, durabolin, dymethazine, enoltestovis, equipose, gamma hydroxybutylate, maxibolin, methatriol, methyl testosterone, parabolin, primobolin, quinolone, therabolin, trophobolene, and winstrol. Slang terms include gym candy, pumpers, stackers, A’s, anabolics, arnolds, bolins, GHB, oxys, anabols, balls or bulls, delatestryl, maxibolin, weight trainers, arnies, dep-testosterone, methyltestosterone, rhoids, and juice.

The majority of steroid users tend to be young, male athletes, although steroid use is not limited to bodybuilders and football players alone. Increasing evidence shows that athletes in endurance sports such as swimming, running, and cycling use steroids. Adolescents may use them to quicken the onset of puberty and maturation, and male and female models may take them to improve their body image. Those in certain, physically demanding occupations, like law enforcement, bouncers, or military personnel may use steroids to build strength.

Steroid abuse can have profound effects on the mind, causing temporary personality changes in some. Users may exhibit uncontrolled aggression and violent behavior called “roid rage,” in addition to severe mood swings, manic episodes, and depression. Moreover, users may suffer paranoid jealousy, extreme irritability, delusions, and impaired judgment from feelings of invincibility. During periods when they do not use, chronic users may experience withdrawal symptoms that intensify the psychological effects.

CLUB DRUGS

Tobacco and alcohol are the most common substances found on the club scene. Other substances such as ecstasy, herbal ecstasy, GHB, ketamine, and LSD have gained popularity with young people in recent years. Typically, nightclubs, bars, parties, and “raves” attract teenagers, college students, and young adults who may risk their health in the interest of a good time. These club drugs are attractive to youth for their cheap, intoxicating highs, which they mistakenly believe are safe. Unfortunately, most partygoers do not realize the dangers of using club drugs. Once more, combinations of any of these drugs with alcohol can lead to unexpected adverse reactions and death.

Ecstasy (MDMA)

Ecstasy or MDMA (methylenedioxymethamphetamine) is a stimulant that combines the properties of methamphetamine or “speed” with mind-altering or hallucinogenic properties. Considered the most commonly used designer drug, ecstasy is a close derivative of methamphetamine and can be described as a hallucinogenic stimulant. Designer drugs are illicit variations of other drugs. Because of many different recipes used to manufacture ecstasy, deaths have been caused by some other substances inadvertently created during production, such as PMA (paramethamphetamine).

Ecstasy was banned in 1985, and is currently classified as a Schedule 1 substance. MDMA is a stimulant whose psychedelic effects can last between four and six hours and it is usually taken orally in pill form. The psychological effects of MDMA include confusion, depression, anxiety, sleeplessness, drug craving, and paranoia. Adverse physical effects include muscle tension, involuntary teeth clenching, nausea, blurred vision, feeling faint, tremors, rapid eye movement, and sweating or chills. Research shows that MDMA causes damage to the parts of the brain that are critical to thought and memory. MDMA increases the activity levels of neurotransmitters such as serotonin, dopamine, and norepinephrine. The drug causes the release of the neurotransmitters from their storage sites, which increases brain activity. By releasing large amounts of the neurotransmitters and also interfering with neurotransmitter synthesis, MDMA causes a significant depletion in the neurotransmitters. It takes the brain a significant length of time to rebuild the amount of serotonin and other neurotransmitters needed to perform important functions.

Ecstasy and Viagra

While MDMA produces the feeling of physiological sensitivity, it also interferes with the male ability to attain an erection. There is some anecdotal information that youth are combining MDMA with viagra, or some other supplement, to be able to fulfill their sexual sensitivity.

Herbal Ecstasy

Although not currently classified as a controlled substance, herbal ecstasy is a drug composed of ephedrine (ma huang) or pseudoephedrine and caffeine (kola nut), stimulants that closely simulate the effects of ecstasy. Sold in tablet form, herbal ecstasy is known as cloud 9, herbal bliss, ritual spirit, herbal X, GWM, rave energy, ultimate xphoria, and X. There is no quality control over the manufacture of these products, and problems arise because the amounts of ephedrine and caffeine in the pills vary widely. Over 800 reports of adverse reactions such as high blood pressure, seizures, heart attacks, strokes, and death have been reported to federal authorities. Because of these reactions, the Food and Drug Administration (FDA) is considering placing restrictions on the drug.

GHB

GHB (gamma-hydroxybutyrate) was once sold in health food stores as a performance-enhancing additive to body builder formulas. It has been associated with being a "date rape" drug, but the incidence of GHB use is relatively small. GHB produces intoxication followed by deep sedation. Once ingested, the drug will begin to take effect in 15 minutes to an hour, lasting one to three hours.

Benzylpiperazine

Benzylpiperazine (BZP), also known as frenzy or nemesis, is a recreational drug with euphoric, stimulant properties. The effects produced by BZP are comparable to those produced by amphetamine. Adverse effects have been reported following its use including acute psychosis, renal toxicity, and seizures. No deaths have been reported following a sole ingestion of BZP, although there have been at least two deaths from the combination of BZP and MDMA. Its sale is banned in a few countries, including Australia, New Zealand, the United States, Ireland, the United Kingdom, Romania, and other parts of Europe. However, its legal status is currently less restrictive in some other countries such as Canada, so it is now slowly migrating into the southeast part of Michigan.

INHALANTS

An estimated 1,000 substances are commonly misused as inhalants. Inhalants comprise three classes of abused substances with volatile solvents constituting the most prolific group of inhalants.

Volatile Solvents: Correction fluid, spray paint, glue, rubber cement, spray shoe polish, carburetor cleaners, paint thinner, nail polish remover, lighter fluid, gasoline, and hair spray.

Gases: Chloroform, ether, helium, freon (refrigerant), whippets (nitrous oxide), and nitrous oxide (laughing gas). The propellant used in vegetable cooking spray and whipping cream spray is also inhaled.

Nitrites: Amyl nitrite and butyl nitrite. So-called room deodorizers such as locker room, rush, bolt, climax, and poppers contain nitrites. Unlike other inhalants, nitrites are used most often recreationally on the nightclub scene.

The Typical Inhalant User

The majority of inhalant users tend to be young preteens in the seventh and eighth grades. Older adolescents are associated with the abuse of nitrates, such as poppers and locker room, primarily on the club drug scene. It is important to remember that inhalant abusers permeate all ethnic groups, genders, and all socio-economic groups throughout the country.

Inhalants are readily available, inexpensive, and easy to conceal. Individuals may use inhalants for the euphoric effects, for fast and multiple “highs,” for the approval of peers, to reduce stress, or to rebel against authority with dangerous consequences.

Inhalants are sniffed, snorted, and bagged (where inhalants are sprayed or spilled into a bag to concentrate the fumes). Users also “huff” chemicals by breathing through their mouths. Inhalant users can spray or dip chemicals onto a sock, rag, or toilet paper to breathe the fumes, breathe them directly from an easily concealed container, or pour the chemical in a plastic bag to be held over the mouth and nose. Most inhalants are central nervous system depressants that cause an intoxicating high very similar to alcohol intoxication. An inhalant “high” may last anywhere from 15 to 45 minutes, with effects lasting one to two hours.

Sudden Sniffing Death Syndrome (SSDS) is frequently associated with sniffing model airplane cement, correction fluid, or spot removers, and can occur when users inhale chemicals deeply, then engage in strenuous physical activity or become alarmed. SSDS does not discriminate among casual users; it has been documented in first time and chronic users.

Chronic long-term use of inhalants can cause addiction, fatigue, weight loss, and dangerous nutritional imbalances. Inhalants are poisons that are readily absorbed into blood-rich, vital organs where they cause long lasting damage.

Respiratory System: Inhalants can cause damage to lung tissue when pressurized aerosols are inhaled or sprayed directly into the mouth or nose.

Brain Damage: Long term, heavy inhalant use is toxic to brain cells.

Vital Organs: Prolonged heavy use of inhalants can permanently damage the liver, cause rapid and irregular heartbeats, and even heart failure. Inhalants also impair the kidneys, blood, and bone marrow, resulting in damage to the immune system.

MARIJUANA

Marijuana is the most frequently used illicit drug in the world today. It is a green, brown, or gray mixture of dried, shredded flowers and leaves of the hemp plant (*Cannabis sativa*). There are over 200 slang terms for marijuana, including pot, weed, grass, hay, herb, cannabis, doobie, ganja, and reefer.

The main ingredient in marijuana is tetrahydrocannabinol (THC). THC is found in all parts of the cannabis plant, including hemp. The amount of THC in the marijuana determines how strong its effects will be on the user. The strength of today's marijuana is much greater than the marijuana used in the early 1970s, increasing the possibility of health problems for today's users.

Hashish (or hash) hash oil and sinsemilla are stronger forms of marijuana. Hashish is made by taking the resin from the leaves and flowers of the marijuana plant and pressing it into cakes or slabs. Hash may contain five to ten times as much THC as other forms of marijuana.

Marijuana is usually smoked as a cigarette, called a joint, or in a pipe or bong. Sometimes, it will appear in hollowed-out cigars called "blunts" or "swishers" which are more dangerous because they contain the equivalent of three to four joints. Some immediate physical effects of marijuana, along with euphoria, include red, bloodshot eyes, confusion and anxiety, loss of coordination, increased appetite, hallucinations, and a dry mouth and throat. Someone high on marijuana may seem giggly or silly for no reason and have trouble walking. Studies of marijuana's mental effects show that the drug can impair or reduce short-term memory, alter sense of time, and reduce ability to do things that require concentration, swift reactions, and coordination.

A common adverse reaction to marijuana is the "acute panic anxiety reaction", an extreme fear of losing control, causing panic. The symptoms usually disappear in a few hours.

Long-term regular users of marijuana may become dependent or addicted. Problem users lose interest in daily activities and report loss of energy and boredom. They may have a hard time limiting their use, may build a tolerance to the drug requiring larger amounts of the drug to get the same effect, and may develop problems with their jobs and personal relationships. Like other drug addictions, marijuana can become the most important aspect of their lives.

Medical Marihuana

In 2008, Michigan voters approved a Constitutional Amendment allowing certain individuals with a "debilitating medical condition" to use medical marihuana. There is no minimum age limit, but patients under age 18 must have the consent of their parent or guardian responsible for medical decisions. The parent or guardian must be the registered caregiver of the minor patient.

It is possible; perhaps even likely, that you may encounter a youth on probation who is also a qualified patient registered to use medical marihuana. Most courts prohibit the use of the substance while a youth is on probation. The use of medical marihuana is

a statement by a physician that a patient may benefit from the use for a certain condition. Your court should have a policy on medical marijuana use.

For more information on Michigan's Medical Marijuana Act see:
http://www.michigan.gov/lara/0,4601,7-154-27417_28150_51869---,00.html

LONG-TERM EFFECTS OF MARIJUANA USE

Respiratory System: Marijuana can be especially harmful to the lungs because users hold the smoke in their lungs as long as possible. Marijuana smoke can cause the same breathing problems that tobacco user's experience, including bronchitis/emphysema.

Cancer: Marijuana smoke contains more cancer-causing agents than is found in tobacco smoke. In fact, studies show that someone who smokes five joints per week may be taking in as many cancer-causing chemicals as someone who smokes a full pack of cigarettes every day.

Reproductive system: Heavy use of marijuana can affect male and female hormones, diminish or extinguish sexual pleasure, and cause a temporary loss in fertility. Among other symptoms, women may have irregular menstrual cycles, and young men may experience the delayed onset of puberty.

Immune System: Animal studies have found that THC can damage the cells and tissues that help guard against disease.

Synthetic Marijuana,

Also known as "K2" "Spice," "Sence," "Yucatan Fire," "Skunk," or "Genie". It is a synthetic form of marijuana. Some people compare the effects of K2 to marijuana. The drug is legal in some states but not in Michigan. It is sold in head shops as incense although people do, more often than not, smoke it.

K2 is a natural incense composed of natural herbs such as "canavalia rosea, clematis nucifera, heima salicifolia, and ledum palustre." Various sources report that K2 also contains the synthetic cannabinoid JWH-018, which when smoked can produce intoxicative effects similar to marijuana. Only recently have drug test kits been developed to detect this synthetic compound.

K2 is "not intended for human consumption" and is intended only to be used as an incense. Clearly though, the hundreds of cases across the country to poison control centers and emergency rooms indicates it is not being used as such.

DEXTROMETHORPHAN (DXM)

DXM is an over-the-counter (OTC) drug in a class of drugs known as "dissociative anesthetics." Many of these have powerful psychedelic effects at sufficiently high doses. Coincidentally, Dextromethorphan also suppresses the cough reflex. This is why a powerful psychedelic is sold legally OTC in pharmacies and grocery stores throughout the U.S., and many foreign countries. About the only reason DXM isn't a prescription controlled substance is that the only real alternative drugs for cough suppression are the

opiates/opioids. Relatively few find dextromethorphan appealing recreationally. Recreational use of DXM is sometimes referred to in slang form as "robotripping", whose prefix is derived from the Robitussin brand name of cough medicine, or "Triple Cs" which is derived from the Coricidin brand name of cough and cold medicine. DXM's recreational use is relatively low.

BATH SALTS

Within the last two years, a new illicit drug has appeared on the market: Methylenedioxy Pyrovalerone (MDPV), and methylone – commonly called "bath salts" or "plant food". Bath salts are sold as crystalline powder in a small bag with names, such as ivory wave, blow, red dove, vanilla sky, aura, Zeus 2, zoom, bliss, blue silk, white lightning, ocean, charge, cosmic blast, scarface, hurricane charlie, cloud 9, energy 1, white dove, and others.

This is a powerful drug that causes severe side effects. The Drug Enforcement Agency (DEA) in the New Orleans area has confirmed that much of the supply is coming in from China and is distributed to head shops, convenience stores, and internet. This drug is not useful as a bath product. The Michigan Department of Community Health (MDCH) reports a surge of emergency department visits across the state related to the recreational use "bath salts" beginning in fall of 2010, with at least one suspected death.

Bath salts, and specifically the ingredients MDPV and mephedrone, are Schedule I Drugs in Michigan that makes them illegal to sell or use. Nationally, the federal Drug Enforcement Agency (DEA) is moving to place these chemicals on Schedule I of the Controlled Substances Act (CSA). Currently, the DEA has determined that because MDPV is an analogue of a drug that is on Schedule I of the Controlled Substances Act (CSA), "law enforcement cases involving MDPV can be prosecuted under the Federal Analogue Act of the CSA."

Users experience agitation, paranoia, hallucinations, chest pain, suicide ideations, high blood pressure, and increased pulse. But there's something more, something different that's causing these other extreme effects. But right now, there's no test to pick up this drug. The only way to know if someone has taken them is if they tell you they have. The clinical presentation is similar to mephedrone [a chemical found in other designer drugs], with agitation, psychosis, and stimulatory effects. Both of these agents should be of concern, as severe agitated behavior, like an amphetamine overdose, has occurred.

RAVE PARTIES

Although still held occasionally, the prevalence of Rave parties—also known as underground Raves, or sometimes fundraiser or CD release parties--has diminished significantly over the past few years. However, it is still important to know about rave parties and the rave culture. A true "raver" feels hard drug use, or alcohol, is square. Loud music (the raver wants to "feel" rather than "hear", the music), glow sticks (to intensify the hallucinogenic effects and to chew on), and looped video (it helps participants "chill out" or "come down" from their ecstasy high) are standard. Rave party participants are often found chewing on "pacifiers" or their "glow sticks" for oral satisfaction (to prevent the bruxing/grinding of teeth, which is a side effect of ecstasy, along with an

exaggerated sense of touch). In addition, strobe lights are used to enhance the drug's effect.

Invitation-Only Parties

An invitation-only party consists of smaller, more controlled, groups of people. Flyers are usually handed-out at local clubs, schools, or via chat rooms. These parties draw a select group of attendees, with the intention of drug and alcohol use.

Dance Parties

Dance parties are held in private clubs and halls. Locations are rented by adults or parents who feel that schools/organizations are too restrictive. It is not uncommon to have 12 to 23 year olds at the same party and no adult supervision.

Goth or Gothic Movement

The rave has entered this realm of "anything goes" erotic attire, S&M, and open sex are not unusual.

The Techno Dance Clubs

Techno dance clubs are legal and licensed venues. They very often openly advertise that drugs and/or alcohol are strictly forbidden. There is drug use, but it is not as extensive as at an underground rave. The music is often broadcast over the radio. The use of drugs is probable when references are made to puppy piles, loving hug, and a group circle or hug group sandwich, are made.

ASSESSMENT AND SCREENING

Assessment

It is a common condition of probation, especially for youth with drug/alcohol offenses and those participating in drug treatment courts, to be required to undergo drug testing. While most youth are open and honest in regards to their participation in drug testing, some may try to adulterate and/or otherwise circumvent the process. As a probation officer, you should know something about drug assessment, screening, and testing.

Typically, an assessment is conducted in a two to three hour procedure, although this can vary. In most cases, assessment involves a combination of clinical interview, personal history taking, biological testing, and paper-and-pencil testing. Depending on the methods used, the assessment may require more than one session. Assessment has a number of specific goals and purposes:

- To determine the extent and severity of the alcohol and other drug (AOD) abuse problems
- To determine the client's level of maturation and readiness for treatment
- To ascertain concomitant problems such as mental illness
- To determine the type of intervention that will be necessary to address the problems
- To evaluate the resources the client can muster to help solve the problem. Typical resources include family support, social support,

educational and vocational attainment, and personal qualities such as motivation that the client brings to treatment

- To engage the client in the treatment process

Conducting the Assessment

Assessment can be done by an independent assessment group or by the same professionals who will be providing treatment, if it is determined that the type of intervention they provide is appropriate for the particular client. The assessor should be a qualified human services professional with demonstrated competence in AOD programs, such as an addiction counselor, a licensed social worker, or other trained clinician. It is recommended that a credentialed and/or certified alcoholism, substance abuse, or chemical dependency counselor be used. It is desirable that each individual assessor work in a licensed or certified setting to ensure that there are adequate resources and a multidisciplinary approach. Ongoing training and supervision are critical to ensure the skill level and accountability of the service providers. For more information on credentialing, you may contact the Michigan Certification Board for Addiction Professionals (MCBAP). Their website is: www.mcbap.com.

Components of Assessment

The assessment process should include a broad variety of components that will yield an evaluation of the client that is as comprehensive and holistic as possible. The assessment should provide the information required to recommend the most appropriate course of treatment. Areas that should be addressed in the assessment include:

- Archival data on the client, including—but not limited to—prior apprehensions and contacts with the juvenile justice system, as well as previous assessments and treatment records
- Patterns of AOD use
- Impact of AOD abuse on major life areas such as, family, school/employment record, and self-concept, peer relationships
- Risk factors for continued AOD abuse, such as family history of AOD abuse and social problems
- Available health and medical findings, including emergency medical needs
- Psychological test findings
- Educational and vocational background
- Suicide, health, or other crisis risk appraisal
- Client motivation and readiness for treatment
- Client attitudes and behavior during assessment
- Tolerance (high tolerance suggests that a client has a history of heavy drinking or drug use)
- History of physical withdrawal symptoms
- Episodes of uncontrolled drug or alcohol use, binges, or overdoses;
- Use of AODs for “self-medication” of painful and unpleasant emotions;
- Attempts to hide use
- Physical signs of drug use, such as needle track marks, emaciation, and alcohol odor
- Positive drug test results

- History of attempts to quit AOD use
- Family functioning relative to AOD abuse
- History and onset of drug use
- Drug use behavior (e.g., Does the client use drugs alone? For sex? To go to school or work?)
- Method of administration, including injection, snorting, smoking, or drinking

As a Probation Officer/Caseworker: Some Recommended Areas to Assess in Individuals Presenting for Treatment of Alcohol or Other Drug Problems²

- Specific quantities of alcohol or other drugs used, and the frequency of their use
- Predominant mood states and situations preceding and after substance use;
- Usual and unusual substance use circumstances and patterns
- Medical problems associated with, or exacerbated by, substance use
- Identification of possible difficulties the individual might have in initially refraining from substance use
- Extent and severity of previous substance use problems
- Multiple drug use
- Reports of frequent thoughts or urges to drink or take drugs
- History of previous responses to alcohol or other drug treatment and self-initiated periods of abstinence
- Review of the positive consequences of substance use
- Other life problems
- Indicators of tolerance to alcohol or other drugs
- Past or present indicators of liver disorder
- Risks (for alcohol use) associated with considering a “nonabstinent” treatment goal

SOME SCREENING AND ASSESSMENT TOOLS

There are literally hundreds of instruments designed as standardized tools to help the clinician in formulating a clinical impression. See, for example, http://www.azdhs.gov/bhs/guidance/catsu_attach_a.pdf. Instruments provide another data source for the assessor to use in evaluating the client. Their results should be used in conjunction with good clinical judgment. There is no single litmus test applicable to all situations and all clients. It is recommended that practitioners review available instruments and then use, combine, and/or adapt them to suit their own and planning needs.

General Tools

The NIDA-Modified Alcohol, Smoking, and Substance Involvement Screening Test, or NMASSIST, is an assessment tool that clinicians use in general health care to find out if a youth is actively using substances. This web-based tool was developed by the

² Adapted from Sobell, Sobell and Nirenberg (1988, pp23-26); Sobell, Toneatto, and Sobell (1994); and Maisto, O’Farrell, Worthern and Walitzer (1993)

National Institute on Drug Abuse (NIDA) out of a recognized need to capture statistics on drug abuse. The assessment tool is a questionnaire that asks a series of questions about the types of drugs that an individual uses and how often the substances are used; then the tool provides clinicians with a summary of whether the patient seems to be a substance abuse risk. The Substance Abuse Subtle Screening Inventory for Adolescents, or SASSI, is another general tool that measures all kinds of substance abuse specifically for adolescents.

Alcohol-Exclusive Tools

The Adolescent Alcohol Involvement Scale, or AAIS, is an assessment tool that exclusively measures a youth's behaviors when it comes to drinking alcohol. This assessment does not gauge other types of substances, such as marijuana, opiates, or painkiller medications. The AAIS asks adolescents' 14 questions around the type of alcohol that is used and the frequency that it is used. This is a self-report, meaning the AAIS is a screening tool that is used by the youth. At the end of the assessment, the youth is given a score between 0 and 79, which speaks to the level of alcohol use reported. On this scale, a 0 score would indicate that the youth is a nonuser of alcohol, whereas a 79 score would indicate the individual has a dependency to alcohol. The Adolescent Drinking Index is another assessment tool that only evaluates alcohol usage and works similarly to the AAIS.

Diagnostic Interviews

Diagnostic interviews are assessment screening tools that address whether or not a youth has a diagnosable problem with substance abuse. The Diagnostic Interview for Children and Adolescents, or DICA, is one such tool. This interview consists of 416 items to be covered for the evaluator to determine if a youth has a substance abuse disorder. The Diagnostic Interview Schedule for Children, or DISC, is another tool that is used for the same purpose. After the interviews are conducted, the evaluator determines the appropriate course of treatment for youth who present as having a substance abuse disorder.

Multiscale Assessment Tools

A multiscale assessment tool is one that measures various depths of substance abuse in youth. These tools are self-administered, so adolescents can complete them on their own. To eliminate or minimize the potential of misrepresentation on the tool, multiscale assessment tools are developed to detect response discrepancies. Some tools may take youth an hour to complete, while others could take 20 minutes. The Chemical Dependency Assessment Profile, or CDAP, Hilson Adolescent Profile, or HAP, and Personal Experience Inventory, or PEI, are examples of multiscale assessment tools. These tools dig deep into the youth's life to understand what types of behaviors are exhibited in the youth's friends, family, whether the youth is a victim of abuse, whether the individual appears to be depressed and other comprehensive questions that can pinpoint a substance abuse disorder.

DRUG TESTING

Biological Testing

Biological tests can be valuable instruments to determine AOD use, especially when such use is denied by the client. Urinalysis, breathalyzer tests, blood tests, and all other available physical tests should be considered when AOD

use is not self-reported. The most objective tools for measuring progress are urine and blood tests for the presence of AODs.

Treatment

The treatment plan, developed as an important component of the clinical assessment, is reviewed, assessed, updated, and revised throughout the course of treatment. Ideally, the plan is adapted as intermediate goals are met successfully. Then, at the end of a successful process, the treatment plan evolves into a discharge plan. All treatment plans should address specific substantive issues. Among these are:

- employment, vocational, and educational needs
- housing in an environment that is free from AODs
- the juvenile's and his/her family's strengths
- medical and psychological concerns
- recovery support
- self-esteem development
- relapse prevention
- stress management
- self-help resources
- abstinence or reduced AOD use

RESOURCES

Whom Should I Contact if Someone on My Caseload has a Problem with Drugs?

Contact your local Council on Alcohol and Drug Abuse for referral assistance. You may also contact a family physician, hospital, or yellow pages for other intervention and treatment options.

The local public library and other sources can be found in the yellow and blue pages of your phone book under "drug abuse."

Access reliable information instantly from the Internet from the following sites:

The National Clearinghouse on Alcohol and Drug Abuse's home page has information on marijuana and other substances of abuse: <http://www.health.org>.

The National Institute on Drug and Abuse has national statistics and the latest research findings available. <http://www.nida.nih.gov>.

The Partnership for a Drug-Free America has a drug database to help parents identify specific drugs, their effects, and drug paraphernalia. <http://www.drugfreeamerica.org>.

The Office of National Drug Control Policy publishes drug fact sheets and other information. <http://www.whitehousedrugpolicy.gov>.

Questions for Review:

What are the general findings of the 2010 National Survey on Drug Use and Health (NSDUH) survey?

What are the most commonly used/abused drugs?

What are rave parties?

What are some recommended areas to assess in individuals presenting for treatment of alcohol or other drug problems?

Who should do assessments?

What are some common assessment tools?

What kind of questions can you, as a probation officer, think about as an initial assessment?

What biological testing is generally reliable?

Where can you find more resources on drug abuse?

**18: Juvenile Sexual
Offenders, Assessment,
and Treatment**

Chapter 18: Juvenile Sexual Offenders, Assessment, and Treatment

Although those who commit sex offenses against minors are often described as “pedophiles” or “predators”, it is important to understand that a substantial portion of these offenses are committed by minors who do not fit the image of such terms.

Interest in youth who commit sexual offenses has grown in recent years, along with specialized treatment and management programs, but relatively little information about the characteristics of this group of offenders and their offenses has been available.

Characteristics of juvenile sex offenders:

According to a 2009 publication from the Center on Sex Offender Management http://www.csom.org/pubs/needtoknow_fs.pdf, pages 6-8:

- Juveniles under the age of 18 make up just under twenty percent of those arrested for sex offenses.
- More than ninety percent of the juveniles who are arrested are male.
- There is no “typical” youth who commits a sex crime.
- Exposure to physical or sexual violence in the home or community can be associated with sexually abusive behaviors among youth.
- Juvenile sex offenders appear to respond better to treatment and reoffend less frequently than adult sex offenders.
- Community supervision (probation or parole supervision) can help ensure that youth behave appropriately in the community, and participate in treatment.

Scope of This Chapter:

For a complete treatise on the laws governing sexual assault, please refer to the Michigan Judicial Institute's *Sexual Assault Benchbook*.

See: <http://courts.michigan.gov/mji/resources/sabb/sabb.htm>

This chapter is intended to:

1. Provide an overview of the law as it relates to juvenile offenders and the Sex Offenders Registration Act (SORA),
2. Identify recent trends in assessment and treatment of juvenile sexual offenders, and
3. List various statewide and community resources available to victims of sexual assault.

More information on the Sex Offender Registry may be found on the Michigan State Police website at: http://www.michigan.gov/documents/SOR_TrngMan_66768_7.pdf. See <http://www.nsopw.gov> and <http://www.mipsor.state.us> for more information about the national sex offender registry.

Listed Offenses: Tier I, Tier II, and Tier III Offenses

The group of listed offenses for which SORA registration is required was completely restructured by 2011 PA 17 in order to comply with the requirements of the federal Sex Offender Registration and Notification Act (SORNA).

Offenses under the SORA are now grouped in three categories (tier I, tier II, and tier III) based on the seriousness of an offense. A *listed offense* for purposes of the SORA is a tier I, tier II, or tier III offense. MCL 28.722(k).

Tier I Offenses/Offenders

Tier I offender defined

A tier I offender is an individual who has been convicted of a tier I offense and who is not a tier II or tier III offender. MCL 28.722(r).

Tier I offenders are not listed on the public internet website

An offender registered under the SORA because of a single tier I conviction will only be listed on the law enforcement database; he or she will not appear on the public internet website. MCL 28.728(1); MCL 28.728(4)(c).

Required reporting

After his or her initial verification or registration, a tier I offender must report on a yearly basis, between January 1 and January 15. MCL 28.725a(3)(a). An offender who reports under MCL 28.725a(3) and who has not already paid his or her registration fee, must pay the \$50 registration fee proscribed under MCL 28.727(1). MCL 28.725a(6). An indigent offender may obtain a 90-day waiver of the registration fee if the offender proves his or her indigence. MCL 28.725b(3). See MCL 28.722(h) for the definition of *indigent*.

List of Tier I offenses

Tier I offenses are listed in MCL 28.722(s)(i)-(ix):

- Violation of MCL 750.145c(4) (knowing possession of child sexually abusive material).
- Violation of MCL 750.335a(2)(b) (open or indecent exposure involving fondling) *if the victim is a minor*.
- Violation of MCL 750.349b (unlawful imprisonment) *if the victim is a minor*. (**Note:** *This listed offense was added by 2011 PA 17. It was not included in previous versions of the SORA's listed offenses*).
- Violation of MCL 750.520e (CSC-IV) or MCL 750.520g(2) (assault with intent to commit CSC-II) if the victim is age 18 or older.
- Violation of MCL 750.539j (voyeurism) if the victim is a minor. (**Note:** *This listed offense was added by 2011 PA 17. It was not included in previous versions of the SORA's listed offenses*).
- Any other violation of Michigan law or a local ordinance of a municipality, other than a tier II or tier III offense, that by its nature constitutes a sexual offense against a minor.
- Offense committed by a person who was a sexually delinquent person (MCL 750.10a) at the time the offense was committed.
- Attempt or conspiracy to commit a tier I offense.

- Offense substantially similar to a tier I offense that is specifically enumerated under federal law in 42 USC 16911, under the law of any state or any country, or under tribal or military law.

Length of registration for tier I offenders

A tier I offender must register under the SORA for 15 years. MCL 28.725(10). The registration period does not include any period of imprisonment for committing a crime or any period of civil commitment. MCL 28.725(13).

Tier II Offenses/Offenders

Tier II offender defined

A tier II offender is:

- an individual who is a tier I offender who is subsequently convicted of another tier I offense, or
- an individual who is convicted of a tier II offense and who is not a tier III offender. MCL 28.722(t)(i)-(ii).

Tier II offender information on the public website

A tier II offender will appear on the public internet website. See MCL 28.728(2); MCL 28.728(4).

Required reporting

After his or her initial verification or registration, a tier II offender must report semiannually, once in January (no earlier than January 1 and no later than January 15), and once in July (no earlier than July 1 and no later than July 15) of each year. MCL 28.725a(3)(b). An offender who reports under MCL 28.725a(3) and who has not already paid his or her registration fee, must pay the \$50 registration fee prescribed under MCL 28.727(1). MCL 28.725a(6). An indigent offender may obtain a 90-day waiver of the registration fee if the offender proves his or her indigence. MCL 28.725b(3). See MCL 28.722(h) for the definition of *indigent*.

Length of registration

A tier II offender must register under the SORA for 25 years. MCL 28.725(11). The registration period does not include any period of imprisonment for committing a crime or any period of civil commitment. MCL 28.725(13).

List of tier II offenses

Tier II offenses are listed in MCL 28.722(u)(i)-(xii):

- Violation of MCL 750.145a (soliciting a minor under the age of 16 for an immoral purpose).
- Violation of MCL 750.145b (soliciting a minor under the age of 16 for an immoral purpose, second offense).
- Violation of MCL 750.145c(2) (creation/production of child sexually abusive material) or MCL 750.145c(3) (distribution/promotion of child sexually abusive material).

- Violation of MCL 750.145d(1)(a) (use of the internet to commit specific crimes against a minor victim) except for a violation arising out of a violation of MCL 750.157c (person at least age 17 who induces a minor under the age of 17 to commit a felony). (**Note:** *This listed offense was added by 2011 PA 17. It was not included in previous versions of the SORA's listed offenses*). Violation of MCL 750.158 (sodomy) *if the victim is a minor*, unless either of the following applies:

A. All of the following:

- Victim consented to conduct constituting the violation.
- Victim was at least age 13 but less than age 16 at the time of the violation.
- Individual is not more than four years older than the victim.

OR

B. All of the following:

- Victim consented to conduct constituting the violation.
- Victim was age 16 or age 17 at the time of the violation.
- Victim was not under the custodial authority of the individual at the time of the violation. See MCL 28.722(c) for the definition of custodial authority.

- Violation of MCL 750.338 (gross indecency between males), MCL 750.338a (gross indecency between females), or MCL 750.338b (gross indecency between males and females) if the victim was at least age 13 but less than age 18 at the time of the violation.

This provision does not apply if the court determines either:

A. All of the following:

- Victim consented to conduct constituting the violation.
- Victim was at least age 13 but less than age 16 at the time of the violation.
- Individual is not more than four years older than the victim.

OR

B. All of the following:

- Victim consented to conduct constituting the violation.
- Victim was age 16 or age 17 at the time of the violation.
- Victim was not under the custodial authority of the individual at the time of the violation. See MCL 28.722(c) for the definition of custodial authority.

- Violation of MCL 750.448 (soliciting prostitution) *if the victim is a minor*.
- Violation of MCL 750.455 (pandering).

- Violation of MCL 750.520c (CSC-II), MCL 750.520e (CSC-IV), or MCL 750.520g(2) (assault with intent to commit CSC-II) *if the victim is at least age 13 but under age 18.*
- Violation of MCL 750.520c (CSC-II) *if the victim is age 18 or older.*
- Attempt or conspiracy to commit a tier II offense.
- Offense substantially similar to a tier II offense that is specifically enumerated under federal law in 42 USC 16911, under the law of any state or any country, or under tribal or military law.

Tier III Offenses/Offenders

Tier III offender defined

A tier III offender is an individual who is a tier II offender who is subsequently convicted of a tier I or tier II offense, or an individual who is convicted of a tier III offense. MCL 28.722(v)(i)-(ii).

Tier III offender information on the public website

A tier III offender will appear on the public internet website. See MCL 28.728(2). MCL 28.728(4).

Required reporting

After his or her initial verification or registration, a tier III offender must report quarterly, between the first and fifteenth day of every April, July, October, and January of each year.

MCL 28.725a(3)(c). An offender who reports under MCL 28.725a(3) and who has not already paid his or her registration fee, must pay the \$50 registration fee prescribed under MCL 28.727(1). MCL 28.725a(6). An indigent offender may obtain a 90-day waiver of the registration fee if the offender proves his or her indigence. MCL 28.725b(3). See MCL 28.722(h) for the definition of *indigent*.

Length of registration

A tier III offender must register under the SORA for life. MCL 28.725(12).

List of tier III offenses

Tier III offenses are listed in MCL 28.722(w)(i)-(viii):

- Violation of MCL 750.338 (gross indecency between males), MCL 750.338a (gross indecency between females), or MCL 750.338b (gross indecency between males and females) *if the victim is under age 13.*
- Violation of MCL 750.349 (kidnapping) *if the victim is a minor.*
- Violation of MCL 750.350 (enticing a child under age 14 with intent to detain or conceal the child from his or her parent, guardian, or adoptive parent).
- Violation of MCL 750.520b (CSC-I), MCL 750.520d (CSC-III), or MCL 750.520g(1) (assault with intent to commit CSC involving penetration). This provision does not apply if the court determines that the victim consented to conduct constituting the offense, that the victim was at least age 13 but under

age 16 at the time of the offense, and that the individual is not more than four years older than the victim.

- Violation of MCL 750.520c (CSC-II) or MCL 750.520g(2) (assault with intent to commit CSC-II) *if the victim is under age 13.*
- Violation of MCL 750.520e (CSC-IV) *if the individual is age 17 or older, and the victim is under age 13.*
- Attempt or conspiracy to commit a tier III offense.
- Offense substantially similar to a tier III offense that is specifically enumerated under federal law in 42 USC 16911, under the law of any state or any country, or under tribal or military law.

Overview of *Select* Portions of the Sex Offender Registry Applicable to Juvenile Offenders

Juvenile offenders not convicted as adults must register under the SORA under two circumstances:

- 1) a juvenile order of disposition was entered under MCL 712A.18, the order is open to the public under MCL 712A.28, and the juvenile was at least 14 years of age when the offense was committed, and the order of disposition is for an offense that would classify the juvenile as a tier III offender. MCL 28.722(b)(iii)(A)-(B); MCL 28.722(v); MCL 28.723(1)(a).
- 2) a juvenile order of disposition or other adjudication was entered in another state or country, and the juvenile was at least 14 years of age when the offense was committed, and the order of disposition or other adjudication is for an offense that would classify the juvenile as a tier III offender. MCL 28.722(b)(iv)(A)-(B); MCL 28.722(v); MCL 28.723(1)(a).

Juvenile offenders are not included on the public internet website; juvenile offender information appears only on the law enforcement database. MCL 28.728(1); MCL 28.728(4)(a)-(b).

Conviction

For juveniles a conviction means either:

- 1) a juvenile order of disposition entered under MCL 712A.18, open to the public under MCL 712A.28, if the juvenile was at least 14 years of age when the offense was committed and the order of disposition is for an offense that would classify the juvenile as a tier III offender. MCL 28.722(b)(iii)(A)-(B), or
- 2) a juvenile order of disposition or other adjudication in another state or country if the juvenile was at least 14 years of age when the offense was committed and the order of disposition or other adjudication is for an offense that would classify the juvenile as a tier III offender. MCL 28.722(b)(iv)(A)-(B).

“Romeo & Juliet” Exceptions to Registration Under the SORA

Application of the Exceptions

The “Romeo & Juliet” exceptions in MCL 28.722(u)(v), MCL 28.722(u)(vi), and MCL 28.722(w)(iv) apply to criminal and juvenile cases pending on July 1, 2011, and to cases brought on or after July 1, 2011. MCL 28.723a(7).

Romeo & Juliet Exception for Select Tier II and Tier III Offenses

The listed offenses, as reorganized in the amended SORA, include specific circumstances under which offenders who engaged in conduct described in MCL 28.722(u)(v), MCL 28.722(u)(vi), and MCL 28.722(w)(iv), may avoid SORA registration.

When the circumstances surrounding the enumerated crimes are satisfied, the conduct described in the statutory language does not qualify as a listed offense, and therefore, does not require the individual to register under the SORA. MCL 28.723a specifically outlines the process by which an individual accused of committing a crime described in MCL 28.722(u)(v), MCL 28.722(u)(vi), or MCL 28.722(w)(iv) may prove that he or she qualifies to be exempt from registering under the SORA.

Romeo & Juliet Exception for Select Tier II Offenses

Under two specific circumstances, an individual may claim an exception to the registration requirement for conviction of MCL 750.158 (sodomy) involving a minor. See MCL 28.722(u)(v). To successfully claim this exception, the individual must satisfy either of two conditions:

- A. All of the following:
- The minor consented to the conduct that constituted the violation.
 - The minor was at least age 13 but was less than age 16 at the time of the violation.
 - The individual was not more than four years older than the minor.
 - MCL 28.722(u)(v)(A)(I)-(III).

OR

- B. All of the following:
- The minor consented to the conduct that constituted the violation.
 - The minor was age 16 or age 17 at the time of the violation.
 - The minor was not under the custodial authority of the individual at the time of the violation. MCL 28.722(u)(v)(B)(I)-(III). See MCL 28.722(c) for the definition of custodial authority.

Under two specific circumstances, an individual may claim an exception to a violation of MCL 750.338 (gross indecency between males), MCL 750.338a (gross indecency between females), or MCL 750.338b (gross indecency between males and females) involving a minor who was at least age 13 but less than age 18 at the time of the violation. See MCL 28.722(u)(v). To successfully claim this exception, the individual must satisfy either of two conditions:

- A. All of the following:
- The minor consented to the conduct constituting the violation.
 - The minor was at least age 13 but was less than age 16 at the time of the violation.
 - The individual was not more than four years older than the victim.
MCL 28.722(u)(vi)(A)(I)-(III).

OR

- B. All of the following:
- The minor consented to the conduct constituting the violation.
 - The minor was age 16 or age 17 at the time of the violation.
 - The minor was not under the custodial authority of the individual at the time of the violation. MCL 28.722(u)(vi)(B)(I)-(III).
See MCL 28.722(c) for the definition of custodial authority.

Romeo & Juliet Exception for Select Tier III Offenses

Under specific circumstances, an individual may claim an exception to a violation of MCL 750.520b (CSC-I), MCL 750.520d (CSC-III), or MCL 750.520g(1) (assault with intent to commit criminal sexual conduct involving penetration) involving a minor who was at least age 13 but less than age 16 at the time of the violation. See MCL 28.722(w)(iv). To successfully claim this exception, the individual must satisfy all of the following conditions:

- 1) The minor consented to conduct constituting the offense.
- 2) The minor was at least age 13 but under age 16 at the time of the offense.
- 3) The individual was not more than four years older than the minor.
MCL 28.722(w)(iv).

Procedure for Claiming a “Romeo & Juliet” Exception to the Charged Listed Offense

MCL 28.723a(1) describes the process by which an individual may claim an exception to the charged offenses in MCL 28.722(u)(v), MCL 28.722(u)(vi), and MCL 28.722(w)(iv):

- 1) An individual pleads guilty to or is found guilty of a listed offense, or
- 2) A juvenile is adjudicated as being responsible for a listed offense.
- 3) The individual or juvenile claims that one of the exceptions described in MCL 28.722(u)(v), MCL 28.722(u)(vi), or MCL 28.722(w)(iv) applies to the offense and that he or she is not required to register under the SORA. MCL 28.723a(1).

If the Prosecutor Disputes the Individual’s Claim to the Exception

If the prosecutor disputes the individual’s or the juvenile’s claim to the exception, the court must hold a hearing on the matter. The hearing must occur before sentencing or disposition. The court must determine at the hearing whether the exception applies and whether the individual or juvenile is required to register under the SORA. MCL 28.723a(1).

Burden of Proof

The individual or juvenile must establish by a preponderance of the evidence at the hearing under MCL 28.723a "that his or her conduct falls within the exceptions described in [MCL 28.722(u)(v), MCL 28.722(u)(vi), or MCL28.722(w)(iv)] and that he or she is therefore not required to register under [the SORA]." MCL 28.723a(2).

Rules of Evidence

Except for the rules regarding privileges and protections provided in MCL 750.520j (Rape Shield Statute), the rules of evidence do not apply to the hearing. MCL 28.723a(3).

Victim of Offense to be Notified of Hearing and of Victim's Rights at Hearing

The prosecutor must notify the victim of the date, time, and place of the hearing. MCL 28.723a(4).

The victim may exercise the following rights at the hearing:

- The victim may submit a written statement to the court.
- The victim may attend the hearing and make a written or oral statement at the hearing.
- The victim may refuse to attend the hearing.
- The victim may attend the hearing and refuse to testify or make a statement. MCL 28.723a(5)(a)-(d).

The court's decision excusing or requiring the individual to register is a final order of the court and may be appealed by the prosecuting attorney or the individual as a matter of right. MCL 28.723a(6).

Discontinuing Registration Under the Romeo & Juliet Provisions or for Juvenile Offenders Adjudicated for Offenses No Longer Requiring Registration

A person classified as a tier I, tier II, or tier III offender who satisfies the requirements of MCL 28.728c(14) (Romeo & Juliet provisions for petitioners already registered) or MCL 28.728c(15) (petitioners adjudicated as juveniles for offenses no longer requiring registration) may petition the court for an order permitting him or her to discontinue registration under the SORA. MCL 28.728c(3).

Romeo & Juliet provisions for registered offenders

MCL 28.728c(14) *requires* the court to grant a properly filed petition if the court determines that the petitioner's conviction of the listed offense resulted from a *consensual* sexual act between the petitioner and the victim under any of the following circumstances:

- A. All of the following:
 - The victim was 13 years of age or older but less than 16 years of age at the time of the offense.
 - The petitioner is not more than 4 years older than the victim.

OR

- B. All of the following:
- The individual was convicted of a violation of . . . MCL 750.158, [MCL] 750.338, [MCL] 750.338a, [or MCL] 750.338b.
 - The victim was 13 years of age or older but less than 16 years of age at the time of the violation.
 - The individual is not more than 4 years older than the victim.

OR

- C. All of the following:
- The individual was convicted of a violation of . . . MCL 750.158, [MCL] 750.338, [MCL] 750.338a, [MCL] 750.338b, [or MCL] 750.520c(1)(i).
 - The victim was 16 years of age or older at the time of the violation.
 - The victim was not under the custodial authority of the individual at the time of the violation.

See MCL 28.722(c) for the definition of custodial authority.

Juveniles adjudicated for offenses that no longer require registration.

MCL 28.728c(15) *requires* the court to grant a properly filed petition if the court determines that either of the following apply:

- A. Both of the following:
- The petitioner was adjudicated as a juvenile.
 - The petitioner was less than 14 years of age at the time of the offense.

OR

- B. The individual was registered under [the SORA] before July 1, 2011 for an offense that required registration but for which registration is not required on or after July 1, 2011.

Burden of Proof

The hearings in MCL 28.728c do not specify a burden of proof in order to sustain a petitioner's claim of the right to discontinue registration under the provisions of MCL 28.728c(12), MCL 28.728c(13), MCL 28.728c(14), or MCL 28.728c(15), but because preponderance of the evidence is the standard of proof required in civil cases, and because it is the standard required for hearings under MCL 28.723a, that burden is presumed appropriate to hearings under MCL 28.728c.

Victim of Offense to be Notified of Hearing and of Victim's Rights at Hearing

If the prosecutor knows the name of the victim of the offense, the prosecutor must notify the victim in writing (by first-class mail to the victim's last known address) that the offender has a filed a petition to discontinue registration. MCL 28.728c(8). The prosecutor must provide the victim with a copy of the petition and must include information about the victim's rights at the hearing. *Id.* The victim has the right to attend all proceedings held on the petition and to make a written or oral statement to the court

before any decision is made on the petition. MCL 28.728c(10). A victim must not be compelled to attend any proceeding regarding the petition against his or her will. *Id.*

Petition to Discontinue Registration Granted

If a court grants a petition filed under MCL 28.728c, the court must promptly provide a copy of the order to the department of state police and to the petitioner. MCL 28.728d. In addition, the department of state police must promptly remove the petitioner's registration from the computerized law enforcement database. *Id.*

Registration Information Applicable to All Offenders

Registration fee

An offender required to register under the SORA must pay a \$50 registration fee. MCL 28.727(1). Of the \$50 registration fee, \$30 must be forwarded to the Department of State Police for deposit into the sex offenders registration fund, and \$20 must be retained by the court, local law enforcement agency, sheriff's department, or department post. MCL 28.725b(1). "The department of corrections shall not collect any fee prescribed under [the SORA]." MCL 28.725c.

Verification of information

When an offender reports as required, the registering authority must verify the offender's residence or domicile and, if applicable, the information reported under MCL 28.724a (enrollment status at an institution of higher education). MCL 28.725a(5).

Verification of the offender's physical appearance

When an offender reports as required, the registering authority must determine whether the offender's appearance sufficiently matches the photograph taken of the offender as required by the SORA so that he or she could be properly identified from the photograph. MCL 28.725a(5).

Offender to be given a receipt of verification

The registering authority must sign and date a verification receipt and provide the offender with a copy of the signed and dated receipt. MCL 28.725a(5).

Registration: Substantive changes to MCL 28.724

Cases pending on July 1, 2011

"If a prosecution or juvenile proceeding was pending on July 1, 2011, whether the defendant in a criminal case or the minor in a juvenile proceeding is required to register under [the SORA] shall be determined on the basis of the law in effect on July 1, 2011." MCL 28.724(7).

Unregistered offenders convicted of any other felony on or after July 1, 2011

An offender who was previously convicted of a listed offense for which he or she was not required to register under the SORA and who is convicted of any other felony on or after July 1, 2011, must register before sentencing, before an order of disposition is entered, or before being assigned to youthful trainee status for the listed offense or for

the other felony. MCL 28.724(5). “The probation agent or the family division of circuit court shall give the individual the registration form after the individual is convicted, explain the duty to register and accept the completed registration for processing under [MCL 28.726]. The court shall not impose sentence, enter the order of disposition, or assign the individual to youthful trainee status, until it determines that the individual’s registration was forwarded to the department [of state police] as required under [MCL 28.726].” MCL 28.724(5).

Information Required on or Excluded From SORA Registration/Law Enforcement Database/Public Internet Website

2011 PA 18 significantly expanded the scope of information to be gathered and included on an offender’s SORA registration, the law enforcement database, and the public internet website. See MCL 28.727; MCL 28.728. See *the updated DD-004 form found in the appendix*. The public internet website contains a limited amount of the information found on an offender’s registration and on the law enforcement database. MCL 28.728(2).

Individuals excluded from the public internet website

Juvenile offenders are not included on the public internet website; juvenile offender information appears only on the law enforcement database. MCL 28.728(1); MCL 28.728(4)(a)-(b).

According to MCL 28.728(4), in addition to the *identity of the victim of the offense* and *any arrests not resulting in conviction*, MCL 28.728(3), the following individuals are also prohibited from inclusion on the public internet website:

- An individual registered solely because he or she had 1 or more dispositions for a listed offense under . . . MCL 712A.18, in a case that was not designated as a case in which the individual was to be tried in the same manner as an adult under . . . MCL 712A.2d.
- An individual registered solely because he or she was the subject of an order of disposition or other adjudication in a juvenile matter in another state or country.
- An individual registered solely because he or she has been convicted of a single tier I offense.”

Sex Offender Assessment Tools

The Estimated Risk of Adolescent Sexual Offender Recidivism (ERASOR) Instrument

The Estimate of Risk of Adolescent Sexual Offense Recidivism (ERASOR) is a checklist designed to assist estimating the short term risk of a sexual reoffense for youth 12–18 years of age by evaluating 25 risk individuals (16 dynamic and 9 static). Estimates of the risk for future sexual offending assist with decisions regarding many critical issues:

- the level of community access
- the timing of family reunification
- the delivery of specific treatment interventions

For more information on the ERASOR instrument, or for the ERASOR checklist, contact:

Dr. James R. Worling, C.Psych.
Consultant Psychologist/Coordinator of Research
Sexual Abuse: Family Education & Treatment (SAFE-T) Program
Thistleton Regional Centre
51 Panorama Court
Toronto, Ontario, Canada M9V 4L8
jworling@ican.net • tel: 416-326-0664 • fax: 416-326-6581

The Juvenile Sex Offender Assessment Protocol (J-SOAP)

The Juvenile Sex Offender Assessment Protocol-II (J-SOAP-II) is a checklist to aid in the systematic review of risk of individuals that have been identified in the professional literature as being associated with sexual and criminal offending. It is designed to be used with boys in the age range of 12 to 18 who have been adjudicated for sexual offenses, as well as nonadjudicated youths with a history of sexually coercive behavior. Like any scale that is intended to assess risk, J-SOAP-II requires ongoing validation and possible revision, as more is learned about how J-SOAP-II works and about how best to assess the risk of youths who have sexually offended. The J-Soap manual may be found at: <http://www.csom.org/pubs/JSOAP.pdf>

For a comparison of these instruments, see:
http://www.forensicare.org/images/Forensic_Risk_Assessment.PDF

NOTE: You should not utilize any assessment instrument without proper training.

Sex Offender Treatment

Most sex offenders are managed by the justice system through a combination of methods including detention, probation, and some form of specialized treatment. You should become familiar with any treatment programs in your community.

Treatment Program Components

The treatment components of sexual offender programs vary. There are, however, some consistent themes:

- accepting responsibility for behavior
- identifying a pattern or cycle of offending
- learning to interrupt the cycle
- developing empathy for the victim
- increasing the use of appropriate social skills
- addressing one's own history of abuse
- decreasing deviant forms of sexual arousal
- increasing accurate sexual knowledge
- enhancing interpersonal skills
- improving family relationships
- increasing awareness of the possibility of relapse as well as learning methods to prevent this (Ertl & McNamara, 1997; Ryan, 1999; Shaw, 1999; Worling & Curwen, 2000).

Psycho-Educational Treatment

Many programs offer psycho educational experiences to youth in order to enhance knowledge or reduce skill deficits. Research (Knight and Sims-Knight, 2001) shows adolescent sexual abusers are not homogenous in etiology or in the areas of social skills, dating skills, sexual knowledge, etc. The research on heterogeneity of the youth supports individualized programming for youth with different needs and backgrounds so that youth receive what they need and do not participate in unnecessary or inapplicable classes.

Mental Health Evaluation

In Wasserman, Ko, & McReynolds' 2004 study of nonsexually abusive delinquents, it was revealed that 65 percent had a mental health diagnosis. This high percentage may reflect recent referral practices or decreases in community mental health beds. Whatever the causes, it is clear from such studies and clinical practice that many delinquent youth and many sexually abusive youth may have mental disorders that need assessment and treatment. Programs should therefore strongly consider having psychiatric consultation available to youth.

Medication

The treatment of adolescent sexual abusers with antiandrogen drugs such as Lupron, Depo Provera, or Provera is controversial, but in many states, youth are retained in juvenile justice settings until the age of 21 and some of the youth who are treated with such drugs may be young adults for whom these drugs are less dangerous and protocols for giving antiandrogen drugs to are better understood by providers.

Diversity Training

Lewis (1999) has recognized the need to incorporate an understanding of cultural differences into sexual abuser treatment. Treatment programs in related areas (e.g., delinquency) that have integrated cultural differences into their treatment programs have shown success in decreasing negative behaviors and criminal charges (Botvin, Schinke, Epstein, Diaz, & Botvin, 1995).

Various Statewide and Community Resources Available to Victims of Sexual Assault

Michigan Domestic Violence and Sexual Assault Prevention and Treatment Board (MDVSAPT)

The MDVSAPT is part of the Michigan Department of Human Services. The MDVSAPT administers funding and conducts quality assurance monitoring for sexual assault programs providing crisis intervention, counseling, and some private nurse examiner services.

The MDVSAPTБ also works collaboratively with other community members to promote safety for victims of domestic and sexual violence, and to hold perpetrators accountable. The MDVSAPTБ may be contacted at:

PO Box 30037
Lansing, MI 48909
Phone: (517) 373-8144
http://michigan.gov/dhs/0,1607,7-124-5460_7261---,00.html

Michigan Coalition Against Domestic and Sexual Violence (MCADSV)

The MCADSV is a private, nonprofit, statewide membership organization. MCADSV's mission is to develop and promote efforts aimed at the elimination of all domestic and sexual violence in Michigan. MCADSV program activities include providing leadership, technical assistance, training, and resources throughout Michigan to benefit domestic and sexual violence survivors. Contact the MCADSV at:

3893 Okemos Road, Suite B2
Okemos, MI 48864
Phone: (517) 347-7000
www.mcadsv.org

Michigan Resource Center on Domestic and Sexual Violence

The Michigan Resource Center on Domestic and Sexual Violence contains a collection of books, videos, journals, and other media on domestic and sexual violence and related subjects. The services of the Resource Center are available to the general public, and its staff members will respond to telephone and electronic information requests from patrons.

The Resource Center is open Monday - Friday 8:30 a.m. - 5:00 p.m., or materials can be mailed anywhere in Michigan free of charge. Contact the Resource Center at:

3893 Okemos Road, Suite B2
Okemos, MI 48864
Phone: (517) 381-4663
resource@mcadsv.org
<http://www.resourcecenter.info/>

Community-Based Efforts That Address Sexual Assault

Michigan sexual assault service agencies provide victims of sexual assault with help and support in surviving sexual assault. The types of services provided are not uniform statewide. However, some common services are as follows:

- 24-hour telephone crisis lines
- individual and group counseling
- transportation assistance
- safety planning
- childcare services
- information and education about sexual violence
- assistance in finding temporary or permanent housing, if needed
- assistance to victim's family members and friends

- assistance and advocacy with social service agencies
- assistance and advocacy with medical and other health care
- assistance and advocacy with the legal system

Many MDVSAPT B-funded domestic violence programs could be contacted for a referral to sexual assault services in an area:

http://www.michigan.gov/som/0,1607,7-192-29941_30586_240-2884--,00.html

Questions for Review:

What is the “Sex Offender Registry” and what are the requirements for registration?

Are juveniles required to register?

Under what circumstances may a juvenile petition for exemption from the registry?

What is the SORA registration fee and who should collect the fee?

What statewide and local services are available to victims of sexual assault?

What are the two assessment instruments described in this chapter?

What are some current treatment modalities for juvenile sex offenders?

MICHIGAN SEX OFFENDER REGISTRATION

1994 Public Act 295 creates the Sex Offender Registration Act requiring persons convicted of certain sex crimes to register with a law enforcement agency and requires criminal justice agencies to provide prescribed registration information to the Michigan Department of State Police.

AUTHORITY: M.C.L. 28.721, et seq. COMPLIANCE: Mandatory, failure to comply will result in criminal prosecution.

SUBMIT COMPLETED FORM TO: Michigan State Police Sex Offender Registry and Enforcement Unit P. O. Box 30634, Lansing, MI 48909-0634 FAX: (517) 241-1868	LAW ENFORCEMENT INSTRUCTIONS: A signed DD-4A notification of duties form and a photocopy of the individual's driver's license or personal identification card must be submitted with this registration form, and if applicable, a photocopy(s) of the individual's passport and/or immigration documentation. A photocopy of the court judgment must accompany this registration form if the individual is being registered for a listed offense described in M.C.L. 28.722(s)(vi).
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This registration is CONFIDENTIAL. Disclosure of confidential information is protected by the Federal Privacy Act.

I. Registrant Information

Last Name		First Name		Middle Name		Suffix	Date of Birth
Race	Sex	Eye Color	Hair Color	Height	Weight	DNA Available Yes <input type="checkbox"/> No <input type="checkbox"/>	DNA Location
Fingerprints Submitted to AFIS Yes <input type="checkbox"/> No <input type="checkbox"/>		Palm Prints Submitted to AFIS Yes <input type="checkbox"/> No <input type="checkbox"/>		Immigration Number		Immigration Status	
MDOC Number		FBI Number		SID Number		Social Security Number	
SMT Category Scar <input type="checkbox"/> Mark <input type="checkbox"/> Tattoo <input type="checkbox"/>		SMT Description		SMT Category Scar <input type="checkbox"/> Mark <input type="checkbox"/> Tattoo <input type="checkbox"/>		SMT Description	
SMT Category Scar <input type="checkbox"/> Mark <input type="checkbox"/> Tattoo <input type="checkbox"/>		SMT Description		SMT Category Scar <input type="checkbox"/> Mark <input type="checkbox"/> Tattoo <input type="checkbox"/>		SMT Description	

II. Registration

TIER I <input type="checkbox"/> 15 Year Registration Annual Verification	TIER II <input type="checkbox"/> 25 Year Registration Bi-Annual Verification	TIER III <input type="checkbox"/> Lifetime Registration Quarterly Verification
Registration Begin Date	Registration End Date	Registration Fee Paid Yes <input type="checkbox"/> No <input type="checkbox"/> Indigent <input type="checkbox"/>
Is the Offender Registered in Another State? Yes <input type="checkbox"/> No <input type="checkbox"/>	Which State(s)	

III. Offense

(1) Offense Date		Place of Crime (State)		Victim Age		Sex of Victim	
Description of Offense							
Arrest Date	Arresting Agency	Criminal Tracking Number		Conviction Type MI Juvenile <input type="checkbox"/> MI Adult <input type="checkbox"/> MI HYTA <input type="checkbox"/> Federal <input type="checkbox"/> OS Juvenile <input type="checkbox"/> OS Adult <input type="checkbox"/> Tribal <input type="checkbox"/> Military <input type="checkbox"/>			
Conviction Date		Conviction State		Convicting Court		Court Docket #	
Charge Statute		Attempt <input type="checkbox"/> Conspiracy <input type="checkbox"/>	Conviction Statute			Attempt <input type="checkbox"/> Conspiracy <input type="checkbox"/>	# of Counts
(2) Offense Date		Place of Crime (State)		Victim Age		Sex of Victim	
Description of Offense							
Arrest Date	Arresting Agency	Criminal Tracking Number		Conviction Type MI Juvenile <input type="checkbox"/> MI Adult <input type="checkbox"/> MI HYTA <input type="checkbox"/> Federal <input type="checkbox"/> OS Juvenile <input type="checkbox"/> OS Adult <input type="checkbox"/> Tribal <input type="checkbox"/> Military <input type="checkbox"/>			
Conviction Date		Conviction State		Convicting Court		Court Docket #	
Charge Statute		Attempt <input type="checkbox"/> Conspiracy <input type="checkbox"/>	Conviction Statute			Attempt <input type="checkbox"/> Conspiracy <input type="checkbox"/>	# of Counts
(3) Offense Date		Place of Crime (State)		Victim Age		Sex of Victim	
Description of Offense							
Arrest Date	Arresting Agency	Criminal Tracking Number		Conviction Type MI Juvenile <input type="checkbox"/> MI Adult <input type="checkbox"/> MI HYTA <input type="checkbox"/> Federal <input type="checkbox"/> OS Juvenile <input type="checkbox"/> OS Adult <input type="checkbox"/> Tribal <input type="checkbox"/> Military <input type="checkbox"/>			
Conviction Date		Conviction State		Convicting Court		Court Docket #	
Charge Statute		Attempt <input type="checkbox"/> Conspiracy <input type="checkbox"/>	Conviction Statute			Attempt <input type="checkbox"/> Conspiracy <input type="checkbox"/>	# of Counts

IV. Education					
(1) School Name		School Address		Begin Date	
(2) School Name		School Address		Begin Date	
V. Residence					
(1) Primary Residence Primary <input type="checkbox"/> Incarcerated <input type="checkbox"/>		(2) No Primary Residence Homeless <input type="checkbox"/>		(3) Secondary/Temporary Residence Secondary <input type="checkbox"/> Temporary <input type="checkbox"/>	
Facility Name, if Incarcerated		Shelter Name, if Applicable		(4) Mailing Address, if different Mailing <input type="checkbox"/>	
Address		City, State, Zip		Address	
Apt/Lot Number		County		Apt/Lot Number	
City, State, Zip		Cell Phone		City, State, Zip	
County		Location or Area		County	
Home Phone		Cell Phone		Home Phone	
				Cell Phone	
				Temporary Lodging Dates From: To:	
VI. Employment					
(1) Employer Name		Employer Address		Employer Phone	
(2) Employer Name		Employer Address		Employer Phone	
				Begin Date	
VII. Licensing					
(1) License Type Driver's License <input type="checkbox"/> Personal ID <input type="checkbox"/> Professional <input type="checkbox"/>			License Number		State Issued
(2) License Type Driver's License <input type="checkbox"/> Personal ID <input type="checkbox"/> Professional <input type="checkbox"/>			License Number		State Issued
					License Expiration
VIII. Vehicle					
(1) Vehicle Type			(2) Vehicle Type		
Vehicle Identification Number		Vehicle Ownership		Vehicle Identification Number	
Vehicle Year		Vehicle Make		Vehicle Year	
Vehicle Model		Vehicle Style		Vehicle Model	
Vehicle Color		License Plate Number		Vehicle Color	
License Plate State		Plate Exp Year		License Plate State	
IX. Alias					
Alias Names		Alias Date of Birth	Alias Social Security Number	Alias Driver License	Alias Personal ID
(1)					
(2)					
(3)					
X. Internet Identifiers					
(1) E-Mail Address			Screen Name		
(2) E-Mail Address			Screen Name		
XI. Signatures					
READ CAREFULLY BEFORE SIGNING					
Signature of Offender			Signature of Parent or Guardian, if applicable		
Signature of Registering Official			Printed Name of Registering Official		
Registering Agency Name			Registering Agency ORI		Date

19: Gangs

Chapter 19: Gangs

INTRODUCTION

The purpose of this chapter is to familiarize you with some terminology of gang culture and provide information on gang activity. The most recent statistics compiled by the Michigan State Police indicate that virtually every county in Michigan – with the exception of a few counties in the Upper Peninsula – have identified gang activity. The primary age group of gang members generally ranges from 13 to 21 years old.

The Term “Gang”

There is no consensus on a standardized definition of a “gang”, but there is some agreement on the basic elements.

Maxson and Klein (1990, 2006) developed three criteria for defining a street gang:

- Community recognition of the group;
- The group’s recognition of itself as a distinct group of adolescents or young adults; and
- The group’s involvement in enough illegal activities to get a consistent negative response from law enforcement and neighborhood residents.

James C. (Buddy) Howell, Ph.D., is likely the most notable of contemporary gang experts. In his publication **Youth Gangs: An Overview** for the Office of Juvenile Justice (1998, see <https://www.ncjrs.gov/pdffiles/167249.pdf>). He conducted a thorough review of gang research studies dating back to the 1950s and cited the many potential causes of why individuals become involved in gangs:

Community:

Social disorganization, including poverty

Underclass communities

Availability of drugs in the neighborhood

Availability of firearms

Barriers to and lack of social and economic opportunities

Lack of social capital

Cultural norms supporting gang behavior

Conflict with social control institutions

Family:

Family disorganization, including broken homes

Parental drug/alcohol abuse

Troubled families, including incest, family violence, and drug addiction

Family members in a gang

Lack of adult male role models

Lack of parental role models

Economic deprivation

Parents with violent attitudes

School:

Academic failure
Negative labeling by teachers
Trouble at school
Few teacher role models
Educational frustration
Low school attachment
Low achievement test scores
Identification as being learning disabled

Peer Group:

High commitment to delinquent peers
Low commitment to positive peers
Street socialization
Friends who use drugs or who are gang members
Interaction with delinquent peers

Individual:

Prior delinquency
Deviant attitudes
Defiant and individualistic character
Higher levels of normlessness in the context of family, peer group, and school
Early or precocious sexual activity, especially among females
Alcohol and drug use
Desire for group rewards such as status, identity, self-esteem, companionship, and protection
Victimization

Richard Cloward and Lloyd Ohlin (1960) as cited by Short (1975) and Pfahl (1994) conducted early gang studies and developed the “Social Structures Theory”, the concept that individuals may become involved in gang life and crime simply because legitimate means of success are unavailable to them.

- *Criminal gangs* are likely to exist in stable low-income areas where there are close relationships between adolescents and adult criminals.
- *Conflict gangs* develop in communities with dilapidated conditions and transient populations. When criminal opportunities do not exist, conflict gangs fight to gain social status and protect their integrity and honor.
- *Retreatist gangs* do not possess the skills to be considered criminal gangs. They retreat into a role on the fringe of society that usually involves heavy drug use and withdrawal from social interaction.

Individual gangs often have more than one acronym or graffiti tag that identifies them, and frequently use variations in the spelling of their names. Tagger and gang graffiti are discussed later in this chapter.

The Impact of Gangs on Schools

According to the most recent biennial School Crime Supplement to the Bureau of Justice Statistics (BJS) National Crime Victimization Survey (2010 supplement), twenty-three percent of students ages 12–18 reported that there were gangs at their schools.

The mere presence of gangs in school can increase tensions. Students in schools with a gang presence are twice more likely to report that they fear becoming victims of violence than their peers at schools without gangs.

Gang Involvement in Drugs and Violence

Gangs are increasingly blamed for drug and violence problems. Based on media accounts, the public believes gangs are extremely violent, involved in drug trafficking, are highly organized, and are a pervasive part of the social landscape. As the media continues to portray gangs in this negative light, gang members gain a reputation of being tough and savvy, enhancing their standing in their communities.

A number of gangs are involved in using and selling drugs, while others are involved in selling but prohibit use by gang members. Some gangs are highly organized, while others are fragmented, with individual members involved in drug dealing but acting independently of the gang. Still other gangs and gang members are heavily involved in using drugs but do not sell them.

Despite increases in the use of violence by gang members, especially if their organizational viability or their competitive edge in the drug market is challenged, much gang activity is fairly mundane. A study in Ohio found that gang members spent most of their time acting like typical adolescents — disobeying parents and skipping school.

VARIOUS GANGS

Below are a few of the most notable gangs, historically:

Bloods: The Bloods were once called Pirus; the name continues but is not as prominent as it once was. They are a street gang founded in Los Angeles, California. The gang is widely known for its rivalry with the Crips. They are identified by the red color worn by their members and by particular gang symbols, including distinctive hand signs. The Bloods are made up of various sub-groups known as "sets" between which significant differences exist such as colors, clothing, operations, and political ideas which may be in open conflict with each other. Other symbols and slang frequently used include: Bo (Marijuana), Crab (Crip), Cuz (Crip), Hood (Neighborhood), H (Neighborhood), Rag (Gang Handkerchief), Rooster (Piru), Blood Ru (Piru), Blood Set (Neighborhood or gang), Sway-Boy (Blood or Anti-Crip), Ups (Bloods), 187 (Murder). Black gang members use colorful monikers such as "Mad Bear," "Super Fly," and "Killer."

Crips: The Crips are a primarily, but not exclusively, an African American gang. They were founded in Los Angeles, California in 1971. What was once a single alliance between two autonomous gangs is now a loosely connected network of individual sets, often engaged in open warfare with one another. The Crips are one of the largest and most violent of street gangs in the United States, with an estimated 30,000 to 35,000 members. The gang is known to be involved in murders, robberies, and drug dealing, among many other criminal pursuits. The gang is known for its gang members' use of the color blue in their clothing. However, this practice has waned due to police crackdowns on gang members. Crips graffiti often include "B/K" which means Blood Killer. The "B" may have a slash through it. Often any "B" or "P," standing for Piru, appearing in any name or word has a slash through it or is written backwards — all to "diss" the Bloods. Crip graffiti also refer to the Bloods as "Slobs."

Slob Killers means Blood Killers. A diamond around "BK" is another way of saying Blood Killer.

Latin Kings: Latin Kings is a Puerto Rican gang that started in Chicago. The Latin King colors are black and gold; gang markings consist of a five or three-point crown, writings of LK, ALK, ALKN, ALKQN abbreviations (or the whole words), and drawings of the Lion and/or the King Master. Latin King symbolism is usually accompanied with the name and number of the chapter, region, or city of the gang. The Latin Kings are of the People Nation, and therefore, represent everything to the "left" in opposition to the "right", which is representative of the "Folk Nation".

Vice Lords: The Almighty Vice Lord Nation (abbreviated AVLN, VLN, or CVLN) is the second largest gang and one of the oldest gangs in Chicago. They are also one of the founding members of the People Nation multi-gang alliance. Vice Lord street gangs use a variety of gang graffiti symbols or emblems, to identify themselves and their gang 'turf' including:

- a hat cocked to the left side
- martini glass
- a glove
- top hat
- cane
- five-point star
- Saracen symbols of the Legendary Arabian Anti-Crusaders King Neal
- five-points of the golden star
- crescent moon (Teutonic)
- scimitar, and
- broken heart with wings - the heart with wings is a symbol of the Maniac Latin Disciples, breaking it is a sign of disrespect

White Supremacist Gangs: Are often blatantly racist and homophobic. For example: ANP (American Nazi Party), WAY (White American Youth or White Aryan Youth), SWP (Super White Power), WAR (White Aryan Resistance), NSWPP (National Socialist White Peoples Party), NSWWP (National Socialist White Workers Party), AYM (Aryan Youth Movement), SRIW (Super Race Is White). "WAY" stands for either "White American Youth" or "White Aryan Youth."

Transnational Gangs: Recently, within the last decade, a number of violent upstart gangs have come onto the American scene. These gangs include the Los Angeles-based Mara Salvatrucha (MS-13). The MS-13 gang is one of the most violent, dangerous gangs in the United States, and one of the most organized. With cliques in 42 states, including Michigan, the MS-13 gang is truly "international" and on the verge of becoming the first gang to be categorized as an "organized crime" entity.

Gang members sport numerous tattoos on their bodies and faces and wear blue and white colors taken from the El Salvadoran flag. Their membership varies in age from 11 to 40 years old and is estimated to total over 36,000 in the Honduras alone. Their progressive increase in violent activities and careless disregard for the law (threats and attacks against law enforcement officials is common), has made them the most

feared gang in the United States. Their penchant for violence is renowned. Members often arrive in the United States, with fighting skills gained from military training, and are particularly adept with machetes.

Tagger and Gang Graffiti

Graffiti can be petty annoyances by juvenile vandals, attempts at artistic expression, or signs that street gangs have moved into the neighborhood.

Tagger graffiti, or what some people call street art, are personal expressions of the taggers, and they are an end in themselves, not a threat of something else.

Gang graffiti, on the other hand, are intended to represent the presence of a gang. They convey a threat of gang violence in the neighborhood. In New York City, subway graffiti artists came to be known as “taggers” because they signed their work with their chosen nicknames or tags. To the tagger, the important thing was “getting up,” that is, putting his or her tag on as many surfaces as possible. Taggers often form into groups called “crews” and adopt crew tags.

Gang graffiti can become dialogue between gangs and eventually a record of gang wars, from initial territorial claims, to challenges to individuals and gangs, to records of individual deaths. Graffiti are easy and cheap to put up and entail relatively low risk for the gang graffiti artist, particularly when compared to other gang activity. Even the risk of being caught is not terribly threatening because legal sanctions, if any, are not heavy.

General Reasons for Gang Membership

Reasons for joining a gang are based loosely on the following:

- 1) **Identity:** Gang members cannot achieve an identity in their environment, so they gain it in the gang culture. They often visualize themselves as warriors against the outside world, protecting their neighborhood.
- 2) **Protection:** Joining a gang in a community with several gangs offers considerable protection from violence and attack from rival gangs.
- 3) **Fellowship:** Studies indicate that a tight family structure is lacking in the home environment. Gang activity offers that closeness, that sense of family that is often lacking in the home.
- 4) **Intimidation:** Membership can become very dangerous at this level of “recruitment.” New members are forced to join by threats, violent beatings, and initiations in order to increase membership.

Early Warning Signs of Gang Activity in a Community

Graffiti is a clear marking of territorial boundaries that serves as a warning and challenge to rival gangs. It is also used to communicate messages between gangs.

For More Information

For a thorough understanding of the current gang situation in the U.S., see the FBI’s National Gang Threat website at:

<http://www.fbi.gov/stats-services/publications/2011-national-gang-threat-assessment>

In addition, you may obtain information by logging into the National Gang Center Database <http://www.nationalgangcenter.gov/>. Regionally, the Midwest Gang Investigators Association holds regular conferences: <http://www.mgia.org>

Questions for Review:

What is a gang?

What is the impact of gangs in schools?

What are gangs' ethnic and racial compositions?

What is a tagger?

How is graffiti related to gang activity?

Why do youth join gangs?

What are some characteristics of gangs?

What are some early warning signs of gang activity?

Where can you get more information?

20: Mental Health Issues

Chapter 20: Mental Health Issues

INTRODUCTION

Mental health issues within the juvenile justice system have taken center stage over the past decade. Youth coming into the system are often diagnosed with mental health disorders and medicated accordingly.

Sometimes the medications are effective in modulating, mitigating, and perhaps, remediation inappropriate behaviors in youth. Often, youth are over medicated, misdiagnosed, and in need of accurate assessment.

This chapter is designed to familiarize the probation officer/caseworker with some of the most common mental health disorders. It is not meant to be an all-inclusive list of disorders or diagnostic material. The descriptors are brief but highlight the primary features of the disorder to assist the probation officer/caseworker in effectively working with the youth. In addition, some basic “intervention” strategies to be used when working with these cases, and community resources, are included. Publications and websites have been added as a resource.

Mental Health Disorders

Mental health disorders are described through a full-spectrum lens. They vastly range in characteristics and diagnosis. However, they can typically be classified in one of the following categories:

- mood disorders
- attention deficit and disruptive behavior, personality disorders
- impulse-control disorders
- reactive attachment disorder
- anxiety disorders
- adjustment disorders
- learning disorders
- substance abuse disorders
- psychotic disorders
- self-mutilation

More detailed and diagnostic information is available in the Diagnostic and Statistical Manual of Mental Disorders (DSM IV-TR). For simple information in the DSM IV see: <http://www.psychiatryonline.com/resourceTOC.aspx?resourceID=1>

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MOOD DISORDERS

Depressive Disorders

A major depressive disorder: Typically characterized by one or more episodes lasting a period of at least two weeks and manifesting a depressed mood or the loss of interest or pleasure in nearly all activities. In children, the mood may be irritable rather than sad.

For a more accurate diagnosis, the individual must also experience at least four additional symptoms that include:

- 1) significant change in appetite or weight
- 2) sleep and psychomotor activity
- 3) decreased energy; feelings of worthlessness or guilt; difficulty thinking, concentrating or making decisions
- 4) recurrent thoughts of death or suicidal ideation, plans, or attempts

Another factor includes the episodes are progressive in nature. Impairment in social, occupational, or other important areas of functioning are also a key diagnostic factor.

A minor depressive disorder: Similar to a major depressive disorder in duration but involves fewer symptoms and less impairment. Again, progressively worsening episodes must exist.

Dysthymic disorder: Characterized by at least two years of a pervasively depressed mood accompanied by additional depressive symptoms that do not meet criteria for a major depressive episode.

BIPOLAR DISORDERS

Bipolar I Disorder

Characterized by the occurrence of one or more manic episodes or mixed episodes and often, one or more major depressive episodes. In addition, the episodes cannot be accounted for by a diagnosis of schizophrenia or other psychotic conditions. Completed suicide occurs in 10 – 15 percent of these diagnosed individuals and abusive, violent behavior may occur during manic episodes or during those with psychotic features. Other associated problems may include truancy, academic failure, occupational failure, episodic antisocial behavior, or relational difficulties. Approximately 10 – 15 percent of adolescents with recurrent major depressive episodes will go on to develop Bipolar I Disorder.

Bipolar II Disorder

Characterized by one or more major depressive episodes, accompanied by at least one hypomanic episode.

Major Depressive Episode Diagnosis Criteria

Five or more symptoms present from following list:

- depressed mood most of the day nearly every day
- diminished interest in most activities nearly every day
- significant weight loss or gain or change in appetite
- insomnia or hypersomnia nearly every day
- fatigue or loss of energy nearly every day

- feelings of worthlessness or excessive guilt nearly every day
- diminished ability to think or concentrate nearly every day
- recurrent thoughts of death
- psychomotor agitation or retardation nearly every day

Manic Episode

Distinct period of abnormally and persistently elevated, expansive, or irritable mood lasting at least one week.

Mood disturbance is severe causing impairment in job, social, and relationship activities.

Three or more of the following symptoms during the mood period:

- inflated self esteem
- decreased need for sleep
- more talkative than usual
- thoughts are racing
- distractibility
- increase in goal directed activity
- excessive involvement in activities with potentially painful consequences

Hypomanic Episode

Have the identical list of characteristic symptoms of manic episode.

Disturbance is not sufficiently severe to cause marked impairment in social or occupational functioning.

ATTENTION-DEFICIT AND DISRUPTIVE BEHAVIOR PERSONALITY DISORDERS

Attention-Deficit/Hyperactivity Disorder (ADHD)

- characterized by prominent and persistent patterns of inattention and hyperactivity impulsivity
- predominately hyperactive-impulsive type
- some impairment in at least two areas of functioning must occur
- often do not follow through on requests, work is messy and incomplete, and there must be clear evidence of interference with developmentally appropriate social, academic, or occupational functioning

Conduct Disorder

Characterized by a repetitive and persistent pattern of behavior in which the basic rights of others or major age-appropriate societal norms or rules are violated.

Behaviors fall into four main groups:

- 1) aggressive conduct that threatens or causes physical harm to people or animals
- 2) nonaggressive conduct that causes property loss or damage
- 3) serious violations of rules
- 4) being deceitful or theft

At least three behaviors listed above must have been present over the past 12 months. Behaviors are often present in a variety of environs including home, school and/or the community. Minimization of behaviors is prevalent. Children often initiate aggressive behaviors.

Oppositional Defiant Disorder

Characterized by a recurrent pattern of negative, defiant, disobedient, and hostile behavior toward authority figures, that persists for more than six months.

Typically reflects frequent occurrence of at least four of the following behaviors:

- 1) losing temper
- 2) arguing with adults
- 3) actively defying or refusing to comply with requests or rules
- 4) deliberately doing things that annoy others, easily annoyed by others, blames others for own mistakes or misbehavior, angry and resentful, and vindictive compared to peers

May also include deliberate testing of limits, persistent stubbornness, resistance to directions, and failing to accept blame. Most often manifested in home and may not be evident at school or within community.

Antisocial Personality Disorder

Essential feature is a pervasive pattern of disregard for, and violation of, the rights of others that begins in childhood or early adolescence and continues into adulthood.

- Must be 18 years old or older with a history of symptoms of Conduct Disorder prior to age 15 in order to be accurately diagnosed.
- May include a pattern of impulsivity, recklessness, extreme irresponsibility, and/or aggressive behaviors.

Borderline Personality Disorder

Features include a pervasive pattern of instability of interpersonal relationships, self-image, and affects with marked impulsivity that begins in early adulthood and is present in a variety of contexts.

- Make frantic efforts to avoid real or imagined abandonment.
- Perception of impending separation or rejection or loss of external structure can lead to profound changes in self-image, affect, cognition, and behavior.
- Very sensitive to environmental circumstances.
- Intense abandonment fears and inappropriate anger when faced with realistic time-limited separation.
- Pattern of unstable and intense relationships, idealize potential caregivers/lovers quickly, demand to spend a lot of time together and share intimate details early in relationships.
- Display impulsivity in potentially self-damaging areas of behavior.
- May display marked reactivity to moods.

IMPULSE-CONTROL DISORDERS

Intermittent Explosive Disorder

Characterized by the occurrence of discrete episodes of failure to resist aggressive impulses that result in serious, assaultive acts or destruction of property.

Degree of aggressiveness expressed during an episode is grossly out of proportion to any provocation or precipitating psychosocial stressor.

Reactive Attachment Disorder

Markedly disturbed and developmentally inappropriate social relatedness in most contexts that begins before age five years and is associated with grossly pathological care that does not take into account the child's needs for comfort, stimulation, and affection.

Two types: Inhibited and Disinhibited

Inhibited: Child persistently fails to initiate and respond to most social interactions in a developmentally appropriate way; shows a pattern of excessively inhibited, hyper-vigilant, or highly ambivalent responses.

Disinhibited: A pattern of diffuse attachments; exhibits indiscriminate sociability or lack of selectivity in the choice of attachment figures.

ANXIETY DISORDERS

Social Phobia

Characterized by significant anxiety, provoked by exposure to types of social and performance situations.

Post Traumatic Stress Disorder (PTSD)

Development of characteristic symptoms following exposure to an extreme traumatic stressor, involving direct personal experience of an event that involves actual or threatened death, serious injury, threat to one's physical integrity, or witnessing of such.

Characteristic symptoms include reexperiencing an extremely traumatic event accompanied by symptoms of increased arousal and by avoidance of stimuli associated with the trauma.

Symptoms cause significant impairment or distress in social, occupational, or other important areas of functioning.

Reexperiences may include recurrent and intrusive memories of the event or recurrent, distressing dreams during which the event is replayed.

In rare instances, dissociative states lasting from a few seconds to several hours may occur.

Panic Attacks

Periods of intense fear or discomfort with four or more symptoms developing abruptly and peak within ten minutes:

- palpitations, pounding heart
- sweating
- trembling or shaking

- sensations of shortness of breath or smothering
- feeling of choking
- chest pain or discomfort
- nausea or abdominal distress
- feeling dizzy, unsteady, lightheaded, faint
- feelings of unreality or being detached from oneself
- fear of losing control or going crazy
- fear of dying
- numbness or tingling sensations
- chills or hot flashes

Adjustment Disorders

The development of clinically significant emotional or behavioral symptoms in response to an identifiable psychosocial stressor or stressors. The symptoms must develop within three months after the onset of the stressor. This can be characterized by the following: depressed mood, with anxiety, disturbance of conduct, or mixed emotion and conduct.

LEARNING DISORDERS

Learning Disability

A disorder in the basic psychological processes involved in understanding or using language, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do math.

The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

Determination is based on a comprehensive evaluation by a multidisciplinary team.

Areas of Discrepancy:

- oral expression
- listening comprehension
- written expression
- basic reading skills
- reading comprehension
- mathematics calculations
- mathematics reasoning

Emotionally Impaired

Determined through manifestation of behavioral problems, primarily in the affective domain, over an extended period of time, which adversely affect the person's education to the extent that the person cannot profit from regular learning experiences without special education support.

Characteristics:

- Inability to build or maintain satisfactory interpersonal relationships within the school environment
- Inappropriate types of behavior or feelings under normal circumstances
- General pervasive mood of unhappiness or depression

- Tendency to develop physical symptoms or fears associated with personal or school problems
- Does not include socially maladjusted unless it is determined the person is emotionally impaired

Mental Retardation/Educable Mentally Impaired

Characterized by significantly subaverage, general intellectual functioning that is accompanied by significant limitations in adaptive functioning in a least two of the following areas: communication, self care, home living, social/interpersonal skills, use of the community resources, self direction, functional academic skills, work leisure, health, and safety. Onset must occur before 18 years of age.

Asperger's Disorder

Features are severe and sustained impairment in social interaction and the development of restricted, repetitive patterns of behavior, interests, and activities.

Substance Abuse Disorders

Essential feature is a cluster of cognitive, behavioral, and physiological symptoms that indicate continued use of substances despite significant substance-related problems. Pattern of repeated self-administration, resulting in tolerance, withdrawal, and compulsive drug-taking behavior.

- "With physiological dependence" diagnosis involves the evidence of tolerance and withdrawal;
- "Without physiological dependence" diagnosis involves no evidence of withdrawal or tolerance, but is characterized by a pattern of compulsive use;
- Diagnostic criteria includes: a maladaptive pattern of use leading to clinical impairment or distress as manifested by one or more of the following within a 12 month period of time:
 - a). Recurrent substance use resulting in failure to fulfill obligations at work, school or home;
 - b). Recurrent use in situations in which it is physically hazardous, e.g. driving an automobile, operating machinery, etc.;
 - c). Recurrent substance-related legal problems; and
 - d). Continued use despite persistent relationship or interpersonal problems.

PSYCHOTIC DISORDERS

Schizophrenia

- A psychotic disorder that can be simply characterized by disorganized thought patterns
- Essential features are a mixture of characteristic signs and symptoms (both positive and negative) that have been present for a significant portion of time during a one month period with some signs of the disorder persisting for at least six months
- Positive symptoms may appear to reflect an excess or distortion of normal functions
- Negative symptoms appear to reflect a diminution or loss of normal

functions. They may include distortions or exaggerations of inferential thinking (delusions), perception (hallucinations), language and communication (disorganized speech)

- Behavioral (grossly disorganized or catatonic behavior)
- Signs and symptoms are marked with social or occupational dysfunction

Refer to the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM IV) for Additional Information and Subtypes.

Self-Mutilation

- Characterized by the injury resulting in injury to skin or body tissues that is a form of self-soothing
- May be in the form of tearing, bruising, cutting, or burning of the skin
- Provides relief and gratification from increasingly intense stress and/or anxiety
- Is NOT suicidal behavior
- MAY result in ACCIDENTAL suicide as a result of methods used to self-injure while seeking relief
- May use tools or instruments, e.g. cigarette, erasers, iron, etc. for burning, swallowing sharp objects such as razor blades, excessive body piercing and tattooing, needles, swallowing toxic chemicals that burn, etc.

Trichotillomania

- Essential feature includes recurrent pulling out of one's own hair that results in visible hair loss
- An increased sense of tension immediately before pulling out the hair or when attempting to resist the behavior may exist
- May experience a sense of stress relief, pleasure, or gratification from behavior

Co-Occurring Disorders

Sometimes juveniles will present as having both substance abuse and mental health disorders. This is known as a co-occurring disorder. This is also sometimes called dual diagnosis. Common examples of co-occurring disorders include the combinations of major depression with cocaine addiction, alcohol addiction with panic disorder, alcoholism and polydrug addiction with schizophrenia, and borderline personality disorder with episodic polydrug abuse. Although the focus of this is on dual disorders, some patients have more than two disorders.

INTERVENTION STRATEGIES

Working with youth who have mental health issues can be challenging. The following list of intervention strategies represents suggested approaches that can insure better success when working with this population:

- Be patient!
- See them as a person first, not a diagnosis.
- Put yourself in their shoes.
- Get informed about the youth, family, and environs in which they live.

- Treat them with respect and affirmation.
- Be consistent, nurturing, yet firm.
- Be gender-responsive; get trained so you can respond appropriately.
- Be concrete, repeat instructions and important statements.
- Develop and use behavioral contracts.
- Ask them repeat and summarize what you have told them.
- If giving written material, have them read some aloud.
- Use games, art, or outside activities to help them talk more easily.
- If young male, ask to express emotions and feelings by drawing a picture about the “story” first and then describing it to you.
- Clarify jargon, abbreviations, or other words they may not understand.
- Make appropriate referrals.

Stages of Progressive Change

- 1) Preawareness that something isn't right
- 2) Awareness of that which is specifically not right
- 3) Working toward an identified goal through conscious behavior changes
- 4) Maintaining the behavior

TYPES OF INTERVENTIONS

Relational – Builds trust based on consistency in developing the relationship.

Behavioral – Focuses solely on behaviors rather than emotional, mental health imperatives, i.e. monitoring substance abuse behaviors by drug testing, etc.

Cognitive-Behavioral – Focuses on thought processes and thinking errors; not recommended for females unless within a strong, relational context.

Mentoring – Appropriate, trained, adult mentors form relationships with youth to provide guidance and supportive role models for youth; some research indicates consistent mentoring programs, especially with females, may impact the neurotransmitters in the brain and repair attachment disorders.

Support Groups – Groups of youth who are facilitated and structured to provide peer support on general or specific topic issues causing difficulty in youth's life.

Psycho-Educational Groups – Supportive, educational, and facilitated/structured groups that address specific needs of youth, i.e. retail fraud/decision-making group.

Female-Specific, Psycho-Educational Groups – Supportive, educational, time-limited, process/activity-based and facilitated/structured groups that address one or all of the six developmental domains (intellectual, emotional, relational/familial, spiritual, sexual, and physical) utilizing female-specific principles as identified by the National Institute on Crime.

Information and Referral – Specific need-driven information and referral services within the community to assist in addressing an identified need.

Contracts – May be behavioral, “no self-harming for self-mutilators,” etc. Contracts are used to obtain compliance in preventing further inappropriate or life-threatening behaviors.

Female Responsive Services Principles

The National Institute of Corrections (NIC) has researched the needs for girls within the justice system and has identified essential areas, which need to be addressed in order to adequately treat girls.

Female-Responsive Programming

The following is a synopsis of NIC's value statement regarding female-responsive programming:

- Services for females are designed to be inclusive of race, ethnicity, class, sexual orientation, and individual life experience simultaneously.
- Services for females are designed to be relational and seek to support the development of healthy relationships.
- Services for females are designed to be restorative in that girls need to not only make amends to those they have harmed but also, need to address the root cause of their behavior, which may be grounded in their own victimization.
- Services that seek to restore relationships.
- Services for females are designed to assist girls in paying attention to societal influences through teaching them critical thought.
- Services for females are designed to be multileveled reflecting their place in the community, nationally, and on a global basis.
- Services must also be holistic and sustainable over time.

Educational/Schools

Local schools have a wealth of resources that assist students with mental health issues. Some of the key personnel involved in this are as follows:

Classroom Teacher – May refer child for special education testing or make recommendations to parents and school for special mental health assistance.

Special Education Teacher – Teaches children who qualify for special education but also may refer child for additional, supportive treatment resources.

School Psychologist – Typically, tests children for special education determination and assessment.

Counselor/Social worker – Provides oversight and some limited counseling services to special education certified student, parent(s), and consultation with teacher(s).

Special Education Director – Provides oversight to special education programs within the school and monitors compliance with special education law.

Assistant Principal/Principal/Administration – May refer student for special education testing based on observed behaviors and need; may assist in the provision of structure for student and relational issues.

Local Intermediate School District (ISD) offices also play a vital role in addressing mental health issues within the student population through offering special education programming and staff. The ISD offers specialized schooling

for handicapped or developmentally challenged children in addition to a variety of special education trainings. Social workers, interventionists, and special education staff are available in most ISD locations.

Universities offer a variety of resources as well, through research, libraries, student manpower, educational staff, etc.

Courts

Many family divisions of the circuit courts offer treatment programs to remediate antisocial behaviors and gain behavior remediation through court ordered services.

Agencies

Several nonprofit agencies offer mental health services within local communities. The following is a brief list of national-level, nonprofit agencies that might be helpful. Check your local telephone book for additional resources.

Publications/Newsletters

The following are some publications that offer mental health information for reference purposes. There are too many types of these publications to list and thus, this list reflects some resources that are not typical but offer a variety of helpful information.

Civic Research Institute, Inc., 4478 Route 27, P.O. Box 585, Kingston, N.J. 08528

American Psychiatric Association, 1400 K Street, N.W., Washington, DC 20005
Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)

Dads and Daughters, 34 E. Superior Street, Ste. 200, Duluth, MN 55802
Daughters Newsletter

Websites

The National Center on Education, Disability, and Juvenile Justice, University of Maryland: <http://www.edjj.org>

National Institute of Mental Health: <http://www.nimh.nih.gov/index.shtml>

Substance Abuse and Mental Health Services Administration:
<http://www.samhsa.gov/>

Questions for Review:

What are the types of disorders you are likely to encounter in children who come within the jurisdiction of the court?

What are the characteristics of these various disorders?

How can you identify whether a youth may have such a disorder?

What are some treatment modalities for mental health disorders?

Where can you find resources that discuss mental health disorders?



MICHIGAN JUDICIAL INSTITUTE

Michigan Hall of Justice
P.O. Box 30205
Lansing, Michigan 48909
(517) 373-7171
<http://courts.michigan.gov/mji>